

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 1 - J&B Nicholson

Submission Point No: 1 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Rules

Section: AQ R15(4)

Submission Summary: AQ R15(4) Notification
Neighbour repeatedly advises up to a 10 day window 6am-8pm, per spray. The result can be months of continual spray caution. This is totally unreasonable and significantly affects a neighbour's ability to live and function safely.

Decision Sought: Neighbour notification rules need to be more specific and require an actual spray date. There should also be a requirement for spray notifications to be accurate and reasonable to allow neighbour quiet enjoyment.

Reasons for Staff Recommendation: The plan change has considerably reduced this window which should provide more certainty.

Submitter: 2 - Easy Insulation Ltd

Submission Point No: 1 **Submission Type:** Not Applicable **Recommendation:** Comment Note

Chapter: Policies

Section: AQ P7

Submission Summary: Insulated homes lead to less solid fuel being burnt, which is directly related to clean air policy in the region

Decision Sought: As part of overall clean air policy Easy Insulation Ltd strongly supports the rates repayment insulation programme, and the extension of the programme to include the wider Rotorua Lakes District

Reasons for Staff Recommendation: Staff acknowledge support of incentive programmes.

Submitter: 3 - G & J Bai

Submission Point No: 1 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R9

Submission Summary: We are a retired couple living in an urban residential area. We have an inconsiderate neighbour, who, for whatever reason, every week lights a rubbish fire, burning all manner of rubbish. This results in an unpleasant odour, with smoke pollution and ash falling onto us and neighbouring properties. It means we have had to close our doors and windows and stay inside until the fire has finished. As you can imagine during the heat of the summer months, this is very uncomfortable. A complaint was made by another property owner and an Officer was sent to inspect, apparently reporting that the fire complied with current regulations. We find this hard to believe, when your own website states "Any fire should be at least 50m from any road other than a highway and 100m from any highway or dwelling house on an adjoining property or National Park boundary."
Including our property, there are at least 4 other dwellings well within 100m of this fire so I fail to see how this can comply. In closing, I would like to point out that, open fires are not allowed in dwellings and log burners have to comply to an emission standard, but an outside open fire can pollute the air at will. There seems to be a contradiction in standards.

Decision Sought: Ban all recreational open fires and/or rubbish fires in urban areas

Reasons for Staff Recommendation: Part of submission is addressed by rule banning open burning. Staff do not consider that barbeques and hangi etc should be banned based on this submission point.

Submitter: 4 - PF Olsen Ltd

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Staff Recommendations on Submissions (By Submitter)

Submitter: 4 - PF Olsen Ltd

Submission Point No: 1 **Submission Type:** Oppose **Recommendation:** Accept

Chapter: Rules

Section: AQ R6

Submission Summary: Rule references the Forests and Rural Fires Act 1977 which was repealed on 1 July 2017 by section 195(b) of the Fire and Emergency New Zealand Act 2017 (2017 No. 17)

Decision Sought: Remove the reference to "Forests and Rural Fires Act 1977"

Reasons for Staff Recommendation: Staff agree with this amendment

Submission Point No: 2 **Submission Type:** Oppose **Recommendation:** Accept

Chapter: Rules

Section: AQ R15(3)

Submission Summary: Rule AQ R15 (3)
Requirement for signage on vehicles spraying agrichemicals could have a large additional cost to contractors who may have several vehicles associated with an operation especially if signage required on front and back of each vehicle. Additionally, extensive signage is already required all around the operational boundary, as well as notification of neighbours/other land users. For aerial operations the supporting vehicles should be parked close to the boundary signage, making the addition of the signage to vehicles redundant.

Decision Sought: Remove the clause regarding the signage on vehicles associated with the operation

Reasons for Staff Recommendation: Recommend a wording change to clarifies that only the vehicle (or vehicles) directly involved with spraying are to display signage.

Further Submission No: 13 - 79 **Submission Type:** Support in Part **Recommendation:** Accept

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks that clause 3 e) relating to signage on vehicles be deleted. HortNZ has sought that it only apply where the vehicles are in public places.

Decision Sought: Accept submission to amend AQ R15 (3) e) by either deleting or limiting to 'public places'.

Reasons for Staff Recommendation: Recommend a wording change to clarifies that only the vehicle (or vehicles) directly involved with spraying are to display signage and that it should only apply to vehicles used in spraying activities on public amenity areas.

Submission Point No: 3 **Submission Type:** Oppose **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R15(4)

Submission Summary: AQ R15 (4)
This is a very large change in the notification time period from the previous plan (20 days to 12 hours). The greatly reduced notification period will be extremely difficult to comply with. Aerial spraying is totally reliant on weather conditions being favourable which is difficult to predict meaning a larger window of opportunity to complete the spraying before having to re-notify is desirable. We spray over 1,500 hectares at least twice a year requiring us to notify hundreds of neighbours spread across a large area. The neighbours change from year to year and between operations. A physical letter drop is sometimes the only practical way of notifying people. Very short notification periods due to weather, or other operational interruptions, could require repeated letter drops to the same addresses just to complete an operation in an area and significantly increase the risk of an unintentional breach.

Decision Sought: Extend the notification period to match with previous plan (max. 20 days – min. 12 hours).

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Submitter: 4 - PF Olsen Ltd

Reasons for Staff Recommendation: Weather can be inclement and it can be difficult to determine when to spray therefore when to notify. However an extension to 8 days as requested will lead to neighbours being on constant alert for spraying, as discussed above. Weather forecasts can predict probability of rain up to three days in advance therefore it should be reasonably possible to determine when spraying can be carried out.
Accept change in window to 12 hours minimum - discussed in other submission points

Further Submission No: 13 - 88 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks that the notification times be retained as in the Operative Plan (max 20 days – minimum of 12 hours). A minimum of 12 hours is supported because 24 hours is impractical and unworkable for those undertaking spraying.

Decision Sought: Accept submission to amend 24 hours to 12 hours

Reasons for Staff Recommendation: Reduction in spray notification window to 12 hours is discussed in other submission points. The submitter also requested an extension to 20 days which is not supported by staff.

Further Submission No: 19 - 12 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Agcarm

Summary: The submitter seeks that the notification times be retained as in the Operative Plan (max 20 days – minimum of 12 hours). A minimum of 12 hours is supported because 24 hours is impractical and unworkable for those undertaking spraying.

Decision Sought: Accept submission point in part

Reasons for Staff Recommendation: Reduction in spray notification window to 12 hours is discussed in other submission points. The submitter also requested an extension to 20 days which is not supported by staff.

Submitter: 5 - Marion Jensen

Submission Point No: 1 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R1

Submission Summary: I support this so long as it includes vehicle burnouts on private property. For over two years local residents have had difficulty with noise and smoke pollution from a private property in Tauranga where young people meet to do burnouts on the property. Huge plumes of smoke rise and filters through the gully and invades surrounding houses. This acrid smoke lingers tenaciously for a long time.

Decision Sought: Authority to access and prosecute offenders on their private property

Reasons for Staff Recommendation: All rules under the plan change apply to activities whether they are on public or private land. If the vehicle burnouts are resulting in offensive or objectionable discharges to air, they will not comply with condition (a) of Rule AQ R1. District and city councils are responsible under the RMA for managing the effects of noise, so this plan change (and other regional plans) does not deal with this. Warranted officers of the Regional Council have the ability to enter private property to carry out enforcement action under section 332 of the RMA and as such, no change is required to the plan change to address this submission point

Submitter: 6 - Geoffrey Oliver

Submission Point No: 1 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Section: AQ R21(f)

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Staff Recommendations on Submissions (By Submitter)

Submitter: 6 - Geoffrey Oliver

Submission Summary: AQ R21(f)
Affects my income

Decision Sought: Remove Rule AQ R21(f) - Composting (as a discretionary activity).

Reasons for Staff Recommendation: No explanation provided as to how or why the submitter's income will be affected.

Submitter: 7 - Western Bay of Plenty District Council

Submission Point No: 1 **Submission Type:** Support in Part **Recommendation:** Comment Note

Chapter: Whole Plan

Section: Whole Plan - Support

Submission Summary: The overall intent of the proposed plan change and the objectives it seeks to achieve are supported.

Decision Sought: That the plan be retained as notified except where changes are sought in our submission points below.

Reasons for Staff Recommendation: This submission point is a general support for the overall intent of the plan change, subject to submission points addressed elsewhere. Comment noted - no change recommended

Submission Point No: 2 **Submission Type:** Oppose **Recommendation:** Accept in Part

Chapter: Objectives

Section: AQ 03

Submission Summary: 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.

Decision Sought: Objective AQ O3 should refer to "Protect" as in AQ O1 or be merged with AQ O1 so that all are protected together

Reasons for Staff Recommendation: Do not replace 'manage' with 'protect' Although use of term 'protect' would not preclude use as claimed, intention of objective is to establish a clear environmental outcome, but still allow for the full suite of management options under the Act – avoid, remedy or mitigate. Change wording 'manage' to 'management' as it sets an outcome instead of an action.

Further Submission No: 8 - 16 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Mercury NZ Ltd

Summary: Mercury opposes an objective using the word protect, which could be interpreted as preclusive of use. Manage allows for an effects based approach to be taken

Decision Sought: Disallow

Reasons for Staff Recommendation: Do not replace 'manage' with 'protect' Although use of term 'protect' would not preclude use as claimed, intention of objective is to establish a clear environmental outcome, but still allow for the full suite of management options under the Act – avoid, remedy or mitigate. Change wording 'manage' to 'management' as it sets an outcome instead of an action.

Further Submission No: 13 - 14 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Horticulture New Zealand

Summary: Objective 3 is focused on localised air quality and should recognise that discharges to air are provided for where consistent with the background receiving environment and adverse effects are managed. An objective of 'protect' is inconsistent with this approach.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 7 - Western Bay of Plenty District Council

Decision Sought: Reject submission

Reasons for Staff Recommendation: Do not replace 'manage' with 'protect' Although use of term 'protect' would not preclude use as claimed, intention of objective is to establish a clear environmental outcome, but still allow for the full suite of management options under the Act – avoid, remedy or mitigate.
Change wording 'manage' to 'management' as it sets an outcome instead of an action.

Further Submission No: 20 - 3 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Fonterra Ltd

Summary: Fonterra considers that this objective should focus on the management of containment discharges rather than outright “protection”. Objective AQ O1 already seeks the protection of air quality.

Decision Sought: Disallow

Reasons for Staff Recommendation: Do not replace 'manage' with 'protect' Although use of term 'protect' would not preclude use as claimed, intention of objective is to establish a clear environmental outcome, but still allow for the full suite of management options under the Act – avoid, remedy or mitigate.
Change wording 'manage' to 'management' as it sets an outcome instead of an action.

Further Submission No: 21 - 29 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Port of Tauranga

Summary: WBOPDC state that the use of the word “managing” is an action which does not specify a desired outcome. They go on to state that the word “protect” should be used in lieu of it. PoT disagree with this reading of proposed Objective AQ03, and oppose the submission. When read as a whole, this objective establishes that the discharge of contaminants should be managed in line with the anticipated adverse environmental effects. It implies a management approach which is befitting the scale and significance of any adverse effect. Inserting the word “protect” into this objective alters the meaning of the said objective.

Decision Sought: Reject

Reasons for Staff Recommendation: Do not replace 'manage' with 'protect' Although use of term 'protect' would not preclude use as claimed, intention of objective is to establish a clear environmental outcome, but still allow for the full suite of management options under the Act – avoid, remedy or mitigate.
Change wording 'manage' to 'management' as it sets an outcome instead of an action.

Submission Point No: 3 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Policies

Section: AQ P1

Submission Summary: The policy is practical and pragmatic

Decision Sought: Retain

Reasons for Staff Recommendation: Some minor changes made as a result of other submission points

Submission Point No: 4 **Submission Type:** Support in Part **Recommendation:** Accept

Chapter: Policies

Section: AQ P3(b)

Submission Summary: 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

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Submitter: 7 - Western Bay of Plenty District Council

consistent approach is necessary.

Decision Sought: 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.

Reasons for Staff Recommendation: Although acronyms have been included in the Reader Guidance section of the Regional Natural Resources Plan these terms are only used two to three times in the entire chapter, therefore staff agree to include the terms in full.

Submission Point No: 5 **Submission Type:** Support in Part **Recommendation:** Accept

Chapter: Policies

Section: AQ P4 - whole policy

Submission Summary: The use of the term 'user' is ambiguous and it is recommended that it be removed.

Decision Sought: 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".

Reasons for Staff Recommendation: Staff agree that a change is necessary and recommend wording to remove reference to 'plan users' or otherwise, but retain the requirement of the policy.

Further Submission No: 13 - 44 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Horticulture New Zealand

Summary: Reworded introductory sentence is more appropriate

Decision Sought: Accept submission

Reasons for Staff Recommendation: Staff agree that a change is necessary and recommend wording to remove reference to 'plan users' or otherwise, but retain the requirement of the policy.

Submission Point No: 6 **Submission Type:** Support in Part **Recommendation:** Accept

Chapter: Policies

Section: AQ P4(g)

Submission Summary: 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.

Decision Sought: Remove "established" from AQ P4 (g)

Reasons for Staff Recommendation: Clause (a) requires regard given to proximity of sensitive activities for any discharge whether established or not. However, clause (g) is to have regard for new discharge activities near established sensitive activities. Staff acknowledge that confusion is likely and recommend that (g) is merged with (a) into one clause that retains both matters.

Further Submission No: 8 - 67 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Mercury NZ Ltd

Summary: Mercury seeks clarification and wider implications of how removing the word "established", provides a fairer assessment for air discharges on activities which are consented or legally able to operate versus established activities. Mercury is happy to engage on this matter

Decision Sought: Allow in part

Reasons for Staff Recommendation: Clause (a) requires regard given to proximity of sensitive activities for any discharge whether established or not. However, clause (g) is to have regard for new discharge activities near established sensitive activities. Staff acknowledge that confusion is likely and recommend that (g) is merged with (a) into one clause that retains both

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Submitter: 7 - Western Bay of Plenty District Council

matters.

Further Submission No: 20 - 24 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Fonterra Ltd

Summary: This submission seeks that “established” be removed – the reference would be for all sensitivities rather than established sensitive activities. Fonterra does not consider this to be appropriate from a reverse sensitivity perspective.

Decision Sought: Disallow

Reasons for Staff Recommendation: Clause (a) requires regard given to proximity of sensitive activities for any discharge whether established or not. However, clause (g) is to have regard for new discharge activities near established sensitive activities. Staff acknowledge that confusion is likely and recommend that (g) is merged with (a) into one clause that retains both matters.

Further Submission No: 23 - 42 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter oppose the proposed amendment recommended by submission 7 - 6. We consider that the purpose behind clause (g) is to restrict new discharges near sensitive activities that will result in greater cumulative adverse effects (and whether these cumulative effects will cause ambient air quality to be breached). Meanwhile, clause (a) focuses primarily on reverse sensitivity effects, and the location of new and existing sensitive activities in relation to discharges to air.

Decision Sought: Decision sought: Retain policy AQ P3(g) as notified.

Reasons for Staff Recommendation: Clause (a) requires regard given to proximity of sensitive activities for any discharge whether established or not. However, clause (g) is to have regard for new discharge activities near established sensitive activities. Staff acknowledge that confusion is likely and recommend that (g) is merged with (a) into one clause that retains both matters.

Submission Point No: 7 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Chapter: Policies

Section: AQ P5

Submission Summary: This policy is confusing. It is about open burning on urban properties yet refers to open burning outside urban areas under the exemptions. This policy relies on the definition for urban property. 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.

Decision Sought: Amend as follows:
 “Avoid the discharge of contaminants to air from open burning [delete - on urban properties] [insert - where the fire is located less than 100m from the nearest neighbouring dwelling house], while permitting open burning.”
 (a) [delete - and/or outside urban areas] [insert - where the fire is located 100m or more from the nearest neighbouring dwelling house]

Reasons for Staff Recommendation: Staff agree that a more effects based approach is appropriate and recommend the amendment is made for a setback distance of 100 metres, in accordance with the submitter’s request. For clarity, staff recommend retaining the reference to urban properties. The definition provides certainty for urban areas connected to municipal wastewater, and a clear distinction for potential enforcement actions

Further Submission No: 13 - 48 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Horticulture New Zealand

Summary: The policy is contingent on the definition of urban property. HortNZ has sought that the definition be amended which may address concerns of the submitter. A setback as

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Submitter: 7 - Western Bay of Plenty District Council

sought by the submitter is not appropriate in all receiving environments, such as rural zones.

Decision Sought: Accept HortNZ submission to amend definition of urban property

Reasons for Staff Recommendation: For clarity, staff recommend retaining the reference to urban properties. The definition provides certainty for urban areas connected to municipal wastewater, and a clear distinction for potential enforcement actions

Submission Point No: 8 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R6

Submission Summary: The intent of the rule is supported. However, the rule relies on the definition for urban property. 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.

Decision Sought: Amend as follows:
 Except where . . .open burning is a permitted activity provided the fire is [delete - not located on an urban property] [insert - located 100m or more from the nearest neighbouring dwelling house]. . .

Reasons for Staff Recommendation: Staff agree that a more effects based approach is appropriate and recommend the amendment is made for a setback distance of 100 metres. For clarity, staff recommend retaining the reference to urban properties. The definition provides certainty for urban areas connected to municipal wastewater, and a clear distinction for any potential enforcement actions

Further Submission No: 13 - 63 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Horticulture New Zealand

Summary: HortNZ has sought changes to the definition of urban property to ensure that it is clear that open burning can occur on rural zoned properties

Decision Sought: Reject submission

Reasons for Staff Recommendation: Staff agree that a more effects based approach is appropriate and recommend the amendment is made for a setback distance of 100 metres. This will result in some rural properties being captured by this rule. However the purpose of the policy and corresponding rule is to manage open burning according to its effects. Non-recreational/cultural open burning (ie, of green waste or rubbish) carried out within a certain distance of any dwelling house has the same adverse effects regardless of where this occurs and whether it is in an urban area or not.
 For clarity, staff recommend retaining the reference to urban properties. The definition provides certainty for urban areas connected to municipal wastewater, and a clear distinction for any potential enforcement actions

Further Submission No: 18 - 26 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Federated Farmers of New Zealand

Summary: The intent of AQ R6 is to provide for open burning outside of urban areas. The proposed changes by the submitter would extend the rule to other zones. FFNZ would seek to keep it within urban areas and consider it possible if the submitters relief could be further changed by adding the word "urban" before dwelling house

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Staff agree that a more effects based approach is appropriate and recommend the amendment is made for a setback distance of 100 metres. This will result in some rural properties being captured by this rule. However the purpose of the policy and corresponding rule is to manage open burning according to its effects. Non-recreational/cultural open burning (ie, of green waste or rubbish) carried out within a certain distance of any dwelling house has the same adverse effects regardless of

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Submitter: 7 - Western Bay of Plenty District Council

where this occurs and whether it is in an urban area or not.
For clarity, staff recommend retaining the reference to urban properties. The definition provides certainty for urban areas connected to municipal wastewater, and a clear distinction for any potential enforcement actions

Submission Point No:	9	Submission Type:	Support in Part	Recommendation:	Reject
Chapter:	Rules				
Section:	AQ R9				
Submission Summary:	The intent of the rule is supported. However, the rule relies on the definition for urban property. 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.				
Decision Sought:	Amend to: Open burning [delete - in urban areas] [insert - where the fire is less than 100m from the nearest neighbouring dwelling house]the discharge of contaminants to air from open burning [delete - on an urban property] [insert - where the fire is located less than 100m from the nearest neighbouring dwelling house] is a non-complying activity...				
Reasons for Staff Recommendation:	Staff agree that a more effects based approach is appropriate and recommend the amendment is made for a setback distance of 100 metres. For clarity, staff recommend retaining the reference to urban properties. The definition provides certainty for urban areas connected to municipal wastewater, and a clear distinction for any potential enforcement actions				

Further Submission No:	13 - 65	Submission Type:	Support	Recommendation:	Reject
Further Submitter:	Horticulture New Zealand				
Summary:	HortNZ has sought changes to the definition of urban property to ensure that it is clear that open burning can occur on rural zoned properties. The effect of the change sought would mean that any new dwelling establishing in the rural area would effectively need a 100m setback from a neighbouring property to enable open burning to be undertaken.				
Decision Sought:	Reject submission				
Reasons for Staff Recommendation:	Staff agree that a more effects based approach is appropriate and recommend the amendment is made for a setback distance of 100 metres. This will result in some rural properties being captured by this rule. However the purpose of the policy and corresponding rule is to manage open burning according to its effects. Non-recreational/cultural open burning (ie, of green waste or rubbish) carried out within a certain distance of any dwelling house has the same adverse effects regardless of where this occurs and whether it is in an urban area or not. . For clarity, staff recommend retaining the reference to urban properties. The definition provides certainty for urban areas connected to municipal wastewater, and a clear distinction for any potential enforcement actions				

Submission Point No:	10	Submission Type:	Support in Part	Recommendation:	Accept
Chapter:	Rules				
Section:	AQ R10				
Submission Summary:	The use of the term 'user' is ambiguous and is recommended that it be removed.				
Decision Sought:	In the advice note, remove reference to users as follows: ...[delete - Regional plan users should check the regulations] [insert - The regulations of the NESAQ should be checked...]				
Reasons for Staff Recommendation:	Staff recommend changes to the advice note to remedy these errors and use of the ambiguous term 'user'				

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Submitter: 7 - Western Bay of Plenty District Council

Submission Point No: 11 **Submission Type:** Support in Part **Recommendation:** Accept

Chapter: Rules

Section: AQ R15(2)

Submission Summary: AQ R15 (2) - Method of application
The minor amendment is necessary to align with the definitions provided and to aid in clarity.

Decision Sought: Minor correction -
(a) Remove comma between hand-held and non-motorised
(b) Remove comma between hand-held and motorised

Reasons for Staff Recommendation: Minor amendment made

Further Submission No: 6 - 9 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: New Zealand Agrichemical Education Trust (NZAET)

Summary: Removal of ambiguity

Decision Sought:

Reasons for Staff Recommendation: Minor amendment made

Submission Point No: 12 **Submission Type:** Support in Part **Recommendation:** Accept

Chapter: Rules

Section: AQ R15(3)

Submission Summary: AQ R15(3)(a)
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'. 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. The suggested changes may better align this with the exceptions provided in through AQ R15(4)(d).

Decision Sought: Amend as follows:
(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 [insert - except where the entrance is from private property.]

Reasons for Staff Recommendation: Adds clarity to the existing wording

Submission Point No: 13 **Submission Type:** Oppose **Recommendation:** Accept

Chapter: Rules

Section: AQ R15(3)

Submission Summary: AQ R15 (3)(c)
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).

Decision Sought: Remove AQ R15 (3)(c)

Reasons for Staff Recommendation: Clause deleted as unnecessary and too broad.

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Submitter: 7 - Western Bay of Plenty District Council

Further Submission No: 13 - 80 **Submission Type:** Support in Part **Recommendation:** Accept
Further Submitter: Horticulture New Zealand
Summary: The submitter seeks that condition 3 c) is deleted as it is too broad and the issues are addressed through other provisions in the rule. Clause b) and c) address similar issues so presents confusion in the rule
Decision Sought: Accept submission to delete AQ R15 (3) c) or amend to clarify relationship with AQ R15 (3) b)
Reasons for Staff Recommendation: Clause deleted as unnecessary and too broad.g

Submission Point No: 14 **Submission Type:** Support **Recommendation:** Accept
Chapter: Rules
Section: AQ R15(4)
Submission Summary: AQ R15(4)(a)
The conditions are supported. The inclusion of notification agreements are supported as enabling a practical approach.
Decision Sought: Retain condition AQ R15(4)(a)
Reasons for Staff Recommendation: Some changes made to the rule to resolve other submission points however overall policy intent has not changed

Submission Point No: 15 **Submission Type:** Support in Part **Recommendation:** Accept
Chapter: Rules
Section: AQ R15(4)
Submission Summary: AQ R15(4)(d)
Limiting the exception to land designated as an esplanade strip or esplanade reserve does not adequately cover off the potential increase in administration for Territorial Authorities. Given the number of neighbours surrounding some of our other reserves, in particular urban parks, this would be administratively inefficient, with little added benefit. 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.
Decision Sought: Amend to :
(d)... except where agricultural chemicals are sprayed on the land under management by the Regional Council [insert - or Territorial Authority] for maintenance of rivers and drainage schemes, land used for road or rail purposes, or land designated as an esplanade strip or esplanade reserve [insert - or other reserve].
Reasons for Staff Recommendation: This clause removed due to the low risk of spray drift from using these application methods

Submission Point No: 16 **Submission Type:** Support in Part **Recommendation:** Accept in Part
Chapter: Rules
Section: AQ R15(4)
Submission Summary: AQ R15(4)(e)
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. 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

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notifies spraying of its reserves up to four weeks prior to provide a four week period in which the spraying can be undertaken. For our roading network, a longer timeframe is taken, where we notify that the whole network will be sprayed in a three month window. The suggested edits recognise the current approaches and provide for a more efficient and realistic application of the rule.

Decision Sought: Amend to:
(e)...must publicly notify the agrichemical spraying using an appropriate method from at least 24 hours prior, up to [insert - four weeks] prior to the agrichemical use, [insert - except where spraying is to occur on land used for road purposes where three months prior is allowed]. Notification must..."

Reasons for Staff Recommendation: Staff consider it appropriate to provide a longer notification window for this clause, as requested by the submitter, however staff do not recommend allowing four weeks. As the recommended notification requirements no longer include print media (discussed in other submission points), staff recommend the timeframe is reduced to 10 days

Submission Point No: 17 **Submission Type:** Oppose **Recommendation:** Accept

Chapter: Definitions

Section: Definitions - Free range farming

Submission Summary: "Free range farming"
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.

Decision Sought: Amend the definition of free range farming to exclude the keeping of poultry and pigs that are not for farming purposes.

Reasons for Staff Recommendation: Amend definition to exclude pigs and chickens kept as pets from the definition

Submission Point No: 18 **Submission Type:** Oppose **Recommendation:** Accept in Part

Chapter: Definitions

Section: Definitions - Intensive farming

Submission Summary: "Intensive farming"
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 not intensive farming i.e. these things are opposites. 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. 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.

Decision Sought: Amend to the following (or to similar wording to fit the purposes of the Regional Air Plan):
"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:
(a) carried out within the confines of buildings/structures or pens or yards enclosed by fences or walls; or
(b) undertaken in a manner which precludes the continuous maintenance of pasture or other groundcover.
Included in this definition are:
- 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;

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 7 - Western Bay of Plenty District Council

Excluded from this definition are:

- 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.

Reasons for Staff Recommendation:

Amend the definition to ensure submitters' concerns are relieved and the rule targets the correct activity.

Further Submission No: 13 - 107 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Horticulture New Zealand

Summary: HortNZ has sought an amendment to the definition of intensive farming that is simpler than that sought by the submitter. It is noted that the Draft National Planning Standards have a definition for intensive primary production

Decision Sought: Reject submission 7-18 and accept HortNZ submission point to amend the definition of intensive farming.

Reasons for Staff Recommendation: Amend the definition to ensure submitters' concerns are relieved and the rule targets the correct activity.

Submission Point No: 19 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Chapter: Definitions

Section: Definitions - Sensitive activity

Submission Summary: "Sensitive activity"
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.

Decision Sought: Amend as follows:
Sensitive activity means an activity that may be adversely affected by contaminants and includes [insert - but is not limited to]:

Reasons for Staff Recommendation: Staff recommend changing wording from 'this includes' to 'this may include' to separate the definition from the examples. Staff do not then recommend amending the list itself, as it is no longer a key part of the definition, but a list of examples to provide guidance. This will relieve many of the concerns in the submission points.

Further Submission No: 8 - 88 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Mercury NZ Ltd

Summary: The relief is too general, some small adverse effects are tolerable. Cafes and some retails activities may exist within industrial zones, which will have air discharges in the locality. Mercury seeks greater clarity and rational on which activities are sought to be included within the definition and how the RMA tests do not adequately mitigate Councils concerns

Decision Sought: Disallow

Reasons for Staff Recommendation: Staff recommend changing wording from 'this includes' to 'this may include' to separate the definition from the examples. Staff do not then recommend amending the list itself, as it is no longer a key part of the definition, but a list of examples to provide guidance. This will relieve many of the concerns in the submission points.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 7 - Western Bay of Plenty District Council

Further Submission No: 23 - 57 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter oppose the proposed amendments recommended by submission 7 – 19. The purpose of a definition is to provide an exact meaning of the subject matter. It is considered that the proposed amendments remove the clarity and meaning that is currently provided with this definition.

Decision Sought: Decision sought: Retain the definition of 'Sensitive activity' as notified.

Reasons for Staff Recommendation: Staff recommend changing wording from 'this includes' to 'this may include' to separate the definition from the examples. Staff do not then recommend amending the list itself, as it is no longer a key part of the definition, but a list of examples to provide guidance. This will relieve many of the concerns in the submission points.

Submission Point No: 20 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Definitions

Section: Definitions - Urban property

Submission Summary: "Urban property"
The reliance on defining urban properties as being connected to a municipal wastewater system is inappropriate as 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. 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.

Decision Sought: Delete the definition of urban property.

Reasons for Staff Recommendation: Staff agree that a more effects based approach is appropriate and have recommended changes to the rules to remedy this. However, for clarity, staff recommend retaining the reference to urban properties. The definition provides certainty for urban areas connected to municipal wastewater, and a clear distinction for potential enforcement actions

Further Submission No: 13 - 120 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Horticulture New Zealand

Summary: HortNZ has sought changes to the definition of urban property rather than deleting as sought by the submitter.

Decision Sought: Reject submission

Reasons for Staff Recommendation: Staff agree that a more effects based approach is appropriate and have recommended changes to the rules to remedy this. However, for clarity, staff recommend retaining the reference to urban properties. The definition provides certainty for urban areas connected to municipal wastewater, and a clear distinction for potential enforcement actions

Submission Point No: 21 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Definitions

Section: Definitions - Subject property

Submission Summary: New term "subject property"
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.

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 8 - Jon Burchett

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks 'or be completely unacceptable practice to the owners/occupiers of in respect of discharges beyond the boundary of a subject property. The RMA test is managing adverse effects.

Decision Sought: Reject submission

Reasons for Staff Recommendation: This management requirement is not effects based, and no change is recommended

Further Submission No: 21 - 56 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Port of Tauranga

Summary: PoT opposes this submission. Both the BOPRC Air Plan and the RMA are underpinned by a focus on environmental effects rather than what is or is not acceptable to landowners or occupiers. It is requested that the relief sought in this submission is rejected. As per PoT's original submission it is requested that AQP3(e) is deleted entirely.

Decision Sought: Reject

Reasons for Staff Recommendation: This management requirement is not effects based, and no change is recommended

Further Submission No: 23 - 31 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter oppose the proposed amendments recommended in submission 8 - 1. The amended policy provides a platform for submitters to prevent a discharge to air from occurring, even if the effects can be successfully minimised.

Decision Sought: Decision sought: Retain policy AQ P3(e) as notified subject to changes suggested by Lawter.

Reasons for Staff Recommendation: This management requirement is not effects based, and no change is recommended

Submission Point No: 2 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Policies

Section: AQ P8

Submission Summary: Put the onus onto the operator to avoid spraying beyond the boundary

Decision Sought: (a) Avoiding spray drift beyond the boundary of the subject property and into water bodies [delete - where possible]

Reasons for Staff Recommendation: Complete avoidance places an extremely onerous requirement on the sprayer and would mean that spraying would only be able to occur in limited circumstances where sprayers are absolutely certain that no spray drift would occur. Staff do not recommend this approach

Further Submission No: 13 - 49 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Horticulture New Zealand

Summary: HortNZ has sought changes to AQ P8a) to ensure that the framework reflects best practice

Decision Sought: Reject submission and accept changes sought by HortNZ

Reasons for Staff Recommendation: Changes sought by this submitter are addressed under the relevant submission points

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 8 - Jon Burchett

Submission Point No: 3 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R1

Submission Summary: Conditions (a), (b) and (c) good.

Decision Sought: Retain rule

Reasons for Staff Recommendation: Some changes made to the rule to resolve other submission points

Further Submission No: 21 - 61 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Port of Tauranga

Summary: This submission point refers to retaining Rule AQR1 as notified. PoT request Rule AQR1 is amended as per the original submission

Decision Sought: Reject

Reasons for Staff Recommendation: Some changes made to the rule to resolve other submission points

Submission Point No: 4 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Rules

Section: AQ R15(3)

Submission Summary: People should also have the same protection wherever they wish to be so long as it is in a public space ie walking or cycling on a public road. There are a few places when if an orchardist is spraying their spray will come all over the road, this is happening because there has been no effort made to not have this happen. If there is a close proximation to public spaces then onus should be on the orchardist to at least put up artificial shelter to minimise this. If applicators have too keep their staff out of the sprayed area for a while then at the very least they should not be allowed to have their spray enter public areas. And the onus should be completely on the operator to prove they are safe applicators not on any complainant that has toxic or unwanted substances put on them or their property. It is not acceptable for neighbours to spray or apply contaminants of any sort over the boundary.

Decision Sought: Amend conditions to include "public space" wherever "public amenity areas" are included.
 (a) . . .sprayed on public amenity areas [insert - or public space]
 (b) . . . sprayed within 50 metres of any public amenity area [insert - or public space]
 (c) . . .sprayed within 10 metres of any public amenity area [insert - or public space]

Reasons for Staff Recommendation: The term 'public spaces' is too broad and undefined. The defined term 'public amenity area' captures those spaces where people are likely to congregate for an extended period of time

Further Submission No: 13 - 81 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks that the provisions be amended to include 'public space' after 'public amenity area'. Public amenity area is defined in the Plan with specific areas listed. It is unclear what may be considered to be a public space but not a public amenity area. Use of the defined term is supported

Decision Sought: Reject submission.

Reasons for Staff Recommendation: The term 'public spaces' is too broad and undefined. The defined term 'public amenity area' captures those spaces where people are likely to congregate for an extended period of time

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 8 - Jon Burchett

Submission Point No: 5 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Rules

Section: AQ R15(4)

Submission Summary: AQ R15(4)
Support conditions (a) to (d) but seek amendment to (e)
There are a few places when if an orchardist is spraying their spray will come all over the road, this is happening because there has been no effort made to not have this happen. If there is a close proximation to public spaces then onus should be on the orchardist to at least put up artificial shelter to minimise this. If applicators have too keep their staff out of the sprayed area for a while then at the very least they should not be allowed to have their spray enter public areas. And the onus should be completely on the operator to prove they are safe applicators not on any complainant that has toxic or unwanted substances put on them or their property. It is not acceptable for neighbours to spray or apply contaminants of any sort over the boundary.

Decision Sought: Amend:
(e) . . .sprayed on public amenity areas [insert - or public space]...

Reasons for Staff Recommendation: The term 'public spaces' is too broad and undefined. The defined term 'public amenity area' captures those spaces where people are likely to congregate for an extended period of time

Further Submission No: 13 - 89 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks that the provisions be amended to include 'public space' after 'public amenity area'. Public amenity area is defined in the Plan with specific areas listed. It is unclear what may be considered to be a public space but not a public amenity area. Use of the defined term is supported.

Decision Sought: Reject submission.

Reasons for Staff Recommendation: The term 'public spaces' is too broad and undefined. The defined term 'public amenity area' captures those spaces where people are likely to congregate for an extended period of time

Submission Point No: 6 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Rules

Section: AQ R15(5)

Submission Summary: AQ R15(5)
Support conditions (a) to (d) and seek amendment to add (e) to include buffer zones or shelter belts.

Decision Sought: Amend:
[insert - (e) Buffer zones should be included for orchard sprayers of 10 meters when there is shelter be it natural or artificial and 30 meters if there is no shelter]

Reasons for Staff Recommendation: These actions form part of the strategies to avoid and mitigate spray drift, but do not need to be included as a requirement of the spray risk management plan as these actions may not be suitable for all activities.

Further Submission No: 13 - 99 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks that the provisions for the Spray Risk Management Plan include a mandatory setback for orchardists. Buffer zones are one tool or strategy that may be used to mitigate spray drift that may be used in the Spray Risk Management Plan. The purpose of the plan is to choose appropriate tools so PC13 should not stipulate which mechanisms are used as they will vary from property to property.

Decision Sought: Reject submission

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 8 - Jon Burchett

Reasons for Staff Recommendation: These actions form part of the strategies to avoid and mitigate spray drift, but do not need to be included as a requirement of the spray risk management plan as these actions may not be suitable for all activities.

Submission Point No: 7 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Definitions

Section: Definitions - Noxious or dangerous

Submission Summary: "Noxious or Dangerous"
(b) Contamination of potable water supplies should be reset to zero, nobody should be allowed to contaminate other persons water to any degree.
(c) Exceedance of maximum residue limit for agricultural is just not acceptable you just don't want it on your property.
(e) Damage to crops or plants level is set way too high. Should be able to go about your legal business without being concerned at all that spray from over the fence could be contaminating your crops.
(f) Discharge of fertiliser or agricultural spray that compromises the organic status of another property should also apply to any property that is not owned by the applicator

Decision Sought: "Noxious or Dangerous"
amend as follows:
(b) [insert - No] Contamination of water supplies [delete - where the level exceeds the safe level for human]
(c) [delete - Exceedance of a maximum residue limit for an] [insert - agricultural on, or in food or stock feed at harvest or slaughter]
(e) [insert - No] Damage to crops or plants where contaminants have affected the growth or quality of the crop [delete - that levels exceed safe levels for human consumption and/or the market value of the crop is reduced]
(f) A discharge of fertiliser or agricultural spray that compromises [delete - the organic status of] [insert - any] another property

Reasons for Staff Recommendation: Remove this definition from the plan change as it is used in the RMA and case law considers this based on a normal English language definition. Including a definition could result in a conflict between further Court interpretation. However, staff recommend retaining text to clarify how this term will be interpreted by the rules in the plan change and that this text is based on the text in the proposed plan.
The thresholds requested by the submitter are too high. The definition is to provide thresholds where human health is at risk, rather than the offensiveness or objectionability of discharges.

Further Submission No: 13 - 109 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Horticulture New Zealand

Summary: The definition of noxious or dangerous seeks to establish thresholds as to what are adverse effects on property and environment and reflects best practice and case law on this issue.

Decision Sought: Reject submission

Reasons for Staff Recommendation: Remove this definition from the plan change as it is used in the RMA and case law considers this based on a normal English language definition. Including a definition could result in a conflict between further Court interpretation. However, staff recommend retaining text to clarify how this term will be interpreted by the rules in the plan change and that this text is based on the text in the proposed plan.
The thresholds requested by the submitter are too high. The definition is to provide thresholds where human health is at risk, rather than the offensiveness or objectionability of discharges.

Further Submission No: 20 - 35 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Fonterra Ltd

Summary: Any changes to the definition of noxious and dangerous has wider implications for the provisions of PC13, including the rules. Fonterra does not support the proposed amendments to this definition

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 8 - Jon Burchett

Decision Sought: Disallow

Reasons for Staff Recommendation: Remove this definition from the plan change as it is used in the RMA and case law considers this based on a normal English language definition. Including a definition could result in a conflict between further Court interpretation. However, staff recommend retaining text to clarify how this term will be interpreted by the rules in the plan change and that this text is based on the text in the proposed plan.
The thresholds requested by the submitter are too high. The definition is to provide thresholds where human health is at risk, rather than the offensiveness or objectionability of discharges.

Submission Point No: 8 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Definitions

Section: Definitions - Public amenity area

Submission Summary: "Public amenity area"
Should also include the words Public Space .ie lots of roadways are used for walking cycling and deserve the same rights not to be put at risk of any sprays or contaminants.

Decision Sought: Add the words "Public space" to the definition.

Reasons for Staff Recommendation: This term is too general and would unnecessarily capture areas that are not intended to be included in the definition

Further Submission No: 8 - 86 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Mercury NZ Ltd

Summary: The relief sought would include any public space, which is too general for the purpose of establishing sensitive receptors to discharges of contaminants to air

Decision Sought: Disallow

Reasons for Staff Recommendation: This term is too general and would unnecessarily capture areas that are not intended to be included in the definition

Further Submission No: 13 - 114 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Horticulture New Zealand

Summary: It is unclear what additional spaces would be included as 'public spaces' as the definition of public amenity area is broad.

Decision Sought: Reject submission

Reasons for Staff Recommendation: This term is too general and would unnecessarily capture areas that are not intended to be included in the definition

Further Submission No: 21 - 74 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Port of Tauranga

Summary: PoT opposes this submission and suggests the inclusion of all public space in the definition of a public amenity area is unnecessarily inclusive, and may inadvertently capture public spaces such as road verges, walk ways etc.

Decision Sought: Reject

Reasons for Staff Recommendation: This term is too general and would unnecessarily capture areas that are not intended to be included in the definition

Submission Point No: 9 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Rules

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 8 - Jon Burchett

Section: AQ R15(1)
Submission Summary: Support conditions
Decision Sought: Retain conditions
Reasons for Staff Recommendation: Some changes made to the rule to resolve other submission points

Submission Point No: 10 **Submission Type:** Support **Recommendation:** Accept in Part
Chapter: Rules
Section: AQ R15(2)
Submission Summary: Support conditions
Decision Sought: Retain conditions
Reasons for Staff Recommendation: Some changes made to the rule to resolve other submission points

Submission Point No: 11 **Submission Type:** Support **Recommendation:** Accept in Part
Chapter: Policies
Section: AQ P3(a)
Submission Summary: Condition (a)
Decision Sought: Retain condition (a) as proposed
Reasons for Staff Recommendation: Staff recommend some changes made to the policy as a result of other submission points, however these do not alter the overall policy intent.

Further Submission No: 21 - 42 **Submission Type:** Oppose **Recommendation:** Accept in Part
Further Submitter: Port of Tauranga
Summary: This submission point refers to retaining Policy AQP3 as notified. PoT request the policy is amended as per the original submission.
Decision Sought: Reject
Reasons for Staff Recommendation: Staff recommend some changes made to the policy as a result of other submission points, however these do not alter the overall policy intent.

Submission Point No: 12 **Submission Type:** Support **Recommendation:** Accept in Part
Chapter: Policies
Section: AQ P3(c)
Submission Summary: Condition (c) excellent.
Decision Sought: Retain condition (c) as proposed
Reasons for Staff Recommendation: Staff recommend some changes made to the policy as a result of other submission points, however these do not alter the overall policy intent.

Further Submission No: 21 - 43 **Submission Type:** Oppose **Recommendation:** Accept in Part
Further Submitter: Port of Tauranga

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 8 - Jon Burchett

Summary: This submission point refers to retaining Policy AQP3 as notified. PoT request the policy is amended as per the original submission.

Decision Sought: Reject

Reasons for Staff Recommendation: Staff recommend some changes made to the policy as a result of other submission points, however these do not alter the overall policy intent.

Submission Point No: 13 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Policies

Section: AQ P3(d)

Submission Summary: Condition (d) excellent.

Decision Sought: Retain condition (d) as proposed

Reasons for Staff Recommendation: Staff recommend some changes made to the policy as a result of other submission points, however these do not alter the overall policy intent.

Further Submission No: 21 - 44 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Port of Tauranga

Summary: This submission point refers to retaining Policy AQP3 as notified. PoT request the policy is amended as per the original submission.

Decision Sought: Reject

Reasons for Staff Recommendation: Staff recommend some changes made to the policy as a result of other submission points, however these do not alter the overall policy intent.

Submitter: 9 - Hamish Kendal

Submission Point No: 1 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R15(1)

Submission Summary: I support the policy in AQ R15 as it is written allowing the use of drones for the aerial discharge of agrichemicals as a Permitted Activity within certain conditions, and where these can't be complied with then in compliance with the conditions of aerial application. I maintain that spraying from a drone within 5m of the target is closer to the application by ground techniques than to aerial techniques using larger aircraft. Certification with the Civil Aviation Authority is required for this activity which addresses the risks associated with the Permitted Activity status.

Decision Sought: I seek that an all-up weight (AUW) upper limit of drone-spraying aircraft is included in the policy, being 25kg which aligns with Civil Aviation Authority (CAA) RPAS Categories.

Reasons for Staff Recommendation: Some changes made to the rule to resolve other submission points

Submission Point No: 2 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Rules

Section: AQ R15(1)

Submission Summary: There may need to be some clarification in the plan, if warranted, about the aerial release of other hazardous chemicals in solid format (ie. not sprays or agrichemicals) from drones. For example, the aerial release of cereal toxic baits for pest control (as performed by helicopters), or the release of fertilisers or hormones over orchards.

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 9 - Hamish Kendal

Decision Sought: Clarification in the plan about the aerial release of other hazardous chemicals in solid format (ie. not sprays or agrichemicals) from drones.

Reasons for Staff Recommendation: Solid substances are not a discharge to air, regardless of the delivery method. The plan change manages discharges of solid particulates to air, where they are small enough to remain suspended, travel some distance and potentially be inhaled

Submitter: 10 - Toi Te Ora Public Health

Submission Point No: 1 **Submission Type:** Support **Recommendation:** Reject

Chapter: Policies

Section: AQ P3(b)

Submission Summary: When considering the effects on human health consideration needs to be wider than stated in 3 (b). We would like to see consideration given to the number of people potentially exposed, the degree of harm or burden to health likely to result from any exposure and the control that people may have on exposure when assessing the potential or actual effects on human health.

Decision Sought: That when considering the avoidance or minimisation of effects of a discharge of contaminants on human health the plan in addition considers:

- The number of people potentially exposed
- The degree of harm to health likely to result from any exposure
- The ability of the population to take steps to avoid the exposure.

Reasons for Staff Recommendation: This policy is more like a method and non-regulatory methods are not included in the plan change. Aside from this, consideration of human health is embedded in most provision of the plan change and staff do not recommend this amendment

Further Submission No: 8 - 41 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Mercury NZ Ltd

Summary: Mercury supports the intent of this submission. However, the relief sought seems more appropriate as an assessment criteria on technical matters. Mercury is happy to engage on this matter

Decision Sought: Disallow

Reasons for Staff Recommendation: This policy is more like a method and non-regulatory methods are not included in the plan change. Aside from this, consideration of human health is embedded in most provision of the plan change and staff do not recommend this amendment

Further Submission No: 20 - 13 **Submission Type:** Support in Part **Recommendation:** Accept

Further Submitter: Fonterra Ltd

Summary: Fonterra supports the intent of the submission, however the relief sought is more appropriate as an assessment criteria rather than a policy.

Decision Sought: Disallow in part

Reasons for Staff Recommendation: This policy is more like a method and non-regulatory methods are not included in the plan change. Aside from this, consideration of human health is embedded in most provision of the plan change and staff do not recommend this amendment

Further Submission No: 20 - 15 **Submission Type:** Support in Part **Recommendation:** Accept

Further Submitter: Fonterra Ltd

Summary: Fonterra supports the intent of the submission, however the relief sought is more appropriate as an assessment criteria rather than a policy.

Decision Sought: Disallow in part

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 10 - Toi Te Ora Public Health

Reasons for Staff Recommendation: This policy is more like a method and non-regulatory methods are not included in the plan change. Aside from this, consideration of human health is embedded in most provisions of the plan change and staff do not recommend this amendment.

Submission Point No: 2 **Submission Type:** Support **Recommendation:** Accept

Chapter: Policies

Section: AQ P9

Submission Summary: We support the inclusion of Policy 9(b) to ensure fumigation complies with exposure levels and management regimes set by the New Zealand Environmental Protection Authority

Decision Sought: Retain policy

Reasons for Staff Recommendation: Retain policy as proposed

Submission Point No: 3 **Submission Type:** Support in Part **Recommendation:** Accept

Chapter: Rules

Section: AQ R1

Submission Summary: We support the general permitted activity rules however AQ R1(c) may exclude not for profit organisations or local government agency activities when these too may present a similar risk to discharges from industrial or trade premises.

Decision Sought: That Council review the intention of permitted AQ R1(c) to ensure that all permitted discharges will be managed appropriately irrespective of the premises generating the discharge.

Reasons for Staff Recommendation: Recommended change to this rule aligns with submitter's request

Submission Point No: 4 **Submission Type:** Seek **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R4(a)

Submission Summary: We recognise that vehicle emissions are important for air quality locally however, the intention of AQ R4 to permit vehicle emissions and movements on unsealed roads is considered ambiguous. We understand that the issue of vehicle emission standards may be best addressed elsewhere.

Decision Sought: Recommend that AQ R4(a) be reworded to clarify whether a vehicle is not permitted to emit visible smoke for more than a period of 5 seconds, at any time or only at idle.

Reasons for Staff Recommendation: Staff recommend that this clause is deleted. Any discharges from vehicles that need to be assessed, can be assessed under AQ R1. If traffic emissions become an issue they would be addressed as a whole, not vehicle by vehicle according to visible emissions according to this rule.

Submission Point No: 5 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Definitions

Section: Definitions - Recreational/cultural

Submission Summary: AQ R9 permits open burning when the fire is for recreational and/or cultural purposes. While recreational purposes are well defined with examples in the proposed plan, cultural purposes are not. We recommend what constitutes activities of cultural purpose be clarified in the definition section to assist compliance and enforcement by the public and Council. For example, bonfires on 5th November be considered a cultural activity.

Decision Sought: That the definition of terms for 'recreational and cultural purpose fires', be expanded to

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clarify with examples, fires of cultural purpose.

Reasons for Staff Recommendation: Staff accept that there may be some confusion over whether Guy Fawkes celebrations, as the primary example of note, would be included. Staff propose an amendment to include this as an explicit example to avoid any such confusion

Submission Point No: 6 **Submission Type:** Support **Recommendation:** Comment Note

Chapter: Rules

Section: AQ R12

Submission Summary: We wish to reiterate Dr Miller's support for the need to regulate burners in private homes and support Council's multi-pronged approach, to reducing pollution in this airshed to acceptable levels.

Decision Sought: We would also like to see public and sector education continue alongside the new regulations.

Reasons for Staff Recommendation: Public education will continue

Submission Point No: 7 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R21(g)

Submission Summary: AQ R21 (g) Crematoria - We support all new crematoria being discretionary activities to ensure that a new operation or location is unlikely to cause an adverse effect

Decision Sought: That new crematoria are listed as a discretionary activity under AQ R21

Reasons for Staff Recommendation: Some changes made to the rule to resolve other submission points however requirement for new crematoria has not changed

Submission Point No: 8 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Definitions

Section: Definitions - Sensitive activity

Submission Summary: "Sensitive activities"
We fully support this helpful definition because the definition captures all occupied dwellings and buildings, public water supply catchments and intakes, and especially because it covers private/individual household water supplies sourced from roofs. Roof based drinking water supplies present a very direct exposure pathway for people.

Decision Sought: That the definition be accepted as proposed

Reasons for Staff Recommendation: Staff recommend changing wording from 'this includes' to 'this may include' to separate the definition from the examples. Staff do not then recommend amending the list itself, as it is no longer a key part of the definition, but a list of examples to provide guidance. This will relieve many of the concerns in the submission points.

Submission Point No: 9 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Chapter: Definitions

Section: Definitions - Urban property

Submission Summary: "Urban property"
We do not support the definition of urban property (to manage the effects of open burning) including properties connected to a wastewater scheme. This is because wastewater schemes are often not provided in areas where there is a sizable population, and wherever there is a sizable population burning will occur more frequently, have the potential to expose

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a number of people and cause cumulative discharge effects. The plan as proposed would, for example, enable the communities of Matata and Matapihi to continue to open burn when we consider these communities to be of sufficient density that open fires are likely to cause a nuisance to health and therefore an adverse effect on human health. We recommend that the definition for an urban property be determined by land size only irrespective of any infrastructure provided.

Decision Sought: Amend definition:
Urban property in relation to open burning means any property that is less than 2 hectares [delete - and is connected to a municipal wastewater system.]

Reasons for Staff Recommendation: Staff recommend a more effects based approach is appropriate and have recommended changes to the rules to remedy this. This will also remedy the submitter's concerns without the need to amend the definition.

Submission Point No: 10 **Submission Type:** Not Applicable **Recommendation:** Comment Note

Chapter: Whole Plan

Section: Whole Plan - Air Quality

Submission Summary: Public health emphasises keeping people healthy and improving the health of populations. This submission aims to assist in reducing contaminants to air and protect the health of people living in, and visiting, the local community. Exposure to air pollutants is largely beyond the control of individuals and requires action by public authorities at all levels.

Decision Sought: Clean air is a basic requirement for human health and wellbeing. Environments should improve not harm our health

Reasons for Staff Recommendation: No change requested - retain provisions that improve air quality

Submission Point No: 11 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Rules

Section: AQ R4(b)

Submission Summary: While we recognise that vehicles moving on unsealed roads need to be permitted, vehicle movements on unsealed roads can create a health nuisance as a result of dust. We recommend clarification be included to address situations where vehicle movement may need to be managed for example, during significant road upgrading, during logging operations or during periods of dry weather causing frequent and continuous periods of dust from vehicle movement from an unsealed road.

Decision Sought: That Council review the intention of permitted AQ R4 (b) and clarify when vehicle movements on unsealed roads are not considered a permitted activity.

Reasons for Staff Recommendation: Staff are aware that significant dust issues are being caused by logging trucks in Northland. However staff are unaware of the equivalent issue in the Bay of Plenty. During dry periods there are nuisance issues caused by dust from dry unsealed roads, but these issues are short lived and have not escalated to where they require action. Road upgrading is excluded from the definition of unsealed roads.

Submission Point No: 12 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R9

Submission Summary: The approach to prohibit open burning in urban areas is reasonable and necessary for the protection of public health. We support the proposal for open burning to be prohibited on a property less than 2 hectares.

Decision Sought: Retain intent of rule to ban open burning in the built environment

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Reasons for Staff Recommendation: Staff recommend an amendment is made for a setback distance of 100 metres. This will result in some rural properties being captured by this rule. However the purpose of the policy and corresponding rule is to manage open burning according to its effects. Non-recreational/cultural open burning (ie, of green waste or rubbish) carried out within a certain distance of any dwelling house has the same adverse effects regardless of where this occurs and whether it is in an urban area or not.

Submission Point No: 13 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Policies

Section: AQ P3(a)

Submission Summary: The objectives and policies are generally supported and in particular, we support the clear recognition of the importance of avoiding adverse effects on human health and safeguarding the life supporting capacity of the air outlined in 3(a). The approach of first avoiding, then eliminating the discharge of a contaminant, then minimising contaminants where they may cause adverse effects on human health is appropriate.

Decision Sought: Retain condition (a) as proposed

Reasons for Staff Recommendation: Staff recommend some changes made to the policy as a result of other submission points, however these do not alter the overall policy intent.

Further Submission No: 21 - 45 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Port of Tauranga

Summary: This submission point refers to retaining Policy AQP3 as notified. PoT request the policy is amended as per the original submission.

Decision Sought: Reject

Reasons for Staff Recommendation: Staff recommend some changes made to the policy as a result of other submission points, however these do not alter the overall policy intent.

Submission Point No: 14 **Submission Type:** Support **Recommendation:** Reject

Chapter: Policies

Section: AQ P3(e)

Submission Summary: The objectives and policies are generally supported and in particular, we support the clear recognition of the importance of avoiding adverse effects on human health and safeguarding the life supporting capacity of the air outlined in 3(e). The approach of first avoiding, then eliminating the discharge of a contaminant, then minimising contaminants where they may cause adverse effects on human health is appropriate.

Decision Sought: Retain condition (e) as proposed

Reasons for Staff Recommendation: There is an internal inconsistency between clauses (a) to (d) which require the management of the adverse effects of discharges regardless of where the effects occur and clause (e) which introduces the property boundary as a line beyond where assessment of adverse effects begins. It implies that Council will use the property boundary to assess adverse effects in every case, in conflict with clause (a) where adverse effects are assessed regardless of location. Decision makers may then find it difficult to determine which of the requirements apply. To resolve this conflict, staff recommend that the clause is deleted in its entirety

Further Submission No: 21 - 46 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Port of Tauranga

Summary: This submission point refers to retaining Policy AQP3 as notified. PoT request the policy is amended as per the original submission.

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Submitter: 10 - Toi Te Ora Public Health

Decision Sought: Reject

Reasons for Staff Recommendation: There is an internal inconsistency between clauses (a) to (d) which require the management of the adverse effects of discharges regardless of where the effects occur and clause (e) which introduces the property boundary as a line beyond where assessment of adverse effects begins. It implies that Council will use the property boundary to assess adverse effects in every case, in conflict with clause (a) where adverse effects are assessed regardless of location. Decision makers may then find it difficult to determine which of the requirements apply. To resolve this conflict, staff recommend that the clause is deleted in its entirety

Submission Point No: 15 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Policies

Section: AQ P4 - whole policy

Submission Summary: When considering the effects on human health consideration needs to be wider. We would like to see consideration given to the number of people potentially exposed, the degree of harm or burden to health likely to result from any exposure and the control that people may have on exposure when assessing the potential or actual effects on human health.

Decision Sought: That when considering the acceptability of any discharge of contaminants the plan in addition considers:

- The number of people potentially exposed
- The degree of harm to health likely to result from any exposure
- The ability of the population to take steps to avoid the exposure.

Reasons for Staff Recommendation: Consideration of human health is already included in many of the clauses. No change is recommended

Further Submission No: 8 - 63 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Mercury NZ Ltd

Summary: Mercury seeks Policy 4 implement the correct tests in line with the RMA. The obligation, or ability to remedy or mitigate exposure to contaminants, is the responsibility of the consent holder, or operator, rather than the population. It is not clear how the relief sought could be implemented

Decision Sought: Disallow

Reasons for Staff Recommendation: Consideration of human health is already included in many of the clauses. No change is recommended

Further Submission No: 26 - 3 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Western Bay of Plenty District Council

Summary: The suggested amendment is opposed. AQ P4(e) requires regard to 'The effect of the discharge on human health...'. It is felt that this is sufficient and the additional detail sought by the submitter is unnecessary, and risks weakening the policy. To include the consideration of "the ability of the population to take steps to avoid the exposure" is not only hard to understand or monitor, but risks reducing the onus placed on a person discharging to air and moving to those that may be effected.

Decision Sought: Reject

Reasons for Staff Recommendation:

Further Submission No: 30 - 22 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Swap Stockfoods Ltd

Summary: Swaps Stockfoods does not support the inclusion of the proposed provisions. The proposed policy already includes a requirement to consider the effect on human health

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Submitter: 10 - Toi Te Ora Public Health

and the environment (which by definition under the RMA includes people and communities). At the time that resource consent is sought this will require the applicant to demonstrate the effects on human health in consideration of the relevant discharge standards.

Decision Sought: Reject

Reasons for Staff Recommendation: Consideration of human health is already included in many of the clauses. No change is recommended

Submitter: 11 - Waikato Regional Council

Submission Point No: 1 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Definitions

Section: Definitions - Offensive or objectionable

Submission Summary: Several policy objectives and rules in the proposed plan refer to noxious or dangerous, offensive or objectionable discharges and yet only the term noxious or dangerous is defined in the Definition of Terms.

Decision Sought: Provide a definition of offensive and objectionable in the Definition of Terms as is provided for noxious and dangerous

Reasons for Staff Recommendation: Some clarity around how the term will be applied during implementation of the plan change would be helpful. Staff recommend that brief advice text is provided, but that the terms not be specifically defined in order to ensure consistency with current and future case law

Further Submission No: 8 - 79 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Mercury NZ Ltd

Summary: Mercury considers a definition for 'Offensive or Objectionable' is not required. This term is used within the RMA and case law has considered this based on a normal English language definition. The inclusion of the definition could result in a conflict between further court interpretation under the Act and the definition in the Plan. Further guidance on what is considered offensive or objectionable is also included in the MfE Good Practice Guide for Assessing and Managing Odour

Decision Sought: Disallow

Reasons for Staff Recommendation: Some clarity around how the term will be applied during implementation of the plan change would be helpful. Staff recommend that brief advice text is provided, but that the terms not be specifically defined in order to ensure consistency with current and future case law

Further Submission No: 11 - 14 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Oji Fibre Solution

Summary: Oji FS does not consider a definition of offensive or objectionable is needed in PC13. Oji FS notes that despite this term being used extensively in regional air plans under the RMA, it is not aware of any regional air plan which has included a definition of the term

Decision Sought: Reject submission

Reasons for Staff Recommendation: Some clarity around how the term will be applied during implementation of the plan change would be helpful. Staff recommend that brief advice text is provided, but that the terms not be specifically defined in order to ensure consistency with current and future case law

Further Submission No: 12 - 1 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Z Energy Ltd, BP Oil NZ Ltd & Mobil Oil NZ Ltd

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Submitter: 11 - Waikato Regional Council

Summary: The submission is supported in principle. The Proposed Plan Change does not include a definition for the phrase 'Offensive or objectionable' and it is considered, given the context of the proposed policy framework and the inclusion of a definition for noxious and dangerous, that a definition for the phrase is appropriate. The wording of the definitions should reflect current case law.

Decision Sought: Accept in part

Reasons for Staff Recommendation: Some clarity around how the term will be applied during implementation of the plan change would be helpful. Staff recommend that brief advice text is provided, but that the terms not be specifically defined in order to ensure consistency with current and future case law

Further Submission No: 20 - 29 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Fonterra Ltd

Summary: For the reasons outlined in the Waikato Regional Council's submission. Further discussion is required around the appropriate wording of any definition.

Decision Sought: Accept in part

Reasons for Staff Recommendation: Some clarity around how the term will be applied during implementation of the plan change would be helpful. Staff recommend that brief advice text is provided, but that the terms not be specifically defined in order to ensure consistency with current and future case law

Further Submission No: 30 - 46 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Swap Stockfoods Ltd

Summary: Support for the provision of a definition for offensive or objectionable. Swap Stockfoods would like the opportunity to be involved in the discussions regarding the proposed wording of the definition.

Decision Sought: Accept

Reasons for Staff Recommendation: Some clarity around how the term will be applied during implementation of the plan change would be helpful. Staff recommend that brief advice text is provided, but that the terms not be specifically defined in order to ensure consistency with current and future case law

Submission Point No: 3 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Rules

Section: AQ R14

Submission Summary: The policy objective includes avoiding a net increase in discharges of particulate to air from solid fuel burners that have been refurbished since their installation. However AQ R14 does not fully address this issue. While this rule makes the discharges to air from a woodburner (including a refurbished burner) that was installed before 1 September 2005 a non-complying activity from 1 February 2020, it does not address woodburners that were installed after 1 September 2005 that have been refurbished.

Decision Sought: Recommend that in order to meet the policy objective AQ P7, that the rule AQ R14 is amended to make woodburners installed after 1 September 2005, that have been refurbished, a non-complying activity from 1 February 2020

Reasons for Staff Recommendation: In order to meet the policy objective in AQ P7 regarding avoiding discharges from refurbished burners, rule AQ R14 is expanded to include all refurbished burners, not just those installed before 2005.

Submission Point No: 4 **Submission Type:** Support **Recommendation:** To Be Advised

Chapter: Policies

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Staff Recommendations on Submissions (By Submitter)

Submitter: 11 - Waikato Regional Council

Section: AQ P10

Submission Summary: The emission factors are not the same as those recommended by Environet Ltd who recently (2015) reviewed emission factors for the Ministry for the Environment. Recommendation is 10g/kg for Pre-2005 woodburners and multifuel burners (wood), 4.5 g/kg for NESAQ compliant solid fuel burners, 19 g/kg for multifuel burners (coal) and 2 g/kg for Pellet burners. The fuel use assumptions of around 1 tonne per year also seem to be on the low side. Environet Ltd's recent survey results for urban North Island indicates 2.2 tonnes per year (based on NZ Pine of 500 kg/m³ density) and 2.8 tonnes per year for Tokoroa (similar climate and locality to Rotorua).

Decision Sought: Table AQ1 - Review emission factors and annual fuel use assumptions to be used for calculating offsets.

Reasons for Staff Recommendation: Staff acknowledge that emission factors for domestic sources vary according to location, climate, and demographics. Also that each time emission factors are calculated for different areas a more appropriate emission factor may be available. Therefore the recommendation is to allow for alternative emission factors provided suitable evidence for the alternative figures

Further Submission No: 14 - 3 **Submission Type:** Other **Recommendation:** Reject

Further Submitter: Envirosolve

Summary: Why councils like to support lots different studies instead of avoiding emission with secondary emission devices at the first place? With the amount of money spent for studies you could solve the problem in a very short time with the same money.

Decision Sought: Neutral

Reasons for Staff Recommendation: AQ P10 does not prevent industries from using secondary emission devices as a way to either reduce the offset required by Regulation 17 of the NESAQ, or reduce the emissions to a level where either no consent is required or there is no need to provide offsets. The studies quoted in the original submission point are included to provide justification and clear references for the relief sought, which is to update Table AQ 1 with more recent data. They are not provided as support for the underlying offsets requirement, which is set out by central government.

Submission Point No: 5 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R2

Submission Summary: While the intent of the rule is understood by WRC staff the wording of the rule could be changed to make the intent clearer.

Decision Sought: Amend as follows;
Any discharge of contaminants into air that cannot comply with any permitted activity rule, is not discretionary under any other rule, and is not [delete - otherwise a controlled or noncomplying activity under] [insert - specifically addressed by] any other rule of this Air Quality chapter, is a discretionary activity.

Reasons for Staff Recommendation: Minor change made to make wording of rule clearer that does not affect the overall intention of the rule.

Submission Point No: 6 **Submission Type:** Support **Recommendation:** Reject

Chapter: Rules

Section: AQ R15(1)

Submission Summary: There are no exemptions or recognition of police or military operations. This has recently come to light as an issue in the Waikato. Police are involved with cannabis spraying operations from helicopters from time to time where notification would not be possible

Decision Sought: Consider including special allowance for aerial spraying of cannabis plantations by the

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Submitter: 11 - Waikato Regional Council

Police.

Reasons for Staff Recommendation: NZ Defence Force is a submitter to this plan change, and has not requested an amendment of this nature. Staff are unaware of any issues regarding spraying operations carried out by NZ Police.

Submission Point No: 7 **Submission Type:** Support **Recommendation:** Reject

Chapter: Rules

Section: AQ R15(3)

Submission Summary: More signage is considered necessary for large public amenity areas where there is a significant number of hectares involved and there is potential for access to the property from an extended length of boundary or several different access points.

Decision Sought: Consider providing more detail around required signage on the boundary of public amenity areas where the area of property is large and or large boundary length e.g. signage required for every 300 metres of boundary length or signage required for boundary locations where access is most likely.

Reasons for Staff Recommendation: The rules require signs at every entrance where the public usually have access to the area and this is considered sufficient.

Submission Point No: 8 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R15(3)

Submission Summary: The sign requirement specified by AQ R15(3)(c) when spraying within 10 metres of any public amenity area is made redundant by the preceding rule AQ R15(3)(b) which also requires the same sign requirement when ground based spraying within 50 metres or aerial spraying within 200 metres of any public amenity area. Rule AQ R15(3)(b) would cover any lesser distance than the 50 metres ground spraying or 200 metres aerial spraying including within 10 metres

Decision Sought: Recommend deleting AQ R15(3)(c) or redefining how this rule differs from the requirements of AQ R15(3)(b)

Reasons for Staff Recommendation: The recommendation on other submission points is to delete clause (c)

Further Submission No: 13 - 82 **Submission Type:** Support in Part **Recommendation:** To Be Advised

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks that condition 3 c) is deleted or redefine how clauses b) and c) differ. The two clauses are similar so presents confusion in the rule.

Decision Sought: Accept submission to delete AQ R15 (3) c) or amend to clarify relationship with AQ R15 (3) b)

Reasons for Staff Recommendation: The recommendation on other submission points is to delete clause (c)

Submission Point No: 9 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R15(4)

Submission Summary: AQ R15(4)(d) provides a separate rule for notification when spraying is occurring within 10 metres of a property. However, it is noted that the notification requirements are the same as specified for AQ R15 (4)(a) when spraying within 50 metres (ground based) or within 200 metres (aerial based). The only difference in notification requirements for AQ R15(4)(d) is the exception provided for not having to notify if the spraying is on land managed by

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Submitter: 11 - Waikato Regional Council

Regional Council for maintenance purposes. This exception for notification appears to only apply to spraying within 10 metres and yet the notification requirements specified under rule AQ R15(4)(a) do not include this exclusion. The interpretation of these two rules as they are currently proposed is that Regional Council could be undertaking ground based spraying 11 metres from a property boundary for maintenance purposes and would have to notify the occupier but if the spraying was closer than 10 metres from the boundary than Regional Council wouldn't have to notify the occupier and yet the potential for off target spray drift would be greater for the latter situation.

Decision Sought: Question the need and or wording of AQ R15(4)(d) in comparison to AQ R15(4)(a)

Reasons for Staff Recommendation: This clause removed due to the low risk of spray drift from using these application methods

Submission Point No: 10 **Submission Type:** Support **Recommendation:** Reject

Chapter: Rules

Section: AQ R15(4)

Submission Summary: Possible confusion between the 300 metre recommendation by the NZS 8409:2004 and also Western Australian EPA recommendations and the notification distance specified in this rule for aerial spraying.

Decision Sought: Question whether the aerial spraying notification distance of 200 metres may cause confusion with the NZS 8409:2004 which recommends a 300 metre buffer distance for aerial application where no shelter belt is in place.

Reasons for Staff Recommendation: The Agrichemical Standard clearly states that the guidelines are treated as guidelines for buffer distances. They are not notification distances. the notification distances in the plan change have been developed based on feedback on the draft plan and on distances in the operative Regional Air Plan.

Further Submission No: 13 - 90 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Horticulture New Zealand

Summary: The submitter queries why there is not a 300metre distances as recommended in NZS8409:2004. Table G2 in NZS8409:2004 is only a guideline for buffer distances, not a notification distance. Table G2 clearly states it is for guidance only and that there are a range of factors that influence distances so HortNZ does not consider it appropriate to use Table G2 as a basis of notification distances.

Decision Sought: Reject submission

Reasons for Staff Recommendation: The Agrichemical Standard clearly states that the guidelines are treated as guidelines for buffer distances. They are not notification distances. the notification distances in the plan change have been developed based on feedback on the draft plan and on distances in the operative Regional Air Plan.

Submission Point No: 11 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Rules

Section: AQ R15(4)

Submission Summary: The wording used for the notification period is somewhat confusing and differs from the wording used in AQ R15(4)(a).

Decision Sought: Amend wording:
(e) Where agrichemicals are sprayed on public amenity areas, the owner/occupier or agent must publicly notify the agrichemical spraying using an appropriate method [delete - from at least 24 hours prior, up to] [insert - no earlier than] one week [delete - prior to the agrichemical use] [insert - and no later than 24 hours before the agrichemical spraying].

Reasons for Staff Recommendation: Wording changed to be more consistent

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Staff Recommendations on Submissions (By Submitter)

Submitter: 11 - Waikato Regional Council

Submission Point No: 12 **Submission Type:** Support **Recommendation:** Reject

Chapter: Rules

Section: AQ R15 - new condition

Submission Summary: While the advice note at the end of Rule AQ R15(5) does indicate other matters that should be considered such as certification and compliance with the NZS 8409 it is important that the requirement around training and registration certification is made explicit.

Decision Sought: Recommend that the Agrichemical spray rules explicitly states the requirement for commercial chemical applicators to be properly trained and registered. Also recommend considering including a requirement for landowners spraying their own properties to be properly certified when operating anything other than handheld/backpack applications.

Reasons for Staff Recommendation: All users of agrichemicals, particularly large-scale and/or commercial use, should already be complying with HSNO and WorkSafe requirements and should have any appropriate qualifications. It is not the Regional Council's responsibility to require or monitor this. The Council's principal concern, in this plan change, is to control spray drift, and the rule is designed for this purpose. It does not rely on training, provided by a third party, to manage spray drift. Staff consider that if the conditions of the rule are met, the effects of spray drift are mitigated. A condition requiring training and qualifications will add no further value and staff do not recommend this addition

Further Submission No: 6 - 3 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: New Zealand Agrichemical Education Trust (NZAET)

Summary: The submitter seeks that training requirements are included in Rule 15 for application of agrichemicals. Being adequately trained is important in ensuring that the potential for adverse effects of spraying are appropriately managed

Decision Sought:

Reasons for Staff Recommendation: All users of agrichemicals, particularly large-scale and/or commercial use, should already be complying with HSNO and WorkSafe requirements and should have any appropriate qualifications. It is not the Regional Council's responsibility to require or monitor this. The Council's principal concern, in this plan change, is to control spray drift, and the rule is designed for this purpose. It does not rely on training, provided by a third party, to manage spray drift. Staff consider that if the conditions of the rule are met, the effects of spray drift are mitigated. A condition requiring training and qualifications will add no further value and staff do not recommend this addition

Further Submission No: 13 - 67 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks that training requirements are included in Rule 15 for application of agrichemicals. Being adequately trained is important in ensuring that the potential for adverse effects of spraying are appropriately managed

Decision Sought: Include requirement for training for all agrichemical applicators

Reasons for Staff Recommendation: All users of agrichemicals, particularly large-scale and/or commercial use, should already be complying with HSNO and WorkSafe requirements and should have any appropriate qualifications. It is not the Regional Council's responsibility to require or monitor this. The Council's principal concern, in this plan change, is to control spray drift, and the rule is designed for this purpose. It does not rely on training, provided by a third party, to manage spray drift. Staff consider that if the conditions of the rule are met, the effects of spray drift are mitigated. A condition requiring training and qualifications will add no further value and staff do not recommend this addition

Further Submission No: 19 - 2 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Agcarm

Summary: The submitter seeks that training requirements are included in Rule 15 for application

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Submitter: 11 - Waikato Regional Council

of agrichemicals. Being adequately trained is important in ensuring that the potential for adverse effects of spraying are appropriately managed.

Decision Sought: Accept submission point

Reasons for Staff Recommendation: All users of agrichemicals, particularly large-scale and/or commercial use, should already be complying with HSNO and WorkSafe requirements and should have any appropriate qualifications. It is not the Regional Council's responsibility to require or monitor this. The Council's principal concern, in this plan change, is to control spray drift, and the rule is designed for this purpose. It does not rely on training, provided by a third party, to manage spray drift. Staff consider that if the conditions of the rule are met, the effects of spray drift are mitigated. A condition requiring training and qualifications will add no further value and staff do not recommend this addition

Submission Point No: 13 **Submission Type:** Support **Recommendation:** Reject

Chapter: Rules

Section: AQ R15(5)

Submission Summary: Spray diaries are an important record of the details of spray activities and are considered very helpful when following up on complaints.

Decision Sought: In addition to a Spray Risk Management Plan, recommended that a requirement included for keeping and making available to the regional council, records/documentation of spraying activities i.e. a Spray diary as required by NZS 8409:2004 and making that spray diary available to regional council upon request

Reasons for Staff Recommendation: These actions form part of the strategies to avoid and mitigate spray drift, but do not need to be included as a requirement of the spray risk management plan as these actions may not be suitable for all activities.

Further Submission No: 6 - 15 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: New Zealand Agrichemical Education Trust (NZAET)

Summary: The submitter seeks that records are kept, such as a spray diary required by NZS8409:2004. Keeping records is best practice and is supported.

Decision Sought:

Reasons for Staff Recommendation: These actions form part of the strategies to avoid and mitigate spray drift, but do not need to be included as a requirement of the spray risk management plan as these actions may not be suitable for all activities.

Further Submission No: 13 - 100 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks that records are kept, such as a spray diary required by NZS8409:2004. Keeping records is best practice and is supported

Decision Sought: Accept submission

Reasons for Staff Recommendation: These actions form part of the strategies to avoid and mitigate spray drift, but do not need to be included as a requirement of the spray risk management plan as these actions may not be suitable for all activities.

Further Submission No: 19 - 15 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Agcarm

Summary: The submitter seeks that records are kept, such as a spray diary required by NZS8409:2004. Keeping records is best practice and is supported.

Decision Sought: Accept submission point

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 11 - Waikato Regional Council

Reasons for Staff Recommendation: These actions form part of the strategies to avoid and mitigate spray drift, but do not need to be included as a requirement of the spray risk management plan as these actions may not be suitable for all activities.

Submission Point No: 14 **Submission Type:** Support **Recommendation:** Reject

Chapter: Rules

Section: AQ R17

Submission Summary: 5% free silica is not consistent with industry best practice. In many countries 1% free silica is the now the limit.

Decision Sought: Recommend that AQ R17(b) be amended to restrict free silica content in blasting material from 5% free silica to 1% free silica which is more consistent with the percentage now provided by commercial suppliers and limits placed on blasting media internationally.

Reasons for Staff Recommendation: Staff response is that the main concern of this rule is that there is no noxious or dangerous discharge beyond the boundary (condition (e)). Condition (b) provides only one means of ensuring this. A change to 1% would further ensure condition (e) is met, however staff believe that this change is not necessary

Further Submission No: 12 - 2 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Z Energy Ltd, BP Oil NZ Ltd & Mobil Oil NZ Ltd

Summary: The submission is opposed. The Oil Companies note that, for example, the Waikato Regional Plan [Rule 6.1.10.3(b)], the Proposed Wellington Natural Resources Plan [Rule R26(f)] and the Proposed Northland Regional Plan [Rule C.7.2.1.4] all permit 5% free silica for abrasive blasting. It is considered that the proposed amendment to restrict free silica content in blasting material from 5% to 1% is not consistent with the existing, and proposed, regional policy framework throughout the country.

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Staff response is that the main concern of this rule is that there is no noxious or dangerous discharge beyond the boundary (condition (e)). Condition (b) provides only one means of ensuring this. A change to 1% would further ensure condition (e) is met, however staff believe that this change is not necessary

Submission Point No: 15 **Submission Type:** Support **Recommendation:** Reject

Chapter: Rules

Section: AQ R17

Submission Summary: It is important to ensure that used blasting material which will contain heavy metal contaminants is disposed of appropriately.

Decision Sought: Amend as follows:
(d)(ii) all blasting material and other debris must be removed from site once the operation is completed [insert - and disposed of at an authorised disposal facility].

Reasons for Staff Recommendation: While this is good practice, it is not required to manage discharges of contaminants to air, and provided condition (c) is met, this is sufficient.

Submission Point No: 16 **Submission Type:** Not Applicable **Recommendation:** Reject

Chapter: Definitions

Section: Definitions - Oil

Submission Summary: The definition of oil indicates a wide range of petroleum based products including crude oil, fuel oil sludge and oil refuse which will have higher potential to result in adverse effects as a result of discharges to air associated with its combustion compared to refined oil product.

Decision Sought: Recommend that a definition of clean oil is provided.

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 11 - Waikato Regional Council

Reasons for Staff Recommendation: Retain current definition of oil. This definition and the requirement to burn clean oil in boilers is identical to the operative Regional Air Plan and there are no known issues with this approach.

Submission Point No: 17 **Submission Type:** Support **Recommendation:** Reject

Chapter: Rules

Section: AQ R21(g)

Submission Summary: Discharges to air from existing crematoria can also result in adverse effects if not managed and controlled properly. They should therefore be made a controlled activity but with an appropriate lead in time to be provided to allow existing activities to prepare for obtaining resource consent

Decision Sought: Recommend existing crematoria to be classified as a controlled activity after a certain date in the future.

Reasons for Staff Recommendation: The plan change did not seek to change the status of existing crematoria and continue to recommend this as the approach in the plan change.

Further Submission No: 2 - 1 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Legacy Funeral Homes Ltd

Summary: Existing crematoria should not be made a controlled activity after a certain time.

Decision Sought: Do not provision to make existing crematoria a controlled activity after a certain time.

Reasons for Staff Recommendation: The plan change did not seek to change the status of existing crematoria and continue to recommend this as the approach in the plan change.

Further Submission No: 22 - 26 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Toi Te Ora Public Health

Summary: Discharges to air from existing crematoria can result in adverse effects on health if not managed and controlled property. Therefore we support the inclusion of existing crematoria to be a discretionary activity after a certain date. An extension, replacement or furnace upgrade of an existing crematorium should be a controlled activity.

Decision Sought: Accept

Reasons for Staff Recommendation: The plan change did not seek to change the status of existing crematoria and continue to recommend this as the approach in the plan change.

Submission Point No: 18 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R21(v)

Submission Summary: Torrefaction of biomass, e.g. wood or grain, is a mild form of pyrolysis at temperatures typically between 200 and 320 C. Torrefaction changes biomass properties to provide a much better fuel quality for combustion and gasification applications

Decision Sought: Recommend including in addition to pyrolysis or gasification the related process of torrefaction and/or provide a definition of pyrolysis, gasification and torrefaction in the Definition of Terms

Reasons for Staff Recommendation: Torrefaction has the potential to cause adverse effects to allow consideration of this activity as part of an appropriate resource consent process.

Submission Point No: 19 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Definitions

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 11 - Waikato Regional Council

Section: Definitions - Noxious or dangerous

Submission Summary: "Noxious or dangerous"
The definition of crops and plants (under Noxious and Dangerous) is not sufficiently clear. This has been a shortcoming identified in the Waikato Regional Plan. It could be inferred that the term crop and market value indicates that something has been grown on a commercial scale and therefore it can be problematic to prove an offence when a domestic garden (vegetables or flowers) is affected.

Decision Sought: Recommend providing more clarity around the definition of Noxious or dangerous as it relates to (e) damage to crops or plants. Specifically it is recommended that the term crop is defined and extended to reflect damage to household/non-commercial operations

Reasons for Staff Recommendation: Remove this definition from the plan change as it is used in the RMA and case law considers this based on a normal English language definition. Including a definition could result in a conflict between further Court interpretation. However, staff recommend retaining text to clarify how this term will be interpreted by the rules in the plan change and that this text is based on the text in the proposed plan.
Remove the reference to market value as this implies that the definition only applies to commercial crops when the intention was only to include the effect where human consumption of the crops or plants was unsafe.

Further Submission No: 13 - 110 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks clarity as to the use of the term 'crop' and that it should not only apply to commercial crops. However, the change sought seeks damage to 'household/ non-commercial operations'. This is broad and could encompass a wide range of things. Any change should be limited to commercial and non-commercial crops and plants.

Decision Sought: If clarity of crops and plants is sought it should be limited to commercial and non-commercial crops and plants.

Reasons for Staff Recommendation: Remove this definition from the plan change as it is used in the RMA and case law considers this based on a normal English language definition. Including a definition could result in a conflict between further Court interpretation. However, staff recommend retaining text to clarify how this term will be interpreted by the rules in the plan change and that this text is based on the text in the proposed plan.
Remove the reference to market value as this implies that the definition only applies to commercial crops when the intention was only to include the effect where human consumption of the crops or plants was unsafe.

Submission Point No: 20 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Rules

Section: AQ R18

Submission Summary: It is unclear whether it is intended that this rule allows for equivalent controls for combustion of both refined oil products and crude/waste oil products.

Decision Sought: It is recommended that there should be a separate rule or conditions for combustion of crude/waste oil products and combustion of non-petroleum based liquid fuels such as biodiesel.

Reasons for Staff Recommendation: Further monitoring and analysis is required to establish appropriate limits for these types of rules to be included in a rule framework.

Submitter: 12 - NZ Defence Force

Submission Point No: 1 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Policies

Section: AQ P5

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 12 - NZ Defence Force

Submission Summary: NZDF supports the addition of firefighting research or training in this policy to provide for the discharge of contaminants associated with open burning. However, there may be situations where NZDF is required to undertake controlled burning in response to an emergency situation.

Decision Sought: Amend Policy AQ P3 to read:
 Avoid the discharge of contaminants to air from open burning on urban properties while permitting open burning:
 (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
 (b) of animal carcasses and/or vegetative material burned in accordance with quarantine or disease control requirements
 (c) for the purposes of firefighting research or training [insert - or emergency response]

Reasons for Staff Recommendation: No change in wording. The rule is designed for fire fighter training, not emergency response, and therefore the conditions of the rule would not be met in an emergency response situation

Further Submission No: 26 - 6 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Western Bay of Plenty District Council

Summary: The inclusion of 'emergency response' in AQ P5 is supported and addresses the need for controlled burns in response to emergency situations.

Decision Sought: Accept

Reasons for Staff Recommendation: The rule is designed for fire fighter training, not emergency response, and therefore the conditions of the rule would not be met in an emergency response situation.

Submission Point No: 2 **Submission Type:** Seek **Recommendation:** Reject

Chapter: General

Section: General - Plan Structure

Submission Summary: To ensure the plan is easy to follow it would seem logical to list all the permitted activities together.

Decision Sought: Move AQ R2 to below the permitted activity rules so it sits above the current AQ R9 and becomes AQ R8

Reasons for Staff Recommendation: While many of the rules are stand alone, there are sub-topics that have several related rules. For example, solid fuel burners in the Rotorua Airshed are covered by three rules – one permitted, one discretionary, one non-complying. Both the discretionary rule and the non-complying rule have references to the permitted activity rule and it is easier to use the plan if all three rules are located together.
 The plan change will eventually become the Air Quality chapter of the Regional Natural Resources Plan and the structure of the plan change has been designed to fit with this structure by having all rules relevant to each sub-topic grouped together.
 The change specifically requested by the submitter is to move AQ R2 to before AQ R9 so that it becomes AQ R8. This would bury what is the general discretionary "catch-all" rule amongst other non-related rules, and move it away from the general permitted "catch-all" rule. It would also be located away from all other discretionary rules, which are located throughout the plan according to sub-topic. This would not make the plan easier to use and staff recommend that the current plan structure is retained.

Submission Point No: 3 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Rules

Section: AQ R8

Submission Summary: NZDF supports the addition of an open burning permitted activity rule for discharge of contaminants to air from firefighting research or training. However NZDF requests the removal of the word 'firefighter' in order to encompass training activities that may not involve designated 'firefighters' and enable this activity to occur for research and or training of any

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 12 - NZ Defence Force

persons. NZDF wishes to be specifically included in (a) to ensure there is no question as to their authority to undertake firefighting research or training under this rule. There may also be situations where NZDF is required to undertake controlled burning in response to an emergency situation.

Decision Sought: Amend Rule AQ R8 to read:
Open burning for [delete - firefighter] training, [insert - research and emergency response]...
The discharge of contaminants to air from the burning of materials (including buildings and vehicles) for the purpose of firefighting research [insert - and]/or training firefighters [insert - or emergency response] is a permitted activity provided the following conditions are complied with:
(a) The fire must be under direct control of Fire Emergency New Zealand, [insert - New Zealand Defence Force] or other nationally recognised body authorised to undertake firefighting research [insert - and]/or training activities.
(b)...

Reasons for Staff Recommendation: Amend the rule to require the fire to be under the control of a "Defence Fire Brigade" or "Industry Brigade", with the relevant definitions from the Fire and Emergency New Zealand Act 2017 included in the plan change

Submission Point No: 4 **Submission Type:** Oppose in Part **Recommendation:** Reject

Chapter: Rules

Section: New rule

Submission Summary: NZDF requested in its feedback on the draft Air Plan that the Air Plan allow for open burning carried out for "fire-fighting training activities, or controlled outdoor burning or deflagration of unwanted public and military ammunitions, munitions and pyrotechnics undertaken by NZDF" as a permitted activity. Plan Change 13 as proposed allows for open burning for training purposes. However, there has been no inclusion of open burning associated with deflagration or burning of unwanted ammunitions, munitions or pyrotechnics. NZDF would like to see this included.

Decision Sought: Include a permitted activity rule to provide for open burning associated with deflagration or burning of unwanted ammunitions, munitions or pyrotechnics by NZDF

Reasons for Staff Recommendation: Staff do not recommend an additional permitted activity rule as many of the items would include materials listed in AQ R10 that produce harmful chemicals when burned. Given the potential effects associated with the activity staff consider it to be appropriate that application for consent be made, and if granted, managed via conditions. Staff do not recommend

Submitter: 13 - Gray Southon

Submission Point No: 1 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Rules

Section: AQ R4(a)

Submission Summary: Require some controls on CO2 emissions from motor vehicles which have a destructive impact on the climate.

Decision Sought: Include controls on CO2 emissions from motor vehicles

Reasons for Staff Recommendation: Under s.70A of the Act, where regional councils make rules to control the discharge into air of greenhouse gases, they must not have regard to the effects of the discharge on climate change unless considering the use and development of renewable energy.
Recommend no change to the plan change.

Submission Point No: 2 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Policies

Section: AQ P3 - whole policy

Submission Summary: Greenhouse Gases have wide-ranging impacts on the environment which impact on health,

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 13 - Gray Southon

the amenities due to flooding and degradation of ocean productivity.

Decision Sought: Include the control of greenhouse gas emissions

Reasons for Staff Recommendation: The operation of s70A and s70B RMA are clear that the control the discharge of greenhouse gases into air are to be set at a national, rather than regional level.

Further Submission No: 8 - 32 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Mercury NZ Ltd

Summary: It is unclear what relief is sought or implications for individual emissions. Greenhouse emissions would be covered by effects on the environment, which is included within policy 3 (a)

Decision Sought: Disallow

Reasons for Staff Recommendation: The operation of s70A and s70B RMA are clear that the control the discharge of greenhouse gases into air are to be set at a national, rather than regional level.

Further Submission No: 13 - 27 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Horticulture New Zealand

Summary: Greenhouse gases are managed by central government and the outcome from consultation on the Zero Carbon Bill is yet unknown

Decision Sought: Reject submission

Reasons for Staff Recommendation: The operation of s70A and s70B RMA are clear that the control the discharge of greenhouse gases into air are to be set at a national, rather than regional level.

Further Submission No: 18 - 13 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Federated Farmers of New Zealand

Summary: We understand the control of discharge to air of greenhouse gases by a regional council would undermine the methods preferred by Parliament to control greenhouse gas discharge

Decision Sought: Reject submission point

Reasons for Staff Recommendation: The operation of s70A and s70B RMA are clear that the control the discharge of greenhouse gases into air are to be set at a national, rather than regional level.

Further Submission No: 20 - 16 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Fonterra Ltd

Summary: The control of greenhouse gases is not a function of the Resource Management Act.

Decision Sought: Disallow

Reasons for Staff Recommendation: The operation of s70A and s70B RMA are clear that the control the discharge of greenhouse gases into air are to be set at a national, rather than regional level.

Further Submission No: 21 - 41 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Port of Tauranga

Summary: PoT opposes this submission. The proposed plan specifically identifies that it is not intended to address greenhouse gases or climate change on Page 1.

Decision Sought: Reject

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 13 - Gray Southon

Reasons for Staff Recommendation: The operation of s70A and s70B RMA are clear that the control the discharge of greenhouse gases into air are to be set at a national, rather than regional level.

Submission Point No: 3 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Rules

Section: AQ R15 - whole rule

Submission Summary: Regional Councils have primary responsibility of controlling Greenhouse Gases at a local level so should be incorporating such issues into their regulation

Decision Sought: Impose tax on Greenhouse Gas Agricultural emissions or otherwise as determined by central government.

Reasons for Staff Recommendation: This is not a role for Regional Council, but a Central Government role.

Further Submission No: 18 - 29 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Federated Farmers of New Zealand

Summary: We understand the control of discharge to air of greenhouse gases by a regional council would undermine the methods preferred by Parliament to control greenhouse gas discharge

Decision Sought: Reject submission point

Reasons for Staff Recommendation: This is not a role for Regional Council, but a Central Government role.

Submitter: 14 - Andrew Clow

Submission Point No: 1 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Policies

Section: AQ P8

Submission Summary: Recommendation in Table 4.4 (of Section 32 Evaluation Report) seems to have been omitted here.
"Objectives, policies and rules used the term "avoid" or "protect". Considered by many commenters to be too high a threshold and impossible to comply with while carrying out any discharge activity. The term changed either to "avoid significant" or to "minimise" where appropriate."

Decision Sought: Amend as follows:
(a) avoiding [insert - significant] spray drift...

Reasons for Staff Recommendation: In acknowledgement that avoidance is not always possible, the policy wording is 'avoid where possible'.

Submission Point No: 2 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Rules

Section: AQ R15(4)

Submission Summary: The notification window is proposed to be reduced from 19.5 days to 2 days. The reduction is excessive and it will be inconvenient for both the residents adjacent to the spray area, and also the spray applicator. The notification window is too short. If the applicators are running an 8am to 5pm business, Monday to Friday, under many circumstances the proposed notification window for phone calls is 1 working day.
An excessive number of notifications are required by the applicator. Proposed changes result in nuisance notifications to neighbours. The applicator will be required to notify continually every day in inclement weather, while he waits for suitable conditions.
Increasing the notification from 12 hours to 24 hours is too long. Weather is unpredictable,

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Staff Recommendations on Submissions (By Submitter)

Submitter: 14 - Andrew Clow

and often there is only a narrow window of opportunity during a rainy week in which spray application can occur. The further from the spraying time notification is given, the more likely that it will be a 'negative' notification, i.e. be rescheduled due to weather. 24 hour notification often precludes notification during business hours on the day preceding the spray application. If the notification were instead increased from 12 hours to 18 hours, then there is ample time to shift stock, and for notifications to be made in a timely manner on the preceding day.

Decision Sought: Amend as follows:
(a)...no earlier than [delete - 72 hours] [insert - 8 days] and no later than [delete 24] [insert - 18] hours...
[delete - the date/s of proposed application] [insert - a start and end date for spray operations]

Reasons for Staff Recommendation: Staff agree that weather can be inclement and it can be difficult to determine when to spray therefore when to notify. However an extension to 8 days will lead to neighbours being on constant alert for spraying, as discussed in other submission points. Weather forecasts can predict probability of rain up to three days in advance therefore it should be reasonably possible to determine when spraying can be carried out. Staff do not recommend a change in notification window.

Submission Point No: 3 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Rules

Section: AQ R15(4)

Submission Summary: It seems reasonable that those adjacent to application areas should provide timely means of communication. Personal visits and hand delivered written communication are in general impractical for many businesses.

Decision Sought: Amend as follows:
[insert (f) occupiers in adjacent properties specified in 4(a) once notified by a request must (if they wish to receive spray notification) supply means for communication of one of the following forms: email address, mobile phone number or landline with answerphone

Reasons for Staff Recommendation: Permitted rule conditions can manage the activity discharging contaminants to air, but they cannot place obligations on those the activities may adversely affect.

Further Submission No: 13 - 91 **Submission Type:** Support in Part **Recommendation:** Reject

Further Submitter: Horticulture New Zealand

Summary: There should be clarity as to the means of notification such as email or text message

Decision Sought: Ensure clarity as to how notification messages can be made.

Reasons for Staff Recommendation: Permitted rule conditions can manage the activity discharging contaminants to air, but they cannot place obligations on those the activities may adversely affect.

Submission Point No: 4 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Section: AQ R15(1)

Submission Summary: Wish to keep the existing Air Quality plan rules (ie status quo) for this matter. Part of reason for opposing is similar to Note 1 "(Section 32 Evaluation Report) Table 4.4 "Objectives, policies and rules used the term "avoid" or "protect". Considered by many commenters to be too high a threshold and impossible to comply with while carrying out any discharge activity.

Decision Sought: Delete (a) in its entirety and replace with "the discharge must not result in any harmful concentration of agricultural beyond the boundary of the subject property or into water"

Reasons for Staff Recommendation: The clause does not require avoid or protect. The term 'harmful concentration' has been replaced in the plan change with the terms 'noxious or dangerous, offensive or objectionable'. These are the same terms as in the Act.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 14 - Andrew Clow

Further Submission No: 13 - 73 **Submission Type:** Support in Part **Recommendation:** Reject

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks that 1a) be replaced with alternate wording. HortNZ has sought changes to 1a) to ensure that provisions are appropriate

Decision Sought: Amend AQ R15 1a) as sought by HortNZ or NZAET.

Reasons for Staff Recommendation: The clause does not require avoid or protect. The term 'harmful concentration' has been replaced in the plan change with the terms 'noxious or dangerous, offensive or objectionable'. These are the same terms as in the Act.

Submission Point No: 5 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Rules

Section: AQ R15(4)

Submission Summary: Usually neighbours do not wish to revise agreements annually and it will appear pointless to many. It is a compliance cost which is unnecessary, and will in practice require annual appointments and personal visits to be made. This will be impractical for businesses such as companies leasing multiple orchards.

Decision Sought: Amend:
(4)(a)(ii) ...be reviewed and resigned annually [insert - upon request]...

Reasons for Staff Recommendation: Situations can change each year and notification requirements may change for some households. Notification agreements are an option that do not have to be implemented. Sprayers may choose instead to comply with the full notification requirements in (a)(i).

Submission Point No: 6 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Rules

Section: AQ R15(4)

Submission Summary: The name and type of agrichemical to be applied is not helpful to most of the general public, and may cause susceptible people to become paranoid. To those who want this information it would still be available. It is simple for adjacent occupiers to notify the owner that they wish additional information.

Decision Sought: Amend (a)
...name and type of agrichemical to be applied [insert - if requested]

Reasons for Staff Recommendation: It is not the general public who are being informed, it is neighbours who could potentially be sprayed and they have right to be fully informed

Submission Point No: 7 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Rules

Section: AQ R15(1)

Submission Summary: Drone accidents cause uncontrolled chemical release into the environment. There needs to be some height clearance for safe operation of drones to prevent crashes. The higher the drone, the less likely it is to crash, and the more opportunity drone operators have to correct in the case of emergency.

Decision Sought: Amend (c)
...the drone must not operate more than [delete 5] [insert - 10] metres above the target.

Reasons for Staff Recommendation: A ten metre clearance will provide the requested safety buffer while not significantly increasing the risk of spray drift

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 15 - Jene Hayward

Submission Point No: 1 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Section: Rotorua Burner Rules - General

Submission Summary: Support putting in cleaner fire places but new rules make this difficult. We bought a new home and settled on the property but there was no notice of the requirement for a resource consent for a new burner. The home is a 100 year old Villa with two large fireplaces and pulling the chimneys is a cost that can not be achieved. How do we now get a cleaner burning fire the new rules have made it impossible. A normal heat pump will not heat the huge lounge as experts inform because of size and high ceilings and it needs a huge commercial system plus what happens like in Auckland when the power cuts?

Decision Sought: Retain requirement for cleaner new burner but allow new burners into Rotorua Airshed when not replacing an existing burner

Reasons for Staff Recommendation: Despite best efforts there will always be members of the community that behave poorly by selling homes without informing the buyer that the fire has been removed and a resource consent is necessary.
There is always an option to install zero emission heating (such as a heat pump) or a pellet burner. This may not be their preferred method of heating, but it is still home heating. Where a woodburner is preferred but not permitted, the rule framework allows for resource consents either with an offset or in exceptional circumstances

Submitter: 16 - SA & AM Wright

Submission Point No: 1 **Submission Type:** Oppose **Recommendation:** Accept

Chapter: Rules

Section: AQ R15(4)

Submission Summary: We strongly believe it to be unachievable to give no less than 24 hours notice. As a result, spray contractors will have less accurate time frames of spraying and therefore have a negative impact on the notification process for both parties. Having a 12 hour notice period gives sprayers a tighter window to provide more accurate indication of when spraying will actually occur. Creating more accurate workflows and timely notifications. Anything outside of that will create cutting of corners and excessive notifications which will give notifications a spam like nature and deem them useless. 12 hours is far more practical for both parties

Decision Sought: Amend as follows:
(a)(ii) ...required no earlier than 72 hours and no later than [delete 24] [insert - 12] hours before the agrichemical spraying...

Reasons for Staff Recommendation: Staff recommend changing the minimum 24 hour notification window to 12 hours as this the current system is working for most, then retaining the 12 hour notification window is the best way forward..
Given this recommendation, staff remind the Hearing Panel, submitters and all others involved with agrichemical spraying that policy AQ P8 clearly states that spray drift should be avoided in the first instance. Even when mitigation measures, in the form of notification, are carried out according to the conditions, any spray drift must still comply with condition (1)(a) of the rule and where this cannot be achieved, staff highly recommend that parties enter into a notification agreement to determine what is the best form, timing and format for notification to occur to allow for sufficient preparation

Submitter: 17 - Tauranga Moana Fumigant Action Group

Submission Point No: 1 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Objectives

Section: AQ 01

Submission Summary: The Objective as proposed is an appropriate approach to achieving the purpose of the Act, in the context of the Region.

Decision Sought: Retain the provision as proposed

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 17 - Tauranga Moana Fumigant Action Group

Reasons for Staff Recommendation: Minor change recommended to change 'protect' to 'protection' - to state an outcome, rather than an action
Remove requirement to 'enhance air quality where degraded' as this is already required by AQ Q2 and AQ O3

Further Submission No: 21 - 8 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Port of Tauranga

Summary: This submission point refers to retaining Objective AQO1 as notified. PoT request the Objective is amended as per its original submission.

Decision Sought: Reject

Reasons for Staff Recommendation: Minor change recommended to change 'protect' to 'protection' - to state an outcome, rather than an action
Remove requirement to 'enhance air quality where degraded' as this is already required by AQ Q2 and AQ O3

Submission Point No: 2 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Objectives

Section: AQ 02

Submission Summary: The Objective as proposed is an appropriate approach to achieving the purpose of the Act, in the context of the Region

Decision Sought: Retain the provision as proposed

Reasons for Staff Recommendation: Remove reference to AAQGs as they are only guidelines, not developed under RMA process (taking into account costs and benefits) and not appropriate to set thresholds which must be met.
Add text to allow for amendments or replacements to ensure that if NESAQ is amended, the objective will still apply

Further Submission No: 21 - 15 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Port of Tauranga

Summary: This submission point refers to retaining Objective AQO2 as notified. PoT request the Objective is amended as per its original submission

Decision Sought: Reject

Reasons for Staff Recommendation: Remove reference to AAQGs as they are only guidelines, not developed under RMA process (taking into account costs and benefits) and not appropriate to set thresholds which must be met.
Add text to allow for amendments or replacements to ensure that if NESAQ is amended, the objective will still apply

Submission Point No: 3 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Objectives

Section: AQ 03

Submission Summary: The Objective as proposed is an appropriate approach to achieving the purpose of the Act, in the context of the Region

Decision Sought: Retain the provision as proposed.

Reasons for Staff Recommendation: Change wording 'manage' to 'management' as it sets an outcome instead of an action

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 17 - Tauranga Moana Fumigant Action Group

Further Submission No: 21 - 21 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Port of Tauranga

Summary: This submission seeks for Objective AQ03 to be retained as notified, and broadly reflects the original submission made by PoT.

Decision Sought: Accept

Reasons for Staff Recommendation: Change wording 'manage' to 'management' as it sets an outcome instead of an action

Submission Point No: 4 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Policies

Section: AQ P3(a)

Submission Summary: The policy as proposed is appropriate in the context of the Region.

Decision Sought: Retain the provision as proposed, specifically (a) and (e).

Reasons for Staff Recommendation: Staff recommend some changes made to the policy as a result of other submission points, however these do not alter the overall policy intent.

Further Submission No: 7 - 5 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Trustpower Ltd

Summary: In so far as it does not align with the relief sought by Trustpower

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Staff recommend some changes made to the policy as a result of other submission points, however these do not alter the overall policy intent.

Further Submission No: 21 - 47 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Port of Tauranga

Summary: This submission point refers to retaining Policy AQP3 as notified. PoT request the policy is amended as per the original submission.

Decision Sought: Reject

Reasons for Staff Recommendation: Staff recommend some changes made to the policy as a result of other submission points, however these do not alter the overall policy intent.

Submission Point No: 5 **Submission Type:** Support **Recommendation:** Accept

Chapter: Policies

Section: AQ P4(f)

Submission Summary: The use of fumigants in the Region can be complicated by multiple parties operating in close vicinity. Cumulative effects of fumigant gases are particularly important component of any assessment, and should be forefront within the policy considerations. Iwi and hapu management plans have been carefully developed in various parts of the region, in particular the Tauranga Moana Iwi Management Plan 2016, and it is appropriate that these are given particular consideration.

Decision Sought: Retain the provision as proposed

Reasons for Staff Recommendation: Retain clause (f) as proposed

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 17 - Tauranga Moana Fumigant Action Group

Submission Point No:	6	Submission Type:	Oppose	Recommendation:	Reject
Chapter:	Policies				
Section:	AQ P9				
Submission Summary:	<p>It is appropriate that the relevant EPA requirements relating to recapture are incorporated into this plan change to address fumigation at the Port of Tauranga. There are alternative methods to mass fumigation that should be actively investigated and encouraged through policy direction. The regional council have a regulatory function which includes enforcement of compliance, therefore the more appropriate wording can be adopted within the policy. TMFAG is concerned with the health of persons within and beyond the subject site. It is appropriate to also have particular regard in the policy direction. The RMA refers to the 'health and safety of people', and in our view this means regardless of location (onsite/offsite). The Port of Tauranga for example, has people who visit the Port, along with workers.</p>				
Decision Sought:	<p>Amend as follows:</p> <p>(a) enforcing [delete - best practicable option for the use of the fumigant, including via] the use of recapture technology of fumigant gases or [insert - safer] alternative methods.</p> <p>(b) [delete - Ensuring] [insert - enforcing] compliance with relevant exposure levels and management regime set by the New Zealand Environmental Protection Authority to protect human health</p> <p>(c) Having particular regard to protecting the health of persons in sensitive activities, [insert - and both within and beyond the subject site] from fumigant exposure.</p> <p>Any similar or consequential amendments that result from the relief sought.</p>				
Reasons for Staff Recommendation:	<p>Removing best practicable option restricts other options for management of discharges that may be more effective and efficient than recapture technology.</p>				

Further Submission No:	13 - 55	Submission Type:	Oppose	Recommendation:	Accept
Further Submitter:	Horticulture New Zealand				
Summary:	<p>Retaining provisions for fumigation for quarantine and biosecurity purposes is important to the country. The Regional Council should not be taking on functions that are the responsibility of the EPA</p>				
Decision Sought:	Reject submission				
Reasons for Staff Recommendation:	<p>Removing best practicable option restricts other options for management of discharges that may be more effective and efficient than recapture technology.</p>				

Further Submission No:	21 - 60	Submission Type:	Oppose	Recommendation:	Accept
Further Submitter:	Port of Tauranga				
Summary:	<p>PoT opposes this submission. The removal of 'best practicable option' restricts any future options that may be more efficient than recapture technology.</p>				
Decision Sought:	Reject				
Reasons for Staff Recommendation:	<p>Removing best practicable option restricts other options for management of discharges that may be more effective and efficient than recapture technology.</p>				

Further Submission No:	28 - 1	Submission Type:	Oppose	Recommendation:	Reject
Further Submitter:	Stakeholders in Methyl Bromide Reduction Inc (STIMBR)				
Summary:	<p>Log exports are a significant export earner for the New Zealand economy bringing in \$2.7b in the year ending June 2017. Importing countries such as China and India require the use of phytosanitary treatments including fumigation with methyl bromide. New Zealand's forestry industry contributes significantly to regional economies and rural communities. The EPA is mandated to assess and set controls for hazardous substances including methyl bromide. All decisions must be informed by robust science. The environmental Protection Authority (then ERMA) completed a reassessment of methyl bromide (MB)</p>				

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 17 - Tauranga Moana Fumigant Action Group

in 2010. The EPA determined that recapture technologies are to be used in conjunction with all methyl bromide fumigations from October 2020 onward. Since that time it has become apparent that the aspiration of applying recapture technologies to all fumigations is not possible by 2020. Consequently the EPA determined that there are grounds for a reassessment of methyl bromide.

Recapture is of necessity appropriate for all fumigants. EDN a sustainable alternative to methyl bromide is not yet available for use in New Zealand. There is no justifiable need to duplicate the regulatory requirements determined by the EPA in the regional plan. Methyl bromide is also used as a biosecurity treatment for imported commodities, personal effects and managing potato wart.

Decision Sought: Reject

Reasons for Staff Recommendation: Removing best practicable option restricts other options for management of discharges that may be more effective and efficient than recapture technology.

Submission Point No: 7 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Section: AQ R20

Submission Summary: TMGAG considers that the requirement for full recapture follows the direction set by EMRA (now EPA) when it considered the reassessment methyl bromide as a fumigant. The EPA set a deadline of 2020 for fumigant users to implement recapture methods or alternative processes or technology. The Taonga Moana (Iwi Management Plan 2016) requests a preference for the use of methyl bromide to be prohibited. Policy 12 notes the purpose of prohibited for the health of the environment, the community and staff involved in the fumigation process. Alternative fumigants that may be suitable for the purpose of pre-shipment or quarantine treatment, are likely to be of a similar or worse toxicity to methyl bromide. This is due to the fact that fumigants must eliminant pests within the subject export, in a short timeframe and on a commercial scale. As such, any new fumigant proposed should be treated with a precautionary approach and classified as a prohibited activity. It is appropriate that a plan change process is required to fully assess and manage the associated risks.

Decision Sought: Amend as follows:
 (a) [delete - Using fumigants other than methyl bromide is a discretionary activity]
 (b) Using [delete - methyl bromide] [insert - fumigants] with recapture, is a discretionary activity.
 (c) Using [delete - methyl bromide] [insert - fumigants] without recapture, is a [delete - non-complying] [insert - prohibited] activity.
 Any similar or consequential amendments that result from the relief sought.

Reasons for Staff Recommendation: The plan change is consistent with the 2010 EPA reassessment and requirements for methyl bromide. These EPA requirements only apply to methyl bromide, not to any other fumigants. Therefore, the plan change sets out a corresponding rule framework for methyl bromide, and classifies any other fumigant as discretionary, with no recapture necessarily required. With the effectiveness of current recapture technology uncertain, a prohibited activity status would prevent any resource consent application for methyl bromide being submitted. This is not considered appropriate at this point in time due to the uncertainty around recapture technology and because it doesn't take into account the economic impact of prohibiting the discharge. However, a non-complying activity indicates that the use of methyl bromide without recapture is discouraged, but still allows for resource consent applications. The supporting policy AQ P9 (discussed above) provides for best practicable options, acknowledging that recapture may not be the only or even the most effective and efficient mitigation method for methyl bromide.

Further Submission No: 12 - 3 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Z Energy Ltd, BP Oil NZ Ltd & Mobil Oil NZ Ltd

Summary: The submission is supported. The Oil Companies support the use of recapture technology for fumigant gases. The primary concern in relation to fumigant gases is the potential health effects for neighbours (such as port workers). The Oil Companies are not opposed to a different activity status as long as there is a requirement to use

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 17 - Tauranga Moana Fumigant Action Group

recapture technology to achieve that status

Decision Sought: Accept submission

Reasons for Staff Recommendation:

the plan change is consistent with the 2010 EPA reassessment and requirements for methyl bromide. These EPA requirements only apply to methyl bromide, not to any other fumigants. Therefore, the plan change sets out a corresponding rule framework for methyl bromide, and classifies any other fumigant as discretionary, with no recapture necessarily required.

With the effectiveness of current recapture technology uncertain, a prohibited activity status would prevent any resource consent application for methyl bromide being submitted. This is not considered appropriate at this point in time due to the uncertainty around recapture technology and because it doesn't take into account the economic impact of prohibiting the discharge. However, a non-complying activity indicates that the use of methyl bromide without recapture is discouraged, but still allows for resource consent applications. The supporting policy AQ P9 (discussed above) provides for best practicable options, acknowledging that recapture may not be the only or even the most effective and efficient mitigation method for methyl bromide

Further Submission No: 28 - 2 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Stakeholders in Methyl Bromide Reduction Inc (STIMBR)

Summary:

New Zealand's forestry industry contributes significantly to regional economies and rural communities.

The EPA is mandated to assess and set controls for hazardous substances including methyl bromide. All decisions must be informed by robust science. The environmental Protection Authority (then ERMA) completed a reassessment of methyl bromide (MB) in 2010. The EPA determined that recapture technologies are to be used in conjunction with all methyl bromide fumigations from October 2020 onward. Since that time it has become apparent that the aspiration of applying recapture technologies to all fumigations is not possible by 2020. Consequently the EPA determined that there are grounds for a reassessment of methyl bromide.

Recapture is of necessity appropriate for all fumigants. EDN a sustainable alternative to methyl bromide is not yet available for use in New Zealand. There is no justifiable need to duplicate the regulatory requirements determined by the EPA in the regional plan. Methyl bromide is also used as a biosecurity treatment for imported commodities, personal effects and managing potato wart.

Decision Sought: Reject

Reasons for Staff Recommendation:

the plan change is consistent with the 2010 EPA reassessment and requirements for methyl bromide. These EPA requirements only apply to methyl bromide, not to any other fumigants. Therefore, the plan change sets out a corresponding rule framework for methyl bromide, and classifies any other fumigant as discretionary, with no recapture necessarily required.

With the effectiveness of current recapture technology uncertain, a prohibited activity status would prevent any resource consent application for methyl bromide being submitted. This is not considered appropriate at this point in time due to the uncertainty around recapture technology and because it doesn't take into account the economic impact of prohibiting the discharge. However, a non-complying activity indicates that the use of methyl bromide without recapture is discouraged, but still allows for resource consent applications. The supporting policy AQ P9 (discussed above) provides for best practicable options, acknowledging that recapture may not be the only or even the most effective and efficient mitigation method for methyl bromide

Further Submission No: 29 - 1 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Genera Ltd

Summary:

EPA completed a reassessment of methyl bromide (MB) in 2010. An aspirational MB recapture target of 100% was set. Since that time it has become apparent that 100% recapture of MB is not possible by 2020. Based on learnings gained since 2010, the EPA has recently determined that there are grounds for a reassessment of methyl bromide. The EPA is the agency mandated to assess and set controls for hazardous substances such as methyl bromide. There are currently no other practicable options for the fumigation of top stow logs to China, logs to India and other imported and

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Staff Recommendations on Submissions (By Submitter)

Submitter: 17 - Tauranga Moana Fumigant Action Group

exported cargos.

The value of log exports for the June 2017 year was \$2.7 billion. Currently export requires the use of phytosanitary treatments including fumigation with MB. Without the ability to export logs the impacts would flow down to our local communities and have significant effects on the region's economy.

Methyl bromide is also used for treating imported cargo and is the main fumigant used to protect New Zealand's border from pest incursions as mandated under the Biosecurity Act 1993. Without MB as a biosecurity tool, MPI's ability to protect local industry from pests (eg. Brown Marmorated Stick Bug) will be put at significant risk.

Decision Sought: Reject

Reasons for Staff Recommendation:

the plan change is consistent with the 2010 EPA reassessment and requirements for methyl bromide. These EPA requirements only apply to methyl bromide, not to any other fumigants. Therefore, the plan change sets out a corresponding rule framework for methyl bromide, and classifies any other fumigant as discretionary, with no recapture necessarily required.

With the effectiveness of current recapture technology uncertain, a prohibited activity status would prevent any resource consent application for methyl bromide being submitted. This is not considered appropriate at this point in time due to the uncertainty around recapture technology and because it doesn't take into account the economic impact of prohibiting the discharge. However, a non-complying activity indicates that the use of methyl bromide without recapture is discouraged, but still allows for resource consent applications. The supporting policy AQ P9 (discussed above) provides for best practicable options, acknowledging that recapture may not be the only or even the most effective and efficient mitigation method for methyl bromide

Submission Point No: 8 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Definitions

Section: Definitions - Recapture

Submission Summary: "Recapture"

Methyl Bromide is only one type of fumigant that can be used for commercial biosecurity purposes. This plan should be future proofed by referring to 'fumigants' generically.

Decision Sought:

Amend as follows:

Recapture in relation to fumigation means a process that eliminates [delete - methyl bromide] [insert - fumigant] emissions from fumigation enclosures such as buildings, shipping containers or gas proof sheets used to cover target product, by

(a) Capturing [delete - methyl bromide] [insert - fumigant] (not absorbed by the target product) on activated carbon other medium so that it is not released into the atmosphere when the fumigation enclosure is ventilated or any time after, or

(b) Destroying the [delete - methyl bromide] [insert - fumigant] (not absorbed by the target product) before a fumigation enclosure is ventilated.

Any similar or consequential amendments that result from the relief sought.

Reasons for Staff Recommendation:

Staff agree as although the rule refers to methyl bromide, other fumigants may be recaptured in future

Further Submission No: 12 - 4 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Z Energy Ltd, BP Oil NZ Ltd & Mobil Oil NZ Ltd

Summary:

The submission is supported. The Proposed Plan Change does not include a definition for the term 'Recapture' and it is considered, given the context of the proposed policy framework and the changes supported to the rules framework, that inclusion of a definition for the term is appropriate

Decision Sought: Accept submission

Reasons for Staff Recommendation:

Staff agree as although the rule refers to methyl bromide, other fumigants may be recaptured in future

Further Submission No: 28 - 3 **Submission Type:** Oppose **Recommendation:** Reject

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Staff Recommendations on Submissions (By Submitter)

Submitter: 17 - Tauranga Moana Fumigant Action Group

Further Submitter: Stakeholders in Methyl Bromide Reduction Inc (STIMBR)

Summary: New Zealand's forestry industry contributes significantly to regional economies and rural communities. The EPA is mandated to assess and set controls for hazardous substances including methyl bromide. All decisions must be informed by robust science. The environmental Protection Authority (then ERMA) completed a reassessment of methyl bromide (MB) in 2010. The EPA determined that recapture technologies are to be used in conjunction with all methyl bromide fumigations from October 2020 onward. Since that time it has become apparent that the aspiration of applying recapture technologies to all fumigations is not possible by 2020. Consequently the EPA determined that there are grounds for a reassessment of methyl bromide. Recapture is of necessity appropriate for all fumigants. EDN a sustainable alternative to methyl bromide is not yet available for use in New Zealand. There is no justifiable need to duplicate the regulatory requirements determined by the EPA in the regional plan. Methyl bromide is also used as a biosecurity treatment for imported commodities, personal effects and managing potato wart.

Decision Sought: Reject

Reasons for Staff Recommendation: Staff agree as although the rule refers to methyl bromide, other fumigants may be recaptured in future

Further Submission No: 29 - 2 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Genera Ltd

Summary: The EPA is the agency mandated to manage fumigants such as methyl bromide and its alternatives.

Decision Sought: Reject

Reasons for Staff Recommendation: The further submission point does not address the issue in the original submission point

Submission Point No: 9 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Definitions

Section: Definitions - Sensitive activity

Submission Summary: "Sensitive activity"
The definition as proposed is appropriate in the context of the Region

Decision Sought: Retain as proposed

Reasons for Staff Recommendation: Staff recommend changing wording from 'this includes' to 'this may include' to separate the definition from the examples. Staff do not then recommend amending the list itself, as it is no longer a key part of the definition, but a list of examples to provide guidance. This will relieve many of the concerns in the submission points.

Submission Point No: 10 **Submission Type:** Support **Recommendation:** Accept

Chapter: Definitions

Section: Definitions - Pre-shipment application

Submission Summary: "Pre-shipment application"
The definition as proposed is appropriate in the context of the Region

Decision Sought: Retain as proposed

Reasons for Staff Recommendation: Retain as proposed

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Staff Recommendations on Submissions (By Submitter)

Submitter: 17 - Tauranga Moana Fumigant Action Group

Submission Point No: 11 **Submission Type:** Support **Recommendation:** Accept

Chapter: Definitions

Section: Definitions - Quarantine application

Submission Summary: "Quarantine application"
The definition as proposed is appropriate in the context of the Region.

Decision Sought: Retain as proposed.

Reasons for Staff Recommendation: Retain as proposed

Submission Point No: 12 **Submission Type:** Support **Recommendation:** Reject

Chapter: Policies

Section: AQ P3(e)

Submission Summary: The policy as proposed is appropriate in the context of the Region.

Decision Sought: Retain the provision as proposed, specifically (a) and (e).

Reasons for Staff Recommendation: There is an internal inconsistency between clauses (a) to (d) which require the management of the adverse effects of discharges regardless of where the effects occur and clause (e) which introduces the property boundary as a line beyond where assessment of adverse effects begins. It implies that Council will use the property boundary to assess adverse effects in every case, in conflict with clause (a) where adverse effects are assessed regardless of location. Decision makers may then find it difficult to determine which of the requirements apply. To resolve this conflict, staff recommend that the clause is deleted in its entirety

Further Submission No: 21 - 48 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Port of Tauranga

Summary: This submission point refers to retaining Policy AQP3 as notified. PoT request the policy is amended as per the original submission.

Decision Sought: Reject

Reasons for Staff Recommendation: There is an internal inconsistency between clauses (a) to (d) which require the management of the adverse effects of discharges regardless of where the effects occur and clause (e) which introduces the property boundary as a line beyond where assessment of adverse effects begins. It implies that Council will use the property boundary to assess adverse effects in every case, in conflict with clause (a) where adverse effects are assessed regardless of location. Decision makers may then find it difficult to determine which of the requirements apply. To resolve this conflict, staff recommend that the clause is deleted in its entirety

Submitter: 18 - New Zealand Transport Agency

Submission Point No: 1 **Submission Type:** Seek **Recommendation:** Accept in Part

Chapter: Definitions

Section: Definitions - Public amenity area

Submission Summary: "Public amenity area"
The Transport Agency considers that the spraying of agrichemicals within the state highway network adjoining reserve or park land should have permitted activity status without warning signage, provided that the spraying does not occur within the prescribed distance of tracks or other public congregation areas. However, the current definition of "public amenity area" may affect this.
The definition of "public amenity area" as currently worded could be interpreted to capture to the entirety of any public park or reserve, The vast majority of park and reserve land adjoining the state highway network is densely vegetated or vacant with no public tracks or

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Staff Recommendations on Submissions (By Submitter)

Submitter: 18 - New Zealand Transport Agency

congregation areas near the state highway's boundary. Under such circumstances, the risk that members of the public will be exposed to agrichemicals due to Transport Agency weed management spraying is negligible, and the warning signage specified in proposed section AQ R15(3) would not be warranted. The Transport Agency seeks clarification that "public amenity area" does not include all park and reserve land, but only the parts thereof in which members of the public are likely to congregate for extended periods of time.

Decision Sought: Clarification of definition of "public amenity area"

Reasons for Staff Recommendation: Staff agree that under this definition the spraying of the road reserve will require extensive signage under rule AQ R15(3) however consider that this matter has most likely been resolved through discussion on AQ R15 and the removal of signage requirements for low risk spray application methods. Provided the submitter uses hand held applicators or low pressure booms, there is no requirement for signage except for signage required on any vehicle used in spray application

Submission Point No: 2 **Submission Type:** Seek **Recommendation:** Accept in Part

Chapter: Definitions

Section: Definitions - Public amenity area

Submission Summary: "Public amenity area"
The Transport Agency seeks that the definition of "public amenity area" be amended to make it clear that "walkways" and "cycleways" do not include footpaths or cycle lanes in the road reserve, and that "reserves" does not include the road reserve (legal road).

Decision Sought: Amend definition of "public amenity area"

Reasons for Staff Recommendation: Staff recommend that the wording is changed to 'may include', to separate the definition from the examples. This will relieve the concerns in the submission points

Further Submission No: 26 - 16 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Western Bay of Plenty District Council

Summary: Walkways and cycleways in the road reserve, and the road reserve itself should not be considered as public amenity areas. The generally transient nature of use and means that the public are unlikely to congregate for extended periods of time. This will help address in part the concerns raised through our submission (submission number 7-12).

Decision Sought: Accept

Reasons for Staff Recommendation: Staff recommend that the wording is changed to 'may include', to separate the definition from the examples. This will relieve the concerns in the submission points

Submission Point No: 3 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Rules

Section: AQ R15(4)

Submission Summary: Proposed Section AQ R15 (4)(e) requires public notification of agrichemical spraying under certain circumstances. Notification must be via an "appropriate method". The transport Agency seeks clarification of what means of notification would constitute an appropriate method.

Decision Sought: Clarification of rule AQ R15(4)(e)

Reasons for Staff Recommendation: Appropriate method changed to public notice according to section 2AB(1)(a) of the Act. Staff consider that notice through an internet site is sufficient as the principal method for notification of spraying in a public amenity area is signage.

Submitter: 19 - Z Energy Ltd, BP Oil NZ Ltd & Mobil Oil NZ Ltd

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Staff Recommendations on Submissions (By Submitter)

Submitter: 19 - Z Energy Ltd, BP Oil NZ Ltd & Mobil Oil NZ Ltd

Submission Point No: 1 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Objectives

Section: AQ 01

Submission Summary: Support AQ O1

Decision Sought: Retain Objective AQ O1 without further modification

Reasons for Staff Recommendation: Minor change recommended to change 'protect' to 'protection' - to state an outcome, rather than an action
Remove requirement to 'enhance air quality where degraded' as this is already required by AQ Q2 and AQ O3

Further Submission No: 21 - 9 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Port of Tauranga

Summary: This submission point refers to retaining Objective AQO1 as notified. PoT request the Objective is amended as per its original submission.

Decision Sought: Reject

Reasons for Staff Recommendation: Minor change recommended to change 'protect' to 'protection' - to state an outcome, rather than an action
Remove requirement to 'enhance air quality where degraded' as this is already required by AQ Q2 and AQ O3

Submission Point No: 2 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Objectives

Section: AQ 02

Submission Summary: Support Objective O2

Decision Sought: Retain Objective O2, without further modification

Reasons for Staff Recommendation: Remove reference to AAQGs as they are only guidelines, not developed under RMA process (taking into account costs and benefits) and not appropriate to set thresholds which must be met.
Add text to allow for amendments or replacements to ensure that if NESAQ is amended, the objective will still apply

Further Submission No: 21 - 16 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Port of Tauranga

Summary: This submission point refers to retaining Objective AQO2 as notified. PoT request the Objective is amended as per its original submission

Decision Sought: Reject

Reasons for Staff Recommendation: Remove reference to AAQGs as they are only guidelines, not developed under RMA process (taking into account costs and benefits) and not appropriate to set thresholds which must be met.
Add text to allow for amendments or replacements to ensure that if NESAQ is amended, the objective will still apply

Submission Point No: 3 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Chapter: Objectives

Section: AQ 03

Submission Summary: Support the intent of Objective O3 as it is recognised the discharge of contaminants to air

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Staff Recommendations on Submissions (By Submitter)

Submitter: 19 - Z Energy Ltd, BP Oil NZ Ltd & Mobil Oil NZ Ltd

can have an impact on the wider environment. However, what effects may be considered acceptable or anticipated in a residential zone, for example, are very different from that of an industrial zone. Objective O3 needs to recognise that different areas, or zones, require different responses to manage discharges – notwithstanding the range of effects discharges may have on the various environments exposed to the discharges. The key issue is to appropriately avoid, remedy or mitigate the effects of a discharge to air in accordance with the relevant receiving environment.

Decision Sought: Amend Objective O3
Manage discharges of contaminants to air according to their adverse effects on human health, cultural values, amenity values and the [insert - relevant receiving] environment.

Reasons for Staff Recommendation: Do not add 'relevant receiving' to 'environment' as it appears to advocate for an approach that accepts poorer air quality in some areas. Add 'sustainable' to beginning of objective to clarify that the objective provides for full suite of management options (avoid, remedy or mitigate) and this is made clearer by changing wording to 'sustainable management'

Further Submission No: 8 - 17 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Mercury NZ Ltd

Summary: Mercury supports this minor amendment

Decision Sought: Allow

Reasons for Staff Recommendation: Do not add 'relevant receiving' to 'environment' as it appears to advocate for an approach that accepts poorer air quality in some areas. Add 'sustainable' to beginning of objective to clarify that the objective provides for full suite of management options (avoid, remedy or mitigate) and this is made clearer by changing wording to 'sustainable management'

Further Submission No: 13 - 15 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks recognition of the receiving environment, similar to the change sought by HortNZ. However HortNZ also seeks that it is recognised that the receiving environment can vary across the region

Decision Sought: Accept submission and amend consistent with changes sought by HortNZ.

Reasons for Staff Recommendation: Do not add 'relevant receiving' to 'environment' as it appears to advocate for an approach that accepts poorer air quality in some areas. Add 'sustainable' to beginning of objective to clarify that the objective provides for full suite of management options (avoid, remedy or mitigate) and this is made clearer by changing wording to 'sustainable management'

Further Submission No: 23 - 6 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter support the proposed amendment as recommended by submission 19 - 3. What might be considered as offensive or objectionable in a residential zone is likely to be completely different in an area which is zoned industrial. Objective AQ O3 should be tailored to manage the expectations of different 'local environments'.

Decision Sought: Decision sought: Amend objective AQ O3 as recommended by submission 19 – 3.

Reasons for Staff Recommendation: Do not add 'relevant receiving' to 'environment' as it appears to advocate for an approach that accepts poorer air quality in some areas. Add 'sustainable' to beginning of objective to clarify that the objective provides for full suite of management options (avoid, remedy or mitigate) and this is made clearer by changing wording to 'sustainable management'

Submission Point No: 4 **Submission Type:** Not Applicable **Recommendation:** Accept in Part

Chapter: Policies

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Staff Recommendations on Submissions (By Submitter)

Submitter: 19 - Z Energy Ltd, BP Oil NZ Ltd & Mobil Oil NZ Ltd

Section: AQ P1

Submission Summary: Support Policy P1 as drafted as it is appropriate to manage the effects of discharges to air through permits and, where the adverse effects of a discharge cannot be suitably managed, apply a classification of activities

Decision Sought: Retain Policy P1 without further modification

Reasons for Staff Recommendation: Some minor changes made as a result of other submission points

Submission Point No: 5 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Policies

Section: AQ P2

Submission Summary: Support Policy P2 insofar as to remedy or mitigate discharges of contaminants to air using the best practicable option, where the avoidance of any adverse effects is not possible

Decision Sought: Retain Policy P2 without further modification

Reasons for Staff Recommendation: Staff recommend inclusion of hazardous air pollutants in the policy and some wording changes to clarify that avoidance is preferable, but not the bottom line.

Further Submission No: 21 - 35 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Port of Tauranga

Summary: This submission point refers to retaining Policy AQP2 as notified. PoT request the policy is amended as per its original submission.

Decision Sought: Reject

Reasons for Staff Recommendation: Staff recommend inclusion of hazardous air pollutants in the policy and some wording changes to clarify that avoidance is preferable, but not the bottom line.

Submission Point No: 6 **Submission Type:** Support in Part **Recommendation:** To Be Advised

Chapter: Policies

Section: AQ P3(a)

Submission Summary: Support the intent of Policy P3 insofar as to manage discharges of contaminants to air, including through the use of the best practicable option, and to protect regionally significant infrastructure from adverse effects associated with the discharge of contaminants. Amendment recommended to incorporate proposed amendments to Objective O3 (submission point 19-3) – that is, to manage the effects of the discharge of contaminants to air according to the receiving environment, rather than the environment in general.

Decision Sought: Amend Policy P3 to incorporate those changes sought to Objective O1, as follows: Activities that discharges contaminants to air must be managed, including by use of best practicable option, to:
(a) safeguard the life supporting capacity of the air, avoid adverse effects on human health, and manage and the [insert - relevant receiving] environment...

Reasons for Staff Recommendation: Staff do not agree with this approach as it accepts that there will be poorer air quality in some areas, and assumes that everyone within those areas has the same values which is not the case.

Further Submission No: 5 - 5 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Timberlands Ltd

Summary: Timberlands supports the submission for the reasons expressed, to manage the effects of the discharge of contaminants to air according to the receiving environment,

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rather than the environment in general.

Decision Sought: Accept submission point 19-6

Reasons for Staff Recommendation: Staff do not agree with the approach of widening the consideration of effects on the environment, to consider the 'relevant receiving environment' as it accepts that there will be poorer air quality in some areas, and assumes that everyone within those areas has the same values which is not the case.

Further Submission No: 8 - 34 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Mercury NZ Ltd

Summary: Mercury supports this minor amendment. Mercury seeks Policy 3 implement the correct tests in line with the RMA.

Decision Sought: Allow

Reasons for Staff Recommendation: Staff do not agree with the approach of widening the consideration of effects on the environment, to consider the 'relevant receiving environment' as it accepts that there will be poorer air quality in some areas, and assumes that everyone within those areas has the same values which is not the case.

Further Submission No: 13 - 28 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks recognition of the relevant receiving environment, which is appropriate

Decision Sought: Accept submission

Reasons for Staff Recommendation: Staff do not agree with the approach of widening the consideration of effects on the environment, to consider the 'relevant receiving environment' as it accepts that there will be poorer air quality in some areas, and assumes that everyone within those areas has the same values which is not the case.

Further Submission No: 23 - 14 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter supports the amendments recommended by submission 19 - 6. The proposed amendments are in line with our previous comments on the matter (submission 19 – 3), to which discharges to air should be managed based on the receiving environment.

Decision Sought: Decision sought: Amend policy AQ P3(a) as recommended by submission 19 – 6.

Reasons for Staff Recommendation: Staff do not agree with the approach of widening the consideration of effects on the environment, to consider the 'relevant receiving environment' as it accepts that there will be poorer air quality in some areas, and assumes that everyone within those areas has the same values which is not the case.

Submission Point No: 7 **Submission Type:** Support in Part **Recommendation:** Reject

Chapter: Policies

Section: AQ P4(e)

Submission Summary: Support the intent of Policy P4 insofar as directing regional plan users to the matters to consider in relation to the discharge of contaminants to air. Amend the wording of Policy P4 to incorporate those proposed amendments to Objective O3 (submission point 19-3) – that is, to manage the effects of the discharge of contaminants to air according to the receiving environment, rather than the environment in general.

Decision Sought: Amend Policy P4 to incorporate those changes sought to Objective O1, as follows:
When considering the acceptability of any discharge of contaminants to air, regional plan users must have particular regard to the following matters:

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Submitter: 19 - Z Energy Ltd, BP Oil NZ Ltd & Mobil Oil NZ Ltd

...
(e) The effect of the discharge on human health, cultural values, amenity values, the [insert - relevant receiving] environment and regionally significant infrastructure.

Reasons for Staff Recommendation: As a result of other submission points staff recommend the addition of new clauses to take into account the FIDOL factors and the locational constraints of some activities. This resolves the concern and therefore no change is recommended to this clause

Further Submission No: 13 - 46 **Submission Type:** Support in Part **Recommendation:** Reject

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks recognition of the relevant receiving environment. HortNZ considers the addition of 'relevant receiving environment' is appropriate.

Decision Sought: Accept submission

Reasons for Staff Recommendation: As a result of other submission points staff recommend the addition of new clauses to take into account the FIDOL factors and the locational constraints of some activities. This resolves the concern and therefore no change is recommended to this clause

Further Submission No: 23 - 35 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter supports the amendments recommended by submission 19 - 7. The proposed amendments are in line with our previous comments on the matter (submission 19 – 3), to which discharges to air should be managed based on the receiving environment.

Decision Sought: Decision sought: Amend policy AQ P4(e) as recommended by submission 19 - 7.

Reasons for Staff Recommendation: As a result of other submission points staff recommend the addition of new clauses to take into account the FIDOL factors and the locational constraints of some activities. This resolves the concern and therefore no change is recommended to this clause

Submission Point No: 8 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R1

Submission Summary: The presumption under the RMA for air discharges from industrial and trade premises is that you cannot discharge unless it is explicitly stated as permitted in a plan. In this instance, PC13 enables minor and de minimus discharges activities as long as the conditions [(a)-(c)] of Rule R1 is met.
The Oil Companies support conditions (a) and (b) but oppose condition (c).
The inclusion of condition (c) in Rule R1 captures all discharges from industrial or trade "premises", not otherwise specifically provided for. The use of the phrase "premises" in R1 will effectively capture all de minimus discharges and create a technical requirement for these discharges to default to a discretionary activity.
The Plan should provide a means of permitting incidental and de minimus discharges from industrial and trade premises. If it is not considered that conditions a) and b) alone are sufficiently protective for any other incidental discharges from industrial and trade premises then include a further condition to manage this.

Decision Sought: Amend Rule AQ R1 to delete condition (c) and if necessary insert a new condition (c) as follows: "The discharge must not contain contaminants that cause, or are likely to cause, adverse effects on human health, property or the environment beyond the boundary of the premises where the activity takes place."

Reasons for Staff Recommendation: The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent. Staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all

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Staff Recommendations on Submissions (By Submitter)

Submitter: 19 - Z Energy Ltd, BP Oil NZ Ltd & Mobil Oil NZ Ltd

contaminant discharges to air are of concern therefore staff recommend a change to the rule to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 1 - 1 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: GBC Winstone

Summary: The deletion or amendment of AQ R1(c) is supported, as the Plan should provide a means of permitting incidental and de minimus discharges from industrial and trade premises, by stating the type and levels of effects as a permitted activity standard. GBC Winstone has a service centre for bulk storage and handling of cement at Port of Tauranga, Mt Maunganui, operating under an air discharge consent, but contains the cement by means of a baghouse dust removal system. GBC Winstone original submission No. 27 on Plan Change 13 sought permitted activity status for cement storage and handling at Port of Tauranga, subject to meeting permitted activity standards.

Decision Sought: The permitted activity standards could be specific to bulk storage and handling of cement and associated materials, as detailed in GBC Winstone's original submission and as used in the Auckland Unitary Plan, or more general in relation to adverse effects on human health, property or the environment beyond the boundary of the premises where the activity takes place. Such permitted activity standards would ensure that a baghouse or similar dust removal system is used to ensure the nature and levels of adverse effects are acceptable.

Reasons for Staff Recommendation: The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent. Staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to the rule to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 7 - 14 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Trustpower Ltd

Summary: It aligns with the relief sought by Trustpower

Decision Sought: Accept submission point

Reasons for Staff Recommendation: The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent. Staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to the rule to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 8 - 69 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Mercury NZ Ltd

Summary: Mercury seeks Policy 4 implement the correct tests in line with the RMA. It is important that rules allow for effects from discharges that are within acceptable limits.

Decision Sought: Disallow

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Staff Recommendations on Submissions (By Submitter)

Submitter: 19 - Z Energy Ltd, BP Oil NZ Ltd & Mobil Oil NZ Ltd

Reasons for Staff Recommendation: The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent.
Staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to the rule to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 21 - 65 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Port of Tauranga

Summary: PoT supports the underlying premise of this submission, which opposes the inclusion of Rule AQR1(c) as notified. This rule would capture all discharges from an industrial or trade premise as a Discretionary Activity, irrespective of the size, scale and effect of the discharge. PoT requests that Rule AQR1 is amended as per the original submission.

Decision Sought: Accept in part

Reasons for Staff Recommendation: The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent.
Staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to the rule to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 22 - 25 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Toi Te Ora Public Health

Summary: Agree, the discharges must not result in downwind concentrations that cause adverse effects on human health.
For clarity we do not support the removal of industrial or trade premises from AQR(c)

Decision Sought: Accept in part

Reasons for Staff Recommendation: The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent.
However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 23 - 43 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter oppose the proposed amendments recommended by submission 19 - 8. Although it is accepted that some industrial and trade premises will discharge contaminants at 'less than minor' or 'de minimis' levels, we note that there is no way in knowing whether cumulative effects are occurring, which may result from several different 'permitted' discharges from industrial and trade premises. These discharges could contribute to the degradation of ambient air quality. For this reason, Lawter

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Staff Recommendations on Submissions (By Submitter)

Submitter: 19 - Z Energy Ltd, BP Oil NZ Ltd & Mobil Oil NZ Ltd

support the 'catch-all' approach with regards to industrial and trade facilities, which has been adopted in Proposed Plan Change 13.

Decision Sought: Decision sought: Retain rule AQ R1 as notified.

Reasons for Staff Recommendation: Agree that adverse effects are being caused by discharges from industrial and trade premises across the region, particularly in industrial areas, that do need to be better managed moving forward. When activities are not managed by any other rule in the plan and are causing adverse effects, the burden of proving such effects when enforcing the plan rules falls to the Regional Council. Where there are several sources of a contaminant of concern it can be difficult to determine the main cause, if any. Even when there is one single source causing adverse effects it can still be a difficult process. The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent. However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 30 - 25 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Swap Stockfoods Ltd

Summary: The proposed addition is not supported. In some instances a discharge may meet the standard in terms of quality but may occur beyond the boundary and would therefore not be a permitted activity.

Decision Sought: Reject

Reasons for Staff Recommendation: The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent. Staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to the rule to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Submission Point No: 9 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R2

Submission Summary: Support Rule R2 as drafted. It is considered appropriate for discharges that are not specifically addressed in PC13 and do not meet the permitted activity criteria as set out in Rule R1, to be classified as a discretionary activity.

Decision Sought: Retain Rule R2 without further modification

Reasons for Staff Recommendation: Minor change made to make wording of rule clearer that does not affect the overall intention of the rule.

Submission Point No: 10 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R3(2)

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Staff Recommendations on Submissions (By Submitter)

Submitter: 19 - Z Energy Ltd, BP Oil NZ Ltd & Mobil Oil NZ Ltd

Submission Summary: Support Rule R3 insofar as the rule provides for discharges associated with the ventilation and displacement of liquids in storage tanks and tankers.

Decision Sought: Retain Rule R3(2) without further modification

Reasons for Staff Recommendation: Some changes made to the rule to resolve other submission points however overall policy intent has not changed

Submission Point No: 11 **Submission Type:** Seek **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R16

Submission Summary: Support in part Rule R16 insofar as providing for spray painting activities containing di-isocyanates as a permitted activity (albeit subject to conditions).
Oppose the scope of the rule only applying to spray painting activities carried out within a spray booth, room, or enclosure fitted with an air extraction system. The Oil Companies have some paint systems that contain di-isocyanates. They need to paint their bulk fuel above ground tanks and associated pipework from time to time in situ and this involves outdoor spraying. The Oil Companies cannot readily dismantle and place these structures/equipment into a spray booth, room, or enclosure fitted with an air extraction system.
Rule R1 does not provide a permitted pathway for the Oil Companies to carry out such maintenance work given it would result in a discharge from an industrial trade premises (noting Rule R1 provides an exception for those activities subject to another rule in the plan). The Oil Companies seek an exception - other parties should may have similar concerns as such systems are necessary to for graffiti removal, for example. While it is understood there are potentially significant issues with the use of di-isocyanates in spray painting activities outdoors, it is considered that, especially for significant infrastructure, there should be able to be a level of permitted use with appropriate conditions.

Decision Sought: Include a new Rule to provide for maintenance activities for nationally and regionally significant infrastructure, as follows:
"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) that cannot practicably be dismantled and transported to a spray booth is a permitted activity provided the following conditions are complied with:
(a) there must be no activities sensitive to air discharges within 30m of the activity
(b) there must be an exclusion zone that prevents public access within 15m of the activity
(c) the quantity of paint containing di-isocyanates or organic plasticisers applied in a continuous applications at a single location must not exceed 18 litres per day.
Advice Note - The discharge of contaminants to air from blasting and applying protective coatings to a transmission line support structure is managed by the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009."

Reasons for Staff Recommendation: Recommend amending the rule to allow for the best practicable option but including conditions to ensure that sensitive activities are not affected.

Further Submission No: 8 - 75 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Mercury NZ Ltd

Summary: Mercury seeks Policy 4 implement the correct tests in line with the RMA and supports a permissive rule framework for infrastructure related uses

Decision Sought: Allow

Reasons for Staff Recommendation: Recommend amending the rule to allow for the best practicable option but including conditions to ensure that sensitive activities are not affected.

Submission Point No: 12 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R17

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Staff Recommendations on Submissions (By Submitter)

Submitter: 19 - Z Energy Ltd, BP Oil NZ Ltd & Mobil Oil NZ Ltd

Submission Summary: Rule R17 as drafted. The Oil Companies do use abrasive blasting from time to time especially in relation to the maintenance activities on their bulk storage tanks. The rule is acceptable and should be retained

Decision Sought: Retain Rule R17 without further modification

Reasons for Staff Recommendation: Retain AQ R17 as notified

Further Submission No: 7 - 24 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Trustpower Ltd

Summary: It aligns with the relief sought by Trustpower

Decision Sought: Accept submission point

Reasons for Staff Recommendation: Retain AQ R17 as notified

Submission Point No: 13 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R20

Submission Summary: Support Rule R20 as drafted. The Oil Companies support the discretionary activity provision for use of methyl bromide with recapture technology and non-complying activity status for using methyl bromide for fumigation without recapture.

Decision Sought: Retain Rule R20 without further modification

Reasons for Staff Recommendation: Retain rule as notified

Further Submission No: 28 - 4 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Stakeholders in Methyl Bromide Reduction Inc (STIMBR)

Summary: New Zealand's forestry industry contributes significantly to regional economies and rural communities.
The EPA is mandated to assess and set controls for hazardous substances including methyl bromide. All decisions must be informed by robust science. The environmental Protection Authority (then ERMA) completed a reassessment of methyl bromide (MB) in 2010. The EPA determined that recapture technologies are to be used in conjunction with all methyl bromide fumigations from October 2020 onward. Since that time it has become apparent that the aspiration of applying recapture technologies to all fumigations is not possible by 2020. Consequently the EPA determined that there are grounds for a reassessment of methyl bromide.
Recapture is of necessity appropriate for all fumigants. EDN a sustainable alternative to methyl bromide is not yet available for use in New Zealand. There is no justifiable need to duplicate the regulatory requirements determined by the EPA in the regional plan.
Methyl bromide is also used as a biosecurity treatment for imported commodities, personal effects and managing potato wart.

Decision Sought: Reject

Reasons for Staff Recommendation: The Regional Council has a clear role set out in section 30 of the Act to control the discharge of contaminants to air. Section 65 then allows Regional Councils to prepare regional plans where necessary to carry out these roles, and provides a rule framework ranging from permitted activity to prohibited activity
The recommendation is for methyl bromide use without recapture to be non-complying and the policy provides for best practicable options. The use of methyl bromide with recapture or use of any other fumigant is discretionary. This is not a significant shift from the discretionary activity status under the operative Regional Air Plan

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Staff Recommendations on Submissions (By Submitter)

Submitter: 19 - Z Energy Ltd, BP Oil NZ Ltd & Mobil Oil NZ Ltd

Further Submission No: 29 - 3 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Genera Ltd

Summary: EPA completed a reassessment of methyl bromide (MB) in 2010. An aspirational MB recapture target of 100% was set. Since that time it has become apparent that 100% recapture of MB is not possible by 2020. Based on learnings gained since 2010, the EPA has recently determined that there are grounds for a reassessment of methyl bromide. The EPA is the agency mandated to assess and set controls for hazardous substances such as methyl bromide. There are currently no other practicable options for the fumigation of top stow logs to China, logs to India and other imported and exported cargos.

The value of log exports for the June 2017 year was \$2.7 billion. Currently export requires the use of phytosanitary treatments including fumigation with MB. Without the ability to export logs the impacts would flow down to our local communities and have significant effects on the region's economy.

Methyl bromide is also used for treating imported cargo and is the main fumigant used to protect New Zealand's border from pest incursions as mandated under the Biosecurity Act 1993. Without MB as a biosecurity tool, MPI's ability to protect local industry from pests (eg. Brown Marmorated Stick Bug) will be put at significant risk.

Decision Sought: Reject

Reasons for Staff Recommendation: The EPA assessment committee approved the continued use of methyl bromide, but imposed further controls, including a requirement that '10 years from the date of this decision, all methyl bromide fumigations are to be subject to recapture.' The due date for this requirement is October 2020.

The Regional Council has a clear role set out in section 30 of the Act to control the discharge of contaminants to air. Section 65 then allows Regional Councils to prepare regional plans where necessary to carry out these roles, and provides a rule framework ranging from permitted activity to prohibited activity

The recommendation is for methyl bromide use without recapture to be non-complying and the policy provides for best practicable options. The use of methyl bromide with recapture or use of any other fumigant is discretionary. This is not a significant shift from the discretionary activity status under the operative Regional Air Plan

Submission Point No: 14 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R21 - whole rule

Submission Summary: Support Rule R21 as drafted.

Decision Sought: Retain Rule R21 without further modification

Reasons for Staff Recommendation: Some changes made to the rule to resolve other submission points however overall policy intent has not changed

Further Submission No: 4 - 9 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Whakatane Mill Ltd

Summary: Rule AQ R21 appropriately includes the activities undertaken at Whakatane Mill

Decision Sought: Accept submission to retain Rule AQ R21 without further modification

Reasons for Staff Recommendation: Some changes made to the rule to resolve other submission points however overall policy intent has not changed

Submission Point No: 15 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Definitions

Section: Definitions - Ambient air

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Staff Recommendations on Submissions (By Submitter)

Submitter: 19 - Z Energy Ltd, BP Oil NZ Ltd & Mobil Oil NZ Ltd

Submission Summary: "Ambient air"
Support the definition of 'Ambient Air' as drafted

Decision Sought: Retain the definition of 'Ambient Air'

Reasons for Staff Recommendation: Delete 'air in the workplace' from this definition to remove potential confusion as ambient air is any air outside of buildings and structures, and should apply regardless of whether it is a workplace or not.

Submission Point No: 16 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Definitions

Section: Definitions - Best practicable option

Submission Summary: "Best practicable option"
Include a definition of "Best practicable option" within the definition section of PC13. The term 'best practicable option' is frequently referenced within PC13. It is considered the most appropriate definition for 'best practicable option' is the definition contained within the RMA.

Decision Sought: Add definition as follows:
Best practicable option means the best method for preventing or minimising the adverse effects on the environment, having regard, among other things, to:
(a) the nature of the discharge or emission and the sensitivity of the receiving environment to adverse effects; and
(b) the financial implications, and the effects on the environment, of that option compared to other options; and
(c) the current state of technical knowledge and the likelihood that the option can be successfully applied.

Reasons for Staff Recommendation: This definition has been carried over from the Act and is already included in the Regional Natural Resources Plan

Further Submission No: 11 - 11 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Oji Fibre Solution

Summary: Oji FS does not consider a definition of Best Practicable Option is strictly necessary as the term is defined in the Resource Management Act 1991 ('RMA'). However, if a definition is to be included it should be identical to the definition contained in the RMA

Decision Sought: Accept submission

Reasons for Staff Recommendation: This definition has been carried over from the Act and is already included in the Regional Natural Resources Plan

Submission Point No: 17 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Definitions

Section: Definitions - Noxious or dangerous

Submission Summary: Noxious or dangerous
Support the definition of 'Noxious or dangerous' as drafted.

Decision Sought: Retain the definition of 'Noxious or dangerous' without further modification,

Reasons for Staff Recommendation: Remove this definition from the plan change as it is used in the RMA and case law considers this based on a normal English language definition. Including a definition could result in a conflict between further Court interpretation. However, staff recommend retaining text to clarify how this term will be interpreted by the rules in the plan change and that this text is based on the text in the proposed plan.

Further Submission No: 30 - 36 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Swap Stockfoods Ltd

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Staff Recommendations on Submissions (By Submitter)

Submitter: 19 - Z Energy Ltd, BP Oil NZ Ltd & Mobil Oil NZ Ltd

Summary: Support a definition for 'noxious or dangerous' being retained in the plan change. Swap Stockfoods would like the opportunity to be involved in the discussions regarding the proposed wording of the definition.

Decision Sought: Accept

Reasons for Staff Recommendation: Remove this definition from the plan change as it is used in the RMA and case law considers this based on a normal English language definition. Including a definition could result in a conflict between further Court interpretation. However, staff recommend retaining text to clarify how this term will be interpreted by the rules in the plan change and that this text is based on the text in the proposed plan.

Submission Point No: 18 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Reverse sensitivity

Section: Reverse Sensitivity

Submission Summary: "Reverse sensitivity"
Support the intent of the definition of 'Reverse sensitivity' but the definition needs to provide for the scenario where there is an intensification of sensitive activities that compromises, constrains or curtails lawfully established existing activities, rather than only protecting pre-existing activities from the establishment of new sensitive activities (for example, the intensification of residential areas).

Decision Sought: Amend the definition of 'Reverse sensitivity' to provide for the potential impacts of the intensification of sensitive activities, as follows:
Reverse sensitivity means the potential for the operation of an existing lawfully established activity to be compromised, constrained or curtailed by the more recent establishment [insert - or intensification] of other activities which are sensitive to the adverse environmental effects being generated by the pre-existing activity.

Reasons for Staff Recommendation: Remove definition of "reverse sensitivity".

Further Submission No: 4 - 8 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Whakatane Mill Ltd

Summary: Whakatane Mill consider the PC13 definition of reverse sensitivity in PC13 adequately describes the concept. But it agrees that 'intensification' is one way reverse sensitivity effects can arise and that it is useful to include reference to this matter in the definition

Decision Sought: Accept submission point 19-18 to amend the definition of reverse sensitivity

Reasons for Staff Recommendation: Decline the original submission point

Further Submission No: 8 - 92 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Mercury NZ Ltd

Summary: The relief sought aligns with the relevant tests within the RMA framework.

Decision Sought: Allow

Reasons for Staff Recommendation: Decline the original submission point

Further Submission No: 11 - 25 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Oji Fibre Solution

Summary: Oji FS considers the PC13 definition of reverse sensitivity in PC13 adequately describes the concept. But it agrees that 'intensification' is one way reverse sensitivity effects can arise and that it is useful to include reference to this matter in the definition

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 19 - Z Energy Ltd, BP Oil NZ Ltd & Mobil Oil NZ Ltd

Decision Sought: Accept submission

Reasons for Staff Recommendation: Decline the original submission point

Further Submission No: 20 - 36 **Submission Type:** Support in Part **Recommendation:** Reject

Further Submitter: Fonterra Ltd

Summary: For the reasons outlined in the submission of Z Energy Ltd, BP Oil NZ Ltd & Mobil Oil NZ Ltd.

Decision Sought: Accept in part

Reasons for Staff Recommendation: Decline the original submission point

Further Submission No: 23 - 55 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter support an amendment of the definition. Protection should be afforded from the potential impacts of the development, intensification and encroachment of sensitive activities near activities with discharges to air.

Decision Sought: Decision sought: Amend the definition of reverse sensitivity as recommended by submission 19 – 18.

Reasons for Staff Recommendation: Decline the original submission point

Further Submission No: 30 - 50 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Swap Stockfoods Ltd

Summary: Support the provision of a definition for reverse sensitivity. Swap Stockfoods would like the opportunity to be involved in the discussions regarding the proposed wording of the definition.

Decision Sought: Accept

Reasons for Staff Recommendation: Decline the original submission point

Submission Point No: 19 **Submission Type:** Seek **Recommendation:** Accept in Part

Chapter: Definitions

Section: Definitions - Sensitive activity

Submission Summary: "Sensitive activity"
Support in part the definition of 'Sensitive activity' as it applies to activities, but not as it applies to areas, which are not activities per se. This will cause some difficulties in interpretation and application. For example the inclusion of 'areas' in part (a) of this definition suggests that any activity within a residential area is a sensitive activity. This blanket approach captures activities that may be located in such areas but are not activities sensitive to air discharges - for example a service station within a residential area.

Decision Sought: Amend the definition of 'Sensitive activities' to ensure the definition focuses on activities and not areas, as follows:
Means an activity that may be adversely affected by contaminants and includes:
(a) residential buildings [delete - and areas] (including marae)...
(e) hotels, motels, caravan parks, camp [insert - grounds] [delete - ing areas], tourist accommodation...

Reasons for Staff Recommendation: Staff recommend changing wording from 'this includes' to 'this may include' to separate the definition from the examples. Staff do not then recommend amending the list itself, as it is no longer a key part of the definition, but a list of examples to provide guidance. This will relieve

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 19 - Z Energy Ltd, BP Oil NZ Ltd & Mobil Oil NZ Ltd

many of the concerns in the submission points.
The recommended change includes both activities and areas, therefore the mix of these in the list is appropriate

Further Submission No: 8 - 91 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Mercury NZ Ltd

Summary: The relief sought aligns with the relevant tests within the RMA framework

Decision Sought: Allow

Reasons for Staff Recommendation: Staff recommend changing wording from 'this includes' to 'this may include' to separate the definition from the examples. Staff do not then recommend amending the list itself, as it is no longer a key part of the definition, but a list of examples to provide guidance. This will relieve many of the concerns in the submission points.
The recommended change includes both activities and areas, therefore the mix of these in the list is appropriate

Further Submission No: 13 - 116 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Horticulture New Zealand

Summary: A focus on activities rather than 'areas' is supported.

Decision Sought: Accept submission

Reasons for Staff Recommendation: Staff recommend changing wording from 'this includes' to 'this may include' to separate the definition from the examples. Staff do not then recommend amending the list itself, as it is no longer a key part of the definition, but a list of examples to provide guidance. This will relieve many of the concerns in the submission points.
The recommended change includes both activities and areas, therefore the mix of these in the list is appropriate

Submission Point No: 20 **Submission Type:** Support **Recommendation:** Accept

Chapter: Consequential Changes

Section: Definitions - Contaminant

Submission Summary: "Contaminant"
Support the proposed amendment to the definition of 'contaminant' as proposed through PC13.

Decision Sought: Retain the amendments to the definition of 'contaminant' without any further modification

Reasons for Staff Recommendation: Retain amended definition of 'Contaminant'

Submission Point No: 21 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Reverse sensitivity

Section: Reverse Sensitivity

Submission Summary: The discharge of contaminants to air can have an impact on the wider environment. However, what effects may be considered acceptable or anticipated in a residential zone, for example, are very different from that of an industrial zone. The key issue is to appropriately avoid, remedy or mitigate the effects of a discharge to air in accordance with the relevant receiving environment and to ensure sensitive land use activities are not enabled to be located adjacent or near to activities that require frequent discharges to air (such as industrial activities).

Decision Sought: Provisions to manage reverse sensitivity.

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 19 - Z Energy Ltd, BP Oil NZ Ltd & Mobil Oil NZ Ltd

Reasons for Staff Recommendation: Do not include provisions to manage reverse sensitivity in the plan change

Further Submission No: 4 - 11 **Submission Type:** Support **Recommendation:** Reject
Further Submitter: Whakatane Mill Ltd
Summary: Whakatane Mill agree that additional provisions to manage reverse sensitivity should be included in PC13
Decision Sought: Accept submission to insert provisions to manage reverse sensitivity
Reasons for Staff Recommendation: Decline original submission point

Further Submission No: 8 - 93 **Submission Type:** Support **Recommendation:** Reject
Further Submitter: Mercury NZ Ltd
Summary: The relief sought aligns with the relevant tests within the RMA framework.
Decision Sought: Allow
Reasons for Staff Recommendation: Decline original submission point

Further Submission No: 11 - 27 **Submission Type:** Support **Recommendation:** Reject
Further Submitter: Oji Fibre Solution
Summary: Oji FS agrees that additional provisions to manage reverse sensitivity should be included in PC13
Decision Sought: Accept submission
Reasons for Staff Recommendation: Decline original submission point

Further Submission No: 20 - 37 **Submission Type:** Support **Recommendation:** Reject
Further Submitter: Fonterra Ltd
Summary: Fonterra supports the inclusion of a definition of reverse sensitivity and that it be amended in line with this submission (recognising the potential impacts from the intensification of sensitive activities). Further discussion is required regarding the appropriate wording for the proposed definition.
Decision Sought: Accept in part
Reasons for Staff Recommendation: Decline original submission point

Further Submission No: 23 - 73 **Submission Type:** Support **Recommendation:** Reject
Further Submitter: Lawter New Zealand Ltd
Summary: Lawter support further provisions within Plan Change 13 which will manage reverse sensitivity effects. Industries should be protected from the potential impacts of development and intensification of sensitive activities near industries which require frequent discharges to air.
Decision Sought: Decision sought: Adopt additional provisions as recommended by submission 19 – 21.
Reasons for Staff Recommendation: Decline original submission point

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 19 - Z Energy Ltd, BP Oil NZ Ltd & Mobil Oil NZ Ltd

Further Submission No: 30 - 51 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Swap Stockfoods Ltd

Summary: Support the provision of policies to manage reverse sensitivity. Swap Stockfoods would like the opportunity to be involved in the discussions regarding the proposed wording of the policies.

Decision Sought: Accept

Reasons for Staff Recommendation: Decline original submission point

Submission Point No: 22 **Submission Type:** Support in Part **Recommendation:** Reject

Chapter: Policies

Section: AQ P3(e)

Submission Summary: Support the intent of Policy P3 insofar as to manage discharges of contaminants to air, including through the use of the best practicable option, and to protect regionally significant infrastructure from adverse effects associated with the discharge of contaminants. Amendment recommended to incorporate proposed amendments to Objective O3 – that is, to manage the effects of the discharge of contaminants to air according to the receiving environment, rather than the environment in general.

Decision Sought: Amend Policy P3 to incorporate those changes sought to Objective O1, as follows: Activities that discharges contaminants to air must be managed, including by use of best practicable option, to:
(e) minimise the discharge of contaminants into areas beyond the boundary of the subject property where it may cause adverse effects on human health, cultural values, amenity values or the [insert - relevant receiving] environment.

Reasons for Staff Recommendation: The decision sought seems to advocate for an approach that accepts poorer air quality in some areas of the region. Staff do not recommend this approach.

Further Submission No: 5 - 7 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Timberlands Ltd

Summary: Timberlands supports the submission for the reasons expressed, to manage the effects of the discharge of contaminants to air according to the receiving environment, rather than the environment in general.

Decision Sought: accept submission point 19-22

Reasons for Staff Recommendation: The decision sought seems to advocate for an approach that accepts poorer air quality in some areas of the region. It assumes that every person (be they a farmer, horticulturalist or commercial/industrial business operator) within a particular area has the same values for air quality

Further Submission No: 8 - 48 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Mercury NZ Ltd

Summary: Mercury seeks Policy 3 implement the correct tests in line with the RMA.

Decision Sought: Disallow

Reasons for Staff Recommendation: The decision sought seems to advocate for an approach that accepts poorer air quality in some areas of the region. It assumes that every person (be they a farmer, horticulturalist or commercial/industrial business operator) within a particular area has the same values for air quality

Further Submission No: 13 - 36 **Submission Type:** Support in Part **Recommendation:** Reject

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Staff Recommendations on Submissions (By Submitter)

Submitter: 19 - Z Energy Ltd, BP Oil NZ Ltd & Mobil Oil NZ Ltd

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks recognition of the relevant receiving environment. HortNZ has sought deletion of environment in clause e) as it is confusing with clause a) However if retained the addition of 'relevant receiving environment' is appropriate

Decision Sought: Accept HortNZ submission to amend P3 e). If not a

Reasons for Staff Recommendation: The decision sought seems to advocate for an approach that accepts poorer air quality in some areas of the region. It assumes that every person (be they a farmer, horticulturalist or commercial/industrial business operator) within a particular area has the same values for air quality

Further Submission No: 23 - 27 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter supports the amendments recommended by submission 19 - 22. The proposed amendments are in line with our previous comments on the matter (submission 19 – 3), to which discharges to air should be managed based on the receiving environment.

Decision Sought: Decision sought: Amend policy AQ P3(e) as recommended by submission 19 – 22.

Reasons for Staff Recommendation: The decision sought seems to advocate for an approach that accepts poorer air quality in some areas of the region. It assumes that every person (be they a farmer, horticulturalist or commercial/industrial business operator) within a particular area has the same values for air quality

Submission Point No: 23 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R3(4)

Submission Summary: Support Rule R3 insofar as the rule provides for discharges associated with the disturbance of land and soil.

Decision Sought: Retain Rule R3(4) without further modification

Reasons for Staff Recommendation: Retain clause (4) as notified

Submission Point No: 24 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R3(5)

Submission Summary: Support Rule R3 insofar as the rule provides for discharges associated with contaminated land remediation.

Decision Sought: Retain Rule R3(5) without further modification

Reasons for Staff Recommendation: Retain clause (5) as notified

Submitter: 20 - Hortforce Ltd

Submission Point No: 1 **Submission Type:** Oppose **Recommendation:** Accept

Chapter: Rules

Section: AQ R15(4)

Submission Summary: AQ R15(4)
We strongly believe it to be unachievable to give no less than 24 hours notice. As a result, spray contractors will have less accurate time frames of spraying and therefore have a

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Staff Recommendations on Submissions (By Submitter)

Submitter: 20 - Hortforce Ltd

negative impact on the notification process for both parties. It creates cutting of corners and excessive notifications which will give notifications a spam like nature and deem them useless. A 12 hour notice period gives sprayers a tighter window to provide more accurate indication of when spraying will actually occur which creates more accurate workflows and timely notifications. It takes into account a number of uncertainties with weather, staff, order jobs, machinery breakdowns.

Decision Sought: Amend condition 4(a):
(i)...no earlier than 72 hours and no later than [delete 24] [insert - 12] hours...

Reasons for Staff Recommendation: Staff recommend changing the minimum 24 hour notification window to 12 hours. As this the current system is working for most, then retaining the 12 hour notification window is the best way forward..
Given this recommendation, staff remind the Hearing Panel, submitters and all others involved with agrichemical spraying that policy AQ P8 clearly states that spray drift should be avoided in the first instance. Even when mitigation measures, in the form of notification, are carried out according to the conditions, any spray drift must still comply with condition (1)(a) of the rule and where this cannot be achieved, staff highly recommend that parties enter into a notification agreement to determine what is the best form, timing and format for notification to occur to allow for sufficient preparation

Submitter: 21 - Jodie Bruning

Submission Point No: 1 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Objectives

Section: AQ 03

Submission Summary: -The Draft Air Plan Objectives should reflect the statutory purpose of the RMA to protect soil, water & ecosystems and safeguard life-systems for current and future generations.
-Recognition that current Regional Natural Resources Plan content does not link air discharges from agrichemical or emerging organic contaminant (EOC) to contamination of soil, freshwater and sediment – and that public and central government concerns prioritise proactive policy protecting freshwater quality.

Decision Sought: Delete the objective and replace as follows:
Avoid, remedy or mitigate the adverse effects of all discharges of contaminants into air on the environment which includes the effects on: ecosystems, human health and safety, crops and livestock, amenity values, cultural values and the environment

Reasons for Staff Recommendation: No change to overall wording as requested wording is essentially the same as the current wording

Further Submission No: 8 - 18 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Mercury NZ Ltd

Summary: Objective reads like a policy. Mercury prefers the existing wording which is suitable for managing discharges and effects from discharges on the environment. Mercury does not agree with the advocated statutory purpose of the RMA , which is not primarily to protect, but promote sustainable management, through management of use, development and protection. Mercury will support a objective which represents the correct RMA tests in a balanced manner.

Decision Sought: Disallow

Reasons for Staff Recommendation: No change to overall wording as requested wording is essentially the same as the current wording

Further Submission No: 8 - 3 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Mercury NZ Ltd

Summary: Mercury considers the proposed wording for Objective AQ 03 is written like a policy not an objective. Mercury seeks to retain the existing objective wording, which deals with

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Staff Recommendations on Submissions (By Submitter)

Submitter: 21 - Jodie Bruning

emissions in an effects based manner. Some adverse effects where minor, do not require to be remedied or mitigated, as effects may be tolerable and with safe limits.

Decision Sought: Disallow

Reasons for Staff Recommendation: No change to overall wording as requested wording is essentially the same as the current wording

Further Submission No: 13 - 16 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Horticulture New Zealand

Summary: Objective 3 is focused on localised air quality and should recognise that discharges to air are provided for where consistent with the background receiving environment and adverse effects are managed

Decision Sought: Reject submission

Reasons for Staff Recommendation: No change to overall wording as requested wording is essentially the same as the current wording

Further Submission No: 20 - 4 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Fonterra Ltd

Summary: Fonterra considers that Objective O3 is appropriate to manage air quality (subject to including a new enabling objective).

Decision Sought: Disallow

Reasons for Staff Recommendation: No change to overall wording as requested wording is essentially the same as the current wording

Submission Point No: 2 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Objectives

Section: New objective

Submission Summary:

- The Draft Air Plan Objectives should reflect the statutory purpose of the RMA to protect soil, water & ecosystems and safeguard life-systems for current and future generations.
- Air discharge by drift and volatilization enters sensitive areas, including freshwater and soil environments.
- Recognition that current Regional Natural Resources Plan content does not link air discharges from agrichemical or emerging organic contaminant (EOC) to contamination of soil, freshwater and sediment – and that public and central government concerns prioritise proactive policy protecting freshwater quality.
- Recognition that pregnant women, babies and children are at greater risk and that HSNO and RPS Policy IR 1B requires the use of a precautionary approach. New Zealand regulatory risk assessment is outdated and it is recommended that more recent decisions in Europe are followed.

Decision Sought: Insert new objective
Ensure the life-supporting capacity of water, soil and ecosystems is safeguarded
Avoid, remedy or mitigate the adverse effects of bioaccumulation in water and soil systems from discharges of contaminants into air so that the life-supporting capacity of water, soil, and ecosystems are safeguarded.

Reasons for Staff Recommendation: The wording essentially repeats section 5 of the RMA and is therefore not considered necessary. However, staff recognise the underlying concerns with declining water and soil quality, and bioaccumulation that drive the decision sought by the submitter. However there are already provisions in the plan that manage the adverse effects on the life supporting capacity of soil, water and ecosystems. Rules in the plan change also manage the discharge to water. Most rules have a condition where there can be no noxious or dangerous, offensive or objectionable discharge into water bodies. Otherwise, regulations are based on established regulation and guidance from relevant authorities. Future proofing our environment by including rules to manage discharges of contaminants that could be harmful is desirable and consistent with the precautionary

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Staff Recommendations on Submissions (By Submitter)

Submitter: 21 - Jodie Bruning

approach. However, rules based on the precautionary approach must have some evidence to support them, and be balanced against the four well-beings. This is not the case, particularly for emerging organic contaminants where the pathways to air are undetermined. Should evidence emerge that there are is declining water and soil quality and bioaccumulation caused by air discharges, AQ O1 with its general protection of human health from air discharges is sufficient

Further Submission No: 3 - 1 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Ballance Agri-Nutrients Ltd

Summary: The Regional Natural Resources Plan ('RNRP') already provides general objectives and policies seeking to avoid, remedy or mitigate adverse effects on the life supporting capacity of soil, water and ecosystems, such as objectives IM O1, IM O2, LM O1 and policy 68A. As a result, the proposed objective represents unnecessary repetition.

Decision Sought: That submission 21-2 be rejected.

Reasons for Staff Recommendation: The wording essentially repeats section 5 of the RMA and is therefore not considered necessary. However, staff recognise the underlying concerns with declining water and soil quality, and bioaccumulation that drive the decision sought by the submitter. However there are already provisions in the plan that manage the adverse effects on the life supporting capacity of soil, water and ecosystems. Rules in the plan change also manage the discharge to water. Most rules have a condition where there can be no noxious or dangerous, offensive or objectionable discharge into water bodies. Otherwise, regulations are based on established regulation and guidance from relevant authorities. Future proofing our environment by including rules to manage discharges of contaminants that could be harmful is desirable and consistent with the precautionary approach. However, rules based on the precautionary approach must have some evidence to support them, and be balanced against the four well-beings. This is not the case, particularly for emerging organic contaminants where the pathways to air are undetermined. Should evidence emerge that there are is declining water and soil quality and bioaccumulation caused by air discharges, AQ O1 with its general protection of human health from air discharges is sufficient

Further Submission No: 11 - 4 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Oji Fibre Solution

Summary: To the extent these concepts need to be reflected in the PC13 objectives, they are already captured in Objectives AQO1 – AQO3

Decision Sought: Reject submission

Reasons for Staff Recommendation: The wording essentially repeats section 5 of the RMA and is therefore not considered necessary. However, staff recognise the underlying concerns with declining water and soil quality, and bioaccumulation that drive the decision sought by the submitter. However there are already provisions in the plan that manage the adverse effects on the life supporting capacity of soil, water and ecosystems. Rules in the plan change also manage the discharge to water. Most rules have a condition where there can be no noxious or dangerous, offensive or objectionable discharge into water bodies. Otherwise, regulations are based on established regulation and guidance from relevant authorities. Future proofing our environment by including rules to manage discharges of contaminants that could be harmful is desirable and consistent with the precautionary approach. However, rules based on the precautionary approach must have some evidence to support them, and be balanced against the four well-beings. This is not the case, particularly for emerging organic contaminants where the pathways to air are undetermined. Should evidence emerge that there are is declining water and soil quality and bioaccumulation caused by air discharges, AQ O1 with its general protection of human health from air discharges is sufficient

Further Submission No: 13 - 2 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Horticulture New Zealand

Summary: The focus of the Plan is discharges to air. Discharges to land and water are addressed

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 21 - Jodie Bruning

through land and water provisions

Decision Sought: Reject submission to add a new objective for bio-accumulation in water and soil

Reasons for Staff Recommendation: The wording essentially repeats section 5 of the RMA and is therefore not considered necessary. However, staff recognise the underlying concerns with declining water and soil quality, and bioaccumulation that drive the decision sought by the submitter. However there are already provisions in the plan that manage the adverse effects on the life supporting capacity of soil, water and ecosystems. Rules in the plan change also manage the discharge to water. Most rules have a condition where there can be no noxious or dangerous, offensive or objectionable discharge into water bodies. Otherwise, regulations are based on established regulation and guidance from relevant authorities. Future proofing our environment by including rules to manage discharges of contaminants that could be harmful is desirable and consistent with the precautionary approach. However, rules based on the precautionary approach must have some evidence to support them, and be balanced against the four well-beings. This is not the case, particularly for emerging organic contaminants where the pathways to air are undetermined. Should evidence emerge that there are is declining water and soil quality and bioaccumulation caused by air discharges, AQ O1 with its general protection of human health from air discharges is sufficient

Further Submission No: 18 - 2 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Federated Farmers of New Zealand

Summary: Objectives focussing on discharge into water, or activities which effects soil and ecosystems are not appropriate in a plan change focussing on discharge into air. We also do not consider it necessary for a new objective as there are already appropriate objectives for these matters as well as for integrated management.

Decision Sought: Reject submission point

Reasons for Staff Recommendation: The wording essentially repeats section 5 of the RMA and is therefore not considered necessary. However, staff recognise the underlying concerns with declining water and soil quality, and bioaccumulation that drive the decision sought by the submitter. However there are already provisions in the plan that manage the adverse effects on the life supporting capacity of soil, water and ecosystems. Rules in the plan change also manage the discharge to water. Most rules have a condition where there can be no noxious or dangerous, offensive or objectionable discharge into water bodies. Otherwise, regulations are based on established regulation and guidance from relevant authorities. Future proofing our environment by including rules to manage discharges of contaminants that could be harmful is desirable and consistent with the precautionary approach. However, rules based on the precautionary approach must have some evidence to support them, and be balanced against the four well-beings. This is not the case, particularly for emerging organic contaminants where the pathways to air are undetermined. Should evidence emerge that there are is declining water and soil quality and bioaccumulation caused by air discharges, AQ O1 with its general protection of human health from air discharges is sufficient

Further Submission No: 20 - 5 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Fonterra Ltd

Summary: Fonterra considers that if discharges are appropriately managed then there is no need to specifically include a new objective relating to bioaccumulation and maintaining the life supporting capacity of ecosystems. Protecting the lifesupporting capacity of water, soils and ecosystems is already a fundamental part of sustainable management as defined by the RMA. The proposed objectives in PC 13 (and the provisions in the other sections of the Plan) already provide these functions and seek these outcomes.

Decision Sought: Disallow

Reasons for Staff Recommendation: The wording essentially repeats section 5 of the RMA and is therefore not considered necessary. However, staff recognise the underlying concerns with declining water and soil quality, and bioaccumulation that drive the decision sought by the submitter. However there are already provisions in the plan that manage the adverse effects on the life supporting capacity of soil, water and ecosystems. Rules in the plan change

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Staff Recommendations on Submissions (By Submitter)

Submitter: 21 - Jodie Bruning

also manage the discharge to water. Most rules have a condition where there can be no noxious or dangerous, offensive or objectionable discharge into water bodies. Otherwise, regulations are based on established regulation and guidance from relevant authorities. Future proofing our environment by including rules to manage discharges of contaminants that could be harmful is desirable and consistent with the precautionary approach. However, rules based on the precautionary approach must have some evidence to support them, and be balanced against the four well-beings. This is not the case, particularly for emerging organic contaminants where the pathways to air are undetermined.

Should evidence emerge that there are is declining water and soil quality and bioaccumulation caused by air discharges, AQ O1 with its general protection of human health from air discharges is sufficient

Further Submission No: 21 - 1 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Port of Tauranga

Summary: PoT opposes this submission because it introduces a further objective that specifies outcomes relating to water and soil, which falls outside the identified scope of the Air Plan

Decision Sought: Reject

Reasons for Staff Recommendation: The wording essentially repeats section 5 of the RMA and is therefore not considered necessary. However, staff recognise the underlying concerns with declining water and soil quality, and bioaccumulation that drive the decision sought by the submitter. However there are already provisions in the plan that manage the adverse effects on the life supporting capacity of soil, water and ecosystems. Rules in the plan change also manage the discharge to water. Most rules have a condition where there can be no noxious or dangerous, offensive or objectionable discharge into water bodies. Otherwise, regulations are based on established regulation and guidance from relevant authorities. Future proofing our environment by including rules to manage discharges of contaminants that could be harmful is desirable and consistent with the precautionary approach. However, rules based on the precautionary approach must have some evidence to support them, and be balanced against the four well-beings. This is not the case, particularly for emerging organic contaminants where the pathways to air are undetermined.

Should evidence emerge that there are is declining water and soil quality and bioaccumulation caused by air discharges, AQ O1 with its general protection of human health from air discharges is sufficient

Further Submission No: 23 - 60 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter consider that the proposed objective referenced in submission 21 – 2 is already addressed within Section 5, Part 2 of the Resource Management Act. Decision makers are already required to assess new and existing air discharges against the provisions of Part 2.

Decision Sought: Decision sought: Do not include additional objective.

Reasons for Staff Recommendation: The wording essentially repeats section 5 of the RMA and is therefore not considered necessary. However, staff recognise the underlying concerns with declining water and soil quality, and bioaccumulation that drive the decision sought by the submitter. However there are already provisions in the plan that manage the adverse effects on the life supporting capacity of soil, water and ecosystems. Rules in the plan change also manage the discharge to water. Most rules have a condition where there can be no noxious or dangerous, offensive or objectionable discharge into water bodies. Otherwise, regulations are based on established regulation and guidance from relevant authorities. Future proofing our environment by including rules to manage discharges of contaminants that could be harmful is desirable and consistent with the precautionary approach. However, rules based on the precautionary approach must have some evidence to support them, and be balanced against the four well-beings. This is not the case, particularly for emerging organic contaminants where the pathways to air are undetermined.

Should evidence emerge that there are is declining water and soil quality and bioaccumulation caused by air discharges, AQ O1 with its general protection of human health from air discharges is sufficient

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 21 - Jodie Bruning

Submission Point No:	3	Submission Type:	Seek	Recommendation:	Reject
Chapter:	Objectives				
Section:	New objective				
Submission Summary:	<ul style="list-style-type: none">•Recognition that current Regional Natural Resources Plan content does not link air discharges from agrichemical or emerging organic contaminant (EOC) to contamination of soil, freshwater and sediment – and that public and central government concerns prioritise proactive policy protecting freshwater quality.•Recognition that pregnant women, babies and children are at greater risk and that HSNO and RPS Policy IR 1B requires the use of a precautionary approach. New Zealand regulatory risk assessment is outdated and it is recommended that more recent decisions in Europe are followed.•Recognition that this Air Plan must be future proofed and reflect the state of science in 2018.				
Decision Sought:	Insert new objective Protect the foreseeable needs of future generations Safeguard water, soil and ecosystems so that future generations may provide for their social, economic, and cultural well-being and for their health and safety. Where long term harm arising from discharge of contaminant is scientifically plausible but uncertain, actions shall be taken to avoid or diminish that harm and a precautionary approach shall be taken.				
Reasons for Staff Recommendation:	<p>The wording essentially repeats section 5 of the RMA and is therefore not considered necessary. However, staff recognise the underlying concerns with declining water and soil quality, and bioaccumulation that drive the decision sought by the submitter. However there are already provisions in the plan that manage the adverse effects on the life supporting capacity of soil, water and ecosystems. Rules in the plan change also manage the discharge to water. Most rules have a condition where there can be no noxious or dangerous, offensive or objectionable discharge into water bodies.</p> <p>Otherwise, regulations are based on established regulation and guidance from relevant authorities. Future proofing our environment by including rules to manage discharges of contaminants that could be harmful is desirable and consistent with the precautionary approach. However, rules based on the precautionary approach must have some evidence to support them, and be balanced against the four well-beings. This is not the case, particularly for emerging organic contaminants where the pathways to air are undetermined.</p> <p>Should evidence emerge that there are is declining water and soil quality and bioaccumulation caused by air discharges, AQ O1 with its general protection of human health from air discharges is sufficient</p>				

Further Submission No:	3 - 2	Submission Type:	Oppose	Recommendation:	Accept
Further Submitter:	Ballance Agri-Nutrients Ltd				
Summary:	The objective proposed is very broad and aspirational. Given its scope, it is considered that such an objective is more appropriate in a high level directional policy document, such as the Regional Policy Statement.				
Decision Sought:	That submission 21-3 is rejected.				
Reasons for Staff Recommendation:	<p>The wording essentially repeats section 5 of the RMA and is therefore not considered necessary. However, staff recognise the underlying concerns with declining water and soil quality, and bioaccumulation that drive the decision sought by the submitter. However there are already provisions in the plan that manage the adverse effects on the life supporting capacity of soil, water and ecosystems. Rules in the plan change also manage the discharge to water. Most rules have a condition where there can be no noxious or dangerous, offensive or objectionable discharge into water bodies.</p> <p>Otherwise, regulations are based on established regulation and guidance from relevant authorities. Future proofing our environment by including rules to manage discharges of contaminants that could be harmful is desirable and consistent with the precautionary approach. However, rules based on the precautionary approach must have some evidence to support them, and be balanced against the four well-beings. This is not the case, particularly for emerging organic contaminants where the pathways to air are undetermined.</p> <p>Should evidence emerge that there are is declining water and soil quality and bioaccumulation caused by air discharges, AQ O1 with its general protection of human health from air discharges is sufficient</p>				

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 21 - Jodie Bruning

Further Submission No: 8 - 2 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Mercury NZ Ltd

Summary: Mercury seeks that assessment decisions are based on established regulation such as National Environmental Standards, and consideration be given to guidance from relevant authorities. Mercury supports and would expect that World Health Organisation (WHO) recommendations and research are considered as relevant context or support for plan provisions and for new consent applications. Mercury considers Objective 1 adequately covers the need to protect human health, so does not support the proposed new objective.

Decision Sought: Disallow

Reasons for Staff Recommendation: The wording essentially repeats section 5 of the RMA and is therefore not considered necessary. However, staff recognise the underlying concerns with declining water and soil quality, and bioaccumulation that drive the decision sought by the submitter. However there are already provisions in the plan that manage the adverse effects on the life supporting capacity of soil, water and ecosystems. Rules in the plan change also manage the discharge to water. Most rules have a condition where there can be no noxious or dangerous, offensive or objectionable discharge into water bodies. Otherwise, regulations are based on established regulation and guidance from relevant authorities. Future proofing our environment by including rules to manage discharges of contaminants that could be harmful is desirable and consistent with the precautionary approach. However, rules based on the precautionary approach must have some evidence to support them, and be balanced against the four well-beings. This is not the case, particularly for emerging organic contaminants where the pathways to air are undetermined.

Should evidence emerge that there are is declining water and soil quality and bioaccumulation caused by air discharges, AQ O1 with its general protection of human health from air discharges is sufficient

Further Submission No: 11 - 5 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Oji Fibre Solution

Summary: To the extent these concepts need to be reflected in the PC13 objectives, they are already captured in Objectives AQO1 – AQO3

Decision Sought: Reject submission

Reasons for Staff Recommendation: The wording essentially repeats section 5 of the RMA and is therefore not considered necessary. However, staff recognise the underlying concerns with declining water and soil quality, and bioaccumulation that drive the decision sought by the submitter. However there are already provisions in the plan that manage the adverse effects on the life supporting capacity of soil, water and ecosystems. Rules in the plan change also manage the discharge to water. Most rules have a condition where there can be no noxious or dangerous, offensive or objectionable discharge into water bodies. Otherwise, regulations are based on established regulation and guidance from relevant authorities. Future proofing our environment by including rules to manage discharges of contaminants that could be harmful is desirable and consistent with the precautionary approach. However, rules based on the precautionary approach must have some evidence to support them, and be balanced against the four well-beings. This is not the case, particularly for emerging organic contaminants where the pathways to air are undetermined.

Should evidence emerge that there are is declining water and soil quality and bioaccumulation caused by air discharges, AQ O1 with its general protection of human health from air discharges is sufficient

Further Submission No: 13 - 3 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Horticulture New Zealand

Summary: The focus of the Plan is discharges to air. Discharges to land and water are addressed through land and water provisions

Decision Sought: Reject submission to add a new objective.

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 21 - Jodie Bruning

Reasons for Staff Recommendation: The wording essentially repeats section 5 of the RMA and is therefore not considered necessary. However, staff recognise the underlying concerns with declining water and soil quality, and bioaccumulation that drive the decision sought by the submitter. However there are already provisions in the plan that manage the adverse effects on the life supporting capacity of soil, water and ecosystems. Rules in the plan change also manage the discharge to water. Most rules have a condition where there can be no noxious or dangerous, offensive or objectionable discharge into water bodies. Otherwise, regulations are based on established regulation and guidance from relevant authorities. Future proofing our environment by including rules to manage discharges of contaminants that could be harmful is desirable and consistent with the precautionary approach. However, rules based on the precautionary approach must have some evidence to support them, and be balanced against the four well-beings. This is not the case, particularly for emerging organic contaminants where the pathways to air are undetermined. Should evidence emerge that there are is declining water and soil quality and bioaccumulation caused by air discharges, AQ O1 with its general protection of human health from air discharges is sufficient

Further Submission No: 18 - 3 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Federated Farmers of New Zealand

Summary: The focus of Plan Change 13 is the management of discharge of contaminants into air. Objectives focussing on discharge into water, or activities which effects soil and ecosystems are accordingly not appropriate. We also do not consider it necessary as there are already appropriate objectives for these matters as well as for integrated management.

Decision Sought: Reject submission point

Reasons for Staff Recommendation: The wording essentially repeats section 5 of the RMA and is therefore not considered necessary. However, staff recognise the underlying concerns with declining water and soil quality, and bioaccumulation that drive the decision sought by the submitter. However there are already provisions in the plan that manage the adverse effects on the life supporting capacity of soil, water and ecosystems. Rules in the plan change also manage the discharge to water. Most rules have a condition where there can be no noxious or dangerous, offensive or objectionable discharge into water bodies. Otherwise, regulations are based on established regulation and guidance from relevant authorities. Future proofing our environment by including rules to manage discharges of contaminants that could be harmful is desirable and consistent with the precautionary approach. However, rules based on the precautionary approach must have some evidence to support them, and be balanced against the four well-beings. This is not the case, particularly for emerging organic contaminants where the pathways to air are undetermined. Should evidence emerge that there are is declining water and soil quality and bioaccumulation caused by air discharges, AQ O1 with its general protection of human health from air discharges is sufficient

Further Submission No: 20 - 6 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Fonterra Ltd

Summary: Fonterra considers that if discharges are appropriately managed then there would no need to specifically include an objective relating to future generations, which is already a fundamental requirement of sustainable management as defined by the RMA. Managing air discharges as proposed gives effect to the overarching purposes of the RMA such that this duplication is unnecessary

Decision Sought: Disallow

Reasons for Staff Recommendation: The wording essentially repeats section 5 of the RMA and is therefore not considered necessary. However, staff recognise the underlying concerns with declining water and soil quality, and bioaccumulation that drive the decision sought by the submitter. However there are already provisions in the plan that manage the adverse effects on the life supporting capacity of soil, water and ecosystems. Rules in the plan change also manage the discharge to water. Most rules have a condition where there can be no noxious or dangerous, offensive or objectionable discharge into water bodies. Otherwise, regulations are based on established regulation and guidance from relevant authorities. Future proofing our environment by including rules to manage

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 21 - Jodie Bruning

discharges of contaminants that could be harmful is desirable and consistent with the precautionary approach. However, rules based on the precautionary approach must have some evidence to support them, and be balanced against the four well-beings. This is not the case, particularly for emerging organic contaminants where the pathways to air are undetermined.

Should evidence emerge that there are is declining water and soil quality and bioaccumulation caused by air discharges, AQ O1 with its general protection of human health from air discharges is sufficient

Further Submission No: 21 - 2 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Port of Tauranga

Summary: PoT opposes this submission because it introduces a further objective that specifies outcomes relating to water and soil, which falls outside the identified scope of the Air Plan

Decision Sought: Reject

Reasons for Staff Recommendation: The wording essentially repeats section 5 of the RMA and is therefore not considered necessary. However, staff recognise the underlying concerns with declining water and soil quality, and bioaccumulation that drive the decision sought by the submitter. However there are already provisions in the plan that manage the adverse effects on the life supporting capacity of soil, water and ecosystems. Rules in the plan change also manage the discharge to water. Most rules have a condition where there can be no noxious or dangerous, offensive or objectionable discharge into water bodies. Otherwise, regulations are based on established regulation and guidance from relevant authorities. Future proofing our environment by including rules to manage discharges of contaminants that could be harmful is desirable and consistent with the precautionary approach. However, rules based on the precautionary approach must have some evidence to support them, and be balanced against the four well-beings. This is not the case, particularly for emerging organic contaminants where the pathways to air are undetermined. Should evidence emerge that there are is declining water and soil quality and bioaccumulation caused by air discharges, AQ O1 with its general protection of human health from air discharges is sufficient

Further Submission No: 23 - 61 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter consider that the proposed objective referenced in submission 21 – 3 is already addressed within Section 5, Part 2 of the Resource Management Act. Decision makers are already required to assess new and existing air discharges against the provisions of Part 2.

Decision Sought: Decision sought: Do not include additional objective.

Reasons for Staff Recommendation: The wording essentially repeats section 5 of the RMA and is therefore not considered necessary. However, staff recognise the underlying concerns with declining water and soil quality, and bioaccumulation that drive the decision sought by the submitter. However there are already provisions in the plan that manage the adverse effects on the life supporting capacity of soil, water and ecosystems. Rules in the plan change also manage the discharge to water. Most rules have a condition where there can be no noxious or dangerous, offensive or objectionable discharge into water bodies. Otherwise, regulations are based on established regulation and guidance from relevant authorities. Future proofing our environment by including rules to manage discharges of contaminants that could be harmful is desirable and consistent with the precautionary approach. However, rules based on the precautionary approach must have some evidence to support them, and be balanced against the four well-beings. This is not the case, particularly for emerging organic contaminants where the pathways to air are undetermined. Should evidence emerge that there are is declining water and soil quality and bioaccumulation caused by air discharges, AQ O1 with its general protection of human health from air discharges is sufficient

Submission Point No: 4 **Submission Type:** Seek **Recommendation:** Reject

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 21 - Jodie Bruning

Chapter:	Objectives
Section:	New objective
Submission Summary:	<ul style="list-style-type: none"> •The Draft Air Plan Objectives should reflect the statutory purpose of the RMA to protect soil, water & ecosystems and safeguard life-systems for current and future generations. •Air discharge by drift and volatilization enters sensitive areas, including freshwater and soil environments. •The Plan Change 13 must include obligations not only for contractors and industry, but reflect the statutory obligations of Bay of Plenty Regional Council (not limited to) under the HSNO Act, Resource Management Act, and Health Act so that citizens and staff may understand BOPRC obligations.
Decision Sought:	<p>Insert new objective</p> <p>AQO5 Commitment to best practice science for monitoring, detection and restriction of discharges of emerging organic contaminants.</p> <p>Encourage and develop best international practice science for monitoring; detection and restriction of discharges into air, and resultant residues in water, soil and ecosystems of emerging organic contaminants.</p>
Reasons for Staff Recommendation:	<p>It is currently uncertain what levels are currently present in our ecosystems and what proportion of these are from air discharges. A five year study has just started and until the results of this research start to become available, there are limited regulatory pathways to restrict the discharge using a regional plan. The introduction of strict rules to manage discharges requires an evidence base that currently does not exist. As research is being carried out at a national level, it would be an unnecessary cost to the Council to duplicate the research, particularly to the standard requested by the submitter.</p>

Further Submission No:	3 - 3	Submission Type:	Oppose	Recommendation:	Accept
Further Submitter:	Ballance Agri-Nutrients Ltd				
Summary:	The objective proposed is very broad and aspirational. Given its scope, it is considered that such an objective is more appropriate in a high level directional policy document, such as the Regional Policy Statement.				
Decision Sought:	That submission 21-4 be rejected.				
Reasons for Staff Recommendation:	<p>It is currently uncertain what levels are currently present in our ecosystems and what proportion of these are from air discharges. The Ministry of Business, Innovation and Employment (MBIE) are funding a five year study to identify which EOCs are predominant in New Zealand's aquatic ecosystems.</p> <p>Until the results of this research start to become available, there are limited regulatory pathways to restrict the discharge using a regional plan. The introduction of strict rules to manage discharges requires an evidence base that currently does not exist. As research is being carried out at a national level, it would be an unnecessary cost to the Council to duplicate the research, particularly to the standard requested by the submitter.</p>				

Further Submission No:	8 - 4	Submission Type:	Support in Part	Recommendation:	Reject
Further Submitter:	Mercury NZ Ltd				
Summary:	<p>Mercury supports the encouragement of best practice and better monitoring to achieve better environmental outcomes, including emerging organic contaminants (EOC's).</p> <p>Mercury supports the intent to safe guard water, soil and ecosystems for future generations and for the implementation of mechanisms through the appropriate regional and district plans. Some discussion is needed as to the extent EOC's pathway to the environment is through emissions to air.</p>				
Decision Sought:	Allow in Part				
Reasons for Staff Recommendation:	<p>It is currently uncertain what levels are currently present in our ecosystems and what proportion of these are from air discharges. The Ministry of Business, Innovation and Employment (MBIE) are funding a five year study to identify which EOCs are predominant in New Zealand's aquatic ecosystems.</p> <p>Until the results of this research start to become available, there are limited regulatory pathways to restrict the discharge using a regional plan. The introduction of strict rules to manage discharges requires an evidence base that currently does not exist. As</p>				

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Staff Recommendations on Submissions (By Submitter)

Submitter: 21 - Jodie Bruning

research is being carried out at a national level, it would be an unnecessary cost to the Council to duplicate the research, particularly to the standard requested by the submitter.

Further Submission No: 11 - 6 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Oji Fibre Solution

Summary: To the extent these concepts need to be reflected in the PC13 objectives, they are already captured in Objectives AQO1 – AQO3

Decision Sought: Reject submission

Reasons for Staff Recommendation: It is currently uncertain what levels are currently present in our ecosystems and what proportion of these are from air discharges. The Ministry of Business, Innovation and Employment (MBIE) are funding a five year study to identify which EOCs are predominant in New Zealand's aquatic ecosystems. Until the results of this research start to become available, there are limited regulatory pathways to restrict the discharge using a regional plan. The introduction of strict rules to manage discharges requires an evidence base that currently does not exist. As research is being carried out at a national level, it would be an unnecessary cost to the Council to duplicate the research, particularly to the standard requested by the submitter.

Further Submission No: 18 - 4 **Submission Type:** Support in Part **Recommendation:** Reject

Further Submitter: Federated Farmers of New Zealand

Summary: Although we support better use of science, we consider that requiring a regional council to develop the best international practice science is not realistic, feasible or may well not be the most appropriate way to spend rates.

Decision Sought: Reject submission point

Reasons for Staff Recommendation: It is currently uncertain what levels are currently present in our ecosystems and what proportion of these are from air discharges. The Ministry of Business, Innovation and Employment (MBIE) are funding a five year study to identify which EOCs are predominant in New Zealand's aquatic ecosystems. Until the results of this research start to become available, there are limited regulatory pathways to restrict the discharge using a regional plan. The introduction of strict rules to manage discharges requires an evidence base that currently does not exist. As research is being carried out at a national level, it would be an unnecessary cost to the Council to duplicate the research, particularly to the standard requested by the submitter.

Further Submission No: 20 - 7 **Submission Type:** Support in Part **Recommendation:** Reject

Further Submitter: Fonterra Ltd

Summary: Fonterra supports the intent of encouraging appropriate air quality and environmental monitoring. However, an objective is not required to encourage appropriate monitoring of air quality. Further discussion is required regarding the appropriate mechanisms and type of provision to encourage monitoring

Decision Sought: Allow in part

Reasons for Staff Recommendation: It is currently uncertain what levels are currently present in our ecosystems and what proportion of these are from air discharges. The Ministry of Business, Innovation and Employment (MBIE) are funding a five year study to identify which EOCs are predominant in New Zealand's aquatic ecosystems. Until the results of this research start to become available, there are limited regulatory pathways to restrict the discharge using a regional plan. The introduction of strict rules to manage discharges requires an evidence base that currently does not exist. As research is being carried out at a national level, it would be an unnecessary cost to the Council to duplicate the research, particularly to the standard requested by the submitter.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 21 - Jodie Bruning

Further Submission No: 21 - 3 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Port of Tauranga

Summary: PoT opposes this submission because it introduces a further objective that specifies outcomes relating to water and soil, which falls outside the identified scope of the Air Plan

Decision Sought: Reject

Reasons for Staff Recommendation: It is currently uncertain what levels are currently present in our ecosystems and what proportion of these are from air discharges. The Ministry of Business, Innovation and Employment (MBIE) are funding a five year study to identify which EOCs are predominant in New Zealand's aquatic ecosystems. Until the results of this research start to become available, there are limited regulatory pathways to restrict the discharge using a regional plan. The introduction of strict rules to manage discharges requires an evidence base that currently does not exist. As research is being carried out at a national level, it would be an unnecessary cost to the Council to duplicate the research, particularly to the standard requested by the submitter.

Further Submission No: 23 - 62 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter oppose the proposed objective referenced in submission 21 - 4. It is considered that 'best international practice' may not represent local practice which could be better suited for the environment of the discharge. Council should instead adopt the 'best practical option', which is consistent with the Resource Management Act.

Decision Sought: Decision sought: Do not include additional objective.

Reasons for Staff Recommendation: It is currently uncertain what levels are currently present in our ecosystems and what proportion of these are from air discharges. The Ministry of Business, Innovation and Employment (MBIE) are funding a five year study to identify which EOCs are predominant in New Zealand's aquatic ecosystems. Until the results of this research start to become available, there are limited regulatory pathways to restrict the discharge using a regional plan. The introduction of strict rules to manage discharges requires an evidence base that currently does not exist. As research is being carried out at a national level, it would be an unnecessary cost to the Council to duplicate the research, particularly to the standard requested by the submitter.

Submission Point No: 5 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Policies

Section: AQ P2

Submission Summary:

- The Draft Air Plan Objectives should reflect the statutory purpose of the RMA to protect soil, water & ecosystems and safeguard life-systems for current and future generations. It is reasonable to consider that BOPRC will utilise and make available new technologies (eg detection and monitoring) so that sensitive sites, vulnerable citizens and vulnerable businesses may be protected from adverse effects. Current approaches restricting consideration to wind speed and direction are obsolete.
- Recognition that pregnant women, babies and children are at greater risk and that HSNO and RPS Policy IR 1B requires the use of a precautionary approach. New Zealand regulatory risk assessment is outdated and it is recommended that more recent decisions in Europe are followed.
- The Plan Change 13 must include obligations not only for contractors and industry, but reflect the statutory obligations of Bay of Plenty Regional Council (not limited to) under the HSNO Act, Resource Management Act, and Health Act so that citizens and staff may understand BOPRC obligations.

Decision Sought: Insert

(a) Ensure Hazardous Substances environmental exposure limits (EEL) are not breached in sensitive areas.

(b) Utilise best practice technology to test for harmful concentration of Hazardous Substances beyond the boundary area and mitigate where necessary.

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 21 - Jodie Bruning

Reasons for Staff Recommendation: The EPA sets controls which are a requirement regardless of regional councils and that the focus should be on managing discharges to air. Although EELs are not mentioned in either this policy or AQ P8 (the agrichemical spraying policy) they are part of avoiding, remedying or mitigating the adverse effects, as included in the policies.

Further Submission No: 8 - 23 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Mercury NZ Ltd

Summary: Mercury supports the intent of the submission to ensure effects from horticulture sprays are managed. However, hazardous substance regulation is managed through alternative regulatory mechanisms, such as the Health and Safety Act. Does the relief sought need to target specific emissions from relevant land uses, rather than set general requirements that is potentially relevant to all air discharges?

Decision Sought: Disallow

Reasons for Staff Recommendation: The EPA sets controls which are a requirement regardless of regional councils and that the focus should be on managing discharges to air. Although EELs are not mentioned in either this policy or AQ P8 (the agrichemical spraying policy) they are part of avoiding, remedying or mitigating the adverse effects, as included in the policies

Further Submission No: 13 - 21 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks inclusion of EEL's in sensitive areas, which are not defined in PC13. EPA sets EEL as part of the hazardous substance approval, and then may set the controls to manage the EEL. Those controls are a requirement regardless of regional council. The focus in PC 13 should be on the Regional Council responsibilities for discharges to air under the RMA.

Decision Sought: Reject submission

Reasons for Staff Recommendation: The EPA sets controls which are a requirement regardless of regional councils and that the focus should be on managing discharges to air. Although EELs are not mentioned in either this policy or AQ P8 (the agrichemical spraying policy) they are part of avoiding, remedying or mitigating the adverse effects, as included in the policies

Further Submission No: 21 - 32 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Port of Tauranga

Summary: PoT opposes this submission, and seeks that Policy AQP2 is amended as per its original submission

Decision Sought: Reject

Reasons for Staff Recommendation: The EPA sets controls which are a requirement regardless of regional councils and that the focus should be on managing discharges to air. Although EELs are not mentioned in either this policy or AQ P8 (the agrichemical spraying policy) they are part of avoiding, remedying or mitigating the adverse effects, as included in the policies

Submission Point No: 6 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Policies

Section: AQ P3(e)

Submission Summary:

- Air discharge by drift and volatilization enters sensitive areas, including freshwater and soil environments.
- Recognition that current Regional Natural Resources Plan content does not link air discharges from agrichemical or emerging organic contaminant (EOC) to contamination of soil, freshwater and sediment – and that public and central government concerns prioritise

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 21 - Jodie Bruning

proactive policy protecting freshwater quality.

•The Plan Change 13 must include obligations not only for contractors and industry, but reflect the statutory obligations of Bay of Plenty Regional Council (not limited to) under the HSNO Act, Resource Management Act, and Health Act so that citizens and staff may understand BOPRC obligations.

Decision Sought:

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

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

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

Reasons for Staff Recommendation:

'Avoid' is too high a requirement when addressing adverse effects of discharges on cultural and amenity values. Avoiding all discharges beyond the boundary would mean many discharges could not occur. This is not consistent with sustainable management and the rules do not manage discharges to avoid all discharges.

Using limits such as the EELs, that have been established as environmental bottom lines, without consideration of the effects on economic, social, or cultural well-being is not supported by staff. However, staff acknowledge that there is an airborne component to higher concentrations of hazardous substances in the environment. Where relevant, the permitted activity rules include a condition that a discharge must not be noxious or dangerous beyond the boundary. Where effects are suspected, EELs are one of the tools that can be used to determine if a discharge is noxious or dangerous. However, there is no need to establish this as a policy direction in this clause and staff do not recommend this.

Further Submission No: 13 - 37 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Horticulture New Zealand

Summary: The focus of PC13 is on the regional council's functions to managed discharges to air, not discharges to land and water as sought by the submitter. It is inappropriate to apply EEL's in the manner sought by the submitter

Decision Sought: Reject submission

Reasons for Staff Recommendation:

Using limits such as the EELs, that have been established as environmental bottom lines, without consideration of the effects on economic, social, or cultural well-being is not supported by staff. However, staff acknowledge that there is an airborne component to higher concentrations of hazardous substances in the environment. Where relevant, the permitted activity rules include a condition that a discharge must not be noxious or dangerous beyond the boundary. Where effects are suspected, EELs are one of the tools that can be used to determine if a discharge is noxious or dangerous. However, there is no need to establish this as a policy direction in this clause and staff do not recommend this.

Further Submission No: 18 - 14 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Federated Farmers of New Zealand

Summary: We consider that to avoid all contaminants post King Salmon will be too restrictive

Decision Sought: Reject submission point

Reasons for Staff Recommendation:

'Avoid' is too high a requirement when addressing adverse effects of discharges on cultural and amenity values. Avoiding all discharges beyond the boundary would mean many discharges could not occur. This is not consistent with sustainable management and the rules do not manage discharges to avoid all discharges.

Further Submission No: 20 - 17 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Fonterra Ltd

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 21 - Jodie Bruning

Summary: The use of "avoid" in clause (e) is an inappropriately high threshold for a policy that is focussed on the management of discharges.

Decision Sought: Disallow

Reasons for Staff Recommendation: 'Avoid' is too high a requirement when addressing adverse effects of discharges on cultural and amenity values. Avoiding all discharges beyond the boundary would mean many discharges could not occur. This is not consistent with sustainable management and the rules do not manage discharges to avoid all discharges. Using limits such as the EELs, that have been established as environmental bottom lines, without consideration of the effects on economic, social, or cultural well-being is not supported by staff. However, staff acknowledge that there is an airborne component to higher concentrations of hazardous substances in the environment. Where relevant, the permitted activity rules include a condition that a discharge must not be noxious or dangerous beyond the boundary. Where effects are suspected, EELs are one of the tools that can be used to determine if a discharge is noxious or dangerous. However, there is no need to establish this as a policy direction in this clause and staff do not recommend this.

Further Submission No: 21 - 57 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Port of Tauranga

Summary: PoT opposes this submission and requests that the relief sought in this submission is rejected. As per PoT's original submission it is requested that AQP3(e) is deleted entirely.

Decision Sought: Reject

Reasons for Staff Recommendation: Staff recommend that the clause is deleted in line with this submitter's original submission.

Further Submission No: 23 - 28 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter disagree that discharges beyond the boundary of a property should be outright avoided, and that instead it may be appropriate to minimise or mitigate. We consider that the discharge of contaminants should be appropriate for the relevant receiving environment. For example, air quality expectations in a residential zone are likely to be different in an area which is zoned industrial

Decision Sought: Decision sought: Amend policy AQ P3(e) as recommended by submission 19 - 22 and as supported by Lawter in other submissions.

Reasons for Staff Recommendation: 'Avoid' is too high a requirement when addressing adverse effects of discharges on cultural and amenity values. Avoiding all discharges beyond the boundary would mean many discharges could not occur. This is not consistent with sustainable management and the rules do not manage discharges to avoid all discharges.

Submission Point No: 7 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Policies

Section: AQ P4 - new clause

Submission Summary:

- It is reasonable to consider that BOPRC will utilize and make available new technologies (E.g. detection and monitoring) so that sensitive sites; vulnerable citizens and vulnerable businesses may be protected from adverse effects. Current approaches restricting consideration to wind speed and direction are obsolete.
- Recognition that this Air Plan must be future proofed and reflect the state of science in 2018.

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

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 21 - Jodie Bruning

Reasons for Staff Recommendation: This request s for an operational non-regulatory method. As set out in Part 8 of the Section 32 report, these types of methods are not included in regional plans as they usually require resources which need to be considered alongside other council priorities as part of a Long Term Plan or Annual Plan process. No change is recommended

Further Submission No: 8 - 51 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Mercury NZ Ltd

Summary: Mercury supports the intent of this submission, however Policy 4 is focused on the acceptability of air discharges. Policy tests need to be in line within appropriate statutes and guidelines. The relief sought reads like implementation methods, or state of the environment monitoring requirements, rather than a policy assessment test

Decision Sought: Disallow

Reasons for Staff Recommendation: This request s for an operational non-regulatory method. As set out in Part 8 of the Section 32 report, these types of methods are not included in regional plans as they usually require resources which need to be considered alongside other council priorities as part of a Long Term Plan or Annual Plan process. No change is recommended

Further Submission No: 13 - 40 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Horticulture New Zealand

Summary: New technologies are a method to achieve the policy, not a policy in themselves.

Decision Sought: Reject submission

Reasons for Staff Recommendation: This request s for an operational non-regulatory method. As set out in Part 8 of the Section 32 report, these types of methods are not included in regional plans as they usually require resources which need to be considered alongside other council priorities as part of a Long Term Plan or Annual Plan process. No change is recommended

Further Submission No: 18 - 17 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Federated Farmers of New Zealand

Summary: We do not consider that the new subclause is a matter to consider rather it is a statement that the submitter does not agree with the current measurements.

Decision Sought: Reject submission point

Reasons for Staff Recommendation: This request s for an operational non-regulatory method. As set out in Part 8 of the Section 32 report, these types of methods are not included in regional plans as they usually require resources which need to be considered alongside other council priorities as part of a Long Term Plan or Annual Plan process. No change is recommended

Further Submission No: 20 - 18 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Fonterra Ltd

Summary: Fonterra considers that this clause is unnecessary as the existing provisions seek that air discharges are managed (which would include consideration of other environmental domains including soil and water), and the existing sections of the plan already manage soils, marine and freshwater ecosystems

Decision Sought: Disallow

Reasons for Staff Recommendation: This request s for an operational non-regulatory method. As set out in Part 8 of the Section 32 report, these types of methods are not included in regional plans as they usually require resources which need to be considered alongside other council priorities as part of a Long Term Plan or Annual Plan process. No change is recommended

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 21 - Jodie Bruning

Further Submission No: 23 - 32 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter consider that the proposed clause in submission 21 – 7 is already addressed in AQ P3, which requires managing discharges through the use of the best practical option.

Decision Sought: Decision sought: Retain policy AQ P4 as notified.

Reasons for Staff Recommendation: This request s for an operational non-regulatory method. As set out in Part 8 of the Section 32 report, these types of methods are not included in regional plans as they usually require resources which need to be considered alongside other council priorities as part of a Long Term Plan or Annual Plan process. No change is recommended

Submission Point No: 8 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Policies

Section: AQ P8

Submission Summary:

- Air discharge by drift and volatilization enters sensitive areas, including freshwater and soil environments.
- The Plan Change 13 must include obligations not only for contractors and industry, but reflect the statutory obligations of Bay of Plenty Regional Council (not limited to) under the HSNO Act, Resource Management Act, and Health Act so that citizens and staff may understand BOPRC obligations.
- Recognition that this Air Plan must be future proofed and reflect the state of science in 2018.

Decision Sought: [delete - (b) mitigating effects particularly on sensitive activities where avoidance of spray drift is not possible]
 [insert - (b) avoid the discharge of contaminants into areas beyond the boundary of the subject property and ensure environment exposure levels/limits are not exceeded in sensitive areas where contaminant drift may cause adverse effects on human health, cultural values, amenity values, incompatible industries, or the environment...
 ... (d) Utilize best practice technology to test for harmful concentration of agrichemical beyond the target area and ensure environmental exposure limits (EEL) are not breached.
 (e) Private applicators of agrichemicals on private naturestrip/verges/berms to be encouraged to place a sign on their verge for three days following the agrichemical application to protect the public, and particularly dogs and children.]

Reasons for Staff Recommendation: Complete avoidance places an extremely onerous requirement on the sprayer and would mean that spraying would only be able to occur in limited circumstances where sprayers are absolutely certain that no spray drift would occur. Staff do not recommend this approach

Further Submission No: 13 - 50 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Horticulture New Zealand

Summary: HortNZ has sought changes to AQ P8 to ensure that the framework reflects best practice. It is inappropriate to include EEL's that are set by the EPA for different purposes. Utilising technology is a method to achieve the policy, not a policy in itself

Decision Sought: Reject submission and accept changes sought by HortNZ

Reasons for Staff Recommendation: Changes sought by this submitter are addressed under the relevant submission points

Further Submission No: 18 - 23 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Federated Farmers of New Zealand

Summary: Relief sought by the submitter will directly contradict AQ P8(a) which acknowledges that even with the best intent and practises spray drift may occur

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 21 - Jodie Bruning

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Staff agree that complete avoidance places an extremely onerous requirement on the sprayer and would mean that spraying would only be able to occur in limited circumstances where sprayers are absolutely certain that no spray drift would occur. Staff do not recommend this approach

Submission Point No: 9 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Policies

Section: New Policy

Submission Summary:

- The Draft Air Plan Objectives should reflect the statutory purpose of the RMA to protect soil, water & ecosystems and safeguard life-systems for current and future generations.
- Recognition that current Regional Natural Resources Plan content does not link air discharges from agrichemical or emerging organic contaminant (EOC) to contamination of soil, freshwater and sediment – and that public and central government concerns prioritise proactive policy protecting freshwater quality.
- Recognition that pregnant women, babies and children are at greater risk and that HSNO and RPS Policy IR 1B requires the use of a precautionary approach. New Zealand regulatory risk assessment is outdated and it is recommended that more recent decisions in Europe are followed.
- The Plan Change 13 must include obligations not only for contractors and industry, but reflect the statutory obligations of Bay of Plenty Regional Council (not limited to) under the HSNO Act, Resource Management Act, and Health Act so that citizens and staff may understand BOPRC obligations.

Decision Sought: Insert new policy as follows:
 Roadside and Utility Agrichemical Applications
 Where possible roadside applications must be minimised due to:
 (a) Runoff from drains into watercourses results in contamination of marine and freshwater environments and sediment.
 (b) Recognition that herbicide spraying along roadsides facilitates erosion along roadside drainage surfaces.
 (c) New knowledge that commonly used herbicides are more toxic than previously recognised and that children are common users of roadside verges
 (d) Acknowledgement of the difficulty of contractors adequately signposting to warn of agrichemical use while the applied agrichemicals are still toxic and have not degraded.

Reasons for Staff Recommendation: No amendment to plan change

Further Submission No: 13 - 17 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Horticulture New Zealand

Summary: PC13 focus is managing discharges to air. The matters that the submitter seeks to include are discharges to land or water and should be addressed in other sections of the plan.

Decision Sought: Reject submission

Reasons for Staff Recommendation: Accept in part - original submission point is not declined for all reasons given by this further submission point

Submission Point No: 10 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Policies

Section: New Policy

Submission Summary:

- The Draft Air Plan Objectives should reflect the statutory purpose of the RMA to protect soil, water & ecosystems and safeguard life-systems for current and future generations.
- Recognition that current Regional Natural Resources Plan content does not link air discharges from agrichemical or emerging organic contaminant (EOC) to contamination of soil, freshwater and sediment – and that public and central government concerns prioritise proactive policy protecting freshwater quality.

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 21 - Jodie Bruning

- Recognition that pregnant women, babies and children are at greater risk and that HSNO and RPS Policy IR 1B requires the use of a precautionary approach. New Zealand regulatory risk assessment is outdated and it is recommended that more recent decisions in Europe are followed.
- The Plan Change 13 must include obligations not only for contractors and industry, but reflect the statutory obligations of Bay of Plenty Regional Council (not limited to) under the HSNO Act, Resource Management Act, and Health Act so that citizens and staff may understand BOPRC obligations.

Decision Sought:

Insert new policy as follows:
 Soil fumigation prohibited close to sensitive sites areas where susceptible members of society are present or confined.
 (a) Fumigation prohibited within 400 m of any sensitive and difficult to evacuate site where the public may lawfully be present, such as schools, playgrounds, early childhood centres, prisons, hospitals and long-term care facilities
 (b) The restriction (a) applies to any regional agrichemical or other industry operation seeking to fumigate that has not undertaken a fumigant operation before publication of Plan Change 13 (Air Quality)
 (c) Restriction in place due to fumigant emissions exuding for several days after injection into soil; knowledge that 'totally impermeable film' (TIF – referred to as 'plastic tarp') has been demonstrated to not contain all emissions and recognition that fumigants may travel further than previously estimated.
 (d) Due to no environmental data within New Zealand a precautionary approach is warranted

Reasons for Staff Recommendation:

No amendment to plan change

Further Submission No: 13 - 18 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Horticulture New Zealand

Summary: PC13 focus is managing discharges to air. Soil fumigation is a discharge to land and should be addressed in other sections of the plan. Any unintentional release to air can be managed through the proposed provisions.

Decision Sought: Reject submission

Reasons for Staff Recommendation: Accept in part - original submission point is not declined for all reasons given by this further submission point

Further Submission No: 18 - 10 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Federated Farmers of New Zealand

Summary: We consider that the risks associated with soil fumigation should be appropriately managed rather than soil fumigation be bluntly avoided.

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Accept

Submission Point No: 11 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Policies

Section: New Policy

Submission Summary:

- It is reasonable to consider that BOPRC will utilize and make available new technologies (E.g. detection and monitoring) so that sensitive sites; vulnerable citizens and vulnerable businesses may be protected from adverse effects. Current approaches restricting consideration to wind speed and direction are obsolete.
- Air discharge by drift and volatilization enters sensitive areas, including freshwater and soil environments.
- Recognition that this Air Plan must be future proofed and reflect the state of science in 2018.

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 21 - Jodie Bruning

Decision Sought: Insert new policy as follows:
 Continuous improvement in environmental monitoring of Hazardous Substances and EOCs. Commit to continuous improvement to ensure discharges of contaminants into air on the soil (sediment) and water are detected, monitored, and restricted using the best available science:
 (a) Utilise best international scientific practice and technology for detection of Hazardous Substances and emerging organic contaminants.
 (b) Ensure screens for Hazardous Substances and emerging organic contaminants include new and existing compounds typical to Bay of Plenty agricultural and industrial air discharges.
 (c) As a precaution, incorporate best practice regulatory international decisions to guide regional approval of Emerging Organic Contaminants (including agrichemicals) so that freshwater, soil and ecosystems are protected in the case of delayed decision-making in New Zealand
 (d) Ensure budget commitment for new scientific equipment for state of the art environmental monitoring to ensure environmental limits are not breached in sensitive areas; and marine and freshwater environments so that public and ecosystem health is protected.
 (e) Facilitate access to information and testing equipment to ensure agrichemical drift has not broached environmental limits in sensitive areas NZS 8409:2004.

Reasons for Staff Recommendation: No amendment to plan change

Further Submission No: 13 - 19 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks a policy for Hazardous substances and emerging organic contaminants (EOC's) but does not state what substances are considered to be EOC's that need to be managed. The focus of PC13 is managing discharges to air. The matters that the submitter seeks to include are discharges to land or water and should be addressed in other sections of the plan.

Decision Sought: Reject submission

Reasons for Staff Recommendation: Accept in part - original submission point is not declined for all reasons given by this further submission point

Further Submission No: 18 - 11 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Federated Farmers of New Zealand

Summary: Although we support better use of science, we are concerned about the proposed policy because it focuses on water, or activities which effects soil and ecosystems rather than air. It is also stated a preference on where Council's priority to spend its finances and other resource should be. This is more appropriately dealt with in the Long Term Plan rather than expressed as a policy

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Accept in part - original submission point is not declined for all reasons given by this further submission point

Further Submission No: 23 - 69 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter consider that the proposed amendments recommended in submission 21 - 11 are already provided for in policy AQ P3, and the implementation of the best practical option.

Decision Sought: Decision sought: Retain current list of policies as notified, unless submitted on by Lawter.

Reasons for Staff Recommendation: Accept in part - original submission point is not declined for all reasons given by this further submission point

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Staff Recommendations on Submissions (By Submitter)

Submitter: 21 - Jodie Bruning

Submission Point No: 12 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Rules

Section: AQ R15(1)

Submission Summary:

- The Draft Air Plan Objectives should reflect the statutory purpose of the RMA to protect soil, water & ecosystems and safeguard life-systems for current and future generations.
- Air discharge by drift and volatilization enters sensitive areas, including freshwater and soil environments.
- Recognition that pregnant women, babies and children are at greater risk and that HSNO and RPS Policy IR 1B requires the use of a precautionary approach. New Zealand regulatory risk assessment is outdated and it is recommended that more recent decisions in Europe are followed.

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

Reasons for Staff Recommendation: Ensuring environment exposure limits are not exceeded is already included with the requirement that the discharge must not be noxious or dangerous. Sensitive activities are considered through the rule

Further Submission No: 13 - 74 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks a new clause under general use of agrichemicals that is linked to environment exposure levels/ limits (EEL's) not being exceeded. EEL's are not intended to be used in such a manner

Decision Sought: Reject submission

Reasons for Staff Recommendation: Ensuring environment exposure limits are not exceeded is already included with the requirement that the discharge must not be noxious or dangerous. Sensitive activities are considered through the rule

Further Submission No: 18 - 30 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Federated Farmers of New Zealand

Summary: Sensitive areas if not specific identified leaves a subjective discretion to the Council for a permitted activity and equally subjective is whether amenity values will be adversely affected.

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Ensuring environment exposure limits are not exceeded is already included with the requirement that the discharge must not be noxious or dangerous. Sensitive activities are considered through the rule

Further Submission No: 19 - 6 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Agcarm

Summary: The submitter seeks a new clause under general use of agrichemicals that is linked to environment exposure levels/ limits not being exceeded. EEL's are not intended to be used in such a manner and are not necessarily applied to all agrichemicals

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Ensuring environment exposure limits are not exceeded is already included with the requirement that the discharge must not be noxious or dangerous. Sensitive activities are considered through the rule

Submission Point No: 13 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Rules

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 21 - Jodie Bruning

Section:	AQ R15(3)
Submission Summary:	<ul style="list-style-type: none">•Air discharge by drift and volatilization enters sensitive areas, including freshwater and soil environments.•Recognition that pregnant women, babies and children are at greater risk and that HSNO and RPS Policy IR 1B requires the use of a precautionary approach. New Zealand regulatory risk assessment is outdated and it is recommended that more recent decisions in Europe are followed.
Decision Sought:	<p>Recommendation: A increase in sign size based on recommended size used in USA legislation (see (f)). Signage to be in place in public amenity areas to reflect the degradation of the active chemical.</p> <p>Recommended that wording on signage change from 'Caution spraying in progress' to DANGER PESTICIDES' to reflect not just danger during application, but danger due to residual active ingredients in the environment.</p> <p>[delete - 3(a) Where agrichemicals are sprayed on public amenity areas signs must be displayed at every entrance where the public usually have entry to the area where the agrichemical is being sprayed, and must clearly state] [insert - 3(a) Where agrichemicals are sprayed on public places and public amenity areas (including active and passive reserves, and urban roadside verges), signs must be displayed at every entrance where the public usually have entry to the area where the agrichemical is being sprayed, and must clearly state]</p> <p>[delete - (2) (a) (ii) The name and type of agrichemical used] [insert - (2)(a)(ii) The registered brand name, active ingredient/s and type of agrichemical used.</p> <p>[delete - (3) (d) Signs required by 3(a), 3(b) or 3(c) should remain in place until all airborne spray has settled and the agrichemical has dried on its target surface] [insert - (3)(d) Signs required by 3(a), 3(b) or 3(c) should remain in place until all airborne spray has settled and the agrichemical has dried on its target surface and the expected degradation of the active chemicals has occurred to where environmental exposure limits (EELs) will not be exceeded.]</p> <p>[Insert -(f) New Signage standards to be uniform by 2020.</p> <ul style="list-style-type: none">(a) All signage to have 'DANGER PESTICIDES in large font (minimum of 3cm high).(b) The standard sign size is 35x40cm.(c) Sign colour – white with red and black writing
Reasons for Staff Recommendation:	The suggested requirements are designed to manage effects beyond spray drift. The plan change focusses on the air discharge component of agrichemical use and the signage required by the rule reflects this

Further Submission No:	6 - 10	Submission Type:	Oppose	Recommendation:	Accept
Further Submitter:	New Zealand Agrichemical Education Trust (NZAET)				
Summary:	The submitter seeks standardisation of sign colour, size and wording based on US legislation. Changes are also sought to the length of time that signs remain, linked to EEL's. The current signage requirements are similar to the Operative Plan and it is unclear why there is a need to change the approach as sought. Public amenity areas are defined so it is clear what areas are included in the signage provisions.				
Decision Sought:					
Reasons for Staff Recommendation:	The suggested requirements are designed to manage effects beyond spray drift. The plan change focusses on the air discharge component of agrichemical use and the signage required by the rule reflects this				

Further Submission No:	13 - 83	Submission Type:	Oppose	Recommendation:	Accept
Further Submitter:	Horticulture New Zealand				
Summary:	The submitter seeks standardisation of sign colour, size and wording based on US legislation. Changes are also sought to the length of time that signs remain, linked to EEL's. The current signage requirements are similar to the Operative Plan and it is unclear why there is a need to change the approach as sought. Public amenity areas are defined so it is clear what areas are included in the signage provisions				
Decision Sought:	Reject submission				

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Staff Recommendations on Submissions (By Submitter)

Submitter: 21 - Jodie Bruning

Reasons for Staff Recommendation: The suggested requirements are designed to manage effects beyond spray drift. The plan change focusses on the air discharge component of agrichemical use and the signage required by the rule reflects this

Further Submission No: 18 - 31 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Federated Farmers of New Zealand

Summary: We consider the submitter's recommendation for signage and notification requirements are impractical and would require significant compliance costs.

Decision Sought: Reject submission point

Reasons for Staff Recommendation: The suggested requirements are designed to manage effects beyond spray drift. The plan change focusses on the air discharge component of agrichemical use and the signage required by the rule reflects this

Further Submission No: 19 - 8 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Agcarm

Summary: The submitter seeks standardisation of sign colour, size and wording based on US legislation. Changes are also sought to the length of time that signs remain, linked to EEL's. The current signage requirements are similar to the Operative Plan and it is unclear why there is a need to change the approach as sought. Public amenity areas are defined so it is clear what areas are included in the signage provisions.

Decision Sought: Reject submission point

Reasons for Staff Recommendation: The suggested requirements are designed to manage effects beyond spray drift. The plan change focusses on the air discharge component of agrichemical use and the signage required by the rule reflects this

Submission Point No: 14 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Rules

Section: AQ R15(4)

Submission Summary:

- The Draft Air Plan Objectives should reflect the statutory purpose of the RMA to protect soil, water & ecosystems and safeguard life-systems for current and future generations.
- Air discharge by drift and volatilization enters sensitive areas, including freshwater and soil environments.
- Recognition that pregnant women, babies and children are at greater risk and that HSNO and RPS Policy IR 1B requires the use of a precautionary approach. New Zealand regulatory risk assessment is outdated and it is recommended that more recent decisions in Europe are followed.
- The Plan Change 13 must include obligations not only for contractors and industry, but reflect the statutory obligations of Bay of Plenty Regional Council (not limited to) under the HSNO Act, Resource Management Act, and Health Act so that citizens and staff may understand BOPRC obligations.

Decision Sought:

[delete - (a) (i) name and type of agrichemical to be applied] [insert - (a) (i) The registered brand name, active ingredient/s and type of agrichemical used.]

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

- (i) The name and type of agrichemical used.
- (ii) A start and end date for spray operations.
- (iii) Contact details of the authority responsible for the spraying.]

[insert -

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

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

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Staff Recommendations on Submissions (By Submitter)

Submitter: 21 - Jodie Bruning

- (ii) A start and end date for spray operations.
 - (iii) Contact details of the authority responsible for the spraying.
 - (iv) Links to data providing expected degradation of active ingredient/s
- Note:
- (iv) this may be static information contained on the TA website
 - (e) has been amended from 24hrs to 3 days as public sprays are not time dependent and 'urgent' as horticultural and farming practices may be, and the risk to the public and particularly children must be at the forefront of consideration of safety.]

Reasons for Staff Recommendation:

As the principal method of mitigating adverse effects in public amenity areas is signage, staff consider it appropriate to provide a longer notification window for this clause, as requested by the submitter, however staff do not recommend allowing four weeks. As the recommended notification requirements do not include print media, staff recommend the timeframe is reduced to 10 days.

Further information is provided with notification requested by this submitter goes beyond information necessary for mitigation of spray drift and are not recommended.

Further Submission No: 13 - 92 **Submission Type:** Support in Part **Recommendation:** Reject

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks that the name and type of agrichemical to be applied is amended to the registered brand name, active ingredient/s and type of agrichemical used. NZS8409:2004 does not require that this information is provided. The submitter seeks to differentiate between the time of notification for public amenity areas from private use as public spraying is not as time dependent or urgent as horticultural and farming use and there are different levels of risk to the public. Such a differentiation may assist with the range of notification times that are sought by a number of submitters.

Decision Sought: Consider differentiating time of notification for public amenity areas from times for private land. Retain information to be provided as proposed in PC13

Reasons for Staff Recommendation: As the principal method of mitigating adverse effects in public amenity areas is signage, staff consider it appropriate to provide a longer notification window for this clause, as requested by the submitter, however staff do not recommend allowing four weeks. As the recommended notification requirements do not include print media, staff recommend the timeframe is reduced to 10 days.

Further information is provided with notification requested by this submitter goes beyond information necessary for mitigation of spray drift and are not recommended.

Further Submission No: 18 - 32 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Federated Farmers of New Zealand

Summary: We consider the submitter's recommendation for signage and notification requirements are impractical and would require significant compliance costs.

Decision Sought: Reject submission point

Reasons for Staff Recommendation: As the principal method of mitigating adverse effects in public amenity areas is signage, staff consider it appropriate to provide a longer notification window for this clause, as requested by the submitter, however staff do not recommend allowing four weeks. As the recommended notification requirements do not include print media, staff recommend the timeframe is reduced to 10 days.

Further information is provided with notification requested by this submitter goes beyond information necessary for mitigation of spray drift and are not recommended.

Further Submission No: 19 - 13 **Submission Type:** Support in Part **Recommendation:** Reject

Further Submitter: Agcarm

Summary: The submitter seeks that the name and type of agrichemical to be applied is amended to The registered brand name, active ingredient/s and type of agrichemical used. NZS8409:2004 does not require that this information is provided. The submitter seeks to differentiate between the time of notification for public amenity areas from private use as public spraying is not as time dependent or urgent as horticultural and farming use and there are different levels of risk to the public. Such a differentiation may assist with the range of notification times that are sought by a

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 21 - Jodie Bruning

number of submitters.

Decision Sought: Accept in part

Reasons for Staff Recommendation: As the principal method of mitigating adverse effects in public amenity areas is signage, staff consider it appropriate to provide a longer notification window for this clause, as requested by the submitter, however staff do not recommend allowing four weeks. As the recommended notification requirements do not include print media, staff recommend the timeframe is reduced to 10 days.
Further information is provided with notification requested by this submitter goes beyond information necessary for mitigation of spray drift and are not recommended.

Submission Point No: 15 **Submission Type:** Seek **Recommendation:** Accept in Part

Chapter: Definitions

Section: Definitions - Noxious or dangerous

Submission Summary: Noxious or dangerous
 •It is reasonable to consider that BOPRC will utilize and make available new technologies (E.g. detection and monitoring) so that sensitive sites; vulnerable citizens and vulnerable businesses may be protected from adverse effects. Current approaches restricting consideration to wind speed and direction are obsolete.
 •Recognition that pregnant women, babies and children are at greater risk and that HSNO and RPS Policy IR 1B requires the use of a precautionary approach. New Zealand regulatory risk assessment is outdated and it is recommended that more recent decisions in Europe are followed.

Decision Sought: [delete - (a) Human health effects from acute exposure or chronic exposure. These include allergic reactions, toxic poisoning or exposure to carcinogens] [insert - (a) Human health effects from acute exposure or chronic exposure. These include allergic reactions; toxic poisoning; and long term adverse effects from exposure to reproductive or developmental toxins; carcinogens and endocrine disruptors.

Reasons for Staff Recommendation: Remove this definition from the plan change as it is used in the RMA and case law considers this based on a normal English language definition. Including a definition could result in a conflict between further Court interpretation. However, staff recommend retaining text to clarify how this term will be interpreted by the rules in the plan change and that this text is based on the text in the proposed plan.
Remove all examples of human health effects from clause (a) as a broad approach is appropriate and includes all matters listed by this submitter

Submission Point No: 16 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Policies

Section: AQ P3 - new clause

Submission Summary: •Air discharge by drift and volatilization enters sensitive areas, including freshwater and soil environments.
 •Recognition that current Regional Natural Resources Plan content does not link air discharges from agrichemical or emerging organic contaminant (EOC) to contamination of soil, freshwater and sediment – and that public and central government concerns prioritise proactive policy protecting freshwater quality.
 •The Plan Change 13 must include obligations not only for contractors and industry, but reflect the statutory obligations of Bay of Plenty Regional Council (not limited to) under the HSNO Act, Resource Management Act, and Health Act so that citizens and staff may understand BOPRC obligations.

Decision Sought: Activities that discharge contaminants to air must be managed, including by use of the best practicable option, to:
 [insert - ((f) Prevent contamination of marine and freshwater and sediments therein from adverse harm as a result of discharge of contaminants into air; and ensure environmental limits in marine and freshwater and sediments as a result of discharges of contaminants into air do not exceed ANZECC guideline limits.]

Reasons for Staff Recommendation: The plan change is focussed on discharges to air but it does provide some direction relating to the effects that these discharges can have on the wider environment, including in Policies AQ P3, AQ P4 and AQ P8 (and see Objective AQ O3). The potential effect of agrichemical

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Staff Recommendations on Submissions (By Submitter)

Submitter: 21 - Jodie Bruning

spraying on waterbodies is specifically acknowledged with Policy AQ P8 which requires that spray drift into waterbodies is to be avoided where possible. Where relevant, rules in the plan change contain a condition that there is to be no noxious or dangerous, offensive or objectionable discharge to water.

Further Submission No: 13 - 26 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Horticulture New Zealand

Summary: The focus of PC13 is on the regional council's functions to managed discharges to air, not discharges to land and water as sought by the submitter

Decision Sought: Reject submission

Reasons for Staff Recommendation: The plan change is focussed on discharges to air but it does provide some direction relating to the effects that these discharges can have on the wider environment, including in Policies AQ P3, AQ P4 and AQ P8 (and see Objective AQ O3). The potential effect of agrichemical spraying on waterbodies is specifically acknowledged with Policy AQ P8 which requires that spray drift into waterbodies is to be avoided where possible. Where relevant, rules in the plan change contain a condition that there is to be no noxious or dangerous, offensive or objectionable discharge to water.

Further Submission No: 18 - 12 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Federated Farmers of New Zealand

Summary: We are concerned that the new subclause requires prevention of rather than management of risk and focuses on water, or activities on land. It is also so broadly stated that it will capture all contaminants (not only those discharged into air).

Decision Sought: Reject submission point

Reasons for Staff Recommendation: The plan change is focussed on discharges to air but it does provide some direction relating to the effects that these discharges can have on the wider environment, including in Policies AQ P3, AQ P4 and AQ P8 (and see Objective AQ O3). The potential effect of agrichemical spraying on waterbodies is specifically acknowledged with Policy AQ P8 which requires that spray drift into waterbodies is to be avoided where possible. Where relevant, rules in the plan change contain a condition that there is to be no noxious or dangerous, offensive or objectionable discharge to water.

Further Submission No: 21 - 40 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Port of Tauranga

Summary: PoT opposes this submission as it is outside the scope of an air plan.

Decision Sought: Reject

Reasons for Staff Recommendation: The plan change is focussed on discharges to air but it does provide some direction relating to the effects that these discharges can have on the wider environment, including in Policies AQ P3, AQ P4 and AQ P8 (and see Objective AQ O3). The potential effect of agrichemical spraying on waterbodies is specifically acknowledged with Policy AQ P8 which requires that spray drift into waterbodies is to be avoided where possible. Where relevant, rules in the plan change contain a condition that there is to be no noxious or dangerous, offensive or objectionable discharge to water.

Further Submission No: 23 - 13 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter oppose the creation of a new clause as recommended by submission 21 – 16. Freshwater has a number of different inputs from both point source and diffuse discharges. If there is an exceedance of the ANZECC guidelines, these sources of discharges should also be considered, not just those to air.

Decision Sought: Decision sought: Retain policy AQ P3 as notified, subject to changes suggested by Lawter.

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 21 - Jodie Bruning

Reasons for Staff Recommendation:

The plan change is focussed on discharges to air but it does provide some direction relating to the effects that these discharges can have on the wider environment, including in Policies AQ P3, AQ P4 and AQ P8 (and see Objective AQ O3). The potential effect of agrichemical spraying on waterbodies is specifically acknowledged with Policy AQ P8 which requires that spray drift into waterbodies is to be avoided where possible. Where relevant, rules in the plan change contain a condition that there is to be no noxious or dangerous, offensive or objectionable discharge to water.

Submitter: 22 - Waste Management New Zealand

Submission Point No: 1 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Policies

Section: AQ P2

Submission Summary: Best practicable option is consistent with the RMA.

Decision Sought: Retain policy as proposed

Reasons for Staff Recommendation: Staff recommend inclusion of hazardous air pollutants in the policy and some wording changes to clarify that avoidance is preferable, but not the bottom line.

Further Submission No: 21 - 36 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Port of Tauranga

Summary: This submission point refers to retaining Policy AQP2 as notified. PoT request the policy is amended as per its original submission.

Decision Sought: Reject

Reasons for Staff Recommendation: Staff recommend inclusion of hazardous air pollutants in the policy and some wording changes to clarify that avoidance is preferable, but not the bottom line.

Submission Point No: 2 **Submission Type:** Neutral **Recommendation:** Reject

Chapter: Policies

Section: AQ P3(d)

Submission Summary: What are the benefits or favourable treatments when an application is made by one of these infrastructures to discharge to air?

Decision Sought: Explanation of benefits or favourable treatments when an application is made by one of these infrastructures to discharge to air.

Reasons for Staff Recommendation: There is no special treatment of any applicant provided for in this clause. The clause seeks to manage the effects of discharges of contaminants to air on the infrastructures themselves, not the companies managing them

Submission Point No: 3 **Submission Type:** Support **Recommendation:** Reject

Chapter: Policies

Section: AQ P3(e)

Submission Summary: 'Minimisation' is an appropriate approach to manage air discharges that may emanate beyond the property

Decision Sought: Retain policy as proposed

Reasons for Staff Recommendation: There is an internal inconsistency between clauses (a) to (d) which require the management of the adverse effects of discharges regardless of where the effects occur and clause (e) which introduces the property boundary as a line beyond where assessment of adverse effects begins. It implies that Council will use the property boundary to assess adverse

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 22 - Waste Management New Zealand

effects in every case, in conflict with clause (a) where adverse effects are assessed regardless of location. Decision makers may then find it difficult to determine which of the requirements apply. To resolve this conflict, staff recommend that the clause is deleted in its entirety

Further Submission No: 7 - 11 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Trustpower Ltd

Summary: It does not align with the relief sought by Trustpower

Decision Sought: Reject submission point

Reasons for Staff Recommendation: There is an internal inconsistency between clauses (a) to (d) which require the management of the adverse effects of discharges regardless of where the effects occur and clause (e) which introduces the property boundary as a line beyond where assessment of adverse effects begins. It implies that Council will use the property boundary to assess adverse effects in every case, in conflict with clause (a) where adverse effects are assessed regardless of location. Decision makers may then find it difficult to determine which of the requirements apply. To resolve this conflict, staff recommend that the clause is deleted in its entirety

Further Submission No: 21 - 49 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Port of Tauranga

Summary: This submission point refers to retaining Policy AQP3 as notified. PoT request the policy is amended as per the original submission.

Decision Sought: Reject

Reasons for Staff Recommendation: There is an internal inconsistency between clauses (a) to (d) which require the management of the adverse effects of discharges regardless of where the effects occur and clause (e) which introduces the property boundary as a line beyond where assessment of adverse effects begins. It implies that Council will use the property boundary to assess adverse effects in every case, in conflict with clause (a) where adverse effects are assessed regardless of location. Decision makers may then find it difficult to determine which of the requirements apply. To resolve this conflict, staff recommend that the clause is deleted in its entirety

Submission Point No: 4 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Policies

Section: AQ P3(b)

Submission Summary: The term "contribute to" is ambiguous in this context. A baseline or permitted low contribution level needs to be provided for this phrase to have any value

Decision Sought: Delete "contribute to"

Reasons for Staff Recommendation: In areas where an ambient standard is either already in breach, or is likely to be, there are no insignificant effects and all discharges contribute to the overall effect. Any activity that discharges the contaminant in question, is contributing to the cumulative effect. Where there are sufficient sources and/or where geographic and climatic conditions exacerbate the situation, this leads to breaches of the ambient standard

Further Submission No: 7 - 7 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Trustpower Ltd

Summary: It aligns with the relief sought by Trustpower

Decision Sought: Accept submission point

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Staff Recommendations on Submissions (By Submitter)

Submitter: 22 - Waste Management New Zealand

Reasons for Staff Recommendation: In areas where an ambient standard is either already in breach, or is likely to be, there are no insignificant effects and all discharges contribute to the overall effect. Any activity that discharges the contaminant in question, is contributing to the cumulative effect. Where there are sufficient sources and/or where geographic and climatic conditions exacerbate the situation, this leads to breaches of the ambient standard

Further Submission No: 23 - 21 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter consider that the term 'contribute to' is clear in this context, and should be retained in policy AQ P3. discharges should be avoided if they cause an exceedance, or breach of the NESAQ or AAQG.

Decision Sought: Decision sought: Retain policy AQ P3 as notified, subject to changes suggested by Lawter

Reasons for Staff Recommendation: In areas where an ambient standard is either already in breach, or is likely to be, there are no insignificant effects and all discharges contribute to the overall effect. Any activity that discharges the contaminant in question, is contributing to the cumulative effect. Where there are sufficient sources and/or where geographic and climatic conditions exacerbate the situation, this leads to breaches of the ambient standard

Submission Point No: 5 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Reverse sensitivity

Section: Reverse Sensitivity

Submission Summary: The Proposed Plan Change 13 no longer includes a policy on reverse sensitivity; therefore, there is no longer any Regional Council guidance on this matter.

Decision Sought: Include Policy 5 from Operative Air Plan as follows:
[insert - Separation of new activities from existing activities when the activities are incompatible due to sensitivity or reverse sensitivity, to the discharge of contaminants to air.]

Reasons for Staff Recommendation: Do not include provisions to manage reverse sensitivity in the plan change

Further Submission No: 12 - 5 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Z Energy Ltd, BP Oil NZ Ltd & Mobil Oil NZ Ltd

Summary: The submission is supported. 'Reverse Sensitivity' is recognised and defined by case law. The Proposed Plan Change does not include policy framework in relation to 'Reverse Sensitivity'. It is considered appropriate, in the context of the Proposed Plan Change, to incorporate the concept of 'Reverse Sensitivity' into the proposed policy framework. The Oil Companies support the addition from the Operative Air Plan as proposed by the submitter

Decision Sought: Accept submission

Reasons for Staff Recommendation: Decline original submission point

Further Submission No: 20 - 25 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Fonterra Ltd

Summary: For the reasons outlined in Waste Management New Zealand and Fonterra's submissions it is appropriate that new provisions be introduced relating to reverse sensitivity. Further discussion is required regarding the most appropriate provisions to manage reverse sensitivity.

Decision Sought: Accept in part

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 22 - Waste Management New Zealand

Reasons for Staff Recommendation: Decline original submission point

Further Submission No: 23 - 70 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter support a proposed policy as recommended by submission 22 – 5. Lawter consider that a policy on reverse sensitivity should be included as part of Proposed Plan Change 13.

Decision Sought: Decision sought: Adopt a policy as recommended by submission 22 – 5.

Reasons for Staff Recommendation: Decline original submission point

Further Submission No: 30 - 52 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Swap Stockfoods Ltd

Summary: Support the provision of policies to manage reverse sensitivity. Swap Stockfoods would like the opportunity to be involved in the discussions regarding the proposed wording of the policies.

Decision Sought: Accept

Reasons for Staff Recommendation: Decline original submission point

Submission Point No: 6 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Section: AQ R18

Submission Summary: The combustion of used oil is well established in New Zealand with guidelines in place for metals in HSNOCOP 63: Management and Handling of Used Oil. In addition, work commissioned by the Ministry of Environment (Assessment of the Effects of Combustion of Waste Oil and Health Effects Associated with the Use of Waste Oil as a Dust Suppressant. August 2000) has concluded that “combustion of processed used oil does not generate any significant adverse impact on atmospheric quality”. Since coal is listed specifically, and a comparison of used oil combustion with coal indicates the used oil combustion generates comparable emissions to coal, it follows that used oil may safely be listed specifically in this rule (see Table 1 for further information).
Waste oil should be specified in (3)A. and treated with the same conditions as clean oil, coal, and untreated wood.

Decision Sought: Include waste oil as a fuel treated with the same conditions as clean oil, coal and untreated wood

Reasons for Staff Recommendation: Further monitoring and analysis is required on an airshed basis to establish appropriate limits for inclusion in a rule framework. Such an analysis could theoretically indicate that no boilers burning any type of fuel should be permitted in this area. Without this analysis complete, it is premature to design rules permitting used oil. Therefore no change is recommended.

Submission Point No: 8 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Section: AQ R18

Submission Summary: It is unclear whether the landfill discharges specified as ‘discretionary’ in AQ R21 apply to discharges from landfill gas flares. Landfill gas flares up to 500kW should be specified as Permitted in R18. Landfill gas should be specified in (3)B and treated with the same conditions as clean oil, coal, and untreated wood.

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 22 - Waste Management New Zealand

Decision Sought: Include combustion discharges from landfill gas flares in AQ R1

Reasons for Staff Recommendation: Landfill gas flares are managed under regulations 25-27 of the NESAQ. Where these standards do not apply, they are managed under AQ R1 of the plan change.

Submission Point No: 10 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Section: AQ R21(x)

Submission Summary: Resource recovery/recycling/baling stations do not generate significant odour or emissions, and therefore consent is not required in most jurisdictions. Discretionary activity status would make consenting for such activities unnecessarily onerous. Land use zoning through district plans is a more appropriate way to ensure such developments are located in areas that do not cause adverse effects on the neighbouring area. Appropriately located modern waste transfer stations have a minimal impact on neighbouring properties. In most jurisdictions, a consent is not required.

Decision Sought:

1. Separate refuse transfer stations out from the same group as resource recovery, recycling centres, and baling stations
2. Remove the requirement for resource recovery, recycling centres, and baling stations to hold an air discharge consent; these should instead have Permitted activity status

Reasons for Staff Recommendation: Staff acknowledge that some waste processing facilities have more potential to cause adverse effects than others. However it is Council's experience that regardless of what a waste processing facility is called, it may cause adverse effects. Staff are also concerned that those operating waste processing facilities will use semantics to avoid the need to apply for a consent, even if their operation has a high potential to cause adverse effects.

Submitter: 23 - McNeil & Associates Ltd

Submission Point No: 1 **Submission Type:** Oppose **Recommendation:** Accept

Chapter: Rules

Section: AQ R15(4)

Submission Summary: We strongly believe it to be unachievable to give no less than 24 hours notice. Having a 12 hour notice period gives sprayers a tighter window to provide more accurate indication of when spraying will actually occur. Preventing excessive notifications which will give notifications a spam like nature and deem them useless. Reasons include: Introduction of PSA requiring protective spray, tight timeframes between crop harvest and clean-up spray.

Decision Sought: Amend (4)(a) as follows:
(a)...required no earlier than 72 hours and no later than [delete - 24] [insert - 12] hours...

Reasons for Staff Recommendation: Staff recommend changing the minimum 24 hour notification window to 12 hours. As this the current system is working for most, then retaining the 12 hour notification window is the best way forward..

Given this recommendation, staff remind the Hearing Panel, submitters and all others involved with agrichemical spraying that policy AQ P8 clearly states that spray drift should be avoided in the first instance. Even when mitigation measures, in the form of notification, are carried out according to the conditions, any spray drift must still comply with condition (1)(a) of the rule and where this cannot be achieved, staff highly recommend that parties enter into a notification agreement to determine what is the best form, timing and format for notification to occur to allow for sufficient preparation

Submitter: 24 - Seespray Ltd

Submission Point No: 1 **Submission Type:** Oppose **Recommendation:** Accept

Chapter: Rules

Section: AQ R15(4)

Submission Summary: We strongly believe it to be unachievable to give no less than 24 hours notice. As a result,

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 24 - Seespray Ltd

spray contractors will have less accurate time frames of spraying and therefore have a negative impact on the notification process for both parties causing excessive notifications which will give notifications a spam like nature and deem them useless. Reasons for the reduced timeframe include changing weather, change of mind, machinery break down. Currently with Seespray, sprayers can "cancel" or "reschedule" jobs and mass communicate those job updates to all notified parties. They can do the same with communicating when jobs are "completed" even advising the safe re-entry time based on the chemical applied and completion time/date, plus a whole heap of handy info, chemical info, pollution hotlines and more. Additional to that, if jobs are not completed within 48 hours of the scheduled date, Seespray recommends that the sprayer 're-notifies' the neighbours. This fits perfectly within your proposed 72 hour time frame. If we continue working on improving the rapport within the community by sticking to what we are doing, because it's working well, we will continue to develop a more cooperative relationship between sprayers and neighbours and the no less than 12 hour rule will be sufficient.

Decision Sought: Amend (4) as follows:
(a) ...by notification, required no earlier than 72 hours and no later than [delete - 24] [insert - 12] hours...

Reasons for Staff Recommendation: Staff recommend changing the minimum 24 hour notification window to 12 hours. As this the current system is working for most, then retaining the 12 hour notification window is the best way forward..
Given this recommendation, staff remind the Hearing Panel, submitters and all others involved with agricchemical spraying that policy AQ P8 clearly states that spray drift should be avoided in the first instance. Even when mitigation measures, in the form of notification, are carried out according to the conditions, any spray drift must still comply with condition (1)(a) of the rule and where this cannot be achieved, staff highly recommend that parties enter into a notification agreement to determine what is the best form, timing and format for notification to occur to allow for sufficient preparation

Submitter: 25 - Spray Watchers Group

Submission Point No: 1 **Submission Type:** Seek **Recommendation:** Accept
Chapter: Rules
Section: AQ R10
Submission Summary: Many farmers do not recycle plastics but just burn in their burning spot, as they do other rubbish
Decision Sought: Banning burning of plastics should apply to rural areas as well as urban
Reasons for Staff Recommendation: No action required. Rule AQ R10 applies to both urban and rural areas.

Submission Point No: 2 **Submission Type:** Seek **Recommendation:** Accept in Part
Chapter: Rules
Section: AQ R15(5)
Submission Summary: Because our city is growing with infill of housing within it, and urban areas now are encroaching into horticultural areas, there is more of our population is at risk of spray-poisoning. More people today have allergies and chemical sensitivities. For example, children are especially at risk.
Decision Sought: Spraying in both urban and rural areas requires a spray risk management plan before spraying. Factors such as the proximity to boundaries with neighbours, wind direction and strength, the type of spray being applied and is it the safest - must be assessed in order to do no harm. There should be no sprays used in schools unless it is weekend or holidays
Reasons for Staff Recommendation: The plan change cannot manage urban growth and encroachment.

Submission Point No: 3 **Submission Type:** Seek **Recommendation:** Accept

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 25 - Spray Watchers Group

Chapter: Rules

Section: AQ R15(3)

Submission Summary: At present, staff do not even clear parks of people before they commence spraying, sometimes in the wind.

Decision Sought: Stricter signage requirements for spraying in public amenity areas.

Reasons for Staff Recommendation: The signage requirements are sufficiently stringent.

Submission Point No: 4 **Submission Type:** Seek **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R15(4)

Submission Summary: Because our city is growing with infill of housing within it, and urban areas now are encroaching into horticultural areas, there is more of our population is at risk of spray-poisoning. More people today have allergies and chemical sensitivities. For example, children are especially at risk.

Decision Sought: Stricter notification requirements for spraying using methods with higher risk of spray drift and stricter monitoring that these rules are adhered to. There should be notification agreements with neighbours

Reasons for Staff Recommendation: These rules are more stringent than the previous rules. The plan change cannot manage urban growth and encroachment.

Further Submission No: 13 - 93 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Horticulture New Zealand

Summary: The notification requirements in the Plan represent best practice. If urban areas encroach into horticultural areas then sufficient setbacks should be made in the urban areas

Decision Sought: Reject submission

Reasons for Staff Recommendation: These rules are more stringent than the previous rules. The plan change cannot manage urban growth and encroachment.

Submission Point No: 5 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Rules

Section: AQ R15 - new condition

Submission Summary: At present a course called "Growsafe" is the only pre- requisite required by Council contractors. This course was designed about 30 years ago for learning to spray in a horticultural setting.

Decision Sought: All Council contractors should be made to do a new standard course in the spraying of such areas.

Reasons for Staff Recommendation: All users of agrichemicals, particularly large-scale and/or commercial use, should already be complying with HSNO and WorkSafe requirements and should have any appropriate qualifications. It is not the Regional Council's responsibility to require or monitor this. The Council's principal concern, in this plan change, is to control spray drift, and the rule is designed for this purpose. It does not rely on training, provided by a third party, to manage spray drift. Staff consider that if the conditions of the rule are met, the effects of spray drift are mitigated. A condition requiring training and qualifications will add no further value and staff do not recommend this addition

Further Submission No: 6 - 4 **Submission Type:** Support in Part **Recommendation:** Reject

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 25 - Spray Watchers Group

Further Submitter: New Zealand Agrichemical Education Trust (NZAET)

Summary: NZAET offers a range of certificates under the Growsafe brand. All certificates have a five year expiry. All Council contractors (like other agrichemical users) should have a current Growsafe certificate at the appropriate level for the risk their spray activity poses and the responsibilities of their role.

Decision Sought:

Reasons for Staff Recommendation: All users of agrichemicals, particularly large-scale and/or commercial use, should already be complying with HSNO and WorkSafe requirements and should have any appropriate qualifications. It is not the Regional Council's responsibility to require or monitor this. The Council's principal concern, in this plan change, is to control spray drift, and the rule is designed for this purpose. It does not rely on training, provided by a third party, to manage spray drift. Staff consider that if the conditions of the rule are met, the effects of spray drift are mitigated. A condition requiring training and qualifications will add no further value and staff do not recommend this addition

Further Submission No: 13 - 68 **Submission Type:** Support in Part **Recommendation:** Reject

Further Submitter: Horticulture New Zealand

Summary: HortNZ supports training for agrichemical applicators, not just contractors. The GROWSAFE courses have been updated to reflect current best practice for all applicators

Decision Sought: Include requirement for training for all agrichemical applicators

Reasons for Staff Recommendation: All users of agrichemicals, particularly large-scale and/or commercial use, should already be complying with HSNO and WorkSafe requirements and should have any appropriate qualifications. It is not the Regional Council's responsibility to require or monitor this. The Council's principal concern, in this plan change, is to control spray drift, and the rule is designed for this purpose. It does not rely on training, provided by a third party, to manage spray drift. Staff consider that if the conditions of the rule are met, the effects of spray drift are mitigated. A condition requiring training and qualifications will add no further value and staff do not recommend this addition

Submitter: 26 - Rotorua Lakes Council

Submission Point No: 1 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Objectives

Section: AQ 01

Submission Summary: This objective is supported

Decision Sought: Retain objective as proposed

Reasons for Staff Recommendation: Minor change recommended to change 'protect' to 'protection' - to state an outcome, rather than an action
Remove requirement to 'enhance air quality where degraded' as this is already required by AQ Q2 and AQ O3

Further Submission No: 21 - 10 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Port of Tauranga

Summary: This submission point refers to retaining Objective AQO1 as notified. PoT request the Objective is amended as per its original submission.

Decision Sought: Reject

Reasons for Staff Recommendation: Minor change recommended to change 'protect' to 'protection' - to state an outcome, rather than an action
Remove requirement to 'enhance air quality where degraded' as this is already required by AQ Q2 and AQ O3

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 26 - Rotorua Lakes Council

Submission Point No: 2 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Objectives

Section: AQ 02

Submission Summary: This objective is supported

Decision Sought: Retain objective as proposed.

Reasons for Staff Recommendation: Remove reference to AAQGs as they are only guidelines, not developed under RMA process (taking into account costs and benefits) and not appropriate to set thresholds which must be met.
Add text to allow for amendments or replacements to ensure that if NESAQ is amended, the objective will still apply

Further Submission No: 21 - 17 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Port of Tauranga

Summary: This submission point refers to retaining Objective AQO2 as notified. PoT request the Objective is amended as per its original submission

Decision Sought: Reject

Reasons for Staff Recommendation: Remove reference to AAQGs as they are only guidelines, not developed under RMA process (taking into account costs and benefits) and not appropriate to set thresholds which must be met.
Add text to allow for amendments or replacements to ensure that if NESAQ is amended, the objective will still apply

Submission Point No: 3 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Objectives

Section: AQ 03

Submission Summary: This objective is supported.

Decision Sought: Retain objective as proposed

Reasons for Staff Recommendation: Change wording 'manage' to 'management' as it sets an outcome instead of an action

Further Submission No: 21 - 22 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Port of Tauranga

Summary: This submission seeks for Objective AQ03 to be retained as notified, and broadly reflects the original submission made by PoT.

Decision Sought: Accept

Reasons for Staff Recommendation: Change wording 'manage' to 'management' as it sets an outcome instead of an action

Submission Point No: 4 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Policies

Section: AQ P1

Submission Summary: This policy is supported

Decision Sought: Retain policy as proposed.

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 26 - Rotorua Lakes Council

Reasons for Staff Recommendation: Some minor changes made as a result of other submission points

Submission Point No: 5 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Policies

Section: AQ P2

Submission Summary: Policy supported

Decision Sought: Retain policy as proposed

Reasons for Staff Recommendation: Staff recommend inclusion of hazardous air pollutants in the policy and some wording changes to clarify that avoidance is preferable, but not the bottom line.

Further Submission No: 21 - 37 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Port of Tauranga

Summary: This submission point refers to retaining Policy AQP2 as notified. PoT request the policy is amended as per its original submission.

Decision Sought: Reject

Reasons for Staff Recommendation: Staff recommend inclusion of hazardous air pollutants in the policy and some wording changes to clarify that avoidance is preferable, but not the bottom line.

Submission Point No: 6 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Policies

Section: AQ P3 - whole policy

Submission Summary: Although Council supports the management of discharges, we are concerned that some methods of doing so may result in unintended adverse consequences for human health, in particular for those at risk of fuel poverty. Air quality cannot be considered in isolation from impact on complex issues impacting on wellbeing.

Decision Sought: Ensure that the methods of management must also safeguard human health and not incur untoward health effects

Reasons for Staff Recommendation: Avoiding a scenario where health effects from poor air quality are replaced with health effects from cold, damp homes, has been a principle of the Rotorua Air Quality programme since its inception in 2008. Staff continue with an extensive number of community and government organisations to maximise funding and education for insulation and heating outside the plan change process.

Further Submission No: 8 - 29 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Mercury NZ Ltd

Summary: Mercury supports the intent of the submission, however it is unclear what relief is sought and what the policy impact will be on emitters. Mercury seeks Policy 3 implement the correct tests inline with the RMA, which currently includes effects on human health, which is protected by an assessment against national environmental standards and air quality guidelines.

Decision Sought: Disallow

Reasons for Staff Recommendation: Avoiding a scenario where health effects from poor air quality are replaced with health effects from cold, damp homes, has been a principle of the Rotorua Air Quality programme since its inception in 2008. Staff continue with an extensive number of community and government organisations to maximise funding and education for insulation and heating outside the plan change process.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 26 - Rotorua Lakes Council

Submission Point No: 7 **Submission Type:** Oppose **Recommendation:** Accept in Part

Chapter: Policies

Section: AQ P4 - new clause

Submission Summary: Matters taken into consideration should include wider potential impacts of the management methods. i.e. if the application of the management method would incur significant fuel poverty for the occupants of a dwelling this should be balanced against the impact of the method to improve air quality.

Decision Sought: Add to matters to consider: The impact of the management method itself on human wellbeing

Reasons for Staff Recommendation: The intention is for these matters to be had particular regard to and assessed alongside all other provisions in the plan as a whole. Some matters will have more relevance and weight than others, however, provided discharges are managed according to the more directive policies (AQ P2 and AQ P3) and meet the objectives, then each and every matter does not need to apply, with full weight, for every situation.

Further Submission No: 8 - 30 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Mercury NZ Ltd

Summary: Mercury supports the intent of the submission, however it is unclear what relief is sought and what the policy impact will be on emitters. Mercury seeks Policy 3 implements the correct tests in line with the RMA, which includes effects on human health, which is protected by an assessment against national environmental standards and air quality guidelines

Decision Sought: Disallow

Reasons for Staff Recommendation: The intention is for these matters to be had particular regard to and assessed alongside all other provisions in the plan as a whole. Some matters will have more relevance and weight than others, however, provided discharges are managed according to the more directive policies (AQ P2 and AQ P3) and meet the objectives, then each and every matter does not need to apply, with full weight, for every situation.

Submission Point No: 8 **Submission Type:** Support **Recommendation:** Accept

Chapter: Policies

Section: AQ P5

Submission Summary: Council supports reduction of open burning due to its impact on air quality but also in relation to ensuring more appropriate methods of waste management. We note your referencing of the need to comply with local bylaws.

Decision Sought: Retain policy as proposed.

Reasons for Staff Recommendation: Some changes made to the policy to resolve other submission points however overall policy intent has not changed

Submission Point No: 9 **Submission Type:** Support **Recommendation:** Accept

Chapter: Policies

Section: AQ P6

Submission Summary: Policy supported

Decision Sought: Retain policy as proposed.

Reasons for Staff Recommendation: Retain policy as proposed.

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 26 - Rotorua Lakes Council

Submission Point No: 10 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Policies

Section: AQ P7

Submission Summary: The policy is supported in principle, however further comment on the rules and methods also form part of this submission.

Decision Sought: Retain policy, subject to related submission points.

Reasons for Staff Recommendation: Some changes made to the policy to resolve other submission points.

Submission Point No: 11 **Submission Type:** Support **Recommendation:** Accept

Chapter: Policies

Section: AQ P8

Submission Summary: Policy supported

Decision Sought: Retain policy as proposed.

Reasons for Staff Recommendation: Some changes made to the policy to resolve other submission points however overall policy intent has not changed

Submission Point No: 12 **Submission Type:** Support **Recommendation:** Accept

Chapter: Policies

Section: AQ P9

Submission Summary: Policy supported

Decision Sought: Retain policy as proposed.

Reasons for Staff Recommendation: Retain policy as proposed

Further Submission No: 12 - 6 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Z Energy Ltd, BP Oil NZ Ltd & Mobil Oil NZ Ltd

Summary: The submission is supported. The Oil Companies consider Policy 9, as proposed, appropriately addresses the requirement for 'recapture' technology to be used for fumigation gases, and is therefore supported.

Decision Sought: Accept submission

Reasons for Staff Recommendation: Retain policy as proposed

Submission Point No: 13 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Policies

Section: AQ P10

Submission Summary: It is recognised that the intent of offsets is to enable an overall reduction in emissions while providing for some new burners, however there is concern that lower socio-economic area rental properties may be used to offset new burners in higher socio-economic area properties with a potential result of increased fuel poverty. There is also concern about the implementation of how the offsets will be managed and recorded. It is likely to fall to Council consents team to respond to queries and undertake recording. A practicable method of administering this issue has not been determined.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 26 - Rotorua Lakes Council

Decision Sought: Reconsider potential unintended consequences of offsets and remove if a suitable method of implementing is not agreed.

Reasons for Staff Recommendation: This submission point relates to offsets required by domestic burners in rule AQ R13 and is similar in content to submission point 26-22 (addressed in assessment of AQ R13). However, the submission point addresses a concern regarding the targeting of lower socio-economic rental properties to provide offsets for new emissions. This may also apply to industrial offsets. The relief sought is not within the Regional Council's power in this case. The policy is included to provide policy guidance in response to a regulation set by central government.

Submission Point No: 14 **Submission Type:** Support **Recommendation:** Comment Note

Chapter: Rules

Section: Rotorua Burner Rules - General

Submission Summary: In principle, Council supports efforts to improve the air quality of the Rotorua air shed contributing to improved health of our population. We do however note that there is potential for policies which aim to improve air quality to have unintended consequences which exacerbate fuel poverty, which also has negative impact on our population's health, particularly in relation to children and the elderly who are more susceptible to the effect of cold housing

Decision Sought: Rotorua Lakes Council would like to continue to work with the Regional Council through the Rotorua Air Quality Working Party and would like to further discuss; the impact of the immediate legal effect of the rules on the heating industry and ability for households to plan ahead for winter, offsets for installation of solid fuel burners, unintended consequences of offsets on fuel poverty, managing conflict between the regional rules and the Rotorua Air Quality Control Bylaw, implementation of burner phase-out, methods to assist homeowners in future, and climate change.

Reasons for Staff Recommendation: Avoiding a scenario where health effects from poor air quality are replaced with health effects from cold, damp homes, has been a principle of the Rotorua Air Quality programme since its inception in 2008 and Council provides a number of financial support schemes to assist homeowners.

Further Submission No: 27 - 1 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Allan Neil

Summary: Rotorua Lakes Council requests to discuss many issues which I consider necessary to complete a working Bylaw

Decision Sought: Accept

Reasons for Staff Recommendation: The Rotorua Air Quality Bylaw is a separate regulatory document under the Local Government Act and is not assessed here other than its relationship to the plan change.

Submission Point No: 15 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R2

Submission Summary: Rule is supported

Decision Sought: Retain rule as proposed

Reasons for Staff Recommendation: Minor change made to make wording of rule clearer that does not affect the overall intention of the rule.

Submission Point No: 16 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 26 - Rotorua Lakes Council

Section: AQ R3 - whole rule
Submission Summary: Rule supported
Decision Sought: Retain rule as proposed
Reasons for Staff Recommendation: Some changes made to the rule to resolve other submission points however overall policy intent has not changed

Submission Point No: 17 **Submission Type:** Support **Recommendation:** Accept in Part
Chapter: Rules
Section: AQ R4 - whole rule
Submission Summary: Rule supported
Decision Sought: Retain rule as proposed
Reasons for Staff Recommendation: Staff recommend removing clause (a).

Further Submission No: 7 - 20 **Submission Type:** Support **Recommendation:** Accept in Part
Further Submitter: Trustpower Ltd
Summary: It aligns with the relief sought by Trustpower
Decision Sought: Accept submission point
Reasons for Staff Recommendation: Staff recommend removing clause (a)

Submission Point No: 18 **Submission Type:** Support **Recommendation:** Accept
Chapter: Rules
Section: AQ R5
Submission Summary: Rule supported
Decision Sought: Retain rule as proposed
Reasons for Staff Recommendation: Some changes made to the rule to resolve other submission points however overall policy intent has not changed

Submission Point No: 19 **Submission Type:** Support **Recommendation:** Reject
Chapter: Rules
Section: AQ R10
Submission Summary: There is potential that the list omits some materials not appropriate for burning and may need to be amended in future e.g. aerosol cans or potentially explosive items. We note the reference to local bylaws and Forest and Rural Fires Act in R6.
Decision Sought: Consider AQ R10 listing those materials which are suitable for burning, rather than listing those which aren't.
Reasons for Staff Recommendation: Insufficient evidence provided to make changes to this rule

Submission Point No: 20 **Submission Type:** Support **Recommendation:** Reject

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 26 - Rotorua Lakes Council

Chapter: Rules

Section: AQ R11

Submission Summary: The use of coal as a fuel source should be discouraged because of its carbon/climate change impact. Although the impact from domestic coal use is small, a signal to further reduce use of coal is supported.

Decision Sought: Burning of coal be banned.

Reasons for Staff Recommendation: Under section 70A of the Act, the Regional Council cannot make a rule controlling a discharge of a greenhouse gas having regard to climate change. Where coal burning is targeted it is due to its high particulate discharges, not due to climate change. In these cases, it can only target the appliance design, it cannot prevent the sale of coal

Submission Point No: 21 **Submission Type:** Oppose in Part **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R12

Submission Summary: Support (a), (b), (d), (e)
Oppose (c)
(a) Support and acknowledge this is a very small component
(b) Support pellet burner use, however note that both the purchase and cost of pellet fuel is more expensive than wood burners .
(c) Concern at the immediate effect of the Rules and that households have only one winter season to continue to use existing pre-2005 burners. This may not be enough notice to householders to replace. There is also concern at how this will be implemented and enforced. Although installing burners requires a consent, their removal does not, so there is no reliable record of which properties will have non-compliant burners. Support the removal of multi-fuel or coal burners as a priority due to the relatively greater negative air quality impact of burning coal. This is in conflict with the Council's Air Quality Control Bylaw.
(d) This is congruent with the Council's Air Quality Control Bylaw
(e) Support effective operation of burners

Decision Sought: To take into account higher purchase and cost of pellet fuel, immediate effect of rules and limited winter seasons to replaced burners.

Reasons for Staff Recommendation: The Regional Council has taken into account all of these concerns during work on the rules

Further Submission No: 9 - 1 **Submission Type:** Support in Part **Recommendation:** Accept

Further Submitter: Bay of Plenty Regional Council

Summary: Under RMA s.86B(3)(a) a rule in a proposed regional plan that protects or relates to air has immediate legal effect. Because of this, the Regional Council has already started to implement the rules of the Proposed Plan Change.
The Rotorua Burner Rules Implementation Group was set up to develop approaches and processes to implement the Rotorua Air Quality Bylaw (the bylaw) and rules AQ R12-14 in the Proposed Plan Change. Membership includes staff from Rotorua Lakes Council and the Regional Council.
As the bylaw was already adopted when the plan change rules were developed, every effort was made to keep the Rotorua burner rules in the plan change as consistent with the Bylaw as possible. Therefore the indoor open fire rule was replicated with no change. However, during discussions of the implementation group, an inconsistency was found between the indoor open fire rule in the Bylaw and the equivalent rule in the plan change. The rule in the Bylaw (rule 4.11) applies only to existing indoor open fires. As new indoor open fires are managed by the new burner rule of the Bylaw, the word "existing" was not included in the indoor open fire rule as it was not necessary.
However, the same rule, carried over to the plan change as AQ R12(a), permits discharges from any indoor open fire used for the two purposes allowed in the conditions. This includes both new and existing indoor open fires. It should apply only to existing indoor fires. The installation of new indoor fires is still prevented by the Bylaw. New indoor open fires have been banned by the bylaw since 2010, and there was

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 26 - Rotorua Lakes Council

never any intention to alter this. Therefore the Regional Council supports the submission to retain the rule, but only in part as an amendment is necessary to resolve the issue. A change to the wording of the rule AQ R12(a) to refer to "existing" indoor open fires would resolve the issue. This change clarifies the rule framework and does not impose any additional requirement on the community.

Decision Sought: Allow in part

Reasons for Staff Recommendation: Clarifies rule framework

Submission Point No: 22 **Submission Type:** Oppose in Part **Recommendation:** Reject

Chapter: Rules

Section: AQ R13

Submission Summary: Oppose (a) as allowing offsets of removed burners effectively introduces emissions into the air shed unnecessarily. We can see that it results in a net reduction and is a method to potentially enable some new burners other than pellet burners, however it also prevents a home from 'replacing' with a more efficient burner if another property uses their burner removal as an offset. There is concern that this may drive unintended consequences. E.g. a landlord might remove a burner from a rental property in order to enable him to install a new burner in his own home. This may drive greater fuel poverty, particularly if it leaves the rental property with no affordable heating system. It is also unclear how this rule may be implemented with regards recording the removal and offset.

Decision Sought: Reconsider impacts of offset rule

Reasons for Staff Recommendation: Despite best efforts there will always be members of the community that behave poorly. Examples given in submission points are houses having burners removed under the Bylaw's point of sale rule leaving no heating and landlords removing a burner from a rental property to offset a new woodburner in their own home. This behaviour isn't localised, instead it's a national issue being addressed by the Minister of Housing and Urban Development through introducing minimum standards for warmer and drier rental homes through the Healthy Homes Guarantee Act 2017

Submission Point No: 23 **Submission Type:** Oppose **Recommendation:** Comment Note

Chapter: Rules

Section: AQ R14

Submission Summary: Concern that this is giving little notice to householders.

Decision Sought: Review timeframes of 1 February 2020

Reasons for Staff Recommendation: The first campaign run by Council to raise public awareness was Winter 2009. Since then a campaign to raise awareness of various aspects of Rotorua air quality has been run every year. These campaigns have included dry wood, draft Bylaw, Hot Swap loans, and the low income free fire swap. In winter 2016 every homeowner in Rotorua was sent a letter explaining the draft rules and the implications. During consultation on the draft plan, a workshop and drop-in evening was held in Rotorua. A full consultation record is included in the Section 32 report. Notification of the plan change followed standard process, however due to the significance of the issue in Rotorua, a series of radio ads were also run within Rotorua.

Further Submission No: 27 - 2 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Allan Neil

Summary: I support review timeframes of 1 February 2020. The decision sought by myself is a return to point of sale.

Decision Sought: Accept - The decision sought by myself is a return to point of sale.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 26 - Rotorua Lakes Council

Reasons for Staff Recommendation:

The first campaign run by Council to raise public awareness was Winter 2009. Since then a campaign to raise awareness of various aspects of Rotorua air quality has been run every year. These campaigns have included dry wood, draft Bylaw, Hot Swap loans, and the low income free fire swap.

In winter 2016 every homeowner in Rotorua was sent a letter explaining the draft rules and the implications. During consultation on the draft plan, a workshop and drop-in evening was held in Rotorua. A full consultation record is included in the Section 32 report. Notification of the plan change followed standard process, however due to the significance of the issue in Rotorua, a series of radio ads were also run within Rotorua.

The Point of Sale rule, part of the Rotorua Air Quality Control Bylaw, is still in place

Submission Point No: 24 **Submission Type:** Oppose in Part **Recommendation:** Reject

Chapter: Rules

Section: AQ R18

Submission Summary: Oppose 3(d) as we recognise that domestic burners are the predominant contribution to exceedances of winter-time air quality standards in the Rotorua air shed. With immediate effect new boilers are unable to discharge any amount of particulates in to the Rotorua air shed. However there is no move to improve the type of fuel burned by existing boilers in the air shed such that burning coal and oil are still permitted activities in the air shed.

Decision Sought: Review the relative impact of new cleaner-burning boilers with the impact of existing coal or oil burners in the Rotorua air shed. Consider whether a requirement for existing burners to meet higher standards in relation to discharges would be a more effective mechanism to improve air quality.

Reasons for Staff Recommendation: Discharges from existing consented boilers are capped by their consent discharge limit. There has been a significant decrease in boiler emissions in the Rotorua Airshed due to both shutdowns and substantial capital investment to reduce emissions

Submission Point No: 25 **Submission Type:** Oppose **Recommendation:** Accept

Chapter: Definitions

Section: Definitions - Existing

Submission Summary: "Existing"
The definition is based on the assumption that all existing legally installed burners have permit or consent documentation held by Rotorua Lakes Council. This is not the case as records are sometimes incomplete or dwellings were owned by Government agencies that had their own property records until they came under the jurisdiction of the Building Act in July 1992. Evidence of an existing burner may require an inspection to confirm, and this activity would require resourcing. Alternatively BOPRC might choose to accept the word of wood burner suppliers removing to replace a burner.

Decision Sought: Review the definition of "existing" to recognise all actual legally installed existing burners

Reasons for Staff Recommendation: Amend to ensure that burners that were installed prior to requiring consents or permits are recognised as existing in the plan change

Submission Point No: 26 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R1

Submission Summary: Rule supported

Decision Sought: Retain rule as proposed

Reasons for Staff Recommendation: Staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

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Staff Recommendations on Submissions (By Submitter)

Submitter: 26 - Rotorua Lakes Council

Further Submission No: 21 - 62 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Port of Tauranga

Summary: This submission point refers to retaining Rule AQR1 as notified. PoT request Rule AQR1 is amended as per the original submission

Decision Sought: Reject

Reasons for Staff Recommendation: Staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 26 - 8 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Western Bay of Plenty District Council

Summary: Retain the rule as proposed.

Decision Sought: Accept

Reasons for Staff Recommendation: Staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Submission Point No: 27 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R6

Submission Summary: Support in principle

Decision Sought: Retain rule as proposed

Reasons for Staff Recommendation: Staff have amended the rule in accordance with a submitter's request for a more effects based approach.

Submission Point No: 28 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R7

Submission Summary: Support in principle

Decision Sought: Retain rule as proposed

Reasons for Staff Recommendation: Some changes made to the rule to resolve other submission points however overall policy intent has not changed

Submission Point No: 29 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R8

Submission Summary: Support in principle

Decision Sought: Retain rule as proposed

Reasons for Staff Recommendation: Some changes made to the rule to resolve other submission points however overall policy intent has not changed

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Staff Recommendations on Submissions (By Submitter)

Submitter: 26 - Rotorua Lakes Council

Submission Point No:	30	Submission Type:	Support	Recommendation:	Accept in Part
Chapter:	Rules				
Section:	AQ R9				
Submission Summary:	Support in principle				
Decision Sought:	Retain rule as proposed				
Reasons for Staff Recommendation:	<p>Staff recommend the amendment is made for a setback distance of 100 metres. This will result in some rural properties being captured by this rule. However the purpose of the policy and corresponding rule is to manage open burning according to its effects. Non-recreational/cultural open burning (ie, of green waste or rubbish) carried out within a certain distance of any dwelling house has the same adverse effects regardless of where this occurs and whether it is in an urban area or not.</p>				

Submitter: 27 - GBC Winstone

Submission Point No:	1	Submission Type:	Oppose	Recommendation:	Reject
Chapter:	Rules				
Section:	New rule				
Submission Summary:	<p>Oppose omission of specific rule enabling discharge to air, as a permitted activity meeting conditions, for cement handling and storage at Port of Tauranga.</p> <p>The s.32 evaluation report refers to reports commissioned by Council, where no cement dust was identified by these reports. The rule treatment of the GBCW operations is that they involve discharge of contaminants into air, from industrial and trade premises and so are not a permitted activity (AQ R1); that failing that permitted activity rule and having no alternative industry-specific activity status makes them a discretionary activity. This over-generalises the treatment of all industrial and trade activities, where many have been specifically designed to mitigate their adverse effects to not have a minor or more than minor effect. The policy AQ P1, on classification of activities, should allow these as permitted activities, as being "activities where the discharge can be suitably managed with general conditions to avoid, remedy or mitigate any adverse effects of the discharge"(Policy AQ P1 (a)). Such a permitted activity rule approach can provide certainty to the operations and the environment, relying on proven design and performance of the cement handling and dust mitigation systems.</p> <p>It may not be necessary to have a specific permitted activity enabling policy for GBCW cement handling and storage operations, such as there is for open burning, solid fuel burners, and agrichemical spraying, if the policy AQ P1 is applied to identify that bulk cement handling and storage, and the ancillary activities at the GBCW Mt Maunganui Service Centre, can be permitted activities provided that the discharge is suitably managed with general conditions to avoid, remedy or mitigate any adverse effects of the discharge. There would need to be a new rule, specifying the discharge standards to manage discharge effects. The permitted activity conditions should be detailed in a new rule, for each type of industrial and trade activity where such standards are possible and where the effectiveness of mitigations is known. Such an approach would replace the need for many air discharge consents, by setting clear thresholds of acceptable effects for permitted activities.</p>				
Decision Sought:	<p>New rule AQ RX The rule would list the industrial and trade activities, and the conditions they would be required to meet to be permitted activities.</p> <p>At Port of Tauranga, Mount Maunganui, the discharge of contaminants to air from cement storage, handling, redistribution or packaging, and associated fly ash and microsilica, is a permitted activity provided the following conditions are complied with:</p> <ol style="list-style-type: none"> (1) The discharge must not be noxious or dangerous, offensive or objectionable beyond the boundary of the subject property or into any water body. (2) Cement is stored in fully enclosed silos that must be fitted with a filtration system with a filter surface area of at least 24m². (3) There must be no visible discharges of dust. (4) Cement, must be delivered, from ship to silo and from silo to truck, via a fully enclosed system. Cement additives, such as microsilica, microsilica fume and fly ash, must only be de-bagged and bagged within an enclosed structure fitted with dust control equipment. (5) Silos must either have an automated remote filling system or be fitted with a high level alarm that has both an audible and visual indicator and when 				

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 27 - GBC Winstone

the alarm is triggered it will stop the filling of the silo.

Reasons for Staff Recommendation: Although some activities may not have adverse effects that are more than minor, this does not take into consideration cumulative effects. Discharges of particulates to air in the Mount Maunganui area is currently of concern and being investigated. Therefore it would be inappropriate to introduce a permitted activity rule for these discharges and staff do not recommend this rule

Further Submission No: 23 - 74 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter oppose the inclusion of a new rule which permits unquantified minor discharges from any industrial or trade activities. Although we acknowledge that effects from such facilities may not cause effects that are 'minor, or more than minor', we note that this does not take into consideration cumulative effects which may result from several different permitted air discharges, which could cause effects that are 'minor or more than minor'. Such an example is the Mount Maunganui Industrial Area, where discharges to air from industrial activities have resulted in cumulative adverse effects, and subsequently has caused the degradation of ambient air quality.

Decision Sought: Decision sought: Do not include additional Rule.

Reasons for Staff Recommendation: Although some activities may not have adverse effects that are more than minor, this does not take into consideration cumulative effects. Discharges of particulates to air in the Mount Maunganui area is currently of concern and being investigated. Therefore it would be inappropriate to introduce a permitted activity rule for these discharges and staff do not recommend this rule

Submission Point No: 2 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Policies

Section: New Policy

Submission Summary: Support policies in part, but oppose omission of policy management approach permitting a range of industrial and trade activities, including cement handling and storage, where the activity's effects and effective mitigations are known and conditions can be applied to avoid and mitigate adverse effects. There should be a new policy added, providing for specific industrial and trade premises' discharges to air as permitted activities provided that permitted activity conditions are met.

Decision Sought: New policy
There should be an additional policy enabling discharges to air from industrial and trade activities as permitted activities, where their potential effects are known and mitigations can demonstrate that effects are managed to specified acceptable levels.

Reasons for Staff Recommendation: No amendment to plan change

Further Submission No: 23 - 71 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter oppose a policy which enables unquantified permitted air discharges from industrial and trade activities. It is acknowledged that there are some activities that could be generating adverse effects, which on their own may be insignificant, however together could be contributing to the degradation of ambient air quality.

Decision Sought: Decision sought: Do not include additional policy.

Reasons for Staff Recommendation: Accept

Further Submission No: 30 - 6 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Swap Stockfoods Ltd

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 27 - GBC Winstone

Summary: This submission supports the submitter's original submission in providing for discharges to air from industrial and trade activities as permitted activities, where their potential effects are known and mitigations can demonstrate that effects are managed to specified acceptable levels.

Decision Sought: Accept

Reasons for Staff Recommendation: Decline

Submitter: 28 - Lesley & Brendan Everest

Submission Point No: 1 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Section: AQ R14

Submission Summary: To sufficiently heat our 300 square metre home to NZ healthy home standards of greater than 16 degrees C we require a minimum of 2 heat pumps and heaters in each child's bedroom. This is economically an ongoing struggle and financially we are unable to provide a safe home environment for our family as power prices increase. The RLC has turned down a submission for a woodburner to be installed under the newly proposed plan. We had applied in the understanding of the prior changes and felt we fell within the new legislation. We are upset that there appeared to be no warning of this change

Decision Sought: To allow new installation of solid wood fuel burner with emission rate of 0.6 or less within the Rotorua Airshed

Reasons for Staff Recommendation: There is always an option to install zero emission heating (such as a heat pump) or a pellet burner. This may not be the preferred method of heating, but it is still home heating. Where a woodburner is preferred but not permitted, the rule framework allows for resource consents either with an offset or in exceptional circumstances.

Submitter: 29 - Envirosolve

Submission Point No: 1 **Submission Type:** Oppose **Recommendation:** Accept

Chapter: Policies

Section: AQ P7

Submission Summary: ULEBs are tested under Canterbury Method one (CM1) and that is a real-life test and it is much more stringent than Low Emission burner under AU/NZS 4012/4013.

Decision Sought: Allow replacement low emission wood burners and Ultra Low Emission Burners (ULEBs)

Reasons for Staff Recommendation: Replacement low emission wood burners are already provided for as an 'exemption' in paragraph (a) of the Policy. ULEBs are low-emissions woodburners, and therefore the same requirements that apply to woodburners, apply to ULEBs.

Submission Point No: 2 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Policies

Section: AQ P10

Submission Summary: Table AQ-1 is not complete as it does not include low emission burners and ultra low emission burners

Decision Sought: Add Low Emission burners and Ultra Low Emission Burners to table AQ-1

Reasons for Staff Recommendation: The plan change makes no other reference to either low emissions burners or ultra low emissions burners. Rule AQ R12(c) divides burners into coal burners, multifuel burners, pre-2005 woodburners, and post-2005 woodburners. As AQ P10 also targets the same pool of existing burners, similar terms are used in Table AQ 1. Low emissions burners and ultra low emissions burners fall into the category of Post-2005 (NESAQ compliant). No further

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Staff Recommendations on Submissions (By Submitter)

Submitter: 29 - EnviroSolve

definitions are necessary in this case.

Submission Point No:	3	Submission Type: Oppose	Recommendation: Reject
Chapter:	Rules		
Section:	AQ R12		
Submission Summary:	High sophisticated secondary reducing devices are available for dwelling houses and industrial application.		
Decision Sought:	Discharges permitted by (i) and (ii) should only be a permitted activity if these fires are equipped with secondary emission reducing devices approved by the Bay of Plenty Regional Council or the Minister of Environment within a certain transition period		
Reasons for Staff Recommendation:	There is not enough certainty that these devices will reduce the particulates discharged from any burner to the extent necessary for the Rotorua Airshed to meet the NESAQ		
Submission Point No:	4	Submission Type: Oppose	Recommendation: Reject
Chapter:	Rules		
Section:	AQ R12		
Submission Summary:	The Low Emission burners approved under AU/NZS 4012/4013 are not allowed to be sold into the Environment Canterbury area (from 1. January 2019) due to their much stringent CM1 test. CM1 test measure the most important start up and end phase while under AU/NZS 4012/4013 only hot phases are measured and low emission fires are tuned for the hot phase and ignore start up and end phase. Low Emission Burner do not pass the CM1 test despite the fact they are 0.6 g/kg equal or less.		
Decision Sought:	amend (d) as follows: (ii)... less than or to equal 0.6 [insert - or is a Ultra Low Emission Burner (ULEB) less or equal 0.5 g/kg fuel tested under Canterbury Method 1 (CM1)]		
Reasons for Staff Recommendation:	ULEBs are woodburners, and provided they comply with the rule, they can replace existing burners under the rules.		
Submission Point No:	6	Submission Type: Oppose	Recommendation: Reject
Chapter:	Rules		
Section:	AQ R14		
Submission Summary:	There are high sophisticated secondary reducing devices available on the world market which has been extensively tested in Lab and Field trials over the last eight years and are in certain countries partly or fully subsidized by these various governments.		
Decision Sought:	Amend rule so burners only a permitted activity if these fires are equipped with secondary emission reducing devices approved by the Bay of Plenty Regional Council or the Minister of Environment until 1 February 2020.		
Reasons for Staff Recommendation:	<p>Test data from overseas (as provided by the submitter) indicates the OekoTube has a very high level of efficiency in reducing particles (greater than 85%). However, overseas testing methods do not require the measurement of condensable particulates as is required in New Zealand. Some testing of the OekoTube with wood as a fuel has been carried out in New Zealand. This showed particle reduction efficiencies ranging from 45% at start up, 40% at high burn and 17% at low burn. Results suggested that the OekoTube is less effective with wood on low burn owing to the greater production of VOCs which later condense into particulates</p> <p>Testing was carried out on a modern burner where the particle reduction efficiency was measured at 17% on a low burn. This efficiency would further reduce for older burners due to their ability to be dampened down even further, leading to more emissions. Therefore the cost of retrofitting would not outweigh the few reductions that may be achieved through installation of an OekoTube</p> <p>In summary, there is not enough certainty that these devices will reduce the particulates discharged from any burner to the extent necessary for the Rotorua Airshed to meet the</p>		

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Staff Recommendations on Submissions (By Submitter)

Submitter: 29 - Envirosolve

NESAQ

Submission Point No: 7 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Rules

Section: AQ R18

Submission Summary: The same format should be used like under (c) and (d) for (i) and (ii) two and requirement amended.
The velocity has to be set like under (c) and (d)
Under (iii) the concentration of particulates should be put in there for the range of boilers between 40 kW – 500 kW (i.e. in Dunedin are limits for wood boilers of 50mg/m3 or in certain air zones 25 mg/m3 respectively)

Decision Sought: the discharge is a permitted activity provided:
(i) All emission stack
(ii) The emission stack is designed at full load is ??? metres per second (has to be determined).
(iii) The concentration of particulates shall not exceed ??? milligram per cubic metre corrected to 0 degrees Celsius dry gas basis, 1 atmosphere pressure and 8 % oxygen

Reasons for Staff Recommendation: The intention was not to change the permitted activity status of any boilers already installed therefore the rules are structured as they are in the operative Regional Air Plan

Further Submission No: 14 - 12 **Submission Type:** Support in Part **Recommendation:** Reject

Further Submitter: Envirosolve

Summary:

1. Emission should be measured in mg/m3 to bring us closer and comparable with other world standards.
2. Emission limit until 1 MW boiler: 25 mg/m3
3. Emission limit over 1 MW boiler: 50 mg/m3

Decision Sought: Amend

Reasons for Staff Recommendation: The intention was not to change the permitted activity status of any boilers already installed therefore the rules are structured as they are in the operative Regional Air Plan

Submission Point No: 8 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Rules

Section: AQ R18

Submission Summary: Under (iii) the concentration of particulates should be put in there for the range of boilers between 500 kW – 2 MW (in Dunedin are limits for wood boilers of 50mg/m3 or in certain air zones 25 mg/m3 respectively).

Decision Sought: (iii) The concentration of particulates shall not exceed ??? milligram per cubic metre corrected to 0 degrees Celsius dry gas basis, 1 atmosphere pressure and 8 % oxygen

Reasons for Staff Recommendation: The intention was not to change the permitted activity status of any boilers already installed therefore the rules are structured as they are in the operative Regional Air Plan

Further Submission No: 14 - 13 **Submission Type:** Support in Part **Recommendation:** Reject

Further Submitter: Envirosolve

Summary:

1. Emission should be measured in mg/m3 to bring us closer and comparable with other world standards.
2. Emission limit until 1 MW boiler: 25 mg/m3
3. Emission limit over 1 MW boiler: 50 mg/m3

Decision Sought: Amend

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Staff Recommendations on Submissions (By Submitter)

Submitter: 29 - Envirosolve

Reasons for Staff Recommendation: The intention was not to change the permitted activity status of any boilers already installed therefore the rules are structured as they are in the operative Regional Air Plan

Submission Point No: 9 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Rules

Section: AQ R13

Submission Summary: The Low Emission burners approved under AU/NZS 4012/4013 are not allowed to be sold into the Environment Canterbury area (from 1. January 2019) due to their much stringent CM1 test. CM1 test measure the most important start up and end phase while under AU/NZS 4012/4013 only hot phases are measured and low emission fires are tuned for the hot phase and ignore start up and end phase. Low Emission Burner do not pass the CM1 test despite the fact they are 0.6 g/kg equal or less.

Decision Sought: amend (b) as follows:
... less than or to equal 0.6 [insert - or is a Ultra Low Emission Burner (ULEB) less or equal 0.5 g/kg fuel tested under Canterbury Method 1 (CM1)]

Reasons for Staff Recommendation: ULEBs are woodburners, and provided they comply with the rule, they can be installed provided they comply with the rule and are offset.

Submitter: 30 - Trustpower Ltd

Submission Point No: 1 **Submission Type:** Support in Part **Recommendation:** Comment Note

Chapter: Whole Plan

Section: Whole Plan - Support

Submission Summary: 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.

Decision Sought: 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.

Reasons for Staff Recommendation: This submission point is a general support for the overall intent of the plan change, subject to submission points addressed elsewhere. Comment noted - no change recommended

Further Submission No: 8 - 95 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Mercury NZ Ltd

Summary: Mercury supports recognition and provision of renewable electricity generation within the Regional Air Plan.

Decision Sought: Allow

Reasons for Staff Recommendation: The original submission point is a general statement of support which was accompanied by a number of specific submission points. These other submission points are addressed elsewhere, therefore the recommendation is to decline this further submission point.

Submission Point No: 2 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Policies

Section: AQ P1

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 30 - Trustpower Ltd

Submission Summary:	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.
Decision Sought:	Amend as follows: (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 [insert - to an acceptable nature and scale]. (b)...
Reasons for Staff Recommendation:	The policy is intended to provide a statement on high level activity classification, not to provide any further direction on how discharges are to be managed nor to what extent. This detail is provided by other policies in the plan change, including AQ P3 and AQ P4. Staff recognise that there are cases where the adverse effects of a discharge may not be able to be fully avoided, remedied or mitigated and that some residual effects may be acceptable in terms of nature and scale. This has been taken into account in the design of the conditions of each specific permitted activity rule. Staff do not agree that this policy is misaligned with AQ R1. Emissions from industrial or trade premises are the cause of poor quality air in Ngapuna and in Mount Maunganui. These are clear cases that the approach in the operative Regional Air Plan, to manage these activities with a general permitted activity rule, has not worked, particularly regarding cumulative effects. Therefore it is appropriate that discharges from these premises are classified as discretionary, to allow the Regional Council an opportunity to assess their impact

Further Submission No:	1 - 2	Submission Type:	Support	Recommendation:	Reject
Further Submitter:	GBC Winstone				
Summary:	Amendment of AQ P1 is supported, to focus on the desired outcome of the discharge resulting in acceptable adverse effects. The adverse effects of discharges from industrial or trade activities may not in every case be able to be fully avoided, remedied or mitigated, but the residual effects may be acceptable in terms of nature and scale. That should be recognised in this policy, and provide for a rule framework which allows permitted activity status for discharges from industrial or trade activities meeting permitted activity standards				
Decision Sought:	Provide for a rule framework which allows permitted activity status for discharges from industrial or trade activities meeting permitted activity standards				
Reasons for Staff Recommendation:	The policy is intended to provide a statement on high level activity classification, not to provide any further direction on how discharges are to be managed nor to what extent. This detail is provided by other policies in the plan change, including AQ P3 and AQ P4. Staff recognise that there are cases where the adverse effects of a discharge may not be able to be fully avoided, remedied or mitigated and that some residual effects may be acceptable in terms of nature and scale. This has been taken into account in the design of the conditions of each specific permitted activity rule. Staff do not agree that this policy is misaligned with AQ R1. Emissions from industrial or trade premises are the cause of poor quality air in Ngapuna and in Mount Maunganui. These are clear cases that the approach in the operative Regional Air Plan, to manage these activities with a general permitted activity rule, has not worked, particularly regarding cumulative effects. Therefore it is appropriate that discharges from these premises are classified as discretionary, to allow the Regional Council an opportunity to assess their impact				

Further Submission No:	13 - 20	Submission Type:	Support	Recommendation:	Reject
Further Submitter:	Horticulture New Zealand				
Summary:	The change sought by the submitter recognises that adverse effects can be managed to an acceptable nature and scale. The nature and scale will vary according to the				

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 30 - Trustpower Ltd

nature of the background receiving environment, which HortNZ seeks be recognised in PC13.

Decision Sought: Accept submission

Reasons for Staff Recommendation: The policy is intended to provide a statement on high level activity classification, not to provide any further direction on how discharges are to be managed nor to what extent. This detail is provided by other policies in the plan change, including AQ P3 and AQ P4. Staff recognise that there are cases where the adverse effects of a discharge may not be able to be fully avoided, remedied or mitigated and that some residual effects may be acceptable in terms of nature and scale. This has been taken into account in the design of the conditions of each specific permitted activity rule.

Further Submission No: 21 - 31 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Port of Tauranga

Summary: The submission identifies that the current rule framework (as notified) does not align with the proposed policy, as all industrial or trade activities are assigned a Discretionary Activity status irrespective of their likely nature and scale of adverse effects. This echoes submission point 67-5 from PoT's original submission.

Decision Sought: Accept

Reasons for Staff Recommendation: Staff do not agree that this policy is misaligned with AQ R1. Emissions from industrial or trade premises are the cause of poor quality air in Ngapuna and in Mount Maunganui. These are clear cases that the approach in the operative Regional Air Plan, to manage these activities with a general permitted activity rule, has not worked, particularly regarding cumulative effects. Therefore it is appropriate that discharges from these premises are classified as discretionary, to allow the Regional Council an opportunity to assess their impact

Further Submission No: 23 - 7 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter consider that the purpose of permitted activities are to enable activities which Council consider have acceptable levels of adverse effects on the environment. It is acknowledged that there are many industrial and trade activities which may have insignificant adverse effects, however these industrial or trade activities may cumulatively be contributing to the degradation of ambient air quality. It is also considered that discharges from industrial and trade activities cannot be suitably managed with general conditions, and therefore the current rule framework is consistent with what is drafted in Proposed Plan Change 13.

Decision Sought: Decision sought: Retain current list of policies as notified, unless submitted on by Lawter.

Reasons for Staff Recommendation: Emissions from industrial or trade premises are the cause of poor quality air in Ngapuna and in Mount Maunganui. These are clear cases that the approach in the operative Regional Air Plan, to manage these activities with a general permitted activity rule, has not worked, particularly regarding cumulative effects. Therefore it is appropriate that discharges from these premises are classified as discretionary, to allow the Regional Council an opportunity to assess their impact

Submission Point No: 3 **Submission Type:** Seek **Recommendation:** Accept in Part

Chapter: Policies

Section: AQ P2

Submission Summary: 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. 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

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 30 - Trustpower Ltd

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.

Decision Sought: Amend as follows:
[insert - Seek to] avoid discharges of hazardous [delete - substances] [insert - air pollutants][delete - to air] and where avoidance is not possible, remedy or mitigate the discharge using the best practicable option

Reasons for Staff Recommendation: Staff recommend inclusion of hazardous air pollutants in the policy and some wording changes to clarify that avoidance is preferable, but not the bottom line.

Further Submission No: 8 - 24 **Submission Type:** Support in Part **Recommendation:** Reject

Further Submitter: Mercury NZ Ltd

Summary: Mercury supports the proposed submission and the tests applied but advocates the objective needs to be targeted to specific landuses. This is so it will not constrain geothermal electricity generation activities.

Decision Sought: Allow in part

Reasons for Staff Recommendation: Hazardous substances and hazardous air pollutants may be discharged from any land use, therefore it would not be appropriate to manage in the manner suggested by the further submitter

Further Submission No: 12 - 7 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Z Energy Ltd, BP Oil NZ Ltd & Mobil Oil NZ Ltd

Summary: The submission is supported. The Oil Companies consider it appropriate to reference hazardous 'air pollutants' rather than hazardous 'substances' given the context of the Proposed Plan Change (i.e. a Regional Air Plan). Furthermore, it is inappropriate to require the discharge of hazardous substances to be avoided, when such discharges may not be pollutant or in sufficient quantities to be hazardous. The term 'possible' should be replaced with the term 'practicable'. While what is practicable is inevitable impossible, what is possible may not always be practicable

Decision Sought: Accept in part

Reasons for Staff Recommendation: Staff recommend inclusion of hazardous air pollutants in the policy and some wording changes to clarify that avoidance is preferable, but not the bottom line.

Further Submission No: 13 - 22 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks that the focus is on hazardous air pollutants, rather than hazardous substances, and that a policy of avoidance is inappropriate. HortNZ has sought changes to provide for managing discharges of hazardous substances and supports the change in focus to hazardous air pollutants

Decision Sought: Accept submission to hazardous air pollutants and amend as sought by HortNZ.

Reasons for Staff Recommendation: Hazardous substances and hazardous air pollutants may be discharged from any land use, therefore it would not be appropriate to manage in the manner suggested by the further submitter

Further Submission No: 23 - 10 **Submission Type:** Other **Recommendation:** Comment Note

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter neither support or object to the proposed amendments recommended in submission 30 – 3. Lawter wish to be kept informed of the progression of this policy, as the term 'hazardous air pollutants' may adversely effect Lawter's operation.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 30 - Trustpower Ltd

Decision Sought: None sought - neutral

Reasons for Staff Recommendation: The term 'hazardous air pollutants' has been added to this policy, therefore the further submitter will need to consider their position.

Submission Point No: 4 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Policies

Section: AQ P3(a)

Submission Summary: 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.

Decision Sought: Amend Policy AQ P3 to read:
Activities that discharge contaminants to air must be managed, including by use of the best practicable option, to:
(a) safeguard the life supporting capacity of the air, avoid adverse effects on human health, and [delete - manage] [insert - avoid, remedy or mitigate] adverse effects on cultural values, amenity values, and the environment

Reasons for Staff Recommendation: The decision sought is consistent with the hierarchy of sustainable management measures in the Act. Although this results in duplication of the Act, staff agree to this change as it makes the intent clearer

Further Submission No: 8 - 35 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Mercury NZ Ltd

Summary: Mercury supports this minor amendment. Mercury seeks Policy 3 implement the correct tests in line with the RMA.

Decision Sought: Allow

Reasons for Staff Recommendation: The decision sought is consistent with the hierarchy of sustainable management measures in the Act. Although this results in duplication of the Act, staff agree to this change as it makes the intent clearer

Further Submission No: 13 - 29 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks the addition of 'avoid, remedy or mitigate', as also sought by HortNZ. This is supported

Decision Sought: Accept submission

Reasons for Staff Recommendation: The decision sought is consistent with the hierarchy of sustainable management measures in the Act. Although this results in duplication of the Act, staff agree to this change as it makes the intent clearer

Further Submission No: 22 - 4 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Toi Te Ora Public Health

Summary: Agree that discharge of contaminants to air must safeguard the life supporting capacity of the air, avoid adverse effects on human health and avoid, remedy or mitigate adverse effects on the environment.

Decision Sought: Accept

Reasons for Staff Recommendation: The decision sought is consistent with the hierarchy of sustainable management measures in the Act. Although this results in duplication of the Act, staff agree to this change as it makes the intent clearer

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 30 - Trustpower Ltd

Further Submission No: 23 - 15 **Submission Type:** Support in Part **Recommendation:** Accept

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter generally support the amendments made by submission 30 – 4. As notified, the current wording may prohibit discharges to air where adverse effects could be successfully remedied or mitigated, but not avoided.

Decision Sought: Decision sought: Amend policy AQ P3(a) so that: • Significant adverse effects on human health are avoided; and • All other adverse effects (including all other effects on human health) are managed (remedied or mitigated) accordingly.

Reasons for Staff Recommendation: The decision sought is consistent with the hierarchy of sustainable management measures in the Act. Although this results in duplication of the Act, staff agree to this change as it makes the intent clearer

Further Submission No: 30 - 7 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Swap Stockfoods Ltd

Summary: Support the inclusion of “avoid, remedy and mitigate” in terms of consistency with the RMA.

Decision Sought: Accept

Reasons for Staff Recommendation: The decision sought is consistent with the hierarchy of sustainable management measures in the Act. Although this results in duplication of the Act, staff agree to this change as it makes the intent clearer

Submission Point No: 5 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Policies

Section: AQ P5

Submission Summary: 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.

Decision Sought: Amend Policy AQ P5 to read:
 Avoid the discharge of contaminants to air from open burning on urban properties while permitting open burning:
 (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
 (b) of animal carcasses and/or vegetative material burned in accordance with quarantine or disease control requirements
 (c) for the purposes of firefighting research or training.
 [insert - (d) relating to the operation and maintenance of hydroelectric power schemes]

Reasons for Staff Recommendation: Power schemes are generally located outside urban areas so would not be subject to the avoid direction.

Submission Point No: 6 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Policies

Section: AQ P8

Submission Summary: 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

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 30 - Trustpower Ltd

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).

Decision Sought: Amend Policy AQ P8 to read:
Agrichemical sprayers will manage adverse effects on human health and the environment by:
(a) avoiding spray drift beyond the boundary of the subject property and into [insert - non target] water bodies where possible
(b) mitigating effects particularly on sensitive activities where avoidance of spray drift is not possible [insert - or the sensitive activity relates to the target water body]
(c) ...

Reasons for Staff Recommendation: Staff agree that an amendment for the avoidance of spray drift to only apply to non-target water bodies to exclude any water body that is itself the target of spraying is appropriate

Further Submission No: 26 - 7 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Western Bay of Plenty District Council

Summary: Recognition that agrichemical spraying may be required with close proximity to and in some cases directly to water bodies is supported.

Decision Sought: Accept

Reasons for Staff Recommendation: Staff agree that an amendment for the avoidance of spray drift to only apply to non-target water bodies to exclude any water body that is itself the target of spraying is appropriate

Submission Point No: 7 **Submission Type:** Seek **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R1

Submission Summary: Trustpower supports the inclusion of a permissive "catch all" provision for any of its future ancillary activities and 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.

Decision Sought: Amend as follows:
(a) ...
[delete - (c) The discharge is not from industrial or trade premise]

Reasons for Staff Recommendation: The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent. Staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 1 - 3 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: GBC Winstone

Summary: The deletion or amendment of AQ R1(c) is supported, as the Plan should provide a

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Staff Recommendations on Submissions (By Submitter)

Submitter: 30 - Trustpower Ltd

means of permitting incidental and de minimus discharges from industrial and trade premises, by stating the type and levels of effects as a permitted activity standard. GBC Winstone has a service centre for bulk storage and handling of cement at Port of Tauranga, Mt Maunganui, operating under an air discharge consent, but contains the cement by means of a baghouse dust removal system. GBC Winstone original submission No. 27 on Plan Change 13 sought permitted activity status for cement storage and handling at Port of Tauranga, subject to meeting permitted activity standards. The permitted activity standards could be specific to bulk storage and handling of cement and associated materials, as detailed in GBC Winstone's original submission and as used in the Auckland Unitary Plan, or more general in relation to adverse effects on human health, property or the environment beyond the boundary of the premises where the activity takes place. Such permitted activity standards would ensure that a baghouse or similar dust removal system is used to ensure the nature and levels of adverse effects are acceptable

Decision Sought: The permitted activity standards could be specific to bulk storage and handling of cement and associated materials, as detailed in GBC Winstone's original submission and as used in the Auckland Unitary Plan, or more general in relation to adverse effects on human health, property or the environment beyond the boundary of the premises where the activity takes place. Such permitted activity standards would ensure that a baghouse or similar dust removal system is used to ensure the nature and levels of adverse effects are acceptable

Reasons for Staff Recommendation: The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent. Staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 5 - 8 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Timberlands Ltd

Summary: Timberlands supports in part the submission, which opposes the current rule drafting that makes all industrial or trade premises a discretionary activity, irrespective of size, scale and effects. To go from permitted to full discretionary is not a proportionate way of dealing with environmental effects

Decision Sought: Accept submission point 30-7 in part

Reasons for Staff Recommendation: The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent. Staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 13 - 56 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Horticulture New Zealand

Summary: The General Activities PA rule should not exclude all industrial or trade premises regardless of effects. Industrial or trade premises is not defined in the Plan

Decision Sought: Accept submission

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Staff Recommendations on Submissions (By Submitter)

Submitter: 30 - Trustpower Ltd

Reasons for Staff Recommendation: The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent.
Staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 21 - 66 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Port of Tauranga

Summary: PoT supports the underlying premise of this submission, which opposes the inclusion of Rule AQR1(c) as notified. This rule would capture all discharges from an industrial or trade premise as a Discretionary Activity, irrespective of the size, scale and effect of the discharge. PoT requests that Rule AQR1 is amended as per the original submission.

Decision Sought: Accept in part

Reasons for Staff Recommendation: The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent.
Staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 22 - 21 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Toi Te Ora Public Health

Summary: The effective management of discharges is important in protecting the health of the public. The proposed plan change enables better management of air discharges through resource consenting and more efficient enforcement.
The Section 32 Report states that 'the National Environmental Standard for Air Quality relies on the policies and rules in a regional plan to be effective'.

Decision Sought: Reject

Reasons for Staff Recommendation: The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent.
However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 23 - 44 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter oppose the proposed amendment recommended by submission 30 - 7. Although it is accepted that some industrial and trade premises will discharge contaminants at 'less than minor' or 'de minimis' levels, we note that there is no way in knowing whether cumulative effects are occurring, which may result from several

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 30 - Trustpower Ltd

different 'permitted' discharges from industrial and trade premises. These discharges could contribute to the degradation of ambient air quality. For this reason, Lawter support the 'catch-all' approach with regards to industrial and trade facilities, which has been adopted in Proposed Plan Change 13.

Decision Sought: Decision sought: Retain rule AQ R1 as notified.

Reasons for Staff Recommendation:

Agree that adverse effects are being caused by discharges from industrial and trade premises across the region, particularly in industrial areas, that do need to be better managed moving forward. When activities are not managed by any other rule in the plan and are causing adverse effects, the burden of proving such effects when enforcing the plan rules falls to the Regional Council. Where there are several sources of a contaminant of concern it can be difficult to determine the main cause, if any. Agree that adverse effects are being caused by discharges from industrial and trade premises across the region, particularly in industrial areas, that do need to be better managed moving forward. When activities are not managed by any other rule in the plan and are causing adverse effects, the burden of proving such effects when enforcing the plan rules falls to the Regional Council. Where there are several sources of a contaminant of concern it can be difficult to determine the main cause, if any. Even when there is one single source causing adverse effects it can still be a difficult process. The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent. However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 30 - 26 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Swap Stockfoods Ltd

Summary: Support is provided as the submission is consistent with the intent of Swap Stockfoods original submission.

Decision Sought: Accept

Reasons for Staff Recommendation:

The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent. Staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Submission Point No: 8 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R4(b)

Submission Summary: 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

Decision Sought: Retain Rule AQ R4 as drafted.

Reasons for Staff Recommendation: Retain clause (b) as notified

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Staff Recommendations on Submissions (By Submitter)

Submitter: 30 - Trustpower Ltd

Submission Point No: 9 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R6

Submission Summary: Trustpower supports the intent of AQ P6 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. As set out above Trustpower needs to undertake open burning and therefore supports the rule as currently drafted

Decision Sought: Retain AQ R6 as drafted.

Reasons for Staff Recommendation: Staff have amended the rule in accordance with a submitter's request for a more effects based approach.

Submission Point No: 10 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R15 - whole rule

Submission Summary: 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 in AQ P8 "non target" to (a) is necessary as well the qualification around the relationship between the sensitive activity and the target water body under (b). 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.

Decision Sought: Retain AQ R15 as drafted

Reasons for Staff Recommendation: Some changes made to the rule to resolve other submission points

Submission Point No: 11 **Submission Type:** Seek **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R16

Submission Summary: 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 condition required to ensure the discharge from spray painting results in acceptable adverse effects beyond the subject property boundary.

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". 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.

Trustpower therefore proposes two possible amendment scenarios to the current drafting of

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 30 - Trustpower Ltd

the rule.

Decision Sought:

Amend as follows:

...(c) The discharge must not be noxious or dangerous, offensive or objectionable beyond the boundary of the subject property. [insert - Except that conditions (a) and (b) above shall not apply to spray painting of infrastructure which forms part of a hydroelectric power scheme.]

Or Amend Rule AQ R16 to read:

(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. [insert - OR where (a) and (b) cannot be met due to the mobile nature on an operation then the discharge must be controlled using a current, best practice method such as screening and paint technologies.]

Reasons for Staff Recommendation:

Recommend amending the rule to allow for the best practicable option but including conditions to ensure that sensitive activities are not affected.

Further Submission No: 8 - 76 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Mercury NZ Ltd

Summary: Mercury seeks Policy 4 implement the correct tests in line with the RMA and supports a permissive rule framework for infrastructure related uses.

Decision Sought: Allow

Reasons for Staff Recommendation: Recommend amending the rule to allow for the best practicable option but including conditions to ensure that sensitive activities are not affected.

Submission Point No: 12 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R17

Submission Summary: As discussed above in submission point 30-11 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.

Decision Sought: Retain AQ R17 as drafted.

Reasons for Staff Recommendation: Retain AQ R17 as notified

Submission Point No: 13 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R21 - whole rule

Submission Summary: 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.

Decision Sought: 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.

Reasons for Staff Recommendation: A new rule relevant to industrial or trade premises has been included as a separate rule. Some changes made to the rule to resolve other submission points however overall policy intent has not changed.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 30 - Trustpower Ltd

Further Submission No: 30 - 35 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Swap Stockfoods Ltd

Summary: If the proposed plan change is amended to include a more specific definition of "industrial and trade premise" and this activity gets included under AQ R21 as a discretionary activity this would potentially remove the opportunity for any activity to be considered permitted.

Decision Sought: Accept

Reasons for Staff Recommendation: A new rule relevant to industrial or trade premises has been included as a separate rule. Some changes made to the rule to resolve other submission points however overall policy intent has not changed.

Submission Point No: 14 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Definitions

Section: Definitions - Fuel burning equipment

Submission Summary: "fuel burning equipment"
Trustpower operates a 0.8 MW diesel generator 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 Trustpower's generators. Through discussions with the BOPRC it has been confirmed that the BOPRC intends that diesel generators are provided for as a permitted activity under AQ R1. 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.

Decision Sought: Amend the definition to read:
Fuel burning equipment For clarity this excludes [insert - diesel fired generators], vehicles, ships, aircraft, solid fuel burners, and enclosed incineration

Reasons for Staff Recommendation: Exclude diesel fuelled generators from this definition as the rule was not intended to capture these types of devices

Further Submission No: 13 - 106 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Horticulture New Zealand

Summary: Generators used for emergency purposes should not be included as fuel burning equipment in respect of the rules for such fuel burning equipment. The addition to the exclusions that is sought is appropriate

Decision Sought: Accept submission

Reasons for Staff Recommendation: Exclude diesel fuelled generators from this definition as the rule was not intended to capture these types of devices

Submission Point No: 15 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Policies

Section: AQ P3(b)

Submission Summary: 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.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 30 - Trustpower Ltd

Decision Sought: Amend Policy AQ P3 to read:
 ...(b) avoid the discharge of contaminants at a rate or volume that may [delete - contribute to, or] cause an exceedance or breach of the ambient air quality standards of the NESAQ or exceed the health-based values of the AAQGs

Reasons for Staff Recommendation: In areas where an ambient standard is either already in breach, or is likely to be, there are no insignificant effects and all discharges contribute to the overall effect. Any activity that discharges the contaminant in question, is contributing to the cumulative effect. Where there are sufficient sources and/or where geographic and climatic conditions exacerbate the situation, this leads to breaches of the ambient standard

Further Submission No: 22 - 15 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Toi Te Ora Public Health

Summary: Agree that no discharge should exceed national standards or guidelines. The National Environment Standards for Air Quality set guaranteed minimum level of health protection for all New Zealand. It is unacceptable for any contaminants to be discharged at levels resulting in downwind concentrations that can cause ill health.

Decision Sought: Accept

Reasons for Staff Recommendation: In areas where an ambient standard is either already in breach, or is likely to be, there are no insignificant effects and all discharges contribute to the overall effect. Any activity that discharges the contaminant in question, is contributing to the cumulative effect. Where there are sufficient sources and/or where geographic and climatic conditions exacerbate the situation, this leads to breaches of the ambient standard

Further Submission No: 23 - 22 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter oppose the proposed amendment of Policy AQ P3(b) recommended by submission 30 - 15. Although it is acknowledged that there are going to be some activities which have negligible adverse effects on their own when compared to the NESAQ and AAQG, these 'negligible' activities can cumulatively contribute to the degradation of air quality.

Decision Sought: Decision sought: Retain policy AQ P3(b) as notified.

Reasons for Staff Recommendation: In areas where an ambient standard is either already in breach, or is likely to be, there are no insignificant effects and all discharges contribute to the overall effect. Any activity that discharges the contaminant in question, is contributing to the cumulative effect. Where there are sufficient sources and/or where geographic and climatic conditions exacerbate the situation, this leads to breaches of the ambient standard

Submission Point No: 16 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Policies

Section: AQ P3(d)

Submission Summary: 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.

Decision Sought: Amend as follows:
 (d) avoid the discharge of contaminants that may cause [insert - significant] adverse effects on regionally significant infrastructure

Reasons for Staff Recommendation: Use of the term 'avoid' on its own is not appropriate for protecting what is essentially structures, no matter how regionally significant the structure is. It is unlikely that any air discharge will have a short term effect that will cause catastrophic failure of any infrastructure. Therefore allowing for remedying or mitigation of effects is appropriate.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 30 - Trustpower Ltd

Further Submission No: 13 - 33 **Submission Type:** Support in Part **Recommendation:** Accept

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks the addition of 'significant adverse effects in P3 d). This provides a clearer focus. HortNZ has also sought other changes to P3d).

Decision Sought: Accept submission

Reasons for Staff Recommendation: Use of the term 'avoid' on its own is not appropriate for protecting what is essentially structures, no matter how regionally significant the structure is. It is unlikely that any air discharge will have a short term effect that will cause catastrophic failure of any infrastructure. Therefore allowing for remedying or mitigation of effects is appropriate.

Submission Point No: 17 **Submission Type:** Oppose **Recommendation:** Accept

Chapter: Policies

Section: AQ P3(e)

Submission Summary: 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.

Decision Sought: Amend (e) as follows:
[delete - (e) minimise the discharge of contaminants into areas beyond the boundary of the subject property where it may cause adverse effects on human health, cultural values, amenity values, or the environment]

Reasons for Staff Recommendation: There is an internal inconsistency between clauses (a) to (d) which require the management of the adverse effects of discharges regardless of where the effects occur and clause (e) which introduces the property boundary as a line beyond where assessment of adverse effects begins. It implies that Council will use the property boundary to assess adverse effects in every case, in conflict with clause (a) where adverse effects are assessed regardless of location. Decision makers may then find it difficult to determine which of the requirements apply. To resolve this conflict, staff recommend that the clause is deleted in its entirety

Submitter: 31 - Tauranga Moana - Te Arawa ki Takutai Partnership Forum

Submission Point No: 1 **Submission Type:** Neutral **Recommendation:** Accept in Part

Chapter: Objectives

Section: AQ 03

Submission Summary: Support on the balance of this submission

Decision Sought: Retain as proposed

Reasons for Staff Recommendation: Change wording 'manage' to 'management' as it sets an outcome instead of an action

Further Submission No: 21 - 23 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Port of Tauranga

Summary: This submission seeks for Objective AQ03 to be retained as notified, and broadly reflects the original submission made by PoT.

Decision Sought: Accept

Reasons for Staff Recommendation: Change wording 'manage' to 'management' as it sets an outcome instead of an action

Submission Point No: 2 **Submission Type:** Oppose **Recommendation:** Reject

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 31 - Tauranga Moana - Te Arawa ki Takutai Partnership Forum

Chapter: Policies

Section: AQ P2

Submission Summary: If unable to mitigate activity shall be non-complying.

Decision Sought: Amend policy:
...where avoidance is not possible, [delete - remedy or mitigate the discharge using the best practicable option] [insert - the activity will be non-complying]

Reasons for Staff Recommendation: Requiring all discharges of these substances that cannot be avoided to be non-complying is too stringent and would remove the ability for dischargers to apply best practicable options to mitigate any discharge.

Further Submission No: 7 - 1 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Trustpower Ltd

Summary: The requested relief contravenes the relief sought by Trustpower

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Requiring all discharges of these substances that cannot be avoided to be non-complying is too stringent and would remove the ability for dischargers to apply best practicable options to mitigate any discharge

Further Submission No: 13 - 23 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Horticulture New Zealand

Summary: The submitter states that if an activity cannot be mitigated it should be non-complying but seeks wording changes that does not provide for mitigation. Remedying or mitigating adverse effects is provided for in the RMA.

Decision Sought: Reject submission

Reasons for Staff Recommendation: Requiring all discharges of these substances that cannot be avoided to be non-complying is too stringent and would remove the ability for dischargers to apply best practicable options to mitigate any discharge

Further Submission No: 20 - 14 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Fonterra Ltd

Summary: Fonterra supports the intent of this submission. However, this submission seeks a new clause relating to assigning activities that cannot fully mitigate effects to be a non-complying activity at the policy level. The discussion around mitigation of effects generally comes through via the resource consent process, which is after the activity status has been set.

Decision Sought: Disallow

Reasons for Staff Recommendation: Requiring all discharges of these substances that cannot be avoided to be non-complying is too stringent and would remove the ability for dischargers to apply best practicable options to mitigate any discharge

Further Submission No: 21 - 33 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Port of Tauranga

Summary: PoT opposes this submission as it suggests that where the discharge of hazardous substances cannot be avoided they shall be considered noncomplying. This is limiting to trade and industrial operations and does is not aligned with the RMA wording of 'avoiding, remedying or mitigating' environmental effects of an activity.

Decision Sought: Reject

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 31 - Tauranga Moana - Te Arawa ki Takutai Partnership Forum

Reasons for Staff Recommendation: Requiring all discharges of these substances that cannot be avoided to be non-complying is too stringent and would remove the ability for dischargers to apply best practicable options to mitigate any discharge

Further Submission No: 23 - 11 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Lawter New Zealand Ltd

Summary: The wording of AQ P2 proposed in submission 31 – 2 may result in any activity which is unable to comply with the permitted activity rule defaulting to a Non-Complying Activity, even if the best practical option is successfully adopted (and subsequently effects being either remedied or mitigated).

Decision Sought: Decision sought: Retain policy AQ P2 as notified.

Reasons for Staff Recommendation: Requiring all discharges of these substances that cannot be avoided to be non-complying is too stringent and would remove the ability for dischargers to apply best practicable options to mitigate any discharge

Submission Point No: 3 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Policies

Section: AQ P3 - whole policy

Submission Summary: To purchase and apply many of the agrichemical substances by means of an approved handlers certificate provided through a Grow Safe qualification. This is where the EPA reach ends, no monitoring, no regard for human health or environmental (flora and fauna) risks, no scientific research of effects. Many of the agrichemical substances used for Kiwifruit are known to have associated human and environmental risk. Post the approval of these substances there is complete freedom to discharge these substances with no monitoring or consenting requirements to discharge to air by any means of application. Agrichemical discharge has occurred over decades without any regulation. The social effects of this practice are intensive. People stay indoors, they need to shelter animals, ensure children are not subjected to agrichemicals passing orchards, often passing unintentionally, washing must be collected from clothes lines or rewashed if left out. There is acknowledgement of risk outside of the orchard. Bay of Plenty Regional Council are responsive through the Pollution Hotline if there are any complaints of agrichemical trespass. So why is there no response of Bay of Plenty Regional Council to form management including activity status and consenting of this activity? No other industry is freely permitted to discharge to air.

Decision Sought: Retain policy as proposed.

Reasons for Staff Recommendation: Staff recommend some changes made to the policy, however these do not alter the overall policy intent.

Further Submission No: 21 - 50 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Port of Tauranga

Summary: This submission point refers to retaining Policy AQP3 as notified. PoT request the policy is amended as per the original submission.

Decision Sought: Reject

Reasons for Staff Recommendation: Staff recommend some changes made to the policy, however these do not alter the overall policy intent.

Submission Point No: 4 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Policies

Section: AQ P4 - whole policy

Submission Summary: Policy supported

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Staff Recommendations on Submissions (By Submitter)

Submitter: 31 - Tauranga Moana - Te Arawa ki Takutai Partnership Forum

Decision Sought: Retain policy as proposed

Reasons for Staff Recommendation: Some changes made to the policy as a result of other submissions but overall support is accepted

Submission Point No: 5 **Submission Type:** Oppose **Recommendation:** Comment Note

Chapter: Policies

Section: AQ P8

Submission Summary: Agrichemical discharge has occurred over decades without any regulation. The social effects of this practice are intensive. People stay indoors, they need to shelter animals, ensure children are not subjected to agrichemicals passing orchards, often passing unintentionally, washing must be collected from clothes lines or rewashed if left out. Bay of Plenty Regional Council are responsive through the Pollution Hotline if there are any complaints of agrichemical trespass. So why is there no response of Bay of Plenty Regional Council to form management including activity status and consenting of this activity? Iwi, Hapu, Communities feel they are threatened by this activity, they have regularly voiced this, and they feel isolated and frustrated to achieve sufficient change to address these concerns. No other industry is freely permitted to discharge to air. The activity of discharging (known) harmful substances is currently managed by best practice applications, spray nozzle technology, wind conditions, signage, neighbour notification and a Pollution Hotline (BOPRC).

Bay of Plenty Regional Council have permitted this industry to freely discharge to air and are delegating authority to manage adverse effects on human health and the environment to AU by the current standards of this policy. The delegation contravenes the authority of Bay of Plenty Regional Council and air discharge management. In effect Bay of Plenty Regional Council have not, at the least, exercised a precautionary principle. When an activity raises threat to human health or the environment, precautionary measures must be taken, even if some cause and effects relationships are not fully established scientifically.

Decision Sought: We urge Bay of Plenty Regional Council, the EPA, Industry, Public health officials and scientists to adopt an innovative approach "one that takes science's uncertainty, not as a sign that there is no danger but as a sign that danger might well exist". To exercise an ethic of caution or prudence in evaluating products, discharge and its effects, even with low levels of toxicity, of accumulative harm to populations in the future. We seek industry burdens of proof to inform a compelling rationale in providing evidence of no risk to human health and the environment. We plead with the Bay of Plenty Regional Council to develop prudent public policy to provide a margin of safety regarding potential health and environment risks.

Reasons for Staff Recommendation: Staff note these comments.

Further Submission No: 13 - 51 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Horticulture New Zealand

Summary: HortNZ seeks that best practice is used in respect of agrichemical use to ensure that significant adverse effects are avoided, remedied or mitigated. The submission does not state specific relief sought

Decision Sought: Reject submission and accept changes sought by HortNZ

Reasons for Staff Recommendation: Staff have noted comments

Further Submission No: 18 - 24 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Federated Farmers of New Zealand

Summary: We are unsure of the exact changes that the submitter proposes for AQ P8 and accordingly cannot support it until better relief provisions are provided.

Decision Sought: Reject submission point

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Staff Recommendations on Submissions (By Submitter)

Submitter: 31 - Tauranga Moana - Te Arawa ki Takutai Partnership Forum

Reasons for Staff Recommendation: Staff have noted comments

Submission Point No: 6 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Section: AQ R1

Submission Summary: The rules do not manage effects. The effects of discharge of contaminants of the Kiwifruit industry are not known.

Decision Sought: Further research is required

Reasons for Staff Recommendation: The effects of the discharge of contaminants of the Kiwifruit industry are managed under the agrichemical spray rule.

Further Submission No: 13 - 57 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Horticulture New Zealand

Summary: The submitter states that the rules do not manage effects as the effects of discharge of contaminants of kiwifruit industry are not known and seeks further research. HortNZ considers that the rules are addressing effects of discharges to air.

Decision Sought: Reject submission

Reasons for Staff Recommendation: The effects of the discharge of contaminants of the Kiwifruit industry are managed under the agrichemical spray rule.

Submission Point No: 7 **Submission Type:** Oppose **Recommendation:** Comment Note

Chapter: Rules

Section: AQ R15 - whole rule

Submission Summary: The rules permit the free discharge of contaminants, suited for industry. The rules apply only to application. The effects require research to determine activity status and rules

Decision Sought: The effects require research to determine activity status and rules.

Reasons for Staff Recommendation: The Council's principal concern, in this plan change, is to control spray drift, and the rule is designed for this purpose.

Submission Point No: 8 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Section: AQ R19

Submission Summary: The discharge of contaminants to air from a permanent intensive farming operation established prior to 1 January 2001 should no longer exceed rights of others under this proposed plan

Decision Sought: Seek activity status change to limited notified, discretionary activity for which applications will be considered with the need to obtain the written approval of affected persons.

Reasons for Staff Recommendation: There are only three of these operations with no complaints regarding their operations. Regional Council retains the right to include consent conditions regarding key contaminants from intensive farming such as odour.

Submission Point No: 9 **Submission Type:** Support **Recommendation:** Reject

Chapter: Rules

Section: AQ R20

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 31 - Tauranga Moana - Te Arawa ki Takutai Partnership Forum

Submission Summary: Current practices at the Port of Tauranga (POT) for application of Methyl Bromide requires containment of its application, this includes monitoring as a responsibility of the POT. The level of risk uncertainty requires addressing. Bay of Plenty Regional Council are challenged to achieve management of AU, but it is ultimately responsible for the effects of discharge to air, this is clearly unfortunate as responsibility is shifted by the EPA. On that note, how do we effectively live amongst hazardous substances and ensure the health of humans and the environment are protected?

Decision Sought: Seek the phasing out of methyl bromide

Reasons for Staff Recommendation: The determination of whether a hazardous substance can be imported and used in New Zealand is the mandate of the EPA and not of Regional Council. Therefore the plan change cannot phase out methyl bromide.

Further Submission No: 28 - 5 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Stakeholders in Methyl Bromide Reduction Inc (STIMBR)

Summary: New Zealand's forestry industry contributes significantly to regional economies and rural communities.
The EPA is mandated to assess and set controls for hazardous substances including methyl bromide. All decisions must be informed by robust science. The environmental Protection Authority (then ERMA) completed a reassessment of methyl bromide (MB) in 2010. The EPA determined that recapture technologies are to be used in conjunction with all methyl bromide fumigations from October 2020 onward. Since that time it has become apparent that the aspiration of applying recapture technologies to all fumigations is not possible by 2020. Consequently the EPA determined that there are grounds for a reassessment of methyl bromide.
Recapture is of necessity appropriate for all fumigants. EDN a sustainable alternative to methyl bromide is not yet available for use in New Zealand. There is no justifiable need to duplicate the regulatory requirements determined by the EPA in the regional plan. Methyl bromide is also used as a biosecurity treatment for imported commodities, personal effects and managing potato wart.

Decision Sought: Reject

Reasons for Staff Recommendation: the determination of whether a hazardous substance can be imported and used in New Zealand is the mandate of the EPA and not of Regional Council. Therefore the plan change cannot phase out methyl bromide.

Further Submission No: 29 - 4 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Genera Ltd

Summary: EPA completed a reassessment of methyl bromide (MB) in 2010. An aspirational MB recapture target of 100% was set. Since that time it has become apparent that 100% recapture of MB is not possible by 2020. Based on learnings gained since 2010, the EPA has recently determined that there are grounds for a reassessment of methyl bromide. The EPA is the agency mandated to assess and set controls for hazardous substances such as methyl bromide. There are currently no other practicable options for the fumigation of top stow logs to China, logs to India and other imported and exported cargos.
The value of log exports for the June 2017 year was \$2.7 billion. Currently export requires the use of phytosanitary treatments including fumigation with MB. Without the ability to export logs the impacts would flow down to our local communities and have significant effects on the region's economy.
Methyl bromide is also used for treating imported cargo and is the main fumigant used to protect New Zealand's border from pest incursions as mandated under the Biosecurity Act 1993. Without MB as a biosecurity tool, MPI's ability to protect local industry from pests (eg. Brown Marmorated Stick Bug) will be put at significant risk.
Genera operated air monitoring practices that comply with EPA and BOPRC regulations.

Decision Sought: Reject

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Staff Recommendations on Submissions (By Submitter)

Submitter: 31 - Tauranga Moana - Te Arawa ki Takutai Partnership Forum

Reasons for Staff Recommendation: the determination of whether a hazardous substance can be imported and used in New Zealand is the mandate of the EPA and not of Regional Council. Therefore the plan change cannot phase out methyl bromide.

Submission Point No: 10 **Submission Type:** Neutral **Recommendation:** Reject

Chapter: Rules

Section: AQ R21(a)

Submission Summary: Agrichemical manufacture has an activity status, yet agrichemical discharge does not

Decision Sought: Include activity status for agrichemical discharge

Reasons for Staff Recommendation: Agrichemical discharge to air is addressed by AQ R15 so does not need to be added here.

Submission Point No: 11 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Consequential Changes

Section: Consequential Changes - Purpose of Plan

Submission Summary: There is no provision for human health, contravenes AQ rules.

Decision Sought: Seek to ensure the purpose of the RMA Part 2 (5)(2) is given effect.

Reasons for Staff Recommendation: Amend Purpose of the Plan (e) as follows:
(e) Protect sensitive receiving environments, [insert - including human health]

Submitter: 32 - Agcarm

Submission Point No: 1 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Definitions

Section: Definitions - Low pressure boom

Submission Summary: "Low pressure boom"

The majority of spraying contractor's ground application equipment would have the potential to exceed the definition for a low pressure boom in one or more of the specifications. Hence, a low pressure boom would potentially need to operate under the same controls as an aerial application:

- The boom height for certain applications could easily be higher than 1m above the ground, but may not necessarily be more than 1m above the crop;
- The liquid pressure could potentially exceed 3 bars at times;
- The droplet size would be unlikely to always be greater than 250 microns in diameter. Most nozzles are rated with a volume mean diameter, and are not rated on a minimum droplet size, so there would not be many hydraulic nozzles that would not create some droplets less than 250um

Decision Sought: The definition needs to reviewed, so that low pressure boom spray contractors can operate without having to meet the criteria for aerial application.

Reasons for Staff Recommendation: Retain definition as proposed. This definition is intended to provide clear design and operational requirements for a low pressure boom that will not produce significant spray drift. The conditions for use of booms that meet this requirement are significantly more lenient than higher risk methods. If the equipment cannot meet the design in the definition, then it has a higher risk of producing spray drift and must meet stricter conditions but only for ground-based application methods, not aerial application

Further Submission No: 13 - 108 **Submission Type:** Support in Part **Recommendation:** Reject

Further Submitter: Horticulture New Zealand

Summary: The submitter considers that the definition for low pressure boom is too limited and

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Staff Recommendations on Submissions (By Submitter)

Submitter: 32 - Agcarm

that it should be reviewed. HortNZ supports a review to ensure that the criteria for low pressure booms are practical and so ensure that potential for spray drift is adequately managed by the criteria that are set

Decision Sought: Undertake review of definition as sought by the submitter

Reasons for Staff Recommendation: Retain definition as proposed. This definition is intended to provide clear design and operational requirements for a low pressure boom that will not produce significant spray drift. The conditions for use of booms that meet this requirement are significantly more lenient than higher risk methods. If the equipment cannot meet the design in the definition, then it has a higher risk of producing spray drift and must meet stricter conditions but only for ground-based application methods, not aerial application

Submission Point No: 2 **Submission Type:** Seek **Recommendation:** Reject
Chapter: Rules
Section: AQ R15 - whole rule
Submission Summary: Rule AQ R15 is too detailed, and it would be more relevant to simply refer to the HSNO Act, label instructions and/or the New Zealand Standard Management of Agrichemicals NZS 8409:2004 when it comes to managing the application of Agrichemicals.
Decision Sought: Delete Rule AQ R15 and refer to the HSNO Act, label instructions and/or the New Zealand Standard Management of Agrichemicals NZS 8409:2004
Reasons for Staff Recommendation: The agrichemical standards were designed to meet the requirement of the HSNO Act, while the plan change is designed to manage spray drift under the Resource Management Act. The rules need to provide sufficient detail to manage and enforce control of spray drift in order to meet the objectives of the plan change, give effect to the RPS and achieve the purpose of the Act

Further Submission No: 6 - 6 **Submission Type:** Support in Part **Recommendation:** Reject
Further Submitter: New Zealand Agrichemical Education Trust (NZAET)
Summary: The submitter seeks that NZS8409:2004 Management of Agrichemicals be used as a basis of the provisions in the plan which is supported as it sets out best practice for agrichemical use.
Decision Sought:
Reasons for Staff Recommendation: The agrichemical standards were designed to meet the requirement of the HSNO Act, while the plan change is designed to manage spray drift under the Resource Management Act. The rules need to provide sufficient detail to manage and enforce control of spray drift in order to meet the objectives of the plan change, give effect to the RPS and achieve the purpose of the Act

Further Submission No: 13 - 70 **Submission Type:** Support in Part **Recommendation:** Reject
Further Submitter: Horticulture New Zealand
Summary: The submitter seeks that NZS8409:2004 Management of Agrichemicals be used as a basis of the provisions in the Plan which is supported as it sets out best practice for agrichemical use
Decision Sought: Accept submission to include NZS8409:2004 in the rules PC13
Reasons for Staff Recommendation: The agrichemical standards were designed to meet the requirement of the HSNO Act, while the plan change is designed to manage spray drift under the Resource Management Act. The rules need to provide sufficient detail to manage and enforce control of spray drift in order to meet the objectives of the plan change, give effect to the RPS and achieve the purpose of the Act

Further Submission No: 26 - 12 **Submission Type:** Oppose **Recommendation:** Accept
Further Submitter: Western Bay of Plenty District Council

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Staff Recommendations on Submissions (By Submitter)

Submitter: 32 - Agcarm

Summary: Whilst it is acknowledged that rule AQ R15 is very detailed, the suggested amendment does not appear to deliver on the objectives of the plan. As a particularly common activity, the rules around agrichemical spraying need to be clear on what is permitted. There is no reasoning provided as to why the HSNO Act, label instructions and/or the New Zealand Standards Management of Agrichemicals NZS 8409:2004 would provide a better solution, or if it would clarify what is permitted. It is felt that there may be a risk that some of the issues currently addressed through proposed AQ R15 would be overlooked.

Decision Sought: Reject

Reasons for Staff Recommendation: The agrichemical standards were designed to meet the requirement of the HSNO Act, while the plan change is designed to manage spray drift under the Resource Management Act. The rules need to provide sufficient detail to manage and enforce control of spray drift in order to meet the objectives of the plan change, give effect to the RPS and achieve the purpose of the Act

Submitter: 33 - Ballance Agri-Nutrients Ltd

Submission Point No: 1 **Submission Type:** Oppose in Part **Recommendation:** Accept in Part

Chapter: Objectives

Section: AQ 01

Submission Summary: Ballance supports the intent of Objective AQ O1, however the Company considers that guidance should be provided as to how the term 'degraded' is defined, so that it is clear when air quality is required to be enhanced. In this respect, while it may be assumed that air quality will need to be 'enhanced' if it does not meet national air quality requirements, the objective does not specifically state this, which leaves the requirement to 'enhance' air quality open to interpretation. Ballance also notes that the term 'mauri' brings together many resource management concepts, and it is not defined within the RNRP, rather the Definitions section of the RNRP refers to the RNRP Chapter 3 on Kaitiakitanga as a guide. Ballance considers that either the term mauri should be defined for the air chapter of the RNRP or guidance should be provided within the AQ O1 as to what aspect of the mauri of air is to be protected. With respect to AQ O1, Ballance understands that it is the aspect of the life supporting capacity of air that is to be protected as this is considered to be paramount. Adoption of the term 'life supporting capacity' in AQ 01 encompasses environmental and human health matters, while AQ O3 provides for the management of discharges that could adversely affect cultural and other values

Decision Sought: Amend AQ O1 as follows:
Protect the [insert - life supporting capacity] [delete - mauri] of air [delete - and human health] from the [delete - adverse] effects of anthropogenic contaminant discharges to air, and enhance air quality where degraded, [insert - such that it does not meet national air quality requirements]

Reasons for Staff Recommendation: Retain term 'mauri' as concept of 'mauri' is defined in the RPS, consistent with other sections of the Plan, increasingly recognised in national planning.
Remove requirement to 'enhance air quality where degraded' as this is already required by AQ Q2 and AQ O3

Further Submission No: 8 - 10 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Mercury NZ Ltd

Summary: Mercury supports the intent of the submission to provide clarity as to what constitutes degraded ambient air quality. However, Mercury opposes the relief sought, specifically the text "such that it does not meet national air quality requirements". Consideration of whether an emitter can enhance air quality in a practical or bespoke manner is relevant. Hydrogen Sulphide emissions from the ground are naturally occurring within the region and exceed recommended levels. It would be cost prohibitive for Mercury to remove Hydrogen Sulphide from emissions associated with the operation and development of geothermal power stations if ambient levels are not appropriately recognised.

Decision Sought: Oppose in Part

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Staff Recommendations on Submissions (By Submitter)

Submitter: 33 - Ballance Agri-Nutrients Ltd

Reasons for Staff Recommendation: Retain term 'mauri' as concept of 'mauri' is defined in the RPS, consistent with other sections of the Plan, increasingly recognised in national planning.
Remove requirement to 'enhance air quality where degraded' as this is already required by AQ Q2 and AQ O3

Further Submission No: 13 - 8 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Horticulture New Zealand

Summary: HortNZ recognises that Objective O1 needs to be amended but does not support the changes sought to add national air quality requirements in the objective as there is not sufficient clarity as to what may be included.

Decision Sought: Amend AQ O1 as sought by HortNZ

Reasons for Staff Recommendation: Retain term 'mauri' as concept of 'mauri' is defined in the RPS, consistent with other sections of the Plan, increasingly recognised in national planning.
Remove requirement to 'enhance air quality where degraded' as this is already required by AQ Q2 and AQ O3

Further Submission No: 23 - 1 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter support the proposed amendment (only with regards to the definition of 'degraded') made to Objective AQ O1, however Lawter recommend changes to the way it is drafted. The current interpretation of the proposed amendments read as a double negative, and that plan users must seek to 'enhance' degraded air quality to such a degree where is 'does not meet national air quality requirements'. It should be noted that Lawter hold a neutral stance in terms of the remaining amendments recommended by submission 33 - 1.

Decision Sought: Decision sought: Either: • amend the proposed objective as follows; '...and enhance air quality where degraded [insert: (where it does not meet national air quality standards)], or • amend the proposed objective as recommended by submission 50 - 5 and 76 - 1.

Reasons for Staff Recommendation: Retain term 'mauri' as concept of 'mauri' is defined in the RPS, consistent with other sections of the Plan, increasingly recognised in national planning.
Remove requirement to 'enhance air quality where degraded' as this is already required by AQ Q2 and AQ O3

Submission Point No: 2 **Submission Type:** Oppose in Part **Recommendation:** Accept

Chapter: Objectives

Section: AQ O2

Submission Summary: Ballance supports the intent of Objective AQ O2, however the Company is concerned to ensure that the region's air quality accords with the most up to date standards and requirements. Objective AQ O2 does not allow for the National Environmental Standards for Air Quality (2004) or the Ambient Air Quality Guidelines (2002) to be superseded.

Decision Sought: Amend AQ O2 as follows:
The region's ambient air quality meets the National Environmental Standards for Air Quality (2004) and the Ambient Air Quality Guidelines (2002), [insert - or any subsequent national environmental standards for air quality or ambient air quality guidelines.]

Reasons for Staff Recommendation: Add text to allow for amendments or replacements to ensure that if NESAQ is amended, the objective will still apply

Further Submission No: 13 - 11 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Horticulture New Zealand

Summary: HortNZ does not support use of the Ambient Air Quality Guidelines as proposed in PC13. In addition the plan needs to be clear which external documents will be

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Staff Recommendations on Submissions (By Submitter)

Submitter: 33 - Ballance Agri-Nutrients Ltd

reference and not provide for subsequent standards

Decision Sought: Reject submission and amend AQ O2 as sought by HortNZ

Reasons for Staff Recommendation: Add text to allow for amendments or replacements to ensure that if NESAQ is amended, the objective will still apply

Further Submission No: 23 - 4 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter support submission 33 – 2. Like any planning tool, national environmental standards are revised periodically to ensure that they represent best practice.

Decision Sought: Decision sought: Amend policy AQ P3(b) as recommended by submission 33-2.

Reasons for Staff Recommendation: Add text to allow for amendments or replacements to ensure that if NESAQ is amended, the objective will still apply

Submission Point No: 3 **Submission Type:** Oppose in Part **Recommendation:** Accept in Part

Chapter: Objectives

Section: AQ 03

Submission Summary: The amenity effect of diminished air quality is spatially sensitive. Offensive or objectionable air quality in an area may not necessarily be considered offensive or objectionable in another. In rural areas background odours from agriculture and horticulture are part of the rural amenity and should be expected. In industrial areas background odours and dust are part of the industrial amenity.

Decision Sought: Amend AQ O3 as follows:
Manage discharges of contaminants to air according to their adverse effects on [insert - local] human health, cultural values, amenity values and the environment

Reasons for Staff Recommendation: Do not add 'local' as it appears to advocate for an approach that accepts poorer air quality in some areas. Add 'sustainable' to beginning of objective to clarify that the objective provides for full suite of management options (avoid, remedy or mitigate) and this is made clearer by changing wording to 'sustainable management'

Further Submission No: 5 - 3 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Timberlands Ltd

Summary: Timberlands opposes the suggested amendment of AQ O3 to require lower performance levels in industrial areas. Although there may be different expectations of air quality from an amenity perspective in industrial areas, the health effects of diminished air quality are not spatially sensitive. While in industrial areas background odours and dust may occur, this should not lead to an automatic expectation of lower air quality.

Decision Sought: Reject submission point 33-3

Reasons for Staff Recommendation: Do not add 'local' as it appears to advocate for an approach that accepts poorer air quality in some areas. Add 'sustainable' to beginning of objective to clarify that the objective provides for full suite of management options (avoid, remedy or mitigate) and this is made clearer by changing wording to 'sustainable management'

Further Submission No: 8 - 19 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Mercury NZ Ltd

Summary: Mercury supports the intent of the submission that effects on localised receptors is relevant to specific air discharges and the intent of this objective.

Decision Sought: Allow

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Staff Recommendations on Submissions (By Submitter)

Submitter: 33 - Ballance Agri-Nutrients Ltd

Reasons for Staff Recommendation: Do not add 'local' as it appears to advocate for an approach that accepts poorer air quality in some areas. Add 'sustainable' to beginning of objective to clarify that the objective provides for full suite of management options (avoid, remedy or mitigate) and this is made clearer by changing wording to 'sustainable management'

Further Submission No: 12 - 8 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Z Energy Ltd, BP Oil NZ Ltd & Mobil Oil NZ Ltd

Summary: The submission is supported. The Oil Companies support the localised focus proposed by the submitter

Decision Sought: Accept submission

Reasons for Staff Recommendation: Do not add 'local' as it appears to advocate for an approach that accepts poorer air quality in some areas. Add 'sustainable' to beginning of objective to clarify that the objective provides for full suite of management options (avoid, remedy or mitigate) and this is made clearer by changing wording to 'sustainable management'

Submission Point No: 4 **Submission Type:** Support **Recommendation:** Reject

Chapter: Reverse sensitivity

Section: Reverse Sensitivity

Submission Summary: Ballance seeks that a new objective be adopted that reflects the importance of avoiding reverse sensitivities. The concept of reverse sensitivities stems from the need to ensure that the operational requirements of lawfully existing business and industrial activities are not unduly impinged by the later encroachment of sensitive activities. Lawfully existing businesses and industry need a reasonable degree of operational certainty before sizable investments in plant and infrastructure will be made. Local planning mechanisms are key to providing such certainty.

Decision Sought: Insert new objective as follows:
Avoid reverse sensitivity effects on lawfully existing business and industrial activities.

Reasons for Staff Recommendation: Do not include provisions to manage reverse sensitivity in the plan change

Further Submission No: 4 - 12 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Whakatane Mill Ltd

Summary: Whakatane Mill agree that additional provisions to manage reverse sensitivity should be included in PC13.

Decision Sought: Accept submission to insert new objective regarding reverse sensitivity

Reasons for Staff Recommendation: Decline original submission point

Further Submission No: 8 - 94 **Submission Type:** Support in Part **Recommendation:** Reject

Further Submitter: Mercury NZ Ltd

Summary: Mercury supports avoidance of reverse sensitivity effects from sensitive activities locating near industry or infrastructure

Decision Sought: Allow

Reasons for Staff Recommendation: Decline original submission point

Further Submission No: 11 - 28 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Oji Fibre Solution

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Staff Recommendations on Submissions (By Submitter)

Submitter: 33 - Ballance Agri-Nutrients Ltd

Summary: Oji FS agrees that additional provisions to manage reverse sensitivity should be included in PC13.

Decision Sought: Accept submission

Reasons for Staff Recommendation: Decline original submission point

Further Submission No: 12 - 9 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Z Energy Ltd, BP Oil NZ Ltd & Mobil Oil NZ Ltd

Summary: The submission is supported. 'Reverse Sensitivity' is recognised and defined by case law. The Proposed Plan Change does not include a policy framework in relation to 'Reverse Sensitivity'. It is considered appropriate, in the context of the Proposed Plan Change, to incorporate the concept of 'Reverse Sensitivity' into the proposed policy framework.

Decision Sought: Accept submission

Reasons for Staff Recommendation: Decline original submission point

Further Submission No: 20 - 10 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Fonterra Ltd

Summary: For the reasons outlined in Ballance Agri-Nutrients submission, and Fonterra's submission, it is considered appropriate to have an objective recognising the effects of reverse sensitivity and seeking that effects on existing activities be avoided. Further discussion is required regarding the most appropriate provisions to manage reverse sensitivity.

Decision Sought: Accept in part

Reasons for Staff Recommendation: Decline original submission point

Further Submission No: 23 - 68 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter support submission 33 – 4. Mount Maunganui Industrial Area is an example of industrial zoned land being located close to sensitive activities. Existing industries which rely on frequent discharges to air should be provided a degree of protection from reverse sensitivity effects.

Decision Sought: Decision sought: Adopt an objective as recommended by submission 33-4.

Reasons for Staff Recommendation: Decline original submission point

Further Submission No: 30 - 53 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Swap Stockfoods Ltd

Summary: Support the provision of policies to manage reverse sensitivity. Swap Stockfoods would like the opportunity to be involved in the discussions regarding the proposed wording of the policies.

Decision Sought: Accept

Reasons for Staff Recommendation: Decline original submission point

Submission Point No: 5 **Submission Type:** Support **Recommendation:** Accept in Part

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Staff Recommendations on Submissions (By Submitter)

Submitter: 33 - Ballance Agri-Nutrients Ltd

Chapter: Policies

Section: AQ P2

Submission Summary: Ballance supports use of the 'best practicable option' to remedy or mitigate effects brought about by discharges of hazardous substances where avoidance is not possible. Ballance notes that the RNRP defines Best Practicable Option as follows and that PC13 does not alter this definition. Ballance considers that this approach is consistent with the provisions of Part 2 of the Act, and that it allows costs and technical limitations to be considered.

Decision Sought: Retain Policy AQ P2 as notified.

Reasons for Staff Recommendation: Staff recommend inclusion of hazardous air pollutants in the policy and some wording changes to clarify that avoidance is preferable, but not the bottom line.

Further Submission No: 21 - 38 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Port of Tauranga

Summary: This submission point refers to retaining Policy AQP2 as notified. PoT request the policy is amended as per its original submission.

Decision Sought: Reject

Reasons for Staff Recommendation: Staff recommend inclusion of hazardous air pollutants in the policy and some wording changes to clarify that avoidance is preferable, but not the bottom line.

Submission Point No: 6 **Submission Type:** Oppose in Part **Recommendation:** Accept

Chapter: Policies

Section: AQ P3(d)

Submission Summary: Ballance considers that AQ P3(d) is too inclusive. As proposed, AQ P3(d) can be read to prevent the discharge of contaminants even where the effects on regionally significant infrastructure can be shown to be less than minor

Decision Sought: Amend AQ P3 as follows:
(d) avoid the discharge of contaminants that may cause [insert - more than minor] adverse effects on regionally significant infrastructure
(e) ...

Reasons for Staff Recommendation: Use of the term 'avoid' on its own is not appropriate for protecting what is essentially structures, no matter how regionally significant the structure is. It is unlikely that any air discharge will have a short term effect that will cause catastrophic failure of any infrastructure. Therefore allowing for remedying or mitigation of effects is appropriate.

Further Submission No: 8 - 31 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Mercury NZ Ltd

Summary: Mercury supports the intent of the submission and the relief sought.

Decision Sought: Support

Reasons for Staff Recommendation: Use of the term 'avoid' on its own is not appropriate for protecting what is essentially structures, no matter how regionally significant the structure is. It is unlikely that any air discharge will have a short term effect that will cause catastrophic failure of any infrastructure. Therefore allowing for remedying or mitigation of effects is appropriate.

Further Submission No: 26 - 2 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Western Bay of Plenty District Council

Summary: The inclusion of the phrase 'more than minor' would recognise that some levels of adverse effects may be warranted and accept that decisions on the trade-offs between

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Staff Recommendations on Submissions (By Submitter)

Submitter: 33 - Ballance Agri-Nutrients Ltd

uses is necessary.

Decision Sought: Accept

Reasons for Staff Recommendation: Use of the term 'avoid' on its own is not appropriate for protecting what is essentially structures, no matter how regionally significant the structure is. It is unlikely that any air discharge will have a short term effect that will cause catastrophic failure of any infrastructure. Therefore allowing for remedying or mitigation of effects is appropriate.

Further Submission No: 30 - 10 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Swap Stockfoods Ltd

Summary: Support the addition of "more than minor" in terms of adverse effects on regionally significant infrastructure. This provides for discharges where the effects can be shown to be less than minor.

Decision Sought: Accept

Reasons for Staff Recommendation: Use of the term 'avoid' on its own is not appropriate for protecting what is essentially structures, no matter how regionally significant the structure is. It is unlikely that any air discharge will have a short term effect that will cause catastrophic failure of any infrastructure. Therefore allowing for remedying or mitigation of effects is appropriate.

Submission Point No: 7 **Submission Type:** Oppose in Part **Recommendation:** Reject

Chapter: Policies

Section: AQ P4(g)

Submission Summary: Ballance considers that the policy should provide for the consideration of reverse sensitivity effects, that is the need to ensure that the operational requirements of lawfully existing business and industrial activities are not unduly impinged by the later encroachment of sensitive activities. The Company notes that consideration of new discharges on existing sensitive activities is provided for in AQ P4(a), and that AQ P4(g) should provide for the consideration of the effect of new sensitive activities encroaching on lawfully existing discharges.

Decision Sought: Amend AQ P4 as follows:
(g) [delete - the effect of new activities discharging contaminants into air near established sensitive activities] [insert - any reverse sensitivity effects, including the need to ensure that the operational requirements of lawfully existing business and industrial activities are not unduly impinged by the encroachment of sensitive activities.]

Reasons for Staff Recommendation: Regional Council is unable to implement this type of policy effectively, as considering reverse sensitivity is a zoning issue for territorial authorities to consider

Further Submission No: 8 - 68 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Mercury NZ Ltd

Summary: Mercury seeks Policy 4 implement the correct tests in line with the RMA.

Decision Sought: Allow in part

Reasons for Staff Recommendation: Regional Council is unable to implement this type of policy effectively, as considering reverse sensitivity is a zoning issue for territorial authorities to consider

Further Submission No: 13 - 47 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Horticulture New Zealand

Summary: The rewording of matter g) to better focus on reverse sensitivity is supported

Decision Sought: Accept submission

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Staff Recommendations on Submissions (By Submitter)

Submitter: 33 - Ballance Agri-Nutrients Ltd

Reasons for Staff Recommendation: Regional Council is unable to implement this type of policy effectively, as considering reverse sensitivity is a zoning issue for territorial authorities to consider

Further Submission No: 18 - 22 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Federated Farmers of New Zealand

Summary: For reasons provided in the submitter's submissions

Decision Sought: Accept submission point

Reasons for Staff Recommendation: Regional Council is unable to implement this type of policy effectively, as considering reverse sensitivity is a zoning issue for territorial authorities to consider

Further Submission No: 23 - 38 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Lawter New Zealand Ltd

Summary: The matters raised in submission 33-7 is better addressed through the new reverse sensitivity objective promulgated in submission 33-4.

Decision Sought: Decision sought: Retain policy AQ P4(g).

Reasons for Staff Recommendation: Regional Council is unable to implement this type of policy effectively, as considering reverse sensitivity is a zoning issue for territorial authorities to consider

Further Submission No: 30 - 24 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Swap Stockfoods Ltd

Summary: Support the amendment of AQ P4 as proposed by the submitter: (g) [delete the effect of new activities discharging contaminants into air near established sensitive activities] [insert any reverse sensitivity effects, including the need to ensure that the operational requirements of lawfully existing business and industrial activities are not unduly impinged by the encroachment of sensitive activities.]

Decision Sought: Accept

Reasons for Staff Recommendation: Regional Council is unable to implement this type of policy effectively, as considering reverse sensitivity is a zoning issue for territorial authorities to consider

Submission Point No: 8 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Policies

Section: AQ P8

Submission Summary: Ballance considers the wording of this policy to be appropriate in that it clearly sets out how agricultural sprayers are to manage adverse effects on human health and the environment.

Decision Sought: Retain Policy AQ P8 as notified.

Reasons for Staff Recommendation: Some changes made to the policy to resolve other submission points however overall policy intent has not changed

Submission Point No: 9 **Submission Type:** Oppose **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R1

Submission Summary: Ballance Service Centres are 'industrial or trade premise'. We store bulk fertiliser inside buildings and although these buildings have controls in place to ensure that there is no discharge of dust, let alone 'noxious or dangerous' contaminants beyond the property boundary. Condition (c) of this rule specifies that the discharge is not to be from an industrial or trade premise this rule does not permit any discharges to air from these buildings. In

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Staff Recommendations on Submissions (By Submitter)

Submitter: 33 - Ballance Agri-Nutrients Ltd

addition, as there are no activity specific rules that provide for this activity, a resource consent would be required under Rule AQ R2 (discretionary activity). This is not considered an appropriate resource management approach in circumstances where the effects of the activity will be less than minor, especially when the discharge of contaminants to air from a range of other industrial and trade premises are permitted (e.g., spray painting; abrasive blasting; and, fuel burning equipment, such as generators, at industrial sites).

Decision Sought: Amend Rule AQ R1 as follows:
[delete - (c) The discharge is not from industrial or trade premises]

Reasons for Staff Recommendation: The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent. Staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 1 - 4 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: GBC Winstone

Summary: The deletion or amendment of AQ R1(c) is supported, as the Plan should provide a means of permitting incidental and de minimus discharges from industrial and trade premises, by stating the type and levels of effects as a permitted activity standard. GBC Winstone has a service centre for bulk storage and handling of cement at Port of Tauranga, Mt Maunganui, operating under an air discharge consent, but contains the cement by means of a baghouse dust removal system. GBC Winstone original submission No. 27 on Plan Change 13 sought permitted activity status for cement storage and handling at Port of Tauranga, subject to meeting permitted activity standards. The permitted activity standards could be specific to bulk storage and handling of cement and associated materials, as detailed in GBC Winstone's original submission and as used in the Auckland Unitary Plan, or more general in relation to adverse effects on human health, property or the environment beyond the boundary of the premises where the activity takes place. Such permitted activity standards would ensure that a baghouse or similar dust removal system is used to ensure the nature and levels of adverse effects are acceptable.

Decision Sought: The permitted activity standards could be specific to bulk storage and handling of cement and associated materials, as detailed in GBC Winstone's original submission and as used in the Auckland Unitary Plan, or more general in relation to adverse effects on human health, property or the environment beyond the boundary of the premises where the activity takes place. Such permitted activity standards would ensure that a baghouse or similar dust removal system is used to ensure the nature and levels of adverse effects are acceptable.

Reasons for Staff Recommendation: The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent. Staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 7 - 15 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Trustpower Ltd

Summary: It aligns with the relief sought by Trustpower

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 33 - Ballance Agri-Nutrients Ltd

Decision Sought: Accept submission point

Reasons for Staff Recommendation: The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent.
Staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 21 - 67 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Port of Tauranga

Summary: PoT supports the underlying premise of this submission, which opposes the inclusion of Rule AQR1(c) as notified. This rule would capture all discharges from an industrial or trade premise as a Discretionary Activity, irrespective of the size, scale and effect of the discharge. PoT requests that Rule AQR1 is amended as per the original submission.

Decision Sought: Accept in part

Reasons for Staff Recommendation: The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent.
Staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 22 - 20 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Toi Te Ora Public Health

Summary: The effective management of discharges is important in protecting the health of the public. The proposed plan change enables better management of air discharges through resource consenting and more efficient enforcement.
The Section 32 Report states that 'the National Environmental Standard for Air Quality relies on the policies and rules in a regional plan to be effective'.

Decision Sought: Reject

Reasons for Staff Recommendation: The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent.
However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 23 - 45 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter oppose the proposed amendment recommended by submission 33 - 9. Although it is accepted that some industrial and trade premises will discharge

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 33 - Ballance Agri-Nutrients Ltd

contaminants at 'less than minor' or 'de minimis' levels, we note that this does not take into consideration cumulative effects which may result from several different industrial and trade premises, which could cause the degradation of ambient air quality. For this reason, Lawter support the 'catch-all' approach with regards to industrial and trade facilities, which has been adopted in Proposed Plan Change 13.

Decision Sought: Decision sought: Retain rule AQ R1 as notified.

Reasons for Staff Recommendation: Agree that adverse effects are being caused by discharges from industrial and trade premises across the region, particularly in industrial areas, that do need to be better managed moving forward. When activities are not managed by any other rule in the plan and are causing adverse effects, the burden of proving such effects when enforcing the plan rules falls to the Regional Council. Where there are several sources of a contaminant of concern it can be difficult to determine the main cause, if any. Even when there is one single source causing adverse effects it can still be a difficult process. The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent. However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 30 - 27 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Swap Stockfoods Ltd

Summary: Support is provided as the submission is consistent with the intent of Swap Stockfoods original submission.

Decision Sought: Accept

Reasons for Staff Recommendation: The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent. Staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Submission Point No: 12 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R17

Submission Summary: Ballance's undertakes small abrasive blasting activities, such as blasting paint and corrosion off small pieces of machinery, where any potential effects of the activity can readily be mitigated through permitted activity standards. Ballance supports provision for small abrasive blasting activities as permitted activities.

Decision Sought: Retain AQ R17 as notified.

Reasons for Staff Recommendation: Retain AQ R17 as notified

Further Submission No: 7 - 25 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Trustpower Ltd

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 33 - Ballance Agri-Nutrients Ltd

Summary: It aligns with the relief sought by Trustpower

Decision Sought: Accept submission point

Reasons for Staff Recommendation: Retain AQ R17 as notified

Submission Point No: 13 **Submission Type:** Oppose in Part **Recommendation:** Reject

Chapter: Rules

Section: AQ R19

Submission Summary: Ballance considers that it is unclear why 1 January 2001 has been adopted in this rule and there is no explanation of this provided in the Section 32 Evaluation Report for PC13. Also, the rule as notified means that an intensive farming operation that was established prior to the 1st of January 2001, regardless of whether it complies with the permitted activity conditions in AQ R1, will require a controlled activity consent; while an intensive farming operation that was established on the 1st of January 2001 (or later) that complies with AQ R1 is a permitted activity. Ballance considers that regardless of when an activity was established, if the activity is able to comply with the permitted activity condition then it should be able to continue as a permitted activity.

Decision Sought: Amend AQ R19 as follows:
The discharge of contaminants into air from a permanent, intensive farming operation [insert - that is unable to comply with the conditions of AQ R1 and was] established prior to 1 January 2001, is a non-notified, controlled activity for which applications will be considered without the need to obtain the written approval of affected persons...

Reasons for Staff Recommendation: The date has been rolled over from Rule 18 in the operative Regional Air Plan. Intensive farming, under the plan change, is now listed as discretionary therefore any farm that does not qualify as controlled under this rule, is discretionary. This is not the intention therefore staff do not recommend making the requested change

Submission Point No: 14 **Submission Type:** Support **Recommendation:** Accept

Chapter: Consequential Changes

Section: Consequential Changes - Definition of Agrichemical

Submission Summary: "Agrichemicals"
Ballance supports the definition of Agrichemicals that is adopted by PC13. The definition currently resides in the RNRP and explicitly excludes fertilisers. Agrichemicals and fertilisers have a distinctly different purpose of use and pose distinctly different potential effects. Ballance considers it is appropriate to separately manage the use of the two product groups.

Decision Sought: Retain the definition of Agrichemicals as currently included in the RNRP and as amended by PC13.

Reasons for Staff Recommendation: No change to definition of agrichemicals as proposed

Submission Point No: 15 **Submission Type:** Support **Recommendation:** Accept

Chapter: Definitions

Section: Definitions - Fertiliser

Submission Summary: "fertiliser"
Ballance supports the definition of Fertiliser that is adopted by PC13. The definition currently resides in the RNRP and specifically distinguishes fertilisers to being used for the principle objective of meeting identified soil or plant nutrient deficiencies.

Decision Sought: Retain the definition of Fertiliser as currently included in the RNRP

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 33 - Ballance Agri-Nutrients Ltd

Reasons for Staff Recommendation: Retain the definition as proposed as the primary adverse effect of discharging fertiliser is to water and land. The rules in the RNRP were developed alongside the existing definition. If this definition were to be altered, this could have unintended consequences for the provisions that manage discharges to water and land, particularly in catchments of concern

Submission Point No: 16 **Submission Type:** Oppose **Recommendation:** Accept in Part

Chapter: Definitions

Section: Definitions - Intensive farming

Submission Summary: "intensive farming"
 Ballance supports the inclusion of a definition of "Intensive farming", however the Company is concerned that the proposed definition is unclear. For example, the first part of this definition can be read as including sheep and beef farming that import supplementary feed, whether the animals are kept outdoors or indoors, while the second part of the definition excludes sheep and beef farming completely. Since the term "intensive farming" forms part of determining whether an activity is permitted or controlled, Ballance recommends that the utmost clarity of meaning is achieved. If the effects being managed by the corresponding AQ R19 only relate to poultry farming, piggeries and mushroom production, the definition should be clarified to provide for this.

Decision Sought: Clarify the definition to "Intensive farming" to ensure that AQ R19 only addresses the intended activities and their associated effects, as follows:
 Intensive farming means [insert - poultry farming, piggeries, and mushroom production] [delete - agricultural production] where the stocking density limits or prevents dependence on [insert - use of the natural soil [delete - quality] on the site, and/or [insert - where] food [insert - is] required to be brought to the site. [insert - Intensive farming] [delete - Includes poultry farming, piggeries, mushroom production but] excludes freerange farming [insert - of poultry and pigs.] and greenhouses.

Reasons for Staff Recommendation: Amend the definition to ensure submitters' concerns are relieved and the rule targets the correct activity.

Submission Point No: 17 **Submission Type:** Oppose in Part **Recommendation:** Accept in Part

Chapter: Definitions

Section: Definitions - Noxious or dangerous

Submission Summary: "noxious or dangerous"
 Ballance is concerned that the primary definition does not include noxious or dangerous effects on people. While the effects on people are included in the list of example effects, Ballance considers that effects on people are sufficiently important to be included in the primary part of the definition

Decision Sought: Amend the definition as follows:
 Noxious or dangerous [insert - discharge] means [insert - a discharge that is materially harmful to people, property or the environment] [delete - an activity or discharge of contaminants to air that causes, or is likely to cause, an adverse effect on property and/or the environment. This] [insert - The effects of such discharges] may include, but [insert - are] [delete - is] not limited to, the following...

Reasons for Staff Recommendation: Remove this definition from the plan change as it is used in the RMA and case law considers this based on a normal English language definition. Including a definition could result in a conflict between further Court interpretation. However, staff recommend retaining text to clarify how this term will be interpreted by the rules in the plan change and that this text is based on the text in the proposed plan.
 Amend the wording of the primary definition to refer to human health.

Further Submission No: 30 - 37 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Swap Stockfoods Ltd

Summary: Support a definition for 'noxious or dangerous' being retained in the plan change. Swap Stockfoods would like the opportunity to be involved in the discussions regarding the proposed wording of the definition.

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 33 - Ballance Agri-Nutrients Ltd

Decision Sought: Accept

Reasons for Staff Recommendation: Remove this definition from the plan change as it is used in the RMA and case law considers this based on a normal English language definition. Including a definition could result in a conflict between further Court interpretation. However, staff recommend retaining text to clarify how this term will be interpreted by the rules in the plan change and that this text is based on the text in the proposed plan.
Amend the wording of the primary definition to refer to human health.

Submission Point No: 18 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Definitions

Section: Definitions - Offensive or objectionable

Submission Summary: new definition "offensive or objectionable"
There is no definition of 'offensive or objectionable discharges' in PC13, yet it is a term that sits alongside 'noxious or dangerous' discharges in a number of provisions in PC13. Ballance considers that guidance should be provided on what is meant by 'offensive or objectionable discharges'

Decision Sought: Add a new definition for "Offensive or objectionable discharge" as follows and add examples of the effects of such discharges to guide interpretation (as has been provided in the definition of noxious and dangerous discharge).
[insert - Offensive or objectionable discharge means a discharge that is materially unpleasant to neighbouring property owners or the public within the vicinity of the discharge. The effects of such discharges may include, but are not limited to, the following:
(a)....]

Reasons for Staff Recommendation: Some clarity around how the term will be applied during implementation of the plan change would be helpful. Staff recommend that brief advice text is provided, but that the terms not be specifically defined in order to ensure consistency with current and future case law

Further Submission No: 8 - 80 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Mercury NZ Ltd

Summary: Mercury considers a definition for 'Offensive or Objectionable' is not required. This term is used within the RMA and case law has considered this based on a normal English language definition. The inclusion of the definition could result in a conflict between further court interpretation under the Act and the definition in the Plan. Further guidance on what is considered offensive or objectionable is also included in the MfE Good Practice Guide for Assessing and Managing Odour

Decision Sought: Disallow

Reasons for Staff Recommendation: Some clarity around how the term will be applied during implementation of the plan change would be helpful. Staff recommend that brief advice text is provided, but that the terms not be specifically defined in order to ensure consistency with current and future case law

Further Submission No: 11 - 15 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Oji Fibre Solution

Summary: Oji FS does not consider a definition of offensive or objectionable is needed in PC13. Oji FS notes that despite this term being used extensively in regional air plans under the RMA, it is not aware of any regional air plan which has included a definition of the term

Decision Sought: Reject submission

Reasons for Staff Recommendation: Some clarity around how the term will be applied during implementation of the plan change would be helpful. Staff recommend that brief advice text is provided, but that the terms not be specifically defined in order to ensure consistency with current and future case law

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 33 - Ballance Agri-Nutrients Ltd

Further Submission No: 20 - 30 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Fonterra Ltd

Summary: For the reasons outlined in Ballance Agri-Nutrients submission. Further discussion is required around the appropriate wording of any definition

Decision Sought: Accept in part

Reasons for Staff Recommendation: Some clarity around how the term will be applied during implementation of the plan change would be helpful. Staff recommend that brief advice text is provided, but that the terms not be specifically defined in order to ensure consistency with current and future case law

Further Submission No: 30 - 47 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Swap Stockfoods Ltd

Summary: Support for the provision of a definition for offensive or objectionable. Swap Stockfoods would like the opportunity to be involved in the discussions regarding the proposed wording of the definition.

Decision Sought: Accept

Reasons for Staff Recommendation: Some clarity around how the term will be applied during implementation of the plan change would be helpful. Staff recommend that brief advice text is provided, but that the terms not be specifically defined in order to ensure consistency with current and future case law

Submission Point No: 19 **Submission Type:** Support **Recommendation:** Reject

Chapter: Reverse sensitivity

Section: Reverse Sensitivity

Submission Summary: "reverse sensitivity"
Ballance supports the definition of Reverse sensitivity as it appropriately explains the challenges that can result for some lawfully existing activities following the establishment of new activities that are sensitive to effects that were existing prior to their establishment.

Decision Sought: Retain the definition of "Reverse sensitivity as notified.

Reasons for Staff Recommendation: Decline as definition already in RPS

Further Submission No: 4 - 10 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Whakatane Mill Ltd

Summary: The definition of reverse sensitivity in PC13 adequately describes the concept.

Decision Sought: Accept submission to retain definition of reverse sensitivity

Reasons for Staff Recommendation: Decline the original submission point as definition already in RPS

Further Submission No: 11 - 26 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Oji Fibre Solution

Summary: The definition of reverse sensitivity in PC13 adequately describes the concept

Decision Sought: Accept submission

Reasons for Staff Recommendation: Decline the original submission point as definition already in RPS

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 33 - Ballance Agri-Nutrients Ltd

Further Submission No: 30 - 54 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Swap Stockfoods Ltd

Summary: Support the provision of a definition for reverse sensitivity. Swap Stockfoods would like the opportunity to be involved in the discussions regarding the proposed wording of the definition.

Decision Sought: Accept

Reasons for Staff Recommendation: Decline the original submission point as definition already in RPS

Submission Point No: 20 **Submission Type:** Support **Recommendation:** Accept

Chapter: Consequential Changes

Section: Consequential Changes - Definition of Agrichemical

Submission Summary: Ballance notes that the definition of 'agrchemical' as provided within the RNRP excludes 'fertiliser'. The Company supports the exclusion of fertiliser from the definition of agrichemicals.

Decision Sought: Retain definition of agrichemical as notified.

Reasons for Staff Recommendation: No change to definition of agrichemicals as proposed

Submitter: 34 - McAlpines Rotorua Ltd

Submission Point No: 1 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Chapter: Policies

Section: AQ P4 - new clause

Submission Summary: McAlpines seeks to maintain flexibility to enable the replacement of an existing boiler with a similar type of boiler of the same size and burning the same fuel, eg. wood residues: shavings and/or sawdust with coal as a back-up. McAlpines also needs flexibility to be able to install a larger boiler operating on wood residues, ie shavings and/or sawdust with coal as a back-up should their future business plans require it. McAlpines seeks that the ability to expand operational scale be made explicit in the matters to consider to make it clear that there is some protection for existing users in a polluted airshed. The amendment sought would give McAlpines, and similar resource users, more certainty that they can invest and maintain their operations and continue contributing to the economic wellbeing of the Region, while continuing to ensure that environmental effects on the environment are acceptable. McAlpines seeks the inclusion of an additional matter for consideration in AQ P4 to provide clarity and acknowledgement in the matters to consider on the ability of an existing consent holder to seek to continue to discharge particulate matter as per an existing authorisation, provided that the overall rate of discharge does not increase above the current authorisation (as required by Regulation 17 of the NESAQ). McAlpines have been proactive in reducing particulate emissions in the Rotorua airshed significantly reducing particulate emissions from the boiler stack by approx. 15-20 tonnes pa.

Decision Sought: McAlpines conditionally supports the matters that plan users must have particular regard to, but seeks inclusion of an additional matter for consideration where there is an existing authorised discharge as follows:
[insert - (h) For the Rotorua airshed, the scale of an activity may be increased provided that there is no net increase in the rate of particulate matter discharges, consistent with Regulation 17 of the NESAQ.]

Reasons for Staff Recommendation: Staff acknowledge the significant reductions that this submitter has made to their emissions from the boiler stack. Staff also understand the difficulty of future business planning for industries located within polluted airsheds such as Rotorua. Staff understanding of the requested policy is to give industry within the Rotorua Airshed some certainty to allow for future planning. The requested wording is outside the scope of this policy however staff suggest the addition of 'Whether a change in an industrial or commercial activity will cause a net increase of particulates into an airshed' as a matter to consider

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Staff Recommendations on Submissions (By Submitter)

Submitter: 34 - McAlpines Rotorua Ltd

Further Submission No: 8 - 52 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Mercury NZ Ltd

Summary: Mercury seeks Policy 4 implements the correct tests in line with the RMA. The Air Plan should regulate volumes discharged to the air shed and manage effects, not be concerned with scale of activities, which is a district plan matter.

Decision Sought: Disallow

Reasons for Staff Recommendation: The requested wording is outside the scope of this policy however staff suggest the addition of 'Whether a change in an industrial or commercial activity will cause a net increase of particulates into an airshed' as a matter to consider

Further Submission No: 14 - 1 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Envirosolve

Summary: There is high sophisticated technology available which can minimize the contamination for domestic burner but also industrial boilers. The stake emission should be measured on a yearly base and not exceed 25 mg/m3 up to 1 MW boilers and not more than 50 mg/m3 for over 1 MW boilers (Wood and existing coal boilers)

Decision Sought: Support and amend

Reasons for Staff Recommendation: The submitter has already installed emission reduction technology and made substantial reductions to their emissions from the boiler stack.

Further Submission No: 14 - 4 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Envirosolve

Summary: There is high sophisticated technology available which can minimize the contamination for domestic burner but also industrial boilers. The stake emission should be measured on a yearly base and not exceed 25 mg/m3 up to 1 MW boilers and not more than 50 mg/m3 for over 1 MW boilers (Wood and existing coal boilers)

Decision Sought: Support and amend

Reasons for Staff Recommendation: The submitter has already installed emission reduction technology and made substantial reductions to their emissions from the boiler stack.

Submission Point No: 2 **Submission Type:** Support in Part **Recommendation:** Accept

Chapter: Rules

Section: AQ R2

Submission Summary: McAlpines supports the discretionary activity status applying under AQ R2 for fuel burning equipment not complying with the permitted activity Rules under AQ R18. This support is provided on the basis that consideration is given to existing authorised rates of particulate matter discharge as per the amendment sought to AQ P4.

Decision Sought: Retain AQ R2 as proposed.

Reasons for Staff Recommendation: Minor change made to make wording of rule clearer that does not affect the overall intention of the rule.

Submission Point No: 3 **Submission Type:** Oppose **Recommendation:** Accept

Chapter: Rules

Section: AQ R10

Submission Summary: Anti-sapstain treated wood can safely be burnt to make beneficial use of wood waste that would otherwise need to be disposed of via another means and at significant cost.

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 34 - McAlpines Rotorua Ltd

McAlpines is of the view that a non-complying status for this activity is overly restrictive and sends the wrong message.

Decision Sought: Amend AQ R10 (a) to exclude capturing burning of anti-sapstain treated wood as a non-complying activity, either by including the definition of treated timber as requested in the submission point below (Definition of Terms: pages 17 to 21); or otherwise by making the burning of anti-sapstain treated wood discretionary.

Reasons for Staff Recommendation: Staff recommend a change to clause (a) and (g) of the rule to exclude treated timber that is used in fuel burning equipment or pellets used in pellet burners from (a) and solid fuels used in fuel burning equipment from (g). This will ensure these activities are not included in this rule, as they are managed via other rules

Submission Point No: 4 **Submission Type:** Support in Part **Recommendation:** Accept

Chapter: Rules

Section: AQ R18

Submission Summary: McAlpines conditionally supports the permitted activity status for fuel burning equipment up to 5 MW gross heat energy burning untreated wood (or coal) installed before 27 February 2018 (subject to the submission point below reference pages 17-21). This is because the permitted activity rule reflects the existing investment made by industry and provides for their continued operation, while ensuring that effects on the environment are acceptable, subject to adding the definitions for treated wood and untreated wood.

Decision Sought: Retain rule as proposed (except where other submission points apply)

Reasons for Staff Recommendation: Some changes made to the rule to resolve other submission points however overall policy intent has not changed

Submission Point No: 5 **Submission Type:** Support in Part **Recommendation:** Accept

Chapter: Rules

Section: AQ R18

Submission Summary: AQR18(2)(d) requires that for a discharge to be a permitted activity under this rule, under (i) all emission stack heights constructed after December 2003 rise at least 15 metres above ground level and at least 3 metres above the highest ridge line on the roof or any building within 20 metres. The McAlpines site is zoned Industrial 1 under the Rotorua District Plan where a maximum height limit of 15 metres applies. McAlpines stack height is currently 14.9 metres in order to comply with District Plan requirements. The requirement under AQ R18(2)(d)(i) for the stack height to be at least 15 metres is in conflict with the District Plan requirements for the Industrial 1 zone.

Decision Sought: Amend AQR18(2)(d)(i) as follows:
(i) all emission stacks constructed after December 2003 rise at least 14.9 metres above ground level

Reasons for Staff Recommendation: No increase in adverse effects from this amendment is expected

Submission Point No: 6 **Submission Type:** Support in Part **Recommendation:** Accept

Chapter: Definitions

Section: Definitions - Treated timber

Submission Summary: The inclusion of a definition of Treated Timber and Untreated Wood, in order to provide clarity over what is meant by these terms. McAlpines considers that the inclusion of these definitions will provide clarity regarding the type of timber that can be burnt in fuel burning equipment (boilers). McAlpines currently burns shavings and sawdust which are not treated with anti-sapstain compounds but wishes to retain the ability in the future to burn untreated wood shavings which may contain anti-sapstain compounds without triggering the non-complying rule AQ R10 Burning specified material. The insertion of definitions for treated timber and untreated wood provides greater certainty as to the type of wood that can be

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 34 - McAlpines Rotorua Ltd

burnt in fuel burning equipment under AQ R18.

Decision Sought: Include definitions for the following:
[insert - Treated Timber: means timber treated with preservatives, including boron compounds (except 2-thiocyanomethylthiobenzothiazole (TCMTB) compounds), copper chromium arsenic (CCA), or creosote, but not including timber treated only with anti-sapstain compounds.]

Reasons for Staff Recommendation: Include a definition of treated timber to clarify the materials covered by AQ R10 and allow some treated timber burned in some circumstances.

Submission Point No: 7 **Submission Type:** Oppose **Recommendation:** Accept

Chapter: Rules

Section: AQ R10

Submission Summary: McAlpines also notes that sub-part (g) of AQ R10 essentially encompasses fuel combustion as a non-complying activity, which is perhaps an unintended consequence of the rule drafting. For example, coal contains trace heavy metals including cadmium, copper, mercury and lead, as does wood to a lesser extent. Capturing combustion of these fuel materials as a non-complying activity would seem at odds with the provision of the activity as permitted and discretionary under other rules, and that rule AQ R10 as drafted would appear to take precedence over the other provisions.

Decision Sought: Also amend AQ R10 (g) to specifically exclude coal and wood from the non-complying list as follows:
(g) material that may contain heavy metals including but not limited to lead, zinc, arsenic, cadmium, copper, mercury, thorium [insert - (excluding fuels such as coal and wood)]

Reasons for Staff Recommendation: Staff recommend a change to clause (a) and (g) of the rule to exclude treated timber that is used in fuel burning equipment or pellets used in pellet burners from (a) and solid fuels used in fuel burning equipment form (g). This will ensure these activities are not included in this rule as they are managed via other rules

Submission Point No: 8 **Submission Type:** Support in Part **Recommendation:** Accept

Chapter: Definitions

Section: Definitions - Untreated wood

Submission Summary: The inclusion of a definition of Treated Timber and Untreated Wood, in order to provide clarity over what is meant by these terms. McAlpines considers that the inclusion of these definitions will provide clarity regarding the type of timber that can be burnt in fuel burning equipment (boilers). McAlpines currently burns shavings and sawdust which are not treated with anti-sapstain compounds but wishes to retain the ability in the future to burn untreated wood shavings which may contain anti-sapstain compounds without triggering the non-complying rule AQ R10 Burning specified material. The insertion of definitions for treated timber and untreated wood provides greater certainty as to the type of wood that can be burnt in fuel burning equipment under AQ R18.

Decision Sought: Include definitions for the following:
[insert - Untreated Wood: means any wood material or product, including sawdust, which is not treated with copper chromium arsenic (CCA) (or "tanalised"), or with any organochlorine preservative and can include timber treated only with anti-sapstain compounds]

Reasons for Staff Recommendation: Include a definition of untreated wood to clarify which types of wood can be burned in boilers to clarify the plan change.

Submitter: 35 - Ngai Tukairangi Trust

Submission Point No: 1 **Submission Type:** Oppose **Recommendation:** Accept

Chapter: Rules

Section: AQ R15(4)

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 35 - Ngai Tukairangi Trust

Submission Summary: Having a 12 hour notice period gives sprayers a tighter window to provide more accurate indication of when spraying will actually occur. Creating more accurate workflows and timely notifications. Anything outside of that will create cutting of corners and excessive notifications which will give notifications a spam like nature and deem them useless.

Decision Sought: amend as follows:
(a) ... by notification, required no earlier than 72 hours and no later than [delete - 24] [insert - 12] before.....

Reasons for Staff Recommendation: Staff recommend changing the minimum 24 hour notification window to 12 hours. As this the current system is working for most, then retaining the 12 hour notification window is the best way forward..
Given this recommendation, staff remind the Hearing Panel, submitters and all others involved with agrichemical spraying that policy AQ P8 clearly states that spray drift should be avoided in the first instance. Even when mitigation measures, in the form of notification, are carried out according to the conditions, any spray drift must still comply with condition (1)(a) of the rule and where this cannot be achieved, staff highly recommend that parties enter into a notification agreement to determine what is the best form, timing and format for notification to occur to allow for sufficient preparation

Further Submission No: 13 - 94 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks that the notification times be no later than 12 hours. A minimum of 12 hours is supported because 24 hours is impractical and unworkable for those undertaking spraying

Decision Sought: Accept submission to amend 24 hours to 12 hours.

Reasons for Staff Recommendation: Staff recommend changing the minimum 24 hour notification window to 12 hours. As this the current system is working for most, then retaining the 12 hour notification window is the best way forward..
Given this recommendation, staff remind the Hearing Panel, submitters and all others involved with agrichemical spraying should be avoided in the first instance. Even when mitigation measures, in the form of notification, are carried out according to the conditions, any spray drift must still comply with condition (1)(a) of the rule and where this cannot be achieved, staff highly recommend that parties enter into a notification agreement to determine what is the best form, timing and format for notification to occur to allow for sufficient preparation

Submitter: 36 - Mercury NZ Ltd

Submission Point No: 1 **Submission Type:** Support in Part **Recommendation:** Comment Note

Chapter: Whole Plan

Section: Whole Plan - Support

Submission Summary: Mercury generally supports the intention of the objectives, policies, rules and definitions set out in the Proposed Plan Change but considers that increased recognition of the national and regional significance of geothermal assets in Bay of Plenty (BOP) region, both because of the benefits to be derived from the use and development of renewable energy resources and the contribution geothermal electricity generation makes to the regional and national economy should be reflected. Mercury's assets and operations make a significant contribution to the regional and national economy.

Decision Sought: 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

Reasons for Staff Recommendation: This submission point is a general support for the overall intent of the plan change, subject to submission points addressed elsewhere. Comment noted - no change recommended

Submission Point No: 2 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Objectives

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 36 - Mercury NZ Ltd

Section: AQ 01

Submission Summary: Mercury supports the intent of the objective but considers that it should be amended to remove reference to "mauri". Mauri is a poorly understood concept in western science and not easily defined. If air quality is protected and enhanced then it follows that mauri will also be protected and enhanced.

Decision Sought: Amend as follows:
Protect [delete - the mauri of air and] human health from adverse effects of anthropogenic contaminant discharges to air, and enhance air quality where degraded.

Reasons for Staff Recommendation: Retain term 'mauri' as concept of 'mauri' is defined in the RPS, consistent with other sections of the Plan, increasingly recognised in national planning.

Further Submission No: 20 - 1 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Fonterra Ltd

Summary: For the reasons outlined in Mercury's submission.

Decision Sought: Accept

Reasons for Staff Recommendation: Retain term 'mauri' as concept of 'mauri' is defined in the RPS, consistent with other sections of the Plan, increasingly recognised in national planning.

Submission Point No: 3 **Submission Type:** Oppose **Recommendation:** Accept in Part

Chapter: Objectives

Section: AQ 02

Submission Summary: Mercury supports ambient air quality that meets the National Environmental Standards for Air Quality (2004) (NESAQ) and the Ambient Air Quality Guidelines (2002) (AAQG), which are both essential to assessing consent applications for air discharges. However, the NESAQ provides a mandatory baseline for air quality protection across New Zealand and has the force of regulations. The RMA requires that the NESAQ prevails over any less stringent requirements in other documents, including regional plans and AAQG, but councils can make more stringent provisions in regional plans or apply more stringent criteria to resource consent applications where this is demonstrated necessary in the region. There is no direct reason for the Objective referencing the NESAQ given the mandatory nature of the Standard unless the Council is adopting more stringent provisions. Therefore the Objective only needs to reference any other guideline values being adopted for the region, such as the AAQG, and noting how any inconsistencies with the NESAQ will be dealt with.

Decision Sought: Amend as follows
The region's ambient air quality meets the [delete - National Environmental Standards for Air Quality (2004) and the] Ambient Air Quality Guidelines (2002), [insert - except that the National Environmental Standards for Air Quality (2004) shall prevail over any inconsistent values, limits or metrics in the Ambient Air Quality Guidelines (2002).]

Reasons for Staff Recommendation: Retain reference to NESAQ as Removal of reference means providing alternative, non-specific wording. If the objective is to meet the requirements of the NESAQ then it should say so. Remove reference to AAQGs as they are only guidelines, not developed under RMA process (taking into account costs and benefits) and not appropriate to set thresholds which must be met.

Submission Point No: 4 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Objectives

Section: AQ 03

Submission Summary: Mercury supports the Objective to manage discharges to air according to their adverse effects.

Decision Sought: Retain Objective AQ O3 in the same or similar form.

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 36 - Mercury NZ Ltd

Reasons for Staff Recommendation: Change wording 'manage' to 'management' as it sets an outcome instead of an action

Further Submission No: 21 - 24 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Port of Tauranga

Summary: This submission seeks for Objective AQ03 to be retained as notified, and broadly reflects the original submission made by PoT.

Decision Sought: Accept

Reasons for Staff Recommendation: Change wording 'manage' to 'management' as it sets an outcome instead of an action

Submission Point No: 5 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Policies

Section: AQ P1

Submission Summary: Mercury supports the intent of the policy relating to the classification of activities but considers the current rule framework of the Plan Change does not align with the policy because all industrial or trade activities are assigned a discretionary status irrespective of the likely nature and scale of their resultant adverse effects. This requires an amendment to Rule AQ R1 to address the circumstances when discharges are permitted, including for industrial or trade activities, when adverse effects of discharges are suitably avoided, remedied or mitigated.

Decision Sought: Retain Policy AQ P1 in the same or similar form, subject to achieving the requested changes to Rule AQ R1.

Reasons for Staff Recommendation: Staff do not agree that this policy is misaligned with AQ R1. Emissions from industrial or trade premises are the cause of poor quality air in Ngapuna and in Mount Maunganui. These are clear cases that the approach in the operative Regional Air Plan, to manage these activities with a general permitted activity rule, has not worked, particularly regarding cumulative effects. Therefore it is appropriate that discharges from these premises are classified as discretionary, to allow the Regional Council an opportunity to assess their impact. Recommended changes to AQ R1 have partially remedied some of this concern

Further Submission No: 1 - 5 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: GBC Winstone

Summary: AQ P1 is supported in its current state if AQ R1 is amended to provide a permitted activity standard for discharges from industrial and trade activities. Alternatively, amendment of AQ P1 is supported, to focus on the desired outcome of the discharge resulting in acceptable adverse effects. The adverse effects of discharges from industrial or trade activities may not in every case be able to be fully avoided, remedied or mitigated, but the residual effects may be acceptable in terms of nature and scale. That should be recognised in this policy, and provide for a rule framework which allows permitted activity status for discharges from industrial or trade activities meeting permitted activity standards.

Decision Sought: Provide for a rule framework which allows permitted activity status for discharges from industrial or trade activities meeting permitted activity standards.

Reasons for Staff Recommendation: Emissions from industrial or trade premises are the cause of poor quality air in Ngapuna and in Mount Maunganui. These are clear cases that the approach in the operative Regional Air Plan, to manage these activities with a general permitted activity rule, has not worked, particularly regarding cumulative effects. Therefore it is appropriate that discharges from these premises are classified as discretionary, to allow the Regional Council an opportunity to assess their impact. Recommended changes to AQ R1 have partially remedied some of this concern

Further Submission No: 21 - 30 **Submission Type:** Support **Recommendation:** Accept in Part

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 36 - Mercury NZ Ltd

Further Submitter: Port of Tauranga

Summary: The submission identifies that the current rule framework (as notified) does not align with the proposed policy, as all industrial or trade activities are assigned a Discretionary Activity status irrespective of their likely nature and scale of adverse effects. This echoes submission point 67-5 from PoT's original submission.

Decision Sought: Accept

Reasons for Staff Recommendation: Staff do not agree that this policy is misaligned with AQ R1. Emissions from industrial or trade premises are the cause of poor quality air in Ngapuna and in Mount Maunganui. These are clear cases that the approach in the operative Regional Air Plan, to manage these activities with a general permitted activity rule, has not worked, particularly regarding cumulative effects. Therefore it is appropriate that discharges from these premises are classified as discretionary, to allow the Regional Council an opportunity to assess their impact.
Recommended changes to AQ R1 have partially remedied some of this concern

Further Submission No: 23 - 8 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter consider that the purpose of permitted activities are to enable activities which Council consider have acceptable levels of adverse effects on the environment. It is acknowledged that there are many industrial and trade activities which may have insignificant adverse effects, however these industrial or trade activities may cumulatively be contributing to the degradation of ambient air quality. It is also considered that discharges from industrial and trade activities cannot be suitably managed with general conditions, and therefore the current rule framework is consistent with what is drafted in Proposed Plan Change 13.

Decision Sought: Decision sought: Retain current list of policies as notified, unless submitted on by Lawter.

Reasons for Staff Recommendation: Staff agree that emissions from industrial or trade premises are the cause of poor quality air in Ngapuna and in Mount Maunganui where cumulative effects occur. These are clear cases that the approach in the operative Regional Air Plan, to manage these activities with a general permitted activity rule, has not worked, particularly regarding cumulative effects. Therefore it is appropriate that discharges from these premises are classified as discretionary, to allow the Regional Council an opportunity to assess their impact.

Submission Point No: 6 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Policies

Section: AQ P2

Submission Summary: Mercury seeks the deletion of Policy AQ P2 relating to the discharges of hazardous substances. It appears the Council has confused "hazardous substances" with "hazardous air pollutants" and "contaminants". Hazardous substances are defined under the Hazardous Substances and New Organisms Act and include a range of hazards of specific chemicals and mixtures. The RMA is focused on managing the discharge of contaminants into air which may or may not meet the definition of a hazardous substance under HSNO.
The policy as currently drafted also sets a bottom line of avoiding all discharges of hazardous substances and case law (Davidson) has made it clear that bottom lines must be achieved. Mercury 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" means to "not allow" a discharge of any amount, irrespective of scale, and effects. The inclusion of "seek to avoid" at the commencement of the policy may help to clarify that avoidance is preferable but not of itself a bottom line. However, overall the policy is considered unnecessary alongside the other Air Quality policies, particularly Policy AQ P3, which appropriately address the adverse effects of air discharges on human health, cultural values, amenity values, or the environment.

Decision Sought: Delete Policy AQ P2 in its entirety

Reasons for Staff Recommendation: Staff agree that the inclusion of hazardous air pollutants in the policy is appropriate, but do not recommend removing the policy in its entirety as where the use of a hazardous

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 36 - Mercury NZ Ltd

substance leads to a discharge to air, the plan change has a regulatory gap to fill. Staff also recommend wording changes to clarify that avoidance is preferable, but not the bottom line.

Further Submission No: 3 - 4 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Ballance Agri-Nutrients Ltd

Summary: Ballance agrees with the submitter that the policy is unnecessary given the context of the other policies of the Plan Change and the management of hazardous substances via the Hazardous Substances and New Organisms Act.

Decision Sought: That submission 36-6 be accepted.

Reasons for Staff Recommendation: Staff agree that the inclusion of hazardous air pollutants in the policy is appropriate, but do not recommend removing the policy in its entirety as where the use of a hazardous substance leads to a discharge to air, the plan change has a regulatory gap to fill. Staff also recommend wording changes to clarify that avoidance is preferable, but not the bottom line.

Submission Point No: 7 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Policies

Section: AQ P3(a)

Submission Summary: Mercury supports the intent of the policy on the way in which air discharges are managed but considers that it should be amended to ensure that it reflects the appropriate RMA statutory tests. In terms of (a), the current drafting requires adverse effects on human health to be avoided. Reference to "avoid" is a strong directive to "not allow" adverse effects and is somewhat at odds with (e) which seeks only to "minimise" the discharge on human health and other values beyond the boundary of the property. This outcome is not consistent with the RPS, other provisions in the Proposed Plan Change or resource management practice in general. Air Quality Objective 1 in the RPS seeks "The adverse effects of odours, chemical emissions and particulates are avoided, remedied or mitigated so as to protect people and the environment." This is support by RPS Policies AQ 2A and AQ 3A to manage the adverse effects of air discharges. A policy that focuses on the avoidance of significant adverse effects on human health and the management of other adverse effects is a better fit for the RPS provisions and with the hierarchy of sustainable management measures set out within the RMA.

Decision Sought: Amend as follows:
Management of discharges — Te whakahaere i nga tukunga
Activities that discharge contaminants to air must be managed, including by use of the best practicable option, to:
(a) safeguard the life supporting capacity of the air, avoid [insert - significant] adverse effects on human health, and manage [insert - all other] adverse effects on [insert - human health] cultural values, amenity values, and the environment, [insert - including into areas beyond the boundary of the subject property.]

Reasons for Staff Recommendation: Only avoiding significant adverse effects on human health implies that there is a threshold below which human health effects are acceptable, until they become significant.

Further Submission No: 7 - 6 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Trustpower Ltd

Summary: In so far as it does not align with the relief sought by Trustpower

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Only avoiding significant adverse effects on human health implies that there is a threshold below which human health effects are acceptable, until they become significant. Further, by only requiring effects to be avoided 'where practicable' allows considerable room for interpretation and it is unclear where avoiding adverse effects on human health is to occur

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Staff Recommendations on Submissions (By Submitter)

Submitter: 36 - Mercury NZ Ltd

Further Submission No: 22 - 5 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Toi Te Ora Public Health

Summary: It is not acceptable to harm to health. Avoiding harm will keep people healthy and improve health. The National Environment Standards for Air Quality set guaranteed minimum level of health protection for all New Zealand. It is unacceptable for any contaminants to be discharged at levels resulting in downwind concentrations that can cause ill health. Every effort to avoid exposure to contaminants must be made when the adverse health effects are well known. It is not acceptable to knowingly harm the health of the public in the same way that it is not acceptable to harm the health of people in a workplace. The effective management of discharges from industrial and trade activities is important in protecting the health of the public.

Decision Sought: Reject

Reasons for Staff Recommendation: Only avoiding significant adverse effects on human health implies that the there is a threshold below which human health effects are acceptable, until they become significant. Further, by only requiring effects to be avoided 'where practicable' allows considerable room for interpretation and it is unclear where avoiding adverse effects on human health is to occur

Further Submission No: 23 - 16 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter generally support the recommendation made in submission 36 – 7. The proposed wording of AQ P3(a) may prohibit discharges to air where adverse effects could be successfully remedied or mitigated, but not avoided.

Decision Sought: Decision sought: Amend policy AQ P3(a) as recommended by submission 36 - 7, and as supported by Lawter in other submissions

Reasons for Staff Recommendation: Only avoiding significant adverse effects on human health implies that the there is a threshold below which human health effects are acceptable, until they become significant. Further, by only requiring effects to be avoided 'where practicable' allows considerable room for interpretation and it is unclear where avoiding adverse effects on human health is to occur

Submission Point No: 8 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Policies

Section: AQ P4(b)

Submission Summary: Mercury supports ambient air quality that meets the National Environmental Standards for Air Quality (2004) (NESAQ) and the Ambient Air Quality Guidelines (2002) (AAQG), which are both essential to assessing consent applications for air discharges. However, both documents apply across the region or part of the region with respect to management of the airshed. That is, it requires a region-wide approach to themanagement of the airshed. Clause (b) also needs to be framed a matter to be considered rather than being treated as compliance threshold for individual discharges. Assessment policy needs to be mindful that areas around geothermal resources are likely to have naturally high levels of H2S. Air quality policy needs to ensure there is an appropriate consideration of this matter for the use and development of renewable energy resources.

Decision Sought: Amend Policy (b) to read:
(b) [delete - The location of any Gazetted airsheds, or areas where the discharge may cause an] [insert - Whether any] exceedance or breach of the ambient air qualitystandards of the NESAQ or [delete -exceed] the health-based values of the AAQGs [insert - is likely to result for any airshed where the discharge occurs.]

Reasons for Staff Recommendation: Agree that exceedances or breaches of the NESAQ may occur in any part of the region.

Submission Point No: 9 **Submission Type:** Oppose **Recommendation:** Accept in Part

Chapter: Rules

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 36 - Mercury NZ Ltd

Section: AQ R1

Submission Summary: Mercury supports a permissive “catch all” rule for air discharges, where effects are minor. However, Mercury opposes the inclusion of (c). The way the Rule is currently drafted, it makes all industrial or trade premises a discretionary activity irrespective of size, scale and effects. Mercury interprets that geothermal electricity generation is industrial activity as defined by the RMA and therefore is caught by this Rule. Mercury does not oppose a discretionary activity rule for air discharges from geothermal generation in general, but seeks the plan allows for minor ancillary activities that are otherwise able to comply with clauses (a) and (b) of the Rule. In the alternative, if clause (c) be retained, Mercury seeks an explicit new permitted rule to provide for minor air discharges from regionally significant infrastructure sites

Decision Sought: Amend Rule AQ R1 to read:
...(c) [delete - The discharge is not from industrial or trade premise]

Reasons for Staff Recommendation: The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent. Staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 1 - 6 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: GBC Winstone

Summary: The deletion or amendment of AQ R1(c) is supported, as the Plan should provide a means of permitting incidental and de minimus discharges from industrial and trade premises, by stating the type and levels of effects as a permitted activity standard. GBC Winstone has a service centre for bulk storage and handling of cement at Port of Tauranga, Mt Maunganui, operating under an air discharge consent, but contains the cement by means of a baghouse dust removal system. GBC Winstone original submission No. 27 on Plan Change 13 sought permitted activity status for cement storage and handling at Port of Tauranga, subject to meeting permitted activity standards. The permitted activity standards could be specific to bulk storage and handling of cement and associated materials, as detailed in GBC Winstone’s original submission and as used in the Auckland Unitary Plan, or more general in relation to adverse effects on human health, property or the environment beyond the boundary of the premises where the activity takes place. Such permitted activity standards would ensure that a baghouse or similar dust removal system is used to ensure the nature and levels of adverse effects are acceptable.

Decision Sought: The permitted activity standards could be specific to bulk storage and handling of cement and associated materials, as detailed in GBC Winstone’s original submission and as used in the Auckland Unitary Plan, or more general in relation to adverse effects on human health, property or the environment beyond the boundary of the premises where the activity takes place. Such permitted activity standards would ensure that a baghouse or similar dust removal system is used to ensure the nature and levels of adverse effects are acceptable.

Reasons for Staff Recommendation: The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent. Staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

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Staff Recommendations on Submissions (By Submitter)

Submitter: 36 - Mercury NZ Ltd

Further Submission No: 7 - 16 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Trustpower Ltd

Summary: It aligns with the relief sought by Trustpower

Decision Sought: Accept submission point

Reasons for Staff Recommendation: The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent.
Staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 21 - 68 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Port of Tauranga

Summary: PoT supports the underlying premise of this submission, which opposes the inclusion of Rule AQR1(c) as notified. This rule would capture all discharges from an industrial or trade premise as a Discretionary Activity, irrespective of the size, scale and effect of the discharge. PoT requests that Rule AQR1 is amended as per the original submission.

Decision Sought: Accept in part

Reasons for Staff Recommendation: Staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 22 - 19 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Toi Te Ora Public Health

Summary: The effective management of discharges is important in protecting the health of the public. The proposed plan change enables better management of air discharges through resource consenting and more efficient enforcement.
The Section 32 Report states that 'the National Environmental Standard for Air Quality relies on the policies and rules in a regional plan to be effective'.

Decision Sought: Reject

Reasons for Staff Recommendation: Agree that adverse effects are being caused by discharges from industrial and trade premises across the region, particularly in industrial areas, that do need to be better managed moving forward. When activities are not managed by any other rule in the plan and are causing adverse effects, the burden of proving such effects when enforcing the plan rules falls to the Regional Council. Where there are several sources of a contaminant of concern it can be difficult to determine the main cause, if any. Even when there is one single source causing adverse effects it can still be a difficult process.
The presumption under the Act for ITPs restores this principle, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent. However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds,

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 36 - Mercury NZ Ltd

particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 23 - 46 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter oppose the proposed amendment recommended by submission 36 - 9. Although it is accepted that some industrial and trade premises will discharge contaminants at 'less than minor' or 'de minimis' levels, we note that there is no way in knowing whether cumulative effects are occurring, which may result from several different 'permitted' discharges from industrial and trade premises. These discharges could contribute to the degradation of ambient air quality. For this reason, Lawter support the 'catch-all' approach with regards to industrial and trade facilities, which has been adopted in Proposed Plan Change 13.

Decision Sought: Decision sought: Retain rule AQ R1 as notified.

Reasons for Staff Recommendation: Agree that adverse effects are being caused by discharges from industrial and trade premises across the region, particularly in industrial areas, that do need to be better managed moving forward. When activities are not managed by any other rule in the plan and are causing adverse effects, the burden of proving such effects when enforcing the plan rules falls to the Regional Council. Where there are several sources of a contaminant of concern it can be difficult to determine the main cause, if any. Even when there is one single source causing adverse effects it can still be a difficult process. The presumption under the Act for ITPs restores this principle, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent. However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 25 - 3 **Submission Type:** Support **Recommendation:** To Be Advised

Further Submitter: KiwiRail Holdings Ltd

Summary: KiwiRail lodged a primary submission (69-4) supporting the first clause of Rule AQ R1 which reinforces that any air discharges from Industrial and Trade Premises (ITP) permitted by any other rule in the Plan are permitted. While other rules permit many of KiwiRail's activities at its depots and yards, small and contained emissions could be unreasonably prevented by clause (c). The way the rule is currently drafted it makes all other industrial or trade premises a discretionary activity, irrespective of size, scale and effects. KiwiRail therefore supports the Mercury submission insofar as minor discharges meeting criteria (a) and (b) should be permitted on ITP sites under Rule AQ R1.

Decision Sought: Accept

Reasons for Staff Recommendation: Staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 30 - 28 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Swap Stockfoods Ltd

Summary: Support is provided as the submission is consistent with the intent of Swap Stockfoods original submission

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Staff Recommendations on Submissions (By Submitter)

Submitter: 36 - Mercury NZ Ltd

Decision Sought: Accept

Reasons for Staff Recommendation:

Staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Submission Point No: 10 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R2

Submission Summary: Mercury supports the general discretionary activity Rule AQ R2 for any discharge of contaminants to air that are not otherwise provided for by any other rule of the Air Quality chapter.

Decision Sought: Retain Rule AQ R2 in the same or similar form.

Reasons for Staff Recommendation: Minor change made to make wording of rule clearer that does not affect the overall intention of the rule.

Submission Point No: 11 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R4(b)

Submission Summary: Mercury considers it would be unreasonable to have to obtain discharge permits for vehicle movements on unsealed roads and the rule is supported.

Decision Sought: Retain Rule AQ R4 in the same or similar form.

Reasons for Staff Recommendation:

Further Submission No: 7 - 21 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Trustpower Ltd

Summary: It aligns with the relief sought by Trustpower

Decision Sought: Accept submission point

Reasons for Staff Recommendation: Retain clause (b) as notified

Submission Point No: 12 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Rules

Section: AQ R5

Submission Summary: Mercury supports the concept of a permitted threshold for the use of geothermal energy, where effects are less than minor and the volumes of geothermal fluid are small. Some of the permitted criteria proposed in Rule AQ R5 are not considered relevant to an effects-based approach to discharges and their effects. The specific discharge parameters required to manage the discharges including the discharge height and location are dependent on the specific location and distance to any neighbours or sensitive activities. Condition (c) is sufficient to manage the potential adverse effects from the discharges.

Decision Sought: Amend Rule AQ R5 to read:
...[delete - (c) The gas or steam must be an unimpeded vertical discharge from a vent.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 36 - Mercury NZ Ltd

(d) All vents must have sufficient height to ensure that the plume is unaffected by downdraft and must rise a minimum of 6 metres above ground level including 3 metres above the highest ridge line of any roof within 30 metres].

...

Reasons for Staff Recommendation:

Adverse effects can be assessed using condition (e) therefore condition (d) can be deleted.

Submission Point No: 13 **Submission Type:** Seek **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R16

Submission Summary: Infrequently, Mercury undertakes spray painting of geothermal infrastructure components to protect them from corrosion. Due to the location of the geothermal infrastructure and topographic conditions surrounding its infrastructure, it may be impracticable for Mercury to erect spray booths and stacks as required by (a) and (b). Given the locations of Mercury's operations and activities it considers that (c) is the only permitted activity condition required to ensure the discharge from spray painting results in acceptable adverse effects beyond the subject property boundary. Mercury considers that the alternative approach set out in Rule AQ R17 (a)(ii) for a "best practice method" and Rule AQ R17 (d) for mobile operations would also be acceptable for spray painting operations. Mercury notes that blasting and painting are almost always undertaken together (i.e. it would be unusual to blast 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.

Decision Sought:

Amend Rule AQ R16 to read:

Spraypainting – Permitted — Peita torehu – E whakaaehia ana

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 permitted activity provided the following conditions are complied with:

...

(c) The discharge must not be noxious or dangerous, offensive or objectionable beyond the boundary of the subject property. [insert - Except that conditions (a) and (b) above shall not apply to spray painting of infrastructure and the painting activity is located more than 50 m from a boundary of property not under the ownership, lease or control of the HEPS operator.]

Or amend Rule AQ R16 by inserting the following after clause (b):

[insert - OR where (a) and (b) cannot be met due to the mobile nature on an operation then the discharge must be controlled using a current, best practice method such as screening and paint technologies.]

Reasons for Staff Recommendation:

Recommend amending the rule to allow for the best practicable option but including conditions to ensure that sensitive activities are not affected.

Further Submission No: 7 - 23 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Trustpower Ltd

Summary: It aligns with the relief sought by Trustpower

Decision Sought: Accept submission point

Reasons for Staff Recommendation:

Recommend amending the rule to allow for the best practicable option but including conditions to ensure that sensitive activities are not affected.

Submission Point No: 14 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R17

Submission Summary: As discussed above for Rule AQ R16, Mercury undertakes abrasive blasting of infrastructure

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Staff Recommendations on Submissions (By Submitter)

Submitter: 36 - Mercury NZ Ltd

components to treat corrosion and prepare them for painting. Due to the location of the infrastructure and topographic conditions surrounding its geothermal infrastructure, it will invariably be impracticable for Mercury to erect a sealed blasting booth as required under condition (a)(i) of Rule AQ R17. Therefore the retention of condition (a)(ii) is supported by Mercury.

Decision Sought: Retain AQ R17 in the same or similar form.

Reasons for Staff Recommendation: Retain AQ R17 as notified

Further Submission No: 7 - 26 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Trustpower Ltd

Summary: It aligns with the relief sought by Trustpower

Decision Sought: Accept submission point

Reasons for Staff Recommendation: Retain AQ R17 as notified

Submission Point No: 15 **Submission Type:** Oppose **Recommendation:** Accept in Part

Chapter: Definitions

Section: Definitions - Noxious or dangerous

Submission Summary: "noxious or dangerous"

Mercury considers the definition should be deleted. 'Noxious or dangerous' is used within the RMA and case law has considered this based on a normal English language definition. The inclusion of the definition could result in a conflict between further court interpretation under the Act and the definition in the Plan. Further guidance on what is considered noxious or dangerous is also included in the MfE Good Practice guides for odour, dust and industry. No similar definition is provided for offensive or objectionable which are used together with noxious or dangerous within the RMA and the Plan.

Decision Sought: Delete the proposed definition for "noxious or dangerous".

Reasons for Staff Recommendation: Remove this definition from the plan change as it is used in the RMA and case law considers this based on a normal English language definition. Including a definition could result in a conflict between further Court interpretation. However, staff recommend retaining text to clarify how this term will be interpreted by the rules in the plan change and that this text is based on the text in the proposed plan.

Further Submission No: 11 - 12 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Oji Fibre Solution

Summary: The proposed definition is out of step with the current usage of this term in RMA planning, noting it is a key part of the RMA s17 obligation

Decision Sought: Accept submission

Reasons for Staff Recommendation: Remove this definition from the plan change as it is used in the RMA and case law considers this based on a normal English language definition. Including a definition could result in a conflict between further Court interpretation. However, staff recommend retaining text to clarify how this term will be interpreted by the rules in the plan change and that this text is based on the text in the proposed plan.

Further Submission No: 30 - 38 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Swap Stockfoods Ltd

Summary: Swap Stockfoods oppose deleting the definition for noxious or dangerous

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Staff Recommendations on Submissions (By Submitter)

Submitter: 36 - Mercury NZ Ltd

Decision Sought: Reject

Reasons for Staff Recommendation: Remove this definition from the plan change as it is used in the RMA and case law considers this based on a normal English language definition. Including a definition could result in a conflict between further Court interpretation. However, staff recommend retaining text to clarify how this term will be interpreted by the rules in the plan change and that this text is based on the text in the proposed plan.

Submission Point No: 16 **Submission Type:** Seek **Recommendation:** Accept in Part

Chapter: Definitions

Section: Definitions - Public amenity area

Submission Summary: "public amenity area"
Mercury considers the current definition for "public amenity area" includes a number of specific areas which are not areas where people congregate for extended periods of time. People are only present at a specific location on cycleways, parks and reserves (where playgrounds, sports fields and seating are not provided) and walkways for a short period of time.

Decision Sought: Amend definition for "public amenity area" to read"
Public amenity area means... changing facilities, [delete - cycleways], outdoor sports facilities, [delete - parks and reserves], playgrounds and playground equipment, public toilets, seating and picnic tables, shelters, squares, [delete - and walkways].

Reasons for Staff Recommendation: Staff recommend that the wording is changed to 'may include', to separate the definition from the examples. This will relieve the concerns in the submission points

Further Submission No: 11 - 19 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Oji Fibre Solution

Summary: The definition includes places where people do not congregate for extended periods of time

Decision Sought: Accept submission

Reasons for Staff Recommendation: Staff recommend that the wording is changed to 'may include', to separate the definition from the examples. This will relieve the concerns in the submission points

Submission Point No: 17 **Submission Type:** Seek **Recommendation:** Accept in Part

Chapter: Definitions

Section: Definitions - Sensitive activity

Submission Summary: "sensitive activity"
Mercury supports the proposed definition for "sensitive activity" subject to modifications. A number of the activities listed may not be sensitive to all contaminants and in all circumstances. For example, public water supply catchments, and wetlands will not be sensitive to discharges of odour or particulates. Further food manufacturing facilities are typically located within commercial or industrial areas where other discharges to air will be present and can be sources of discharges to air themselves (e.g. odour from roasting).

Decision Sought: Sensitive activity means an activity that may be adversely affected by contaminants and includes:
...(g) public amenity areas
[delete - (h) manufacturing or storage of food or beverages
(i) manufacturing or storage of electronics
(j) public water supply catchments and intakes.
(k) water bodies, watercourses (as listed in Schedule 3) and associated riparian vegetation
(l) incompatible crops or farming systems (e.g. organic farms, greenhouses)
(m) wetlands, indigenous vegetation habitat areas and reserves.
(n) household water supplies (including roofs from which a water supply is obtained).]

Reasons for Staff Recommendation: Staff recommend changing wording from 'this includes' to 'this may include' to separate the definition from the examples. Staff do not then recommend amending the list itself, as it is no

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Staff Recommendations on Submissions (By Submitter)

Submitter: 36 - Mercury NZ Ltd

longer a key part of the definition, but a list of examples to provide guidance. This will relieve many of the concerns in the submission points.

Further Submission No: 4 - 2 **Submission Type:** Support **Recommendation:** Accept in Part
Further Submitter: Whakatane Mill Ltd
Summary: The PC13 definition of sensitive activity is too broad and could include a number of activities that are not sensitive.
Decision Sought: Accept submission point 36-17 and delete clauses (h)-(n) from the definition of sensitive activity
Reasons for Staff Recommendation: Staff recommend changing wording from 'this includes' to 'this may include' to separate the definition from the examples. Staff do not then recommend amending the list itself, as it is no longer a key part of the definition, but a list of examples to provide guidance. This will relieve many of the concerns in the submission points.

Further Submission No: 11 - 21 **Submission Type:** Support **Recommendation:** Accept in Part
Further Submitter: Oji Fibre Solution
Summary: The PC13 definition of sensitive activity is too broad and could include a number of activities that are not sensitive
Decision Sought: Accept submission
Reasons for Staff Recommendation: Staff recommend changing wording from 'this includes' to 'this may include' to separate the definition from the examples. Staff do not then recommend amending the list itself, as it is no longer a key part of the definition, but a list of examples to provide guidance. This will relieve many of the concerns in the submission points.

Submission Point No: 18 **Submission Type:** Seek **Recommendation:** Reject
Chapter: Objectives
Section: AQ 01
Submission Summary: Mercury considers that the Objective should refer to significant adverse effects. The current objective would seek to protect human health from all adverse effects which could only be achieved by having no discharges which is inconsistent with the purpose of the RMA
Decision Sought: Amend as follows:
Protect the mauri of air and human health from [insert - significant] adverse effects of anthropogenic contaminant discharges to air, and enhance air quality where degraded.
Reasons for Staff Recommendation: Do not add 'significant' before 'adverse effects' as uncertainty over what constitutes significant and human health should be protected from adverse effects regardless of this.

Further Submission No: 20 - 2 **Submission Type:** Support **Recommendation:** Reject
Further Submitter: Fonterra Ltd
Summary: For the reasons outlined in Mercury's submission.
Decision Sought: Accept
Reasons for Staff Recommendation: Do not add 'significant' before 'adverse effects' as uncertainty over what constitutes significant and human health should be protected from adverse effects regardless of this.

Further Submission No: 21 - 14 **Submission Type:** Support **Recommendation:** Reject
Further Submitter: Port of Tauranga
Summary: This submission point requests that Objective AQ01 refers to significant adverse

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Submitter: 36 - Mercury NZ Ltd

effects, and echoes submission point 67-2 made by PoT in its original submission.

Decision Sought: Accept

Reasons for Staff Recommendation: Do not add 'significant' before 'adverse effects' as uncertainty over what constitutes significant and human health should be protected from adverse effects regardless of this.

Further Submission No: 26 - 1 **Submission Type:** Support in Part **Recommendation:** Reject

Further Submitter: Western Bay of Plenty District Council

Summary: The principle behind the submission is supported and recognition that some discharges are acceptable is beneficial in the objectives. However, the addition of the word "significant" is opposed. It would reduce the scope of the Air Plan and reduce its effective application. It is suggested that "more than minor" may be more suitable words to include.

Decision Sought: Accept in part

Reasons for Staff Recommendation: Do not add 'significant' before 'adverse effects' as uncertainty over what constitutes significant and human health should be protected from adverse effects regardless of this.

Submission Point No: 19 **Submission Type:** Oppose **Recommendation:** Accept

Chapter: Policies

Section: AQ P3(e)

Submission Summary: In Mercury's view, the elements in (e) can be appropriately dealt with by the proposed amendment to (a), such that (e) can be deleted accordingly.

Decision Sought: Amend as follows:
[delete - (e) minimise the discharge of contaminants into areas beyond the boundary of the subject property where it may cause adverse effects on human health, cultural values, amenity values, or the environment].

Reasons for Staff Recommendation: There is an internal inconsistency between clauses (a) to (d) which require the management of the adverse effects of discharges regardless of where the effects occur and clause (e) which introduces the property boundary as a line beyond where assessment of adverse effects begins. It implies that Council will use the property boundary to assess adverse effects in every case, in conflict with clause (a) where adverse effects are assessed regardless of location. Decision makers may then find it difficult to determine which of the requirements apply. To resolve this conflict, staff recommend that the clause is deleted in its entirety

Further Submission No: 7 - 12 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Trustpower Ltd

Summary: It aligns with the relief sought by Trustpower

Decision Sought: Accept submission point

Reasons for Staff Recommendation: There is an internal inconsistency between clauses (a) to (d) which require the management of the adverse effects of discharges regardless of where the effects occur and clause (e) which introduces the property boundary as a line beyond where assessment of adverse effects begins. It implies that Council will use the property boundary to assess adverse effects in every case, in conflict with clause (a) where adverse effects are assessed regardless of location. Decision makers may then find it difficult to determine which of the requirements apply. To resolve this conflict, staff recommend that the clause is deleted in its entirety

Submission Point No: 20 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Policies

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Staff Recommendations on Submissions (By Submitter)

Submitter: 36 - Mercury NZ Ltd

Section: AQ P3(b)

Submission Summary: Mercury considers the text “contribute to” in (b) is inappropriate. All discharge of contaminants will have a contribution to ambient air quality but the discharge in itself could be insignificant with a minor or negligible effect on compliance with the standards and guidelines. In addition, ambient air quality standards in the NESAQ and guideline values in the AAQG apply across the region or part of the region with respect to management of the airshed rather than being treated as compliance threshold for individual discharges. This region-wide approach to the management of the airshed should be reflected in (b).

Decision Sought: Amend (b) as follows:
(b) avoid the discharge of contaminants at a rate or volume that may, [insert - when assessed across the airshed], [delete - contribute to, or] cause an exceedance or breach of the ambient air quality standards of the NESAQ or exceed the health-based values of the AAQGs

Reasons for Staff Recommendation: In areas where an ambient standard is either already in breach, or is likely to be, there are no insignificant effects and all discharges contribute to the overall effect. Any activity that discharges the contaminant in question, is contributing to the cumulative effect. Where there are sufficient sources and/or where geographic and climatic conditions exacerbate the situation, this leads to breaches of the ambient standard

Further Submission No: 5 - 6 **Submission Type:** Support in Part **Recommendation:** Reject

Further Submitter: Timberlands Ltd

Summary: Timberlands supports in part the submission for the reasons given, namely that the text “contribute to” in (b) is inappropriate because it has no de minimus element to it. All discharge of contaminants will have a contribution to ambient air quality but the discharge in itself could be insignificant. The discharge needs to have a more than minor effect on compliance with the standards and guidelines.

Decision Sought: Accept submission point 36-20 in part

Reasons for Staff Recommendation: In areas where an ambient standard is either already in breach, or is likely to be, there are no insignificant effects and all discharges contribute to the overall effect. Any activity that discharges the contaminant in question, is contributing to the cumulative effect. Where there are sufficient sources and/or where geographic and climatic conditions exacerbate the situation, this leads to breaches of the ambient standard

Further Submission No: 23 - 23 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter oppose the proposed amendment of Policy AQ P3(b) recommended by submission 36 - 20. Although it is acknowledged that there are going to be some activities which have negligible adverse effects on their own when compared to the NESAQ and AAQG, these 'negligible' activities can cumulatively contribute to the degradation of air quality. It is also noted that the definition of 'airshed' involves an assessment of the entire Bay of Plenty region, which is inappropriate when assessing local air quality.

Decision Sought: Decision sought: Retain AQ P3(b) as notified.

Reasons for Staff Recommendation: In areas where an ambient standard is either already in breach, or is likely to be, there are no insignificant effects and all discharges contribute to the overall effect. Any activity that discharges the contaminant in question, is contributing to the cumulative effect. Where there are sufficient sources and/or where geographic and climatic conditions exacerbate the situation, this leads to breaches of the ambient standard

Submission Point No: 21 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Policies

Section: AQ P3(d)

Submission Summary: Mercury supports (d) but considers the inclusion of “significant” into (d) is necessary

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Staff Recommendations on Submissions (By Submitter)

Submitter: 36 - Mercury NZ Ltd

Decision Sought: Amend (d) as follows:
(d) avoid the discharge of contaminants that may cause [insert - significant] adverse effects on regionally significant infrastructure

Reasons for Staff Recommendation: Use of the term 'avoid' on its own is not appropriate for protecting what is essentially structures, no matter how regionally significant the structure is. It is unlikely that any air discharge will have a short term effect that will cause catastrophic failure of any infrastructure. Therefore allowing for remedying or mitigation of effects is appropriate.

Further Submission No: 7 - 9 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Trustpower Ltd

Summary: It aligns with the relief sought by Trustpower

Decision Sought: Accept submission point

Reasons for Staff Recommendation: Use of the term 'avoid' on its own is not appropriate for protecting what is essentially structures, no matter how regionally significant the structure is. It is unlikely that any air discharge will have a short term effect that will cause catastrophic failure of any infrastructure. Therefore allowing for remedying or mitigation of effects is appropriate.

Further Submission No: 30 - 11 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Swap Stockfoods Ltd

Summary: Support the intent of the addition to provide a level of effect in terms of the potential effects of discharges on regionally significant infrastructure

Decision Sought: Accept

Reasons for Staff Recommendation: Use of the term 'avoid' on its own is not appropriate for protecting what is essentially structures, no matter how regionally significant the structure is. It is unlikely that any air discharge will have a short term effect that will cause catastrophic failure of any infrastructure. Therefore allowing for remedying or mitigation of effects is appropriate.

Submission Point No: 22 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Policies

Section: AQ P4(a)

Submission Summary: Mercury generally supports the policy on matters to be considered for discharge of contaminants to air, as well as the policy tests, which refer to "considering" and "have particular regard" to but it should be noted that these are matters for "decision makers" to take into account. No changes sought to clause (a), subject to achieving sought changes to the definition of sensitive activities, which is currently considered too broad.

Mercury supports clauses (c) (d) and (e) without change.

Decision Sought: Support - subject to achieving sought changes to the definition of sensitive activities (submission point 36-17)

Reasons for Staff Recommendation: Staff acknowledge the concern expressed in this submission point regarding the definition of 'sensitive activities' and this is addressed through analysis of definition of sensitive activity

Submission Point No: 23 **Submission Type:** Support **Recommendation:** Accept

Chapter: Policies

Section: AQ P4(c)

Submission Summary: Mercury generally supports the policy on matters to be considered for discharge of contaminants to air, as well as the policy tests, which refer to "considering" and "have particular regard" to but it should be noted that these are matters for "decision makers" to take into account. Mercury supports clause (c) without change.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 36 - Mercury NZ Ltd

Decision Sought: No change to clause (c)

Reasons for Staff Recommendation: Iwi and hapu resource management plans have been considered as part of the plan change development (according to the requirements of the RPS) and when drafting permitted activities. As this clause is intended to apply to both permitted activities and resource consent application processes, staff recommend that this clause is only applied to resource consent applications.

Submission Point No: 24 **Submission Type:** Support **Recommendation:** Accept

Chapter: Policies

Section: AQ P4(d)

Submission Summary: Mercury generally supports the policy on matters to be considered for discharge of contaminants to air, as well as the policy tests, which refer to "considering" and "have particular regard" to but it should be noted that these are matters for "decision makers" to take into account. Mercury supports clause (d) without change.

Decision Sought: No change to clause (d)

Reasons for Staff Recommendation: Retain clause (d) as proposed

Submission Point No: 25 **Submission Type:** Support **Recommendation:** Accept

Chapter: Policies

Section: AQ P4(e)

Submission Summary: Mercury generally supports the policy on matters to be considered for discharge of contaminants to air, as well as the policy tests, which refer to "considering" and "have particular regard" to but it should be noted that these are matters for "decision makers" to take into account. Mercury supports clause (e) without change.

Decision Sought: No change to clause (e)

Reasons for Staff Recommendation: Retain clause (e) as proposed

Submission Point No: 26 **Submission Type:** Seek **Recommendation:** Accept in Part

Chapter: Policies

Section: AQ P4(g)

Submission Summary: Mercury supports the intent of (g), but considers the clause is an unnecessary duplication of (a). Mercury suggests replacing (g) that addresses the considerations in section 17 of the RMA (duty to avoid, remedy or remedy adverse effects) about whether the discharge is noxious, dangerous, offensive, or objectionable beyond the boundary of the subject property. The policy approach is consistent with the language in a number of the Proposed Plan Change rules.

Decision Sought: Amend (g) as follows:
(g) [delete - The effect of new activities discharging contaminants into air near established sensitive activities.] [insert - Whether the discharge is noxious or dangerous, offensive or objectionable beyond the boundary of the subject property]

Reasons for Staff Recommendation: Clause (a) requires regard given to proximity of sensitive activities for any discharge whether established or not. However, clause (g) is to have regard for new discharge activities near established sensitive activities. Staff acknowledge that confusion is likely and recommend that (g) is merged with (a) into one clause that retains both matters.

Further Submission No: 23 - 39 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Lawter New Zealand Ltd

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Staff Recommendations on Submissions (By Submitter)

Submitter: 36 - Mercury NZ Ltd

Summary: Lawter oppose the proposed amendments as recommended in submission 36 – 26. Both AQ P4(a) and (g) have distinct differences which result in different matters for council to consider. Clause (a) requires an assessment to be made of the proximity of sensitive activities from both new and existing discharges. Clause (g) requires all effects of new activities to be fully assessed (not limited to proximity only).

Decision Sought: Decision sought: retain AQ P4(g) as notified.

Reasons for Staff Recommendation: Clause (a) requires regard given to proximity of sensitive activities for any discharge whether established or not. However, clause (g) is to have regard for new discharge activities near established sensitive activities. Staff acknowledge that confusion is likely and recommend that (g) is merged with (a) into one clause that retains both matters.

Submission Point No: 27 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Policies

Section: AQ P4(f)

Submission Summary: It is suggested that clause (f) is amended to consider significant cumulative effects. This is to ensure a prohibitive approach isn't taken to consent discharges, which have naturally high ambient levels of contaminants, such as H2S. Alternatively, this could be addressed by adding a specific policy relevant to discharges in geothermal areas and Mercury is willing to engage parties on this matter.

Decision Sought: Amend (f) as follows:
(f) [insert - Significant] cumulative effects.

Reasons for Staff Recommendation: This would omit smaller industries who are contributing to cumulative effects. In areas where cumulative effects are of concern, all discharges regardless of scale, should be considered.

Further Submission No: 23 - 37 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter oppose the proposed amendment to clause (f) as proposed by submission 36 - 27. The insertion of 'significant' may omit smaller industries who are contributing to cumulative effects from being considered

Decision Sought: Decision sought: Retain policy AQ P4(f) as notified.

Reasons for Staff Recommendation: Agree that this would omit smaller industries who are contributing to cumulative effects. In areas where cumulative effects are of concern, all discharges regardless of scale, should be considered.

Submitter: 37 - Oji Fibre Solution

Submission Point No: 1 **Submission Type:** Oppose in Part **Recommendation:** Accept in Part

Chapter: Objectives

Section: New objective

Submission Summary: Allowing activities to discharge contaminants to air and providing for the operational requirements of the regions industrial activities, infrastructure and rural production activities etc. is an essential element of achieving sustainable management in the Region and giving effect to the RPS. This is not recognised in the PC13 objectives which all focus on managing the effects of activities or achieving acceptable air quality. Oji FS consider a new objective should be included which makes it explicit that providing for the operational requirements of activities which discharge contaminants to air is an outcome sought by PC13, alongside the outcomes sought by AQO1 – AQO3.

Decision Sought: Insert new objectives as follows:
Objective X
Competing demands for the use of the air resource of Bay of Plenty are accommodated while unacceptable degradation of ambient air quality is avoided.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 37 - Oji Fibre Solution

Reasons for Staff Recommendation: Staff disagree that there is no provision for air discharges. The plan change provides for appropriately managed air discharges from industry, infrastructure and rural activities through the proposed policies and rules.
The inclusion of an objective to enable discharges to air would elevate this requirement too high in the hierarchy of aims set out in the purpose of the RNRP. It may also create an internal tension within the plan change where for example the goal of providing for a discharge is at odds with meeting the NESAQ.
Recommend a wording change to AQ P1 to better reflect that the policy provides for appropriately managed discharges to air.

Further Submission No: 3 - 5 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Ballance Agri-Nutrients Ltd

Summary: Ballance is the operator of key significant infrastructure and has constraints regarding its necessity to be located close to the Port of Tauranga and its consolidated manufacturing facilities. The Company considers that the objective proposed by the submitter appropriately recognises this

Decision Sought: That submission 37-1 be accepted.

Reasons for Staff Recommendation: Staff disagree that there is no provision for air discharges. The plan change provides for appropriately managed air discharges from industry, infrastructure and rural activities through the proposed policies and rules.
The inclusion of an objective to enable discharges to air would elevate this requirement too high in the hierarchy of aims set out in the purpose of the RNRP. It may also create an internal tension within the plan change where for example the goal of providing for a discharge is at odds with meeting the NESAQ.
Recommend a wording change to AQ P1 to better reflect that the policy provides for appropriately managed discharges to air.

Further Submission No: 8 - 5 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Mercury NZ Ltd

Summary: Clarification is sought as to how the relief sought implements the intent of the submission to enable regionally significant industry. Mercury supports any policy enabler of emissions from E11Infrastructure (including geothermal electricity generation and development). Consideration of which activities are strategically important to the region needs to be guided by the RPS, and national policy, which needs to be given effect to. If there is going to be a prescriptive list of regionally significant activities, Mercury advocates geothermal electricity generation needs to be included.

Decision Sought: Oppose in part

Reasons for Staff Recommendation: Staff disagree that there is no provision for air discharges. The plan change provides for appropriately managed air discharges from industry, infrastructure and rural activities through the proposed policies and rules.
The inclusion of an objective to enable discharges to air would elevate this requirement too high in the hierarchy of aims set out in the purpose of the RNRP. It may also create an internal tension within the plan change where for example the goal of providing for a discharge is at odds with meeting the NESAQ.
Recommend a wording change to AQ P1 to better reflect that the policy provides for appropriately managed discharges to air.

Further Submission No: 10 - 1 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Greg Misson

Summary: There has been a lack of regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. A more straightforward way of addressing the issue would be to make the activity causing these dust problems discretionary. This is on the basis that there is considerable evidence of adverse effects from these activities.

Decision Sought: Reject

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Staff Recommendations on Submissions (By Submitter)

Submitter: 37 - Oji Fibre Solution

Reasons for Staff Recommendation: Staff disagree that there is no provision for air discharges. The plan change provides for appropriately managed air discharges from industry, infrastructure and rural activities through the proposed policies and rules.
The inclusion of an objective to enable discharges to air would elevate this requirement too high in the hierarchy of aims set out in the purpose of the RNRP. It may also create an internal tension within the plan change where for example the goal of providing for a discharge is at odds with meeting the NESAQ.
Recommend a wording change to AQ P1 to better reflect that the policy provides for appropriately managed discharges to air.

Further Submission No: 13 - 4 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Horticulture New Zealand

Summary: It is appropriate that the Plan recognises the need for some activities to discharge to air, provided effects are appropriately managed. The intent of the objective is similar to that sought by Submitter 45, whose wording is preferred.

Decision Sought: Accept submission to include new objective as sought by 45-24

Reasons for Staff Recommendation: Staff disagree that there is no provision for air discharges. The plan change provides for appropriately managed air discharges from industry, infrastructure and rural activities through the proposed policies and rules.
The inclusion of an objective to enable discharges to air would elevate this requirement too high in the hierarchy of aims set out in the purpose of the RNRP. It may also create an internal tension within the plan change where for example the goal of providing for a discharge is at odds with meeting the NESAQ.
Recommend a wording change to AQ P1 to better reflect that the policy provides for appropriately managed discharges to air.

Further Submission No: 15 - 1 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Hangar It

Summary: This amendment will further reduce Councils ability to properly regulate. Most concerning is that the duty of care to provide a safe environment for hangar users will continue to be undermined by a continuation of toxic organic dust crossing the boundary from 101 Aerodrome Road

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Staff disagree that there is no provision for air discharges. The plan change provides for appropriately managed air discharges from industry, infrastructure and rural activities through the proposed policies and rules.
The inclusion of an objective to enable discharges to air would elevate this requirement too high in the hierarchy of aims set out in the purpose of the RNRP. It may also create an internal tension within the plan change where for example the goal of providing for a discharge is at odds with meeting the NESAQ.
Recommend a wording change to AQ P1 to better reflect that the policy provides for appropriately managed discharges to air.

Further Submission No: 16 - 1 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Solo Wings

Summary: There are a wide range of adverse health effects that can arise from exposure to particulate matter and BOPRC has recognised this in the proposed plan change-13. The requested amendment will further frustrate BOPRC's ability to effectively perform its regulatory role. Tauranga Airport is a public area. General public are subject to breathing contaminated air, as a consequence of 101 Aerodrome road particulate discharges. It would clearly run counter to the public health interest for BOPRC to adopt these amendments.

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Staff disagree that there is no provision for air discharges. The plan change provides for appropriately managed air discharges from industry, infrastructure and rural activities through the proposed policies and rules.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 37 - Oji Fibre Solution

The inclusion of an objective to enable discharges to air would elevate this requirement too high in the hierarchy of aims set out in the purpose of the RNRP. It may also create an internal tension within the plan change where for example the goal of providing for a discharge is at odds with meeting the NESAQ.
Recommend a wording change to AQ P1 to better reflect that the policy provides for appropriately managed discharges to air.

Further Submission No: 17 - 1 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Tony Christiansen

Summary: There has been a lack of effective regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. Concern with the amendments sought by this enterprise will further degrade Councils ability to respond effectively.

Decision Sought: Reject

Reasons for Staff Recommendation: Staff disagree that there is no provision for air discharges. The plan change provides for appropriately managed air discharges from industry, infrastructure and rural activities through the proposed policies and rules.
The inclusion of an objective to enable discharges to air would elevate this requirement too high in the hierarchy of aims set out in the purpose of the RNRP. It may also create an internal tension within the plan change where for example the goal of providing for a discharge is at odds with meeting the NESAQ.
Recommend a wording change to AQ P1 to better reflect that the policy provides for appropriately managed discharges to air.

Further Submission No: 18 - 5 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Federated Farmers of New Zealand

Summary: We agree that an enabling objective is needed.

Decision Sought: Accept submission point

Reasons for Staff Recommendation: Staff disagree that there is no provision for air discharges. The plan change provides for appropriately managed air discharges from industry, infrastructure and rural activities through the proposed policies and rules.
The inclusion of an objective to enable discharges to air would elevate this requirement too high in the hierarchy of aims set out in the purpose of the RNRP. It may also create an internal tension within the plan change where for example the goal of providing for a discharge is at odds with meeting the NESAQ.
Recommend a wording change to AQ P1 to better reflect that the policy provides for appropriately managed discharges to air.

Further Submission No: 20 - 8 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Fonterra Ltd

Summary: For the reasons outlined in the Oji Fibre Solutions submission, and also the Fonterra submission. There should be an objective that provides for activities.

Decision Sought: Accept

Reasons for Staff Recommendation: Staff disagree that there is no provision for air discharges. The plan change provides for appropriately managed air discharges from industry, infrastructure and rural activities through the proposed policies and rules.
The inclusion of an objective to enable discharges to air would elevate this requirement too high in the hierarchy of aims set out in the purpose of the RNRP. It may also create an internal tension within the plan change where for example the goal of providing for a discharge is at odds with meeting the NESAQ.
Recommend a wording change to AQ P1 to better reflect that the policy provides for appropriately managed discharges to air.

Further Submission No: 23 - 63 **Submission Type:** Support in Part **Recommendation:** Accept in Part

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Staff Recommendations on Submissions (By Submitter)

Submitter: 37 - Oji Fibre Solution

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter support the inclusion of a new objective which provides for the operational requirements of industries, infrastructure and rural production industries, however Lawter also consider that this should be limited to established activities

Decision Sought: Decision sought: amend, and adopt the objective proposed by submission 37 - 1 as follows; 'Competing demands [insert: of established activities] for the use of the air....'

Reasons for Staff Recommendation: Staff disagree that there is no provision for air discharges. The plan change provides for appropriately managed air discharges from industry, infrastructure and rural activities through the proposed policies and rules.
The inclusion of an objective to enable discharges to air would elevate this requirement too high in the hierarchy of aims set out in the purpose of the RNRP. It may also create an internal tension within the plan change where for example the goal of providing for a discharge is at odds with meeting the NESAQ.
Recommend a wording change to AQ P1 to better reflect that the policy provides for appropriately managed discharges to air.

Submission Point No: 2 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Objectives

Section: AQ 01

Submission Summary: The existing objectives are supported, subject to the inclusion of the new objectives which recognise the need to accommodate the operational requirements of activities which discharge contaminants to air.

Decision Sought: Retain Objective AQO1

Reasons for Staff Recommendation: Minor change recommended to change 'protect' to 'protection' - to state an outcome, rather than an action
Remove requirement to 'enhance air quality where degraded' as this is already required by AQ Q2 and AQ O3

Further Submission No: 21 - 11 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Port of Tauranga

Summary: This submission point refers to retaining Objective AQO1 as notified. PoT request the Objective is amended as per its original submission.

Decision Sought: Reject

Reasons for Staff Recommendation: Minor change recommended to change 'protect' to 'protection' - to state an outcome, rather than an action
Remove requirement to 'enhance air quality where degraded' as this is already required by AQ Q2 and AQ O3

Submission Point No: 3 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Objectives

Section: AQ 02

Submission Summary: The existing objectives are supported, subject to the inclusion of the new objectives which recognise the need to accommodate the operational requirements of activities which discharge contaminants to air

Decision Sought: Retain Objective AQO2

Reasons for Staff Recommendation: Remove reference to AAQGs as they are only guidelines, not developed under RMA process (taking into account costs and benefits) and not appropriate to set thresholds which must be met.
Add text to allow for amendments or replacements to ensure that if NESAQ is amended, the objective will still apply

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Staff Recommendations on Submissions (By Submitter)

Submitter: 37 - Oji Fibre Solution

Further Submission No: 21 - 18 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Port of Tauranga

Summary: This submission point refers to retaining Objective AQO2 as notified. PoT request the Objective is amended as per its original submission

Decision Sought: Reject

Reasons for Staff Recommendation: Remove reference to AAQGs as they are only guidelines, not developed under RMA process (taking into account costs and benefits) and not appropriate to set thresholds which must be met.
Add text to allow for amendments or replacements to ensure that if NESAQ is amended, the objective will still apply

Submission Point No: 4 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Objectives

Section: AQ 03

Submission Summary: The existing objectives are supported, subject to the inclusion of the new objectives which recognise the need to accommodate the operational requirements of activities which discharge contaminants to air

Decision Sought: Retain Objective AQO3

Reasons for Staff Recommendation: Change wording 'manage' to 'management' as it sets an outcome instead of an action

Further Submission No: 21 - 25 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Port of Tauranga

Summary: This submission seeks for Objective AQO3 to be retained as notified, and broadly reflects the original submission made by PoT.

Decision Sought: Accept

Reasons for Staff Recommendation: Change wording 'manage' to 'management' as it sets an outcome instead of an action

Submission Point No: 5 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Policies

Section: AQ P1

Submission Summary: Policy AQP1 is supported

Decision Sought: Retain Policy AQP1

Reasons for Staff Recommendation: Some minor changes made as a result of other submission points

Submission Point No: 6 **Submission Type:** Oppose in Part **Recommendation:** Reject

Chapter: Policies

Section: AQ P2

Submission Summary: Policy AQP2 only contemplates the discharge of hazardous substances occurring (and being remedied or mitigated using the best practicable option), where it is "not possible" to avoid that discharge. Theoretically, by applying sufficient financial and engineering resources it will almost always be "possible" to avoid the discharge of hazardous substances, or to avoid the discharge to a much greater extent than is justified by the discharge's potential effects and the cost of doing so. This is because the "where possible"

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Staff Recommendations on Submissions (By Submitter)

Submitter: 37 - Oji Fibre Solution

test does not take into account:

- The nature of the discharge or emission and the sensitivity of the receiving environment to adverse effects; or
 - The financial implications, and the effects on the environment, of avoiding the discharge when compared with implementing other options.
 - Requiring all discharges of hazardous substances to be avoided without considering these important matters is not an effective or efficient means of achieving sustainable management. It would in many cases impose substantial costs on persons undertaking discharges in circumstances where the associated reduction in effects does not justify those costs.
- Subject to the changes sought in its submission, Oji FS considers Policy AQP3 and AQP4 contains the appropriate policy direction for managing the discharge of hazardous substances (use of the best practicable option, protecting human health, consideration of relevant guideline values etc.) and that a specific policy addressing hazardous substances is not necessary. As such Policy AQP2 is superfluous and should be deleted.

Decision Sought: Delete Policy AQP2 and address hazardous substances in AQP3 and AQP4.

Reasons for Staff Recommendation: Staff acknowledge that there is some overlap between Policies AQ P2 and AQ P3. However, hazardous substances, and hazardous air pollutants are, due to their intrinsic natures, a class of contaminant on their own. Inclusion of this policy adds robustness to the policy framework by ensuring these contaminants are managed appropriately now, and into the future, through a separate policy.

Further Submission No: 8 - 25 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Mercury NZ Ltd

Summary: Mercury supports the deletion of Policy 2. Mercury seeks to ensure new policies required for targeted land uses do not unnecessarily constrain emissions from geothermal electricity generation.

Decision Sought: Allow

Reasons for Staff Recommendation: Staff acknowledge that there is some overlap between Policies AQ P2 and AQ P3. However, hazardous substances, and hazardous air pollutants are, due to their intrinsic natures, a class of contaminant on their own. Inclusion of this policy adds robustness to the policy framework by ensuring these contaminants are managed appropriately now, and into the future, through a separate policy.

Further Submission No: 10 - 2 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Greg Misson

Summary: There has been a lack of regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. A more straightforward way of addressing the issue would be to make the activity causing these dust problems discretionary. This is on the basis that there is considerable evidence of adverse effects from these activities.

Decision Sought: Reject

Reasons for Staff Recommendation: This further submission point discusses issues with dust. While dust is a contaminant, its harm is caused due to its small size, not due to its intrinsic properties. Dust is not a hazardous substance, nor a hazardous air pollutant.

Further Submission No: 15 - 2 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Hangar It

Summary: This amendment will further reduce Councils ability to properly regulate. Most concerning is that the duty of care to provide a safe environment for hangar users will continue to be undermined by a continuation of toxic organic dust crossing the boundary from 101 Aerodrome Road

Decision Sought: Reject submission point

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Staff Recommendations on Submissions (By Submitter)

Submitter: 37 - Oji Fibre Solution

Reasons for Staff Recommendation: This further submission point discusses issues with dust. While dust is a contaminant, its harm is caused due to its small size, not due to its intrinsic properties. Dust is not a hazardous substance, nor a hazardous air pollutant.

Further Submission No: 16 - 2 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Solo Wings

Summary: There are a wide range of adverse health effects that can arise from exposure to particulate matter and BOPRC has recognised this in the proposed plan change-13. The requested amendment will further frustrate BOPRC's ability to effectively perform its regulatory role. Tauranga Airport is a public area. General public are subject to breathing contaminated air, as a consequence of 101 Aerodrome road particulate discharges. It would clearly run counter to the public health interest for BOPRC to adopt these amendments.

Decision Sought: Reject submission point

Reasons for Staff Recommendation: This further submission point discusses issues with dust and particulate matter. While particulate matter is a contaminant, its harm is caused due to its small size, not due to its intrinsic properties. Dust is not a hazardous substance, nor a hazardous air pollutant.

Further Submission No: 17 - 2 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Tony Christiansen

Summary: There has been a lack of effective regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. Concern with the amendments sought by this enterprise will further degrade Councils ability to respond effectively.

Decision Sought: Reject

Reasons for Staff Recommendation: This further submission point discusses issues with dust. While dust is a contaminant, its harm is caused due to its small size, not due to its intrinsic properties. Dust is not a hazardous substance, nor a hazardous air pollutant.

Submission Point No: 7 **Submission Type:** Oppose in Part **Recommendation:** Accept

Chapter: Policies

Section: AQ P3(a)

Submission Summary: Policy AQP3(a) directs that activities should be managed to avoid adverse effects on human health. In a post King Salmon context this means avoiding all adverse effects and is potentially prohibitive of activities that do not meet this threshold. Oji FS supports provisions to protect peoples' health and wellbeing. But for some contaminants (PM10 for example) there is no "no observable effects threshold" so simply requiring all adverse effects be avoided (no matter how insignificant) is not practical or achievable. This is reflected in the NESAQ rules which apply to PM10. Rather than Policy AQP3 directing that activities "avoid adverse effects ... on human health", Oji FS considers AQP3 should direct activities to "protect" human health. This reflects the language used in the Regional Policy Statement (see RPS Policy AQ2A), and the outcome sought by the New Zealand Ambient Air Quality Guidelines 2002 ("AAQG"). Policy AQP3(a) be amended so it directs discharges be managed using the BPO to protect human health

Decision Sought: Amend (a) as follows:
(a) safeguard the life supporting capacity of the air, [delete - avoid adverse effects on] [insert - protect] human health, and manage adverse effects on cultural values, amenity values, and the environment

Reasons for Staff Recommendation: For particulates, there is no safe threshold for exposure. In this case it is difficult to then avoid adverse effects on human health becomes difficult. Staff agree with an amendment to 'protect' human health, rather than to 'avoid adverse effects on' human health. This reflects the language in the RPS (Policy AQ2A) the outcome sought by the Ambient Air Quality Guidelines, AQ O1 and the 2011 Users' Guide to the revised National Environmental

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Staff Recommendations on Submissions (By Submitter)

Submitter: 37 - Oji Fibre Solution

Standards for Air Quality (the users' guide).

Further Submission No:	8 - 36	Submission Type:	Support	Recommendation:	Accept
Further Submitter:	Mercury NZ Ltd				
Summary:	Mercury would support amendments where tests are in line with the relevant tests within the RMA				
Decision Sought:	Support in part				
Reasons for Staff Recommendation:	For particulates, there is no safe threshold for exposure. In this case it is difficult to then avoid adverse effects on human health becomes difficult. Staff agree with an amendment to 'protect' human health, rather than to 'avoid adverse effects on' human health. This reflects the language in the RPS (Policy AQ2A) the outcome sought by the Ambient Air Quality Guidelines, AQ O1 and the 2011 Users' Guide to the revised National Environmental Standards for Air Quality (the users' guide).				

Further Submission No:	10 - 3	Submission Type:	Oppose	Recommendation:	Reject
Further Submitter:	Greg Misson				
Summary:	There has been a lack of regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. A more straightforward way of addressing the issue would be to make the activity causing these dust problems discretionary. This is on the basis that there is considerable evidence of adverse effects from these activities.				
Decision Sought:	Reject				
Reasons for Staff Recommendation:	The relief sought by the original submission point will not have the effect as claimed by this further submission point				

Further Submission No:	15 - 3	Submission Type:	Oppose	Recommendation:	Reject
Further Submitter:	Hangar It				
Summary:	This amendment will further reduce Councils ability to properly regulate. Most concerning is that the duty of care to provide a safe environment for hangar users will continue to be undermined by a continuation of toxic organic dust crossing the boundary from 101 Aerodrome Road				
Decision Sought:	Reject submission point				
Reasons for Staff Recommendation:	The relief sought by the original submission point will not have the effect as claimed by this further submission point				

Further Submission No:	16 - 3	Submission Type:	Oppose	Recommendation:	Reject
Further Submitter:	Solo Wings				
Summary:	There are a wide range of adverse health effects that can arise from exposure to particulate matter and BOPRC has recognised this in the proposed plan change-13. The requested amendment will further frustrate BOPRC's ability to effectively perform its regulatory role. Tauranga Airport is a public area. General public are subject to breathing contaminated air, as a consequence of 101 Aerodrome road particulate discharges. It would clearly run counter to the public health interest for BOPRC to adopt these amendments.				
Decision Sought:	Reject submission point				
Reasons for Staff Recommendation:	The relief sought by the original submission point will not have the effect as claimed by this further submission point				

Further Submission No:	17 - 3	Submission Type:	Oppose	Recommendation:	Reject
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Staff Recommendations on Submissions (By Submitter)

Submitter: 37 - Oji Fibre Solution

Further Submitter: Tony Christiansen

Summary: There has been a lack of effective regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. Concern with the amendments sought by this enterprise will further degrade Councils ability to respond effectively.

Decision Sought: Reject

Reasons for Staff Recommendation: The relief sought by the original submission point will not have the effect as claimed by this further submission point

Further Submission No: 21 - 53 **Submission Type:** Support in Part **Recommendation:** Accept

Further Submitter: Port of Tauranga

Summary: PoT supports the intent of this submission, which identifies the potential implications of requiring adverse effects to be avoided post-King Salmon. PoT opposes the policy wording proposed in this submission however, and seeks that the relief instead reflects the wording proposed in its original submission.

Decision Sought: Accept in part

Reasons for Staff Recommendation: For particulates, there is no safe threshold for exposure. In this case it is difficult to then avoid adverse effects on human health becomes difficult. Staff agree with an amendment to 'protect' human health, rather than to 'avoid adverse effects on' human health. This reflects the language in the RPS (Policy AQ2A) the outcome sought by the Ambient Air Quality Guidelines, AQ O1 and the 2011 Users' Guide to the revised National Environmental Standards for Air Quality (the users' guide).

Further Submission No: 23 - 17 **Submission Type:** Support in Part **Recommendation:** Reject

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter generally support the recommendation made in submission 37 – 7. The proposed amendment of AQ P3(a) is drafted more like an objective in terms of effects on human health (the outcome being to protect human health), but does not provide an action as to how human health is to be protected

Decision Sought: Decision sought: amend policy AQ P3(a) so that: • Significant adverse effects on human health are avoided; and • All other adverse effects (including all other effects on human health) are managed (remedied or mitigated) accordingly

Reasons for Staff Recommendation: Only avoiding significant adverse effects on human health implies that the there is a threshold below which human health effects are acceptable, until they become significant. Further, by only requiring effects to be avoided 'where practicable' allows considerable room for interpretation and it is unclear where avoiding adverse effects on human health is to occur.

Submission Point No: 8 **Submission Type:** Oppose in Part **Recommendation:** Accept in Part

Chapter: Policies

Section: AQ P4 - whole policy

Submission Summary: Policy should apply to decision makers, not plan users.

Decision Sought: Amend AQP4 as follows:
When considering the acceptability of any discharge of contaminants to air, [insert - decision makers] [delete - regional plan users] must have particular regard to the following matters...

Reasons for Staff Recommendation: Staff agree that a change is necessary and recommend wording to remove reference to 'plan users' or otherwise, but the suggested replacement 'decision makers' limits the policy to resource consent applications which is not the intention.

Submission Point No: 9 **Submission Type:** Oppose **Recommendation:** Accept in Part

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 37 - Oji Fibre Solution

Chapter: Rules

Section: AQ R1

Submission Summary: Rule AQR1(c) will mean a number of relatively minor activities undertaken at Industrial or trade premises which have previously been permitted activities will require a resource consent. This includes for example, fugitive dust from the storage of raw material on site, the discharge of water vapour and ventilation related discharges. There is no substantive analysis in the section 32 report of the costs involved in requiring these relatively minor activities being approved via individual resource consent applications, rather than a permitted activity rule. Oji FS acknowledge the commentary in the section 32 report that the standards on the Operative Air Plan's permitted activity rule for these activities are outdated. However, rather than requiring a resource consent for all such activities which occur on an industrial or trade premises, Oji FS considers more appropriate permitted activity standards should be considered.

Decision Sought: Amend Rule AQR1 as follows:
...[delete - (c) The discharge is not from industrial or trade premises.]...

Reasons for Staff Recommendation: The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent. However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 1 - 7 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: GBC Winstone

Summary: The deletion or amendment of AQ R1(c) is supported, as the Plan should provide a means of permitting incidental and de minimus discharges from industrial and trade premises, by stating the type and levels of effects as a permitted activity standard. GBC Winstone has a service centre for bulk storage and handling of cement at Port of Tauranga, Mt Maunganui, operating under an air discharge consent, but contains the cement by means of a baghouse dust removal system. GBC Winstone original submission No. 27 on Plan Change 13 sought permitted activity status for cement storage and handling at Port of Tauranga, subject to meeting permitted activity standards. The permitted activity standards could be specific to bulk storage and handling of cement and associated materials, as detailed in GBC Winstone's original submission and as used in the Auckland Unitary Plan, or more general in relation to adverse effects on human health, property or the environment beyond the boundary of the premises where the activity takes place. Such permitted activity standards would ensure that a baghouse or similar dust removal system is used to ensure the nature and levels of adverse effects are acceptable

Decision Sought: The permitted activity standards could be specific to bulk storage and handling of cement and associated materials, as detailed in GBC Winstone's original submission and as used in the Auckland Unitary Plan, or more general in relation to adverse effects on human health, property or the environment beyond the boundary of the premises where the activity takes place. Such permitted activity standards would ensure that a baghouse or similar dust removal system is used to ensure the nature and levels of adverse effects are acceptable

Reasons for Staff Recommendation: The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent. However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

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Staff Recommendations on Submissions (By Submitter)

Submitter: 37 - Oji Fibre Solution

Further Submission No: 7 - 17 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Trustpower Ltd

Summary: It aligns with the relief sought by Trustpower

Decision Sought: Accept submission point

Reasons for Staff Recommendation: The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent.
However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 10 - 4 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Greg Misson

Summary: Support of proposed AQ R1 as currently drafted. This rule is clear in providing that discharges to air should not cause adverse effects beyond the boundary of the site where any activity is being undertaken.
Particularly strong support for Rule AQ R1(c) which provides that any activity on industrial or trade premises that has discharges to air that have adverse effects offsite will require resource consent (i.e. it is no longer a permitted activity). A straightforward application of this rule means that the bulk materials handling facility at 101 Aerodrome Road (which have caused adverse effects at mine and adjacent properties) would no longer be a permitted activity and would require resource consent.

Decision Sought: Reject in part - include modification
To assist with enforcement of this rule, carry out monitoring for PM10 in accordance with the Resource Management (National Environmental Standards for Air Quality) Regulations 2004.
Include additional text in the AQ R1 - (d) The discharge does not cause an exceedance of the national environmental standard for PM10.

Reasons for Staff Recommendation: Agree that adverse effects are being caused by discharges from industrial and trade premises across the region, particularly in industrial areas, that do need to be better managed moving forward. When activities are not managed by any other rule in the plan and are causing adverse effects, the burden of proving such effects when enforcing the plan rules falls to the Regional Council. Where there are several sources of a contaminant of concern it can be difficult to determine the main cause, if any. Even when there is one single source causing adverse effects it can still be a difficult process.
The presumption under the Act for ITPs restores this principle, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent. However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 15 - 4 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Hangar It

Summary: In strong support of proposed AQ R1 as it is currently drafted. AQ R1 requires discharges to air should not cause adverse effects beyond the boundary of a site

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 37 - Oji Fibre Solution

where any activity is being undertaken. Importantly AQ R1(c) provides that any activity on industrial or trade premises that has discharges to air that have adverse effects offsite, such as 101 Aerodrome Road, will now require resource consent.

Decision Sought: Reject submission point

Reasons for Staff Recommendation:

Agree that adverse effects are being caused by discharges from industrial and trade premises across the region, particularly in industrial areas, that do need to be better managed moving forward. When activities are not managed by any other rule in the plan and are causing adverse effects, the burden of proving such effects when enforcing the plan rules falls to the Regional Council. Where there are several sources of a contaminant of concern it can be difficult to determine the main cause, if any. Even when there is one single source causing adverse effects it can still be a difficult process.

The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent.

However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 16 - 4 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Solo Wings

Summary: In support of proposed AQ R1 as currently drafted. This rule requires discharges to air should NOT cause adverse effects beyond the boundary of the site where any activity is being undertaken. In particular, support of Rule AQ R1(c) which provides that any activity on industrial or trade premises that has discharges to air that have adverse effects offsite, such as 101 Aerodrome Road (which has caused serious adverse effects at mine and other properties), will now require resource consent.

Decision Sought: Reject submission point

Reasons for Staff Recommendation:

Agree that adverse effects are being caused by discharges from industrial and trade premises across the region, particularly in industrial areas, that do need to be better managed moving forward. When activities are not managed by any other rule in the plan and are causing adverse effects, the burden of proving such effects when enforcing the plan rules falls to the Regional Council. Where there are several sources of a contaminant of concern it can be difficult to determine the main cause, if any. Even when there is one single source causing adverse effects it can still be a difficult process.

The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent.

However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 17 - 4 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Tony Christiansen

Summary: Support of proposed AQ R1 as currently drafted. This rule is clear in providing that discharges to air should not cause adverse effects beyond the boundary of the site where any activity is being undertaken.
Support for Rule AQ R1(c) which provides that any activity on industrial or trade premises that has discharges to air that have adverse effects offsite will require resource consent with an amendment to add condition (d) "The discharge does not

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Staff Recommendations on Submissions (By Submitter)

Submitter: 37 - Oji Fibre Solution

cause an exceedance of the national environmental standard for PM10." Application of this rule would mean that the bulk materials handling facility at 101 Aerodrome Road would no longer be a permitted activity and would require resource consent. When there are neighbouring properties, such as a public Airport, where people and aircraft with sensitive equipment exist and frequent, the resource consent should be publicly notifiable. To assist with enforcement of this rule, monitoring should be carried out for PM10 in accordance with the Resource Management (National Environmental Standards for Air Quality) Regulations 2004.

Decision Sought: Reject

Reasons for Staff Recommendation:

Agree that adverse effects are being caused by discharges from industrial and trade premises across the region, particularly in industrial areas, that do need to be better managed moving forward. When activities are not managed by any other rule in the plan and are causing adverse effects, the burden of proving such effects when enforcing the plan rules falls to the Regional Council. Where there are several sources of a contaminant of concern it can be difficult to determine the main cause, if any. Even when there is one single source causing adverse effects it can still be a difficult process. The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent. However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 21 - 69 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Port of Tauranga

Summary: PoT supports the underlying premise of this submission, which opposes the inclusion of Rule AQR1(c) as notified. This rule would capture all discharges from an industrial or trade premise as a Discretionary Activity, irrespective of the size, scale and effect of the discharge. PoT requests that Rule AQR1 is amended as per the original submission.

Decision Sought: Accept in part

Reasons for Staff Recommendation:

The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent. However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 22 - 18 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Toi Te Ora Public Health

Summary: The effective management of discharges is important in protecting the health of the public. The proposed plan change enables better management of air discharges through resource consenting and more efficient enforcement. The Section 32 Report states that 'the National Environmental Standard for Air Quality relies on the policies and rules in a regional plan to be effective'.

Decision Sought: Reject

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Staff Recommendations on Submissions (By Submitter)

Submitter: 37 - Oji Fibre Solution

Reasons for Staff Recommendation: ITPs discharging contaminants to air must apply for resource consent. However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 23 - 47 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter oppose the proposed amendment recommended by submission 37 - 9. Although it is accepted that some industrial and trade premises will discharge contaminants at 'less than minor' or 'de minimis' levels, we note that there is no way in knowing whether cumulative effects are occurring, which may result from several different 'permitted' discharges from industrial and trade premises. These discharges could contribute to the degradation of ambient air quality. For this reason, Lawter support the 'catch-all' approach with regards to industrial and trade facilities, which has been adopted in Proposed Plan Change 13.

Decision Sought: Decision sought: Retain rule AQ R1 as notified.

Reasons for Staff Recommendation: Agree that adverse effects are being caused by discharges from industrial and trade premises across the region, particularly in industrial areas, that do need to be better managed moving forward. When activities are not managed by any other rule in the plan and are causing adverse effects, the burden of proving such effects when enforcing the plan rules falls to the Regional Council. Where there are several sources of a contaminant of concern it can be difficult to determine the main cause, if any. Even when there is one single source causing adverse effects it can still be a difficult process. The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent. However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 30 - 29 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Swap Stockfoods Ltd

Summary: Support is provided as the submission is consistent with the intent of Swap Stockfoods original submission.

Decision Sought: Accept

Reasons for Staff Recommendation: The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent. However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Submission Point No: 10 **Submission Type:** Support **Recommendation:** Accept

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Staff Recommendations on Submissions (By Submitter)

Submitter: 37 - Oji Fibre Solution

Chapter: Rules

Section: AQ R2

Submission Summary: Discretionary is the appropriate activity status for discharges to air from industrial or trade premises not attributed an activity status by an activity specific rule.

Decision Sought: Retain AQR2

Reasons for Staff Recommendation: Minor change made to make wording of rule clearer that does not affect the overall intention of the rule.

Submission Point No: 11 **Submission Type:** Oppose **Recommendation:** Accept

Chapter: Rules

Section: AQ R10

Submission Summary: Trace elements of heavy metals and potentially dioxins, furans and PCB are present in many fuels combusted to generate heat energy. Clause (h) and potentially (c) would therefore make most fuel burning a noncomplying activity. To address this Oji FS seeks that either:
Rule AQR10 only applies to outdoor burning and solid fuel burners; or
Rule AQR10 does not apply to activities covered by Rule AQR21; or
Rule AQR10 (c) and (g) are deleted.

Decision Sought: Amend AQR10 so that either
Rule AQR10 only applies to outdoor burning and solid fuel burners; or
Rule AQR10 does not apply to activities covered by Rule AQR21; or
Rule AQR10 (c) and (g) are deleted.

Reasons for Staff Recommendation: Exception to be made under AQ R10 for fuel burning equipment, and exclude activities already listed in AQ R21.

Submission Point No: 12 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R21(m)

Submission Summary: AQ21 makes the discharge of contaminants to air from kraft and chemical pulping, a discretionary activity. Oji FS considers this an appropriate activity status for these activities

Decision Sought: Retain Rule AQ21

Reasons for Staff Recommendation: Retain clause (m) as notified

Submission Point No: 13 **Submission Type:** Oppose in Part **Recommendation:** Accept in Part

Chapter: Policies

Section: AQ P3(b)

Submission Summary: Policy AQP3(b)
The AAQG are health-based guideline values aimed at protecting people's health and well-being. They are intended to inform airshed management and evaluate ambient air quality monitoring results. They are not designed to be used to assess the environmental and health impacts of individual discharges to air in the manner directed by Policy AQP3(b). This is explicitly stated in Section 3.7 of the AAQG. PC13 should not direct that the AAQG be applied in a manner that was not intended when they were drafted. There may be situations where an industrial facility causes ambient air quality guidelines to be breached at the fence line, or in an isolated location where people would not be exposed. These localised effects should be assessed in a different way to cumulative effects, with more emphasis on the nature of human exposure, rather than simply comparing model predictions with ambient air quality guidelines or standards as is suggested by Policy AQP3(b).
Against that background, Oji FS supports Policy AQP3 seeking that all discharges be managed using the BPO to protect human health, but it should not direct that compliance

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Staff Recommendations on Submissions (By Submitter)

Submitter: 37 - Oji Fibre Solution

with the AAQG must always be achieved, at all times, in all locations for a discharge to achieve this outcome. In that context Oji FS seeks that the reference to the AAQG be deleted from Policy AQP3(b). Oji FS also consider it unnecessary for Policy AQP3(b) to reference the NESAQ as the NESAQ already contains detailed direction on what its ambient air quality standards mean for individual resource consent applications, and that direction would apply to all resource consent applications. In some cases the proposed Policy AQP2(b) direction is also inconsistent with that in the NESAQ. For example, while the NESAQ does not allow a resource consent to be granted which would contribute to its SO2 standards being exceeded, that same direction only applies in respect of CO, NO2 and VOCs where the discharge is the principle source of contaminants in the airshed. For these reasons Oji FS considers the reference to the NESAQ in Policy AQP2(b) is unnecessary, and it is sufficient to reference the NESAQ in Policy AQP4 as a matter to be had particular regard when considering a specific discharge application.

Decision Sought: Amend (b) as follows:
[delete - (b) avoid the discharge of contaminants at a rate or volume that may contribute to, or cause an exceedance or breach of the ambient air quality standards of the NESAQ or exceed the health-based values of the AAQGs]

Reasons for Staff Recommendation: The NESAQ regulations only apply when resource consents are required to discharge contaminants. No provision is made for existing discharges, or permitted activities, and these also contribute to cumulative effects. However staff agree that the AAQGs are only guidelines, and their inclusion in a policy intended to set a clear direction to achieve specific environmental outcomes is not appropriate.

Further Submission No: 10 - 5 **Submission Type:** Oppose **Recommendation:** To Be Advised

Further Submitter: Greg Misson

Summary: There has been a lack of regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. A more straightforward way of addressing the issue would be to make the activity causing these dust problems discretionary. This is on the basis that there is considerable evidence of adverse effects from these activities.

Decision Sought: Reject

Reasons for Staff Recommendation: The requested amendment will not have the effect as stated in this further submission

Further Submission No: 13 - 31 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks that all of P3 b) be deleted because they are more appropriately addressed in P4. HortNZ seeks that reference to the Ambient Air Quality Guidelines (AAQG's) be deleted

Decision Sought: Accept submission to delete references to the NESAQ and AAQG in Policy 3.

Reasons for Staff Recommendation: The NESAQ regulations only apply when resource consents are required to discharge contaminants. No provision is made for existing discharges, or permitted activities, and these also contribute to cumulative effects. However staff agree that the AAQGs are only guidelines, and their inclusion in a policy intended to set a clear direction to achieve specific environmental outcomes is not appropriate.

Further Submission No: 15 - 5 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Hangar It

Summary: This amendment will further reduce Councils ability to properly regulate. Most concerning is that the duty of care to provide a safe environment for hangar users will continue to be undermined by a continuation of toxic organic dust crossing the boundary from 101 Aerodrome Road.

Decision Sought: Reject submission point

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Staff Recommendations on Submissions (By Submitter)

Submitter: 37 - Oji Fibre Solution

Reasons for Staff Recommendation: The requested amendment will not have the effect as stated in this further submission

Further Submission No: 16 - 5 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Solo Wings

Summary: There are a wide range of adverse health effects that can arise from exposure to particulate matter and BOPRC has recognised this in the proposed plan change-13. The requested amendment will further frustrate BOPRC's ability to effectively perform its regulatory role. Tauranga Airport is a public area. General public are subject to breathing contaminated air, as a consequence of 101 Aerodrome road particulate discharges. It would clearly run counter to the public health interest for BOPRC to adopt these amendments.

Decision Sought: Reject submission point

Reasons for Staff Recommendation: The requested amendment will not have the effect as stated in this further submission

Further Submission No: 17 - 5 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Tony Christiansen

Summary: There has been a lack of effective regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. Concern with the amendments sought by this enterprise will further degrade Councils ability to respond effectively.

Decision Sought: Reject

Reasons for Staff Recommendation: The requested amendment will not have the effect as stated in this further submission

Further Submission No: 22 - 9 **Submission Type:** Oppose **Recommendation:** To Be Advised

Further Submitter: Toi Te Ora Public Health

Summary: It is not acceptable to harm to health. Avoiding harm will keep people healthy and improve health. The National Environment Standards for Air Quality set guaranteed minimum level of health protection for all New Zealand. It is unacceptable for any contaminants to be discharged at levels resulting in downwind concentrations that can cause ill health. Every effort to avoid exposure to contaminants must be made when the adverse health effects are well known. It is not acceptable to knowingly harm the health of the public in the same way that it is not acceptable to harm the health of people in a workplace. The effective management of discharges from industrial and trade activities is important in protecting the health of the public.

Decision Sought: Reject

Reasons for Staff Recommendation: The NESAQ regulations only apply when resource consents are required to discharge contaminants. No provision is made for existing discharges, or permitted activities, and these also contribute to cumulative effects. However staff agree that the AAQGs are only guidelines, and their inclusion in a policy intended to set a clear direction to achieve specific environmental outcomes is not appropriate.

Submission Point No: 14 **Submission Type:** Oppose in Part **Recommendation:** Accept

Chapter: Policies

Section: AQ P3(d)

Submission Summary: Policy AQP3(d)
The RPS directs that regionally significant infrastructure be 'protected', not that activities avoid all adverse effects on that infrastructure. In a post King Salmon context this means avoiding all adverse effects and is potentially prohibitive of activities that do not meet this threshold. Oji FS

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Staff Recommendations on Submissions (By Submitter)

Submitter: 37 - Oji Fibre Solution

supports provisions to protect peoples' health and wellbeing. But for some contaminants (PM10 for example) there is no "no observable effects threshold" so simply requiring all adverse effects be avoided (no matter how insignificant) is not practical or achievable. This is reflected in the NESAQ rules which apply to PM10. For the same reasons Policy AQP3(d) should be amended so it directs infrastructure be protected

Decision Sought: Amend (d) as follows:
(d) [delete - avoid the discharge of contaminants that may cause adverse effects on] [insert - protect] regionally significant infrastructure

Reasons for Staff Recommendation: Use of the term 'avoid' on its own is not appropriate for protecting what is essentially structures, no matter how regionally significant the structure is. It is unlikely that any air discharge will have a short term effect that will cause catastrophic failure of any infrastructure. Therefore allowing for remedying or mitigation of effects is appropriate, hwoever full protection is not provided as requested by the submitter.

Further Submission No: 8 - 44 **Submission Type:** Support in Part **Recommendation:** Accept

Further Submitter: Mercury NZ Ltd

Summary: Mercury supports the intent of the submission to protect Regionally Significant Infrastructure

Decision Sought: Allow in part

Reasons for Staff Recommendation: Use of the term 'avoid' on its own is not appropriate for protecting what is essentially structures, no matter how regionally significant the structure is. It is unlikely that any air discharge will have a short term effect that will cause catastrophic failure of any infrastructure. Therefore allowing for remedying or mitigation of effects is appropriate.

Further Submission No: 13 - 34 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Horticulture New Zealand

Summary: It is inappropriate that all regionally significant infrastructure be 'protected' in the manner sought by the submitter

Decision Sought: Reject submission

Reasons for Staff Recommendation: Use of the term 'avoid' on its own is not appropriate for protecting what is essentially structures, no matter how regionally significant the structure is. It is unlikely that any air discharge will have a short term effect that will cause catastrophic failure of any infrastructure. Therefore allowing for remedying or mitigation of effects is appropriate, without providing overall protection as requested by the submitter

Further Submission No: 21 - 55 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Port of Tauranga

Summary: PoT opposes this submission as the suggested amended policy calls for protection of regionally significant infrastructure, rather than avoidance of adverse effect on regionally significant infrastructure. Protection which would be difficult to implement and measure and open to interpretation.

Decision Sought: Reject

Reasons for Staff Recommendation: Use of the term 'avoid' on its own is not appropriate for protecting what is essentially structures, no matter how regionally significant the structure is. It is unlikely that any air discharge will have a short term effect that will cause catastrophic failure of any infrastructure. Therefore allowing for remedying or mitigation of effects is appropriate, without providing overall protection as requested by the submitter.

Submission Point No: 15 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Policies

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Staff Recommendations on Submissions (By Submitter)

Submitter: 37 - Oji Fibre Solution

Section:	AQ P4 - new clause
Submission Summary:	<p>A number of important activities in the Bay of Plenty which discharge contaminants to air are subject to locational constraints. Notable examples include heavy industry and rural production activities which need to locate in the region's few heavy industrial zones or rural environment. The RPS contains policy direction to provide for the operation and growth of these activities, including through:</p> <ul style="list-style-type: none"> Appropriate plan provisions, such as zoning of land; Access to and use of resources (this includes air); and Protection from reverse sensitivity effects. <p>Oji FS acknowledges that the primary means of doing this is by district councils attributing appropriate zoning to areas in which these activities are located (or expected to locate), and by controlling the introduction of new sensitive land use in or near those areas. However, it is also important that decision makers acknowledge these types of activities are expected to be located in these areas when assessing their discharges to air, and that this may mean a lower level of amenity is appropriate in these areas than would be in an urban area.</p>
Decision Sought:	<p>Amend AQP4 as follows:</p> <p>[insert - (h) The operational requirements of the discharging activity, and any locational constraints to which it is subject, particularly heavy industry, infrastructure and rural production activities.</p>
Reasons for Staff Recommendation:	<p>Staff agree that the acceptability of discharges of contaminants to air will differ depending on the location, and that some locations are of a nature where the amenity values will be lower. These matters should be considered along with all other matters listed.</p>

Further Submission No:	8 - 53	Submission Type:	Support	Recommendation:	Accept in Part
Further Submitter:	Mercury NZ Ltd				
Summary:	Mercury supports consideration of functional requirements for strategically important industry and infrastructure. Consideration of which activities are strategically important to the region needs to be guided by the RPS, and national policy statements which need to be given effect to.				
Decision Sought:	Allow				
Reasons for Staff Recommendation:	Staff agree that the acceptability of discharges of contaminants to air will differ depending on the location, and that some locations are of a nature where the amenity values will be lower. These matters should be considered along with all other matters listed.				

Further Submission No:	10 - 6	Submission Type:	Oppose	Recommendation:	Accept
Further Submitter:	Greg Misson				
Summary:	There has been a lack of regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. A more straightforward way of addressing the issue would be to make the activity causing these dust problems discretionary. This is on the basis that there is considerable evidence of adverse effects from these activities.				
Decision Sought:	Reject				
Reasons for Staff Recommendation:	Staff agree that the acceptability of discharges of contaminants to air will differ depending on the location, and that some locations are of a nature where the amenity values will be lower. These matters should be considered along with all other matters listed.				

Further Submission No:	13 - 41	Submission Type:	Support	Recommendation:	Accept
Further Submitter:	Horticulture New Zealand				
Summary:	Recognition of the operational requirements of rural production activities is supported				
Decision Sought:	Accept submission				

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Staff Recommendations on Submissions (By Submitter)

Submitter: 37 - Oji Fibre Solution

Reasons for Staff Recommendation: Staff agree that the acceptability of discharges of contaminants to air will differ depending on the location, and that some locations are of a nature where the amenity values will be lower. These matters should be considered along with all other matters listed.

Further Submission No: 15 - 6 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Hangar It

Summary: This amendment will further reduce Councils ability to properly regulate. Most concerning is that the duty of care to provide a safe environment for hangar users will continue to be undermined by a continuation of toxic organic dust crossing the boundary from 101 Aerodrome Road.

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Staff agree that the acceptability of discharges of contaminants to air will differ depending on the location, and that some locations are of a nature where the amenity values will be lower. These matters should be considered along with all other matters listed.

Further Submission No: 16 - 6 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Solo Wings

Summary: There are a wide range of adverse health effects that can arise from exposure to particulate matter and BOPRC has recognised this in the proposed plan change-13. The requested amendment will further frustrate BOPRC's ability to effectively perform its regulatory role. Tauranga Airport is a public area. General public are subject to breathing contaminated air, as a consequence of 101 Aerodrome road particulate discharges. It would clearly run counter to the public health interest for BOPRC to adopt these amendments.

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Staff agree that the acceptability of discharges of contaminants to air will differ depending on the location, and that some locations are of a nature where the amenity values will be lower. These matters should be considered along with all other matters listed.

Further Submission No: 17 - 6 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Tony Christiansen

Summary: There has been a lack of effective regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. Concern with the amendments sought by this enterprise will further degrade Councils ability to respond effectively.

Decision Sought: Reject

Reasons for Staff Recommendation: Staff agree that the acceptability of discharges of contaminants to air will differ depending on the location, and that some locations are of a nature where the amenity values will be lower. These matters should be considered along with all other matters listed.

Further Submission No: 18 - 18 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Federated Farmers of New Zealand

Summary: We agree that operational and location constraints should be considered.

Decision Sought: Accept submission point

Reasons for Staff Recommendation: Staff agree that the acceptability of discharges of contaminants to air will differ depending on the location, and that some locations are of a nature where the amenity values will be lower. These matters should be considered along with all other matters

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Staff Recommendations on Submissions (By Submitter)

Submitter: 37 - Oji Fibre Solution

listed.

Further Submission No: 20 - 21 **Submission Type:** Support **Recommendation:** Accept
Further Submitter: Fonterra Ltd
Summary: For the reasons outlined in Oji Fibre Solutions' submission and Fonterra's submission.
Decision Sought: Accept in part
Reasons for Staff Recommendation: Staff agree that the acceptability of discharges of contaminants to air will differ depending on the location, and that some locations are of a nature where the amenity values will be lower. These matters should be considered along with all other matters listed.

Further Submission No: 30 - 16 **Submission Type:** Support **Recommendation:** Accept
Further Submitter: Swap Stockfoods Ltd
Summary: Support the inclusion of (h) The operational requirements of the discharging activity, and any locational constraints to which it is subject, particularly heavy industry, infrastructure and rural production activities. This addition acknowledges the area where these activities are located and an understanding that a discharge to air is required and is suitable in that particular location. It also recognises that in some cases these areas may have a lower level of amenity due to the types of activity and industry that already exist.
Decision Sought: Accept
Reasons for Staff Recommendation: Staff agree that the acceptability of discharges of contaminants to air will differ depending on the location, and that some locations are of a nature where the amenity values will be lower. These matters should be considered along with all other matters listed.

Submission Point No: 16 **Submission Type:** Seek **Recommendation:** Accept
Chapter: Policies
Section: AQ P4 - new clause
Submission Summary: International Air Quality Guidelines
There are number of substances which are not covered by ambient air quality standards in the NESAQ or AAQGs. Various internationally recognised standards or guidelines for air quality provide guidance on managing the effects of these substances and they should be referenced in Policy AQP4.
Oji FS seeks a new clause (i) which does this.
Decision Sought: Amend AQP4 as follows:
[insert - ((i) Any applicable internationally recognised standards or guidelines for air quality.)]
Reasons for Staff Recommendation: Staff agree that various other internationally recognised standards or guidelines that include additional substances wider than those provided in New Zealand should be considered along with the other matters listed

Further Submission No: 8 - 54 **Submission Type:** Support **Recommendation:** Accept
Further Submitter: Mercury NZ Ltd
Summary: Mercury supports reference to relevant standards and guidelines. The correct policy test "have regard to" is also applied.
Decision Sought: Allow
Reasons for Staff Recommendation: Staff agree that various other internationally recognised standards or guidelines that include additional substances wider than those provided in New Zealand should be considered along with the other matters listed

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Staff Recommendations on Submissions (By Submitter)

Submitter: 37 - Oji Fibre Solution

Further Submission No: 10 - 7 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Greg Misson

Summary: There has been a lack of regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. A more straightforward way of addressing the issue would be to make the activity causing these dust problems discretionary. This is on the basis that there is considerable evidence of adverse effects from these activities.

Decision Sought: Reject

Reasons for Staff Recommendation: Staff agree that various other internationally recognised standards or guidelines that include additional substances wider than those provided in New Zealand should be considered along with the other matters listed

Further Submission No: 15 - 7 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Hangar It

Summary: This amendment will further reduce Councils ability to properly regulate. Most concerning is that the duty of care to provide a safe environment for hangar users will continue to be undermined by a continuation of toxic organic dust crossing the boundary from 101 Aerodrome Road.

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Staff agree that various other internationally recognised standards or guidelines that include additional substances wider than those provided in New Zealand should be considered along with the other matters listed

Further Submission No: 16 - 7 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Solo Wings

Summary: There are a wide range of adverse health effects that can arise from exposure to particulate matter and BOPRC has recognised this in the proposed plan change-13. The requested amendment will further frustrate BOPRC's ability to effectively perform its regulatory role. Tauranga Airport is a public area. General public are subject to breathing contaminated air, as a consequence of 101 Aerodrome road particulate discharges. It would clearly run counter to the public health interest for BOPRC to adopt these amendments.

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Staff agree that various other internationally recognised standards or guidelines that include additional substances wider than those provided in New Zealand should be considered along with the other matters listed

Further Submission No: 17 - 7 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Tony Christiansen

Summary: There has been a lack of effective regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. Concern with the amendments sought by this enterprise will further degrade Councils ability to respond effectively.

Decision Sought: Reject

Reasons for Staff Recommendation: Staff agree that various other internationally recognised standards or guidelines that include additional substances wider than those provided in New Zealand should be considered along with the other matters listed

Further Submission No: 20 - 22 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Fonterra Ltd

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Staff Recommendations on Submissions (By Submitter)

Submitter: 37 - Oji Fibre Solution

Summary: For the reasons outlined in Oji Fibre Solutions' submission and Fonterra's submission.

Decision Sought: Accept in part

Reasons for Staff Recommendation: Staff agree that various other internationally recognised standards or guidelines that include additional substances wider than those provided in New Zealand should be considered along with the other matters listed

Submission Point No: 17 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Policies

Section: AQ P4 - new clause

Submission Summary: There is no specific policy provision in AQP4 for managing odour and dust emissions. Oji FS considers reference to the FIDOL factors in AQP4 would be an appropriate means of doing this.

Decision Sought: Amend AQP4 as follows:
[insert - (j) The FIDOL factors (frequency, intensity, duration, offensiveness and location) for determining the adverse effects in relation to dust and odour]

Reasons for Staff Recommendation: Particular regard should be given to the FIDOL factors when assessing acceptability of dust and odour to air.

Further Submission No: 8 - 55 **Submission Type:** Support in Part **Recommendation:** Accept

Further Submitter: Mercury NZ Ltd

Summary: Mercury supports the intent of this submission and welcomes engagement on this matter. Should the FIDOL factors be included within clause (e)?

Decision Sought: Allow

Reasons for Staff Recommendation: Particular regard should be given to the FIDOL factors when assessing acceptability of dust and odour to air.

Further Submission No: 20 - 23 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Fonterra Ltd

Summary: For the reasons outlined in Oji Fibre Solutions' submission and Fonterra's submission.

Decision Sought: Accept in part

Reasons for Staff Recommendation: Particular regard should be given to the FIDOL factors when assessing acceptability of dust and odour to air.

Further Submission No: 30 - 17 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Swap Stockfoods Ltd

Summary: Support the inclusion of the FIDOL (frequency, intensity, duration, offensiveness and location) for determining the adverse effects in relation to dust and odour]

Decision Sought: Accept

Reasons for Staff Recommendation: Particular regard should be given to the FIDOL factors when assessing acceptability of dust and odour to air.

Submission Point No: 18 **Submission Type:** Oppose in Part **Recommendation:** Accept in Part

Chapter: Objectives

Section: New objective

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 37 - Oji Fibre Solution

Submission Summary: Allowing activities to discharge contaminants to air and providing for the operational requirements of the regions industrial activities, infrastructure and rural production activities etc. is an essential element of achieving sustainable management in the Region and giving effect to the RPS. This is not recognised in the PC13 objectives which all focus on managing the effects of activities or achieving acceptable air quality. Oji FS consider a new objective should be included which makes it explicit that providing for the operational requirements of activities which discharge contaminants to air is an outcome sought by PC13, alongside the outcomes sought by AQO1 – AQO3.

Decision Sought: Insert new objective as follows:
Objective X
The operational requirements of activities, including heavy industry, other location specific industry, infrastructure, rural production activities and mineral extraction activities are recognised and provided for

Reasons for Staff Recommendation: Staff recommend amending the wording of AQ P1 as follows:
Manage the discharge of contaminants to air according to the following:
(a) [insert - Provide for the discharge of contaminants to air by] permit [insert - ting] discharges from activities where the discharge can be suitably managed with general conditions to avoid, remedy or mitigate any adverse effects of the discharge

Further Submission No: 8 - 6 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Mercury NZ Ltd

Summary: Mercury supports consideration of the functional and operational requirements of strategically important activities, however considers the correct tests need to be applied. Mercury considers such a policy approach needs to firstly consider which activities are strategically important to the region, and be guided by the RPS, and national policy statements, which need to be given effect to. The extent to which the operational requirements of activities, which is largely investment related, and a relevant matter under s104 which must be had regard to, but not necessarily recognised and provided for. Functional requirements apply where an activity has to be located in a specific location that cannot be changed, such as locating a geothermal power station above a geothermal field, and is an example of an activity that should be recognised and provided for.

Decision Sought: Allow in Part

Reasons for Staff Recommendation: Staff recommend amending the wording of AQ P1 as follows:
Manage the discharge of contaminants to air according to the following:
(a) [insert - Provide for the discharge of contaminants to air by] permit [insert - ting] discharges from activities where the discharge can be suitably managed with general conditions to avoid, remedy or mitigate any adverse effects of the discharge

Further Submission No: 13 - 5 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Horticulture New Zealand

Summary: It is appropriate that the Plan recognises the need for some activities to discharge to air, provided effects are appropriately managed.

Decision Sought: Accept submission to include new objective as sought by 37-18.

Reasons for Staff Recommendation: Staff recommend amending the wording of AQ P1 as follows:
Manage the discharge of contaminants to air according to the following:
(a) [insert - Provide for the discharge of contaminants to air by] permit [insert - ting] discharges from activities where the discharge can be suitably managed with general conditions to avoid, remedy or mitigate any adverse effects of the discharge

Further Submission No: 18 - 6 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Federated Farmers of New Zealand

Summary: We agree that operational requirements of, amongst others, rural production should be recognised

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 37 - Oji Fibre Solution

Decision Sought: Accept submission point

Reasons for Staff Recommendation: Staff recommend amending the wording of AQ P1 as follows:
Manage the discharge of contaminants to air according to the following:
(a) [insert - Provide for the discharge of contaminants to air by] permit [insert - ting] discharges from activities where the discharge can be suitably managed with general conditions to avoid, remedy or mitigate any adverse effects of the discharge

Further Submission No: 21 - 4 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Port of Tauranga

Summary: The submissions identified all recognise that PC13, as notified, does not provide for any enabling provisions. PoT support the inclusion of such an enabling provision.

Decision Sought: Accept

Reasons for Staff Recommendation: Staff recommend amending the wording of AQ P1 as follows:
Manage the discharge of contaminants to air according to the following:
(a) [insert - Provide for the discharge of contaminants to air by] permit [insert - ting] discharges from activities where the discharge can be suitably managed with general conditions to avoid, remedy or mitigate any adverse effects of the discharge

Further Submission No: 30 - 2 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Swap Stockfoods Ltd

Summary: Agree that the plan change should provide an objective that provides for the operational requirements of activities, including heavy industry, other location specific industry, infrastructure, rural production activities and mineral extraction activities.

Decision Sought: Accept

Reasons for Staff Recommendation: Staff recommend amending the wording of AQ P1 as follows:
Manage the discharge of contaminants to air according to the following:
(a) [insert - Provide for the discharge of contaminants to air by] permit [insert - ting] discharges from activities where the discharge can be suitably managed with general conditions to avoid, remedy or mitigate any adverse effects of the discharge

Submission Point No: 19 **Submission Type:** Not Applicable **Recommendation:** Accept

Chapter: Rules

Section: AQ R21(u)

Submission Summary: AQ21(u) makes the discharge of contaminants to air from pulp, paper or paper board manufacturing a discretionary activity. Oji FS considers this an appropriate activity status for these activities

Decision Sought: Retain Rule AQ21

Reasons for Staff Recommendation: Retain clause (u) as notified

Submitter: 38 - Richard Mallinson

Submission Point No: 1 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Section: Rotorua Burner Rules - General

Submission Summary: Particle discharge is determined by how dry the wood is rather than the type of solid fuel burner older fires can produce very little particulate if they are used properly likewise new more efficient fires can produce more particulate if used improperly, so where's the gain for the extra expense of a replacement fire?

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 38 - Richard Mallinson

Decision Sought: Promote good wood and allow existing wood burners as a permitted activity after January 2020

Reasons for Staff Recommendation: Regulating commercial activities of this nature is outside the scope of the plan change, which is to regulate discharges to air. Firewood merchants may sell wet wood intended for storage and seasoning by the consumer. It is the homeowner's responsibility to ensure they operate their burner appropriately to minimise discharges, and this includes burning seasoned firewood. Rule AQ R12(e) contains a condition that requires this

Further Submission No: 14 - 7 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Envirosolve

Summary: Wood merchandises should be licenced and randomly controlled if they are selling fire wood to moisture specification and they have to comply. Secondary retrofittable emission devices are the key for clean air.

Decision Sought: Support and amend

Reasons for Staff Recommendation: Regulating commercial activities of this nature is outside the scope of the plan change, which is to regulate discharges to air. It is the homeowner's responsibility to ensure they operate their burner appropriately to minimise discharges, and this includes burning seasoned firewood. Rule AQ R12(e) contains a condition that requires this. There is not enough certainty that these devices will reduce the particulates discharged from any burner to the extent necessary for the Rotorua Airshed to meet the NESAQ

Submission Point No: 2 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Section: Rotorua Burner Rules - General

Submission Summary: No consideration has been given to the detrimental health effects where fires have been removed and properties are left with inadequate heating.

Decision Sought: Consider the detrimental health effects where fires have been removed and properties are left with inadequate heating and allow existing wood burners as a permitted activity after January 2020

Reasons for Staff Recommendation: Avoiding a scenario where health effects from poor air quality are replaced with health effects from cold, damp homes, has been a principle of the Rotorua Air Quality programme since its inception in 2008 and Council provides a number of financial support schemes to assist homeowners. Despite best efforts there will always be members of the community that behave poorly. Examples given in submission points are houses having burners removed under the Bylaw's point of sale rule leaving no heating. There is always an option to install zero emission heating (such as a heat pump) or a pellet burner. This may not be their preferred method of heating, but it is still home heating. Where a woodburner is preferred but not permitted, the rule framework allows for resource consents either with an offset or in exceptional circumstances.

Submission Point No: 3 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Section: Rotorua Burner Rules - General

Submission Summary: Landlords who are unwilling to bear increased costs are likely to remove noncompliant fires and leave tenants with expensive to run oil heaters or non-vented gas heaters which are a known health hazard. This will hit the people the rule is trying to protect. Note the Hot Swap programme is not available to landlords so they are likely to go for the cheaper option rather than spend half the properties yearly income on a replacement compliant fire or heat pump. This will leave tenants in either unheated homes or facing large power bills. If they do go for the extra cost this will be passed on as higher rents to tenants who will often be in a position to ill afford it.

Decision Sought: Expand Hot Swap loan to landlords. Provide financial support for homes affected by rule or allow existing wood burners to be a permitted activity after January 2020.

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 38 - Richard Mallinson

Reasons for Staff Recommendation: Council provides a number of financial support schemes to assist homeowners which have always been available to landlords. Despite best efforts there will always be members of the community that behave poorly. Examples given in submission points are houses having burners removed under the Bylaw's point of sale rule leaving no heating and landlords removing a burner from a rental property to offset a new woodburner in their own home. This behaviour isn't localised, instead it's a national issue being addressed by the Minister of Housing and Urban Development through introducing minimum standards for warmer and drier rental homes through the Healthy Homes Guarantee Act 2017

Submission Point No: 4 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Section: Rotorua Burner Rules - General

Submission Summary: The Hot Swap scheme takes no account of properties that have had fires removed at point of sale, this leaves the new house owners in a position where the home is left with no heating, how healthy is that?

Decision Sought: Existing wood burners should continue to be a permitted activity after January 2020

Reasons for Staff Recommendation: There is always an option to install zero emission heating (such as a heat pump) or a pellet burner. This may not be their preferred method of heating, but it is still home heating. Where a woodburner is preferred but not permitted, the rule framework allows for resource consents either with an offset or in exceptional circumstances.

Further Submission No: 14 - 8 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Envirosolve

Summary: Old wood burner should be a permitted activity fitted with a secondary emission device

Decision Sought: Support and amend

Reasons for Staff Recommendation: There is not enough certainty that these devices will reduce the particulates discharged from any burner to the extent necessary for the Rotorua Airshed to meet the NESAQ

Submission Point No: 5 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Section: Rotorua Burner Rules - General

Submission Summary: Rotorua is a forestry area. People within Rotorua often have easy access to wood it is a cheap heating option when independently sourced. Denying access to wood as a heating source will financially disadvantage a large number of people.

Decision Sought: Existing wood burners should continue to be a permitted activity after January 2020

Reasons for Staff Recommendation: The Home Heating Survey carried out by the Regional Council in 2004 showed that two thirds of people bought their wood with only one third self collecting. Since then, the forests have been closed to the public, further limiting sources of free firewood. While there will be many who still have access to free wood, self collecting is not as widespread as generally believed. Anecdotal evidence from Council staff visiting low-income homes in Rotorua is that a large proportion of these households buy their wood

Submission Point No: 6 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Section: Rotorua Burner Rules - General

Submission Summary: Figures from the section 32 evaluation supporting document quote up to 16 premature deaths in the 30+ age group in the Rotorua air catchment due to particulate produced by

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 38 - Richard Mallinson

solid fuel fires over just eleven days per year. The 30+ population within the Rotorua air catchment is less than 25,000 people the current NZ death rate is 7.2 per thousand that's 180 people within this age group within the Rotorua air catchment; your supporting document is stating that almost 10% of these mortalities are caused by solid fuel fires! A figure that is hard to believe, for BOPRC to quote such high figures is emotive and alarmist, the use of quoted statistics such as in the section 32 report which is based on one dated piece of research is flawed; BOPRC continually using these figures without questioning their validity is misleading.

Decision Sought: Provide more information on health effects of PM10

Reasons for Staff Recommendation: The first campaign run by Council to raise public awareness was Winter 2009. Since then a campaign to raise awareness of various aspects of Rotorua air quality has been run every year. These campaigns have included dry wood, draft Bylaw, Hot Swap loans, and the low income free fire swap.

Submission Point No: 7 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Section: Rotorua Burner Rules - General

Submission Summary: According to the section 32 report 12% of particulate within the Rotorua air catchment is produced by transport, where is RLC and BOPRCs support for alternate electric vehicles? And how many electric vehicles do these organisations run within the air catchment? Let's see you walk the talk before you lay the law down

Decision Sought: Consider changing Council vehicles to electric vehicles

Reasons for Staff Recommendation: Although vehicle emissions do discharge particulates, these are a small proportion of the total wintertime emissions – only 12% (according to the Rotorua Air Emissions Inventory 2005). Central Government is mandated to reduce emissions from vehicles.

Submission Point No: 8 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Section: Rotorua Burner Rules - General

Submission Summary: The monitoring station in Edmund Road is in the low point of a catchment reserve, how representative of the whole air catchment is this monitoring point? To say it represents the state of the whole air catchment is misleading.

Decision Sought: Consider changing location of monitoring station

Reasons for Staff Recommendation: That the monitor has been placed in a low area because Regulation 15 of the NES-AQ requires air monitoring to be carried out in the part of an airshed where the standard is most likely to be breached by the greatest margin or most frequently. Therefore the monitor is in the correct place.

Submission Point No: 9 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Section: Rotorua Burner Rules - General

Submission Summary: The section 32 supporting document quotes that "7650 solid fuel burners will need to be replaced" at a cost of \$4,500.00 each for the existing fire removal and the fitting of a compliant fire or heat pump that's \$34,425,000.00 million dollars, so that's \$34.5 million dollars out of the Rotorua economy. An extra expense on 7,650 households many of whom will not be a position to cover these costs.

Decision Sought: Provide financial support for homes affected by rule or allow existing wood burners to be a permitted activity after January 2020

Reasons for Staff Recommendation: Council provides a number of financial support schemes to assist homeowners.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 38 - Richard Mallinson

Further Submission No: 14 - 9 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Envirosolve

Summary: Financial from councils or government is need to clean the air up quickly. Secondary emission devices are not as expensive than new burners, which not only the burner cost but installation as well

Decision Sought: Support

Reasons for Staff Recommendation: There is not enough certainty that these devices will reduce the particulates discharged from any burner to the extent necessary for the Rotorua Airshed to meet the NESAQ

Submission Point No: 10 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Section: Rotorua Burner Rules - General

Submission Summary: Solid fuel fires are not affected by power cuts, Parts of Auckland have just gone six days without electricity. That could just as easily happen in Rotorua.

Decision Sought: Consider implications of power supply issues

Reasons for Staff Recommendation: This submission point is not related to the rule.

Submission Point No: 11 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Section: Rotorua Burner Rules - General

Submission Summary: The people most likely to be negatively affected by this rule change are the least likely to wade their way through the submission process they are likely to get lumped with a rule change that they were unaware of. Silence from these property owners does not indicate agreement with these proposed rules.

Decision Sought: Better community awareness of process and support

Reasons for Staff Recommendation: The first campaign run by Council to raise public awareness was Winter 2009. Since then a campaign to raise awareness of various aspects of Rotorua air quality has been run every year. These campaigns have included dry wood, draft Bylaw, Hot Swap loans, and the low income free fire swap. In winter 2016 every homeowner in Rotorua was sent a letter explaining the draft rules and the implications. During consultation on the draft plan, a workshop and drop-in evening was held in Rotorua. A full consultation record is included in the Section 32 report. Notification of the plan change followed standard process, however due to the significance of the issue in Rotorua, a series of radio ads were also run within Rotorua.

Submitter: 39 - Kay Richards

Submission Point No: 1 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Section: Rotorua Burner Rules - General

Submission Summary: BOPRC has obviously spent a lot of time and ratepayers' money researching the issues related to PM10 emissions in the air which they constantly seem to blame entirely on wood burners. Why does the BOPRC not advertise a breakdown of what emissions are being condensed into the poor air quality? I have asked this in a past submission but to date have not seen any data relating to the composition of the air pollution in Rotorua to show what percentage transport, industry, domestic, pollen, agriculture, and geothermal make up the PM10 emissions in Rotorua. All the public is told is that Wood Burners are to blame!

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 39 - Kay Richards

Decision Sought: Provide information on the sources of PM10.
I would like to see an independent Air Quality assessor do testing in Rotorua, Someone who is not biased and the results are available to the public so we can get a truthful picture of what are the causes of the PM10 emissions.

Reasons for Staff Recommendation: Staff response is that the Rotorua Air Emissions Inventory, published in 2005, sets out the main sources of particulates and establishes that domestic sources are responsible for 60% of winter time emissions. This document is referenced in the Section 32 report.

Further Submission No: 14 - 10 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Envirosolve

Summary: On line on the roof testing is available in New Zealand and will tell you the true emission of any fire (old, low emission and ULEBs) at any stage of the fire burning (start-up, hot or end phase).

Decision Sought: Support

Reasons for Staff Recommendation: The Rotorua Air Emissions Inventory, published in 2005, sets out the main sources of particulates and establishes that domestic sources are responsible for 60% of winter time emissions. This document is referenced in the Section 32 report.
Information taken from the rooftop and designed to measure the emissions of one fire will not provide the relevant information requested by the submitter.

Submission Point No: 2 **Submission Type:** Support in Part **Recommendation:** Accept

Chapter: Rules

Section: AQ R14

Submission Summary: The only thing I have no objection to is the introduction of the "Old burner cannot be used from 1 February 2020." That has my tick of approval.

Decision Sought: Retain rule preventing use of old burners from 1 February 2020

Reasons for Staff Recommendation: Retain rule as notified

Submission Point No: 3 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Section: AQ R13

Submission Summary: The BOPRC have introduced a new Fee to charge people who wish to install a fire in their home and don't have an existing one they will be replacing or those who are building a new home in the air shed or purchase a property where the old fire has been removed at Point of Sale. I discovered on 16/4/18, 6 weeks after the enforcement of the rule change, that this fee is \$2700.00. This is outrageous and blatant extortion. How is this justified let alone allowed. Has the BOPRC changed its occupation and become the BOP MAFIA?
I am sure the announcement of this outrageous fee was deliberately delayed until the week the submissions were due to close. If people had of known about this fee it would definitely cause more of an uproar and would have increased the amount of submissions - if it would have been advertised of course - this is another issue. The Emission Trade off is a joke also. If someone wants a wood burner in their home they should be allowed one and not have to jump through hoops and pay through the nose to have one which is a human right. See Article 25 of the Human Right Act - The right to an adequate standard of living - Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services....
<http://www.un.org/en/documents/udhr/index.shtml#a25>

Decision Sought: Lower application fee for resource consents

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 39 - Kay Richards

Reasons for Staff Recommendation: There is always an option to install zero emission heating (such as a heat pump) or a pellet burner. This may not be the preferred method of heating, but it is still home heating. Where a woodburner is preferred but not permitted, the rule framework allows for resource consents either with an offset or in exceptional circumstances.

Submission Point No: 4 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Section: Rotorua Burner Rules - General

Submission Summary: And then I question the way the Plan Change 13 was introduced. No prior notification to the public? Let alone actively advertising the fact that it had come into force and that submissions were open for a SHORT period of time. The first advertising I saw in the local Weekender and Review news papers was 5 weeks after the rule was enforced and believe me I checked every paper I came across. If people don't know about something how do you expect them to be able to make a submission/comment on it? A cunning move once again from the BOPRC to ensure they don't get very many submissions - just like the last submission on the air plan/bylaw emission rule change.

Decision Sought: Better notification of Plan Change

Reasons for Staff Recommendation: The first campaign run by Council to raise public awareness was Winter 2009. Since then a campaign to raise awareness of various aspects of Rotorua air quality has been run every year. These campaigns have included dry wood, draft Bylaw, Hot Swap loans, and the low income free fire swap. In winter 2016 every homeowner in Rotorua was sent a letter explaining the draft rules and the implications. During consultation on the draft plan, a workshop and drop-in evening was held in Rotorua. A full consultation record is included in the Section 32 report. Notification of the plan change followed standard process, however due to the significance of the issue in Rotorua, a series of radio ads were also run within Rotorua.

Submission Point No: 5 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Section: Rotorua Burner Rules - General

Submission Summary: There are a number of health effects associated with cold homes:
- mental health
- crowding of homes and aggression
- asthma and respiratory issues
- cardiovascular health
- damp and mould
- hospital admissions
- blood pressure

Decision Sought: I feel a better use of the rate payers money would be to hold a referendum on the Wood Burner versus PM10 debate - let the public speak.

Reasons for Staff Recommendation: Avoiding a scenario where health effects from poor air quality are replaced with health effects from cold, damp homes, has been a principle of the Rotorua Air Quality programme since its inception in 2008 and Council provides a number of financial support schemes to assist homeowners.

Submission Point No: 6 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Section: Rotorua Burner Rules - General

Submission Summary: Also as I have suggested in the past, regulating the wood merchants to ensure the wood they are selling to consumers is dry, would be a start to ensure that the new clean air approved wood burners BOPRC is making people change to are operating effectively. If you burn wet wood in the new clean air approved fires they will make more pollution than an old non compliant fire which is burning dry wood.

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 39 - Kay Richards

Decision Sought: Promote dry wood

Reasons for Staff Recommendation: Regulating commercial activities of this nature is outside the scope of the plan change, which is to regulate discharges to air. Firewood merchants may sell wet wood intended for storage and seasoning by the consumer. It is the homeowner's responsibility to ensure they operate their burner appropriately to minimise discharges, and this includes burning seasoned firewood. Rule AQ R12(e) contains a condition that requires this.

Submission Point No: 7 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Section: Rotorua Burner Rules - General

Submission Summary: It is estimated that a ban on wood burner use would cause fuel poverty levels to increase, reinforcing the important role wood burners currently have as an affordable heating method. Importantly, heating method is one of many factors that play a role in winter warmth and wellbeing.

Decision Sought: Not ban woodburner use

Reasons for Staff Recommendation: The plan change does not seek to ban woodburner use. Avoiding a scenario where health effects from poor air quality are replaced with health effects from cold, damp homes, has been a principle of the Rotorua Air Quality programme since its inception in 2008 and Council provides a number of financial support schemes to assist homeowners.

Further Submission No: 14 - 11 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Envirosolve

Summary: Do not ban wood burners. Make the old one cleaner with secondary emission devices. Wood is renewable and carbon neutral and it is not a fossil fuel like coal, oil and gas

Decision Sought: Support

Reasons for Staff Recommendation: The plan change does not seek to ban woodburner use. There is not enough certainty that secondary emissions devices will reduce the particulates discharged from any burner to the extent necessary for the Rotorua Airshed to meet the NESAQ

Submission Point No: 8 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Section: Rotorua Burner Rules - General

Submission Summary: The level of insulation in homes has a significant impact on heating affordability, regardless of heating type. (More funding should be directed at this in the first instance.)

Decision Sought: Provide insulation

Reasons for Staff Recommendation: Staff have worked with an extensive number of community and government organisations to maximise funding and education for insulation and heating. Council's work continues to align with Central Governments Warmer Kiwi Homes programme which is designed to target properties within high deprivation areas of Rotorua, Community Service Cardholders, and those with recognised health issues

Submission Point No: 9 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Section: Rotorua Burner Rules - General

Submission Summary: Wood burning is one of the most affordable, commonly available forms of heating in New Zealand.

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 39 - Kay Richards

Decision Sought: Allow woodburners

Reasons for Staff Recommendation: Each year Consumer magazine carries out an assessment of heating types, and for four years, heat pumps have proven to be the most cost effective way to heat homes unless the homeowner has access to free firewood.

Submitter: 40 - Michel Verhagen

Submission Point No: 1 **Submission Type:** Neutral **Recommendation:** Reject

Chapter: Rules

Section: AQ R21(u)

Submission Summary: I'd like the BOPRC to know that bad smell from Norske Skog is causing nuisance as far as Ohiwa and most likely far beyond. I've called the Pollution Hotline many times and kept a log at their request. In a direct west wind we almost always smell it, but many mornings we smell it as well, especially if there was very little or no wind during the night. What happens is that the bad air collects under the inversion layer during the night. Because of the lay of the land, these onshore breezes usually have a NW direction, blowing the bad air exactly towards Whakatane, Ohope and Ohiwa. The smell makes me sick to my stomach and I wake up from it during many nights and early mornings.

Decision Sought: Remedy bad smell from Norske Skog

Reasons for Staff Recommendation: This activity has a current resource consent. Any remedy will need to occur as part of the consent process. This plan change maintains the requirement for these operations to obtain resource consents, however issues with a current consent cannot be addressed through the plan change process.

Submitter: 41 - Hancock Forest Management

Submission Point No: 1 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Policies

Section: AQ P1

Submission Summary: The proposed policy supports an effects based and balanced approach to managing discharges of contaminants to air.

Decision Sought: Retain Policy AQ P1

Reasons for Staff Recommendation: Some minor changes made as a result of other submission points

Submission Point No: 2 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Policies

Section: AQ P8

Submission Summary: The proposed policy supports an effects based approach to the management of agrichemical use while ensuring adverse effects of agrichemical application are controlled.

Decision Sought: Retain Policy AQ P8

Reasons for Staff Recommendation: Some changes made to the policy to resolve other submission points however overall policy intent has not changed

Submission Point No: 3 **Submission Type:** Oppose in Part **Recommendation:** Accept in Part

Chapter: Policies

Section: AQ P9

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 41 - Hancock Forest Management

Submission Summary: While we support the intent of the policy, the policy can only be practically achieved with a workable definition of recapture. As currently worded it cannot be achieved.

Decision Sought: Refer submission on the definition of 'recapture'.

Reasons for Staff Recommendation: Definition of 'recapture' addressed by other submission points

Submission Point No: 4 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R3(3)

Submission Summary: HFM supports discharge of contaminants to air from the application of fertiliser as a permitted activity, subject to permitted activity conditions. Fertiliser application is a common and essential activity for many rural activities in the region and permitted activity status with conditions is appropriate.

Decision Sought: Retain rule AQ R3

Reasons for Staff Recommendation: Some changes made to the rule to resolve other submission points however overall policy intent has not changed

Submission Point No: 5 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R8

Submission Summary: HFM supports the use of open burning for fire fighting training as a permitted activity.

Decision Sought: Retain rule AQ R8

Reasons for Staff Recommendation: Some changes made to the rule to resolve other submission points however overall policy intent has not changed

Submission Point No: 6 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R15(1)

Submission Summary: HFM generally supports rule AQ R15 with the exception of the following:
Condition 1c appears to contradict condition 2c (and the definition of aerial application) which is confusing.
Condition 1c states that the drone must be operated less than 5m above the target species or if this is not complied with it will be considered 'aerial application' – the inference is that below this height it will be considered as not being aerial spraying. By contrast clause 2(c) which covers aerial application says that it includes drone application complying with condition 1(c) which is somewhat contradictory.

Decision Sought: Retain Rule AQ R15 with the following amendment:
Clarify the status of drone spraying to ensure condition 1(c) and 2(c) are consistent.

Reasons for Staff Recommendation: Drone application is a subset of aerial application therefore there is no conflict. However the reference to drone application in 2(c) is redundant and can be removed

Submission Point No: 7 **Submission Type:** Oppose in Part **Recommendation:** Reject

Chapter: Rules

Section: AQ R20

Submission Summary: Whilst we can support the intent of rule AQ 20, the current definition of 'recapture' means that it cannot practically be achieved and therefore the use of methyl bromide will become a

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Staff Recommendations on Submissions (By Submitter)

Submitter: 41 - Hancock Forest Management

non-complying activity

Decision Sought: Refer submission on the definition of recapture

Reasons for Staff Recommendation: Remedied through amendments recommended to definition of recapture

Further Submission No: 28 - 6 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Stakeholders in Methyl Bromide Reduction Inc (STIMBR)

Summary: The EPA is mandated to assess and set controls for hazardous substances including methyl bromide. EDN a sustainable alternative to methyl bromide is not yet available for use in New Zealand.

Decision Sought: Accept

Reasons for Staff Recommendation: Further submission point does not address issues in original submission point

Further Submission No: 29 - 5 **Submission Type:** Support **Recommendation:** To Be Advised

Further Submitter: Genera Ltd

Summary: The EPA is the agency mandated to manage fumigants such as methyl bromide and its alternatives. The EPA has recently determined that there are grounds for a reassessment of methyl bromide.

Decision Sought: Accept

Reasons for Staff Recommendation: Further submission point does not address issues in original submission point

Submission Point No: 8 **Submission Type:** Oppose **Recommendation:** Accept in Part

Chapter: Definitions

Section: Definitions - Recapture

Submission Summary: "Recapture"
The current definition of recapture requires that the discharge of any methyl bromide to the atmosphere must be 'eliminated'. With present recapture technology this definition cannot be practically achieved. The definition should refer to the use of current best practice technology for the recapture of fumigants, rather than complete elimination.

Decision Sought: Amend the definition of recapture to require a practically achievable alternative to complete elimination, which cannot practically be achieved. A suggested alternative is to replace the word elimination with a requirement to recapture to current best practice and in accordance with EPA approvals.

Reasons for Staff Recommendation: Staff agree that the term 'eliminate' should be replaced for the reasons stated in the submission. However, staff recommend that 'eliminate' be replaced with 'mitigate', in order to provide consistency with the EPA reassessment report

Further Submission No: 13 - 115 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Horticulture New Zealand

Summary: The definition should be based on best practice and EPA approvals

Decision Sought: Accept submission

Reasons for Staff Recommendation: Staff agree that the term 'eliminate' should be replaced for the reasons stated in the submission. However, staff recommend that 'eliminate' be replaced with 'mitigate', in order to provide consistency with the EPA reassessment report

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Staff Recommendations on Submissions (By Submitter)

Submitter: 41 - Hancock Forest Management

Further Submission No: 28 - 7 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Stakeholders in Methyl Bromide Reduction Inc (STIMBR)

Summary: The EPA is mandated to assess and set controls for hazardous substances including methyl bromide. EDN a sustainable alternative to methyl bromide is not yet available for use in New Zealand.

Decision Sought: Accept

Reasons for Staff Recommendation: The further submission point does not address issues raised by the original submission point

Further Submission No: 29 - 6 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Genera Ltd

Summary: The EPA is the agency mandated to manage fumigants such as methyl bromide and its alternatives. The EPA has recently determined that there are grounds for a reassessment of methyl bromide.

Decision Sought: Accept

Reasons for Staff Recommendation: The further submission point does not address issues raised by the original submission point

Submission Point No: 9 **Submission Type:** Support in Part **Recommendation:** Accept

Chapter: Rules

Section: AQ R15(3)

Submission Summary: Condition 3(e) requires any vehicles associated with agrichemical application to carry front and back signage. This is appropriate on public roads and in public places, but is not practical or necessary on private land such as within plantation forests and on farms.

Decision Sought: Retain Rule AQ R15 with the following amendment:
Amend condition 3(e) to apply only to spraying being carried out on public roads or in public spaces.

Reasons for Staff Recommendation: Recommend a wording change to clarifies that only the vehicle (or vehicles) directly involved with spraying are to display signage and that it should only apply to vehicles used in spraying activities on public amenity areas.

Further Submission No: 13 - 84 **Submission Type:** Support in Part **Recommendation:** Accept

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks that clause 3 e) relating to signage on vehicles only apply when carried out on public roads or in public spaces. HortNZ has sought that it only apply where the vehicles are in public places.

Decision Sought: Accept submission to amend AQ R15 (3) e) by limiting to 'public places'.

Reasons for Staff Recommendation: Recommend a wording change to clarifies that only the vehicle (or vehicles) directly involved with spraying are to display signage and that it should only apply to vehicles used in spraying activities on public amenity areas.

Submission Point No: 10 **Submission Type:** Support in Part **Recommendation:** Accept

Chapter: Rules

Section: AQ R15(4)

Submission Summary: Clause 4(a)(i) requiring notification between 72 and 24 hours ahead effectively stipulates a 48 hour window within which notification must be given, which is impractical. The detail of the information to be provided requires that the notification is in writing and therefore must either be delivered by hand, email or letter. The reality is that aerial spraying is heavily

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Staff Recommendations on Submissions (By Submitter)

Submitter: 41 - Hancock Forest Management

influenced by weather conditions and therefore while it may be planned to take place on a given day, it is often delayed due to unsuitable weather. Should this occur this rule would require further written notifications to ensure the notification falls within the specified 48 hour period prior to commencement of spraying. The existing rule allowing for notification to be given with greater notice (20 days) is far more pragmatic. Such notifications can then indicate the planned date of application (as required by condition (i), but note the possibility of delays due to weather without the need for further written notices to be provided.

Decision Sought: Retain Rule AQ R15 with the following amendment:
Amend condition 4(a)(i) to allow written notification to be given up to 20 days ahead of the operation as per the current air plan.

Reasons for Staff Recommendation: It is appropriate to extend the notification window for these operations to allow sufficient time for notification. Spraying is carried out infrequently, therefore it would not lead to the constant uncertainty, and sufficient notification is provided

Submitter: 42 - Louise Pieters

Submission Point No: 1 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Rules

Section: AQ R16

Submission Summary: Currently, the air quality I live and work in is greatly compromised as a result of the smell and toxins emitted from forced air drying of spraypainted products by our neighbour Pukepine Sawmill. I support Rule AQ R16 with my suggested addition because I believe it will protect and improve the quality of life for my family, employees, neighbourhood, our community and myself.

Decision Sought: I would like to see an additional condition outlined to control 'Forced Air Drying of Spraypainted Products' included under rule AQ R16.

Reasons for Staff Recommendation: Regardless of whether all other conditions of the rule are met, the discharge cannot be offensive or objectionable beyond the boundary. Likewise if the spraypainting is not managed by this rule it falls to the catch all rule AQ R1 which has an identical condition. Therefore this potential adverse effect can be managed without amending the rule

Submission Point No: 2 **Submission Type:** Support **Recommendation:** Reject

Chapter: Rules

Section: AQ R18

Submission Summary: Poor air quality as a result of noxious and offensive odours discharging from Pukepine Sawmill beyond their boundary current impacts my quality of life. I strongly support rule AQ R18 and believe the quality of life for my family, employees, neighbourhood, our community and myself could be greatly improved as a result of its implementation.

Decision Sought: Retain AQ R18(e)

Reasons for Staff Recommendation: Condition (1) contains a condition regarding discharges that are noxious or dangerous, offensive or objectionable. The submitter's concern can be remedied through use of these conditions without change to the rule.

Submitter: 43 - Beverley Pieters

Submission Point No: 1 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Rules

Section: AQ R16

Submission Summary: Currently, the air quality I live and work in is greatly compromised as a result of the smell and toxins emitted from forced air drying of spraypainted products by our neighbour Pukepine Sawmill. I support Rule AQ R16 with my suggested addition because I believe it will protect and improve the quality of life for my family, employees, neighbourhood, our community and

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Staff Recommendations on Submissions (By Submitter)

Submitter: 43 - Beverley Pieters

myself.

Decision Sought: I would like to see an additional condition outlined to control 'Forced Air Drying of Spraypainted Products' included under rule AQ R16.

Reasons for Staff Recommendation: Regardless of whether all other conditions of the rule are met, the discharge cannot be offensive or objectionable beyond the boundary. Likewise if the spraypainting is not managed by this rule it falls to the catch all rule AQ R1 which has an identical condition. Therefore this potential adverse effect can be managed without amending the rule

Submission Point No: 2 **Submission Type:** Support **Recommendation:** Reject

Chapter: Rules

Section: AQ R18

Submission Summary: Poor air quality as a result of noxious and offensive odours discharging from Pukepine Sawmill beyond their boundary current impacts my quality of life. I strongly support rule AQ R18 and believe the quality of life for my family, employees, neighbourhood, our community and myself could be greatly improved as a result of its implementation.

Decision Sought: I strongly support AQ 18 (e)

Reasons for Staff Recommendation: Condition (1) contains a condition regarding discharges that are noxious or dangerous, offensive or objectionable. The submitter's concern can be remedied through use of these conditions without change to the rule.

Submitter: 44 - Hendrik Pieters

Submission Point No: 1 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Rules

Section: AQ R16

Submission Summary: Currently, the air quality I live and work in is greatly compromised as a result of the smell and toxins emitted from forced air drying of spraypainted products by our neighbour Pukepine Sawmill. I support Rule AQ R16 with my suggested addition because I believe it will protect and improve the quality of life for my family, employees, neighbourhood, our community and myself.

Decision Sought: I would like to see an additional condition outlined to control 'Forced Air Drying of Spraypainted Products' included under rule AQ R16.

Reasons for Staff Recommendation: Regardless of whether all other conditions of the rule are met, the discharge cannot be offensive or objectionable beyond the boundary. Likewise if the spraypainting is not managed by this rule it falls to the catch all rule AQ R1 which has an identical condition. Therefore this potential adverse effect can be managed without amending the rule

Submission Point No: 2 **Submission Type:** Support **Recommendation:** Reject

Chapter: Rules

Section: AQ R18

Submission Summary: Poor air quality as a result of noxious and offensive odours discharging from Pukepine Sawmill beyond their boundary current impacts my quality of life. I strongly support rule ARQ18 and believe the quality of life for my family, employees, neighbourhood, our community and myself could be greatly improved as a result of its implementation

Decision Sought: Retain AQR18 (e)

Reasons for Staff Recommendation: Condition (1) contains a condition regarding discharges that are noxious or dangerous, offensive or objectionable. The submitter's concern can be remedied through use of these conditions without change to the rule.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 45 - Fonterra Ltd

Submission Point No: 1 **Submission Type:** Support in Part **Recommendation:** Accept

Chapter: Objectives

Section: AQ 01

Submission Summary: Fonterra generally supports the intent of objective AQ 01 but seeks two new objectives see submission points 45-4 and 45-24.

Decision Sought: Retain Objective AQ 01

Reasons for Staff Recommendation: Consideration of new objectives considered elsewhere

Further Submission No: 21 - 12 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Port of Tauranga

Summary: This submission point refers to retaining Objective AQO1 as notified. PoT request the Objective is amended as per its original submission.

Decision Sought: Reject

Reasons for Staff Recommendation: Consideration of new objectives considered elsewhere

Submission Point No: 2 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Chapter: Objectives

Section: AQ 02

Submission Summary: Fonterra generally supports the intent of objectives AQ 02 but seeks two new objectives see submission points 45-4 and 45-24.

Decision Sought: Retain Objective AQ 02

Reasons for Staff Recommendation: Remove reference to AAQGs as they are only guidelines, not developed under RMA process (taking into account costs and benefits) and not appropriate to set thresholds which must be met.
Add text to allow for amendments or replacements to ensure that if NESAQ is amended, the objective will still apply

Further Submission No: 21 - 19 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Port of Tauranga

Summary: This submission point refers to retaining Objective AQO2 as notified. PoT request the Objective is amended as per its original submission

Decision Sought: Reject

Reasons for Staff Recommendation: Remove reference to AAQGs as they are only guidelines, not developed under RMA process (taking into account costs and benefits) and not appropriate to set thresholds which must be met.
Add text to allow for amendments or replacements to ensure that if NESAQ is amended, the objective will still apply

Submission Point No: 3 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Chapter: Objectives

Section: AQ 03

Submission Summary: Fonterra generally supports the intent of objective AQ 03 but seeks two new objectives see submission points 45-4 and 45-24.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 45 - Fonterra Ltd

Decision Sought: Retain Objective AQ 03

Reasons for Staff Recommendation: Change wording 'manage' to 'management' as it sets an outcome instead of an action

Submission Point No: 4 **Submission Type:** Seek **Recommendation:** Accept in Part

Chapter: Objectives

Section: New objective

Submission Summary: Fonterra seeks that two additional objectives be included in PC13 that enable air discharges (provided effects are avoided, remedied and/or mitigated appropriately). Objectives of this nature recognise that there are significant positive economic and social effects from activities that are often reliant on the ability to discharge contaminants to air (such as the Edgecumbe Site). These positive effects should be considered alongside the management of adverse effects.

Decision Sought: Insert New Objective as follows:
[insert - The operational requirements of light and heavy industry, other location-specific industry, infrastructure, rural activities and mineral extraction activities are recognised and provided for.]

Reasons for Staff Recommendation: Staff disagree that there is no provision for air discharges. The plan change provides for appropriately managed air discharges from industry, infrastructure and rural activities through the proposed policies and rules. The inclusion of an objective to enable discharges to air would elevate this requirement too high in the hierarchy of aims set out in the purpose of the RNRP. It may also create an internal tension within the plan change where for example the goal of providing for a discharge is at odds with meeting the NESAQ. Recommend a wording change to AQ P1 to better reflect that the policy provides for appropriately managed discharges to air.

Further Submission No: 8 - 7 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Mercury NZ Ltd

Summary: Mercury supports any enabler of emissions from Infrastructure (including geothermal electricity generation and development). Consideration of what activities are strategically important to the region need to be guided by the RPS, and national policy statements, which need to be given effect to. If there is going to be a prescriptive list of activities, geothermal electricity generation needs to be included.

Decision Sought: Allow

Reasons for Staff Recommendation: Staff disagree that there is no provision for air discharges. The plan change provides for appropriately managed air discharges from industry, infrastructure and rural activities through the proposed policies and rules. The inclusion of an objective to enable discharges to air would elevate this requirement too high in the hierarchy of aims set out in the purpose of the RNRP. It may also create an internal tension within the plan change where for example the goal of providing for a discharge is at odds with meeting the NESAQ. Recommend a wording change to AQ P1 to better reflect that the policy provides for appropriately managed discharges to air.

Further Submission No: 11 - 2 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Oji Fibre Solution

Summary: The PC13 objectives do not adequately recognise the need to provide for activities to discharge contaminants to air in the region

Decision Sought: Accept submission

Reasons for Staff Recommendation: Staff disagree that there is no provision for air discharges. The plan change provides for appropriately managed air discharges from industry, infrastructure and rural activities through the proposed policies and rules.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 45 - Fonterra Ltd

The inclusion of an objective to enable discharges to air would elevate this requirement too high in the hierarchy of aims set out in the purpose of the RNRP. It may also create an internal tension within the plan change where for example the goal of providing for a discharge is at odds with meeting the NESAQ.
Recommend a wording change to AQ P1 to better reflect that the policy provides for appropriately managed discharges to air.

Further Submission No: 13 - 6 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Horticulture New Zealand

Summary: It is appropriate that the Plan recognises the need for some activities, including rural activities, to discharge to air, provided effects are appropriately managed. This is necessary to give effect to the RPS.

Decision Sought: Accept submission to include new objective as sought by 45-4.

Reasons for Staff Recommendation: Staff disagree that there is no provision for air discharges. The plan change provides for appropriately managed air discharges from industry, infrastructure and rural activities through the proposed policies and rules.
The inclusion of an objective to enable discharges to air would elevate this requirement too high in the hierarchy of aims set out in the purpose of the RNRP. It may also create an internal tension within the plan change where for example the goal of providing for a discharge is at odds with meeting the NESAQ.
Recommend a wording change to AQ P1 to better reflect that the policy provides for appropriately managed discharges to air.

Further Submission No: 18 - 7 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Federated Farmers of New Zealand

Summary: We agree that operational requirements of, amongst others, rural production should be recognised

Decision Sought: Accept submission point

Reasons for Staff Recommendation: Staff disagree that there is no provision for air discharges. The plan change provides for appropriately managed air discharges from industry, infrastructure and rural activities through the proposed policies and rules.
The inclusion of an objective to enable discharges to air would elevate this requirement too high in the hierarchy of aims set out in the purpose of the RNRP. It may also create an internal tension within the plan change where for example the goal of providing for a discharge is at odds with meeting the NESAQ.
Recommend a wording change to AQ P1 to better reflect that the policy provides for appropriately managed discharges to air.

Further Submission No: 21 - 5 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Port of Tauranga

Summary: The submissions identified all recognise that PC13, as notified, does not provide for any enabling provisions. PoT support the inclusion of such an enabling provision.

Decision Sought: Accept

Reasons for Staff Recommendation: Staff disagree that there is no provision for air discharges. The plan change provides for appropriately managed air discharges from industry, infrastructure and rural activities through the proposed policies and rules.
The inclusion of an objective to enable discharges to air would elevate this requirement too high in the hierarchy of aims set out in the purpose of the RNRP. It may also create an internal tension within the plan change where for example the goal of providing for a discharge is at odds with meeting the NESAQ.
Recommend a wording change to AQ P1 to better reflect that the policy provides for appropriately managed discharges to air.

Further Submission No: 23 - 65 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Lawter New Zealand Ltd

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Staff Recommendations on Submissions (By Submitter)

Submitter: 45 - Fonterra Ltd

Summary: Lawter support the inclusion of the proposed objective which enables air discharges (as long as the effects are appropriately avoided, remedied or mitigated). The operational requirements of industries should be recognised and provided for.

Decision Sought: Decision sought: Adopt new objective as recommended by submission 45 – 4.

Reasons for Staff Recommendation: Staff disagree that there is no provision for air discharges. The plan change provides for appropriately managed air discharges from industry, infrastructure and rural activities through the proposed policies and rules.
The inclusion of an objective to enable discharges to air would elevate this requirement too high in the hierarchy of aims set out in the purpose of the RNRP. It may also create an internal tension within the plan change where for example the goal of providing for a discharge is at odds with meeting the NESAQ.
Recommend a wording change to AQ P1 to better reflect that the policy provides for appropriately managed discharges to air.

Further Submission No: 30 - 3 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Swap Stockfoods Ltd

Summary: Agree that the plan change should provide an objective that provides for the operational requirements of activities, including heavy industry, other location specific industry, infrastructure, rural production activities and mineral extraction activities.

Decision Sought: Accept

Reasons for Staff Recommendation: Staff disagree that there is no provision for air discharges. The plan change provides for appropriately managed air discharges from industry, infrastructure and rural activities through the proposed policies and rules.
The inclusion of an objective to enable discharges to air would elevate this requirement too high in the hierarchy of aims set out in the purpose of the RNRP. It may also create an internal tension within the plan change where for example the goal of providing for a discharge is at odds with meeting the NESAQ.
Recommend a wording change to AQ P1 to better reflect that the policy provides for appropriately managed discharges to air.

Submission Point No: 5 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Policies

Section: AQ P1

Submission Summary: Fonterra supports Policy AQ P1 insofar as it requires air discharges from activities where effects can be appropriately managed to be permitted. Fonterra considers that the effects associated with its disposal of wastewater via spray irrigation and land spreading can be managed in this manner.

Decision Sought: Retain Policy AQ P1 as notified.

Reasons for Staff Recommendation: Some minor changes made as a result of other submission points

Submission Point No: 6 **Submission Type:** Oppose **Recommendation:** Accept in Part

Chapter: Policies

Section: AQ P2

Submission Summary: Fonterra seeks amendments to this policy as the use of 'avoid' would effectively operate as a prohibition of the discharge of hazardous substances, following decisions on the interpretation of "avoid" such as King Salmon. Milk and dairy wastewater are both classified as being hazardous substances, and the discharge of dairy wastewater and by-products to air (via irrigation) is an environmentally appropriate way to dispose of it. The focus of this policy should be on environmental effects rather than the management of the activity. It should be on avoiding significant adverse environment effects associated with the discharge of hazardous substances where practicable and, where that is not practicable, provide for remediation and mitigation as appropriate effects management mechanisms.

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 45 - Fonterra Ltd

Decision Sought: Amend Policy AQ P2 as follows:
Hazardous substances — Nga matu morearea
Avoid [insert - significant adverse environmental effects associated with the] discharge[delete - s] of hazardous substances to air and where avoidance is not [insert - practicable], [delete - possible], remedy or mitigate the [delete - discharge] [insert - effects] using the best practicable option.

Reasons for Staff Recommendation: The use of the word 'avoid' does not operate as a prohibition, however staff recommend wording changes to clarify that avoidance is preferable, but not the bottom line

Further Submission No: 7 - 2 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Trustpower Ltd

Summary: In so far as it aligns with the relief sought by Trustpower.

Decision Sought: Accept submission point

Reasons for Staff Recommendation: The use of the word 'avoid' does not operate as a prohibition, however staff recommend wording changes to clarify that avoidance is preferable, but not the bottom line

Further Submission No: 13 - 24 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks changes to provide a better balance within Policy 2, similar in intent to changes sought by HortNZ

Decision Sought: Accept submissions to amend Policy 2 to provide focus on environmental effects consistent with intent of RMA.

Reasons for Staff Recommendation: The use of the word 'avoid' does not operate as a prohibition, however staff recommend wording changes to clarify that avoidance is preferable, but not the bottom line

Submission Point No: 7 **Submission Type:** Support in Part **Recommendation:** Reject

Chapter: Policies

Section: AQ P3(a)

Submission Summary: Fonterra considers that it is significant effects that should be avoided – not all effects (given the implications of the use of 'avoid policies' post King Salmon). Therefore, Fonterra seeks amendments to this policy to ensure it is significant adverse effects being avoided, not all adverse effects (where remediation and mitigation are appropriate effects management mechanisms). The Edgecumbe Site is regionally significant, given the significant economic benefits to the Whakatane District and the wider Bay of Plenty. This should be recognised in the plan. Fonterra seeks the inclusion of a definition of 'Regionally Significant Industry' and amendments to relevant policies to reference 'Regionally Significant Industry' in the same manner as Regionally Significant Infrastructure is recognised. The Waikato Regional Policy Statement includes a management regime for both Regionally Significant Industry and Regionally Significant Infrastructure that recognises their contributions to social and economic wellbeing. Fonterra considers that it would be appropriate to do the same of the Bay of Plenty Region.

Decision Sought: Amend (a) as follows:
(a) safeguard the life supporting capacity of the air, avoid [insert - significant] adverse effects on human health, and manage adverse effects on cultural values, amenity values, and the environment

Reasons for Staff Recommendation: Only avoiding 'significant' adverse effects on human health implies that there is a threshold below which human health effects are acceptable, until they become significant. Further, by only requiring effects to be avoided 'where practicable' allows considerable room for interpretation and it is unclear where avoiding adverse effects on human health is to occur

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Staff Recommendations on Submissions (By Submitter)

Submitter: 45 - Fonterra Ltd

Further Submission No:	8 - 37	Submission Type:	Support	Recommendation:	Reject
Further Submitter:	Mercury NZ Ltd				
Summary:	Mercury supports this amendment. Mercury seeks Policy 3 implement the correct tests in line with the RMA.				
Decision Sought:	Allow				
Reasons for Staff Recommendation:	Only avoiding 'significant' adverse effects on human health implies that the there is a threshold below which human health effects are acceptable, until they become significant. Further, by only requiring effects to be avoided 'where practicable' allows considerable room for interpretation and it is unclear where avoiding adverse effects on human health is to occur				
Further Submission No:	21 - 54	Submission Type:	Support in Part	Recommendation:	Reject
Further Submitter:	Port of Tauranga				
Summary:	PoT supports the intent of this submission, which identifies the potential implications of requiring adverse effects to be avoided post-King Salmon. PoT opposes the policy wording proposed in this submission however, and seeks that the relief instead reflects the wording proposed in its original submission.				
Decision Sought:	Accept in part				
Reasons for Staff Recommendation:	Only avoiding 'significant' adverse effects on human health implies that the there is a threshold below which human health effects are acceptable, until they become significant. Further, by only requiring effects to be avoided 'where practicable' allows considerable room for interpretation and it is unclear where avoiding adverse effects on human health is to occur				
Further Submission No:	22 - 7	Submission Type:	Oppose	Recommendation:	Reject
Further Submitter:	Toi Te Ora Public Health				
Summary:	It is not acceptable to harm to health. Avoiding harm will keep people healthy and improve health. The National Environment Standards for Air Quality set guaranteed minimum level of health protection for all New Zealand. It is unacceptable for any contaminants to be discharged at levels resulting in downwind concentrations that can cause ill health. Every effort to avoid exposure to contaminants must be made when the adverse health effects are well known. It is not acceptable to knowingly harm the health of the public in the same way that it is not acceptable to harm the health of people in a workplace. The effective management of discharges from industrial and trade activities is important in protecting the health of the public.				
Decision Sought:	Reject				
Reasons for Staff Recommendation:	Only avoiding 'significant' adverse effects on human health implies that the there is a threshold below which human health effects are acceptable, until they become significant. Further, by only requiring effects to be avoided 'where practicable' allows considerable room for interpretation and it is unclear where avoiding adverse effects on human health is to occur				
Further Submission No:	23 - 18	Submission Type:	Support in Part	Recommendation:	Accept
Further Submitter:	Lawter New Zealand Ltd				
Summary:	Lawter generally support the recommendation made in submission 45 – 7. The proposed wording does not provide for adverse effects on human health which are not 'significant'. It is Lawter's position that all effects on human health should be either avoided, remedied or mitigated.				
Decision Sought:	Decision sought: amend policy AQ P3(a) so that: • Significant adverse effects on human health is avoided; and • All other adverse effects (including all other effects on human health) are managed (remedied or mitigated) accordingly				

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Staff Recommendations on Submissions (By Submitter)

Submitter: 45 - Fonterra Ltd

Reasons for Staff Recommendation: Only avoiding 'significant' adverse effects on human health implies that there is a threshold below which human health effects are acceptable, until they become significant. Further, by only requiring effects to be avoided 'where practicable' allows considerable room for interpretation and it is unclear where avoiding adverse effects on human health is to occur

Submission Point No: 8 **Submission Type:** Support in Part **Recommendation:** Reject

Chapter: Policies

Section: AQ P4(e)

Submission Summary: PC13 should recognise the Edgecumbe Sites role and status as being of regional significance. Fonterra seeks a definition of 'Regionally Significant Industry' and amendments to relevant policies to reference 'Regionally Significant Industry' in the same manner as Regionally Significant Infrastructure is recognised.

Decision Sought: Amend (e) as follows:
(e) The effect of the discharge on human health, cultural values, amenity values, the environment, and regionally significant infrastructure [insert - and regionally significant industry.]

Reasons for Staff Recommendation: Staff response is that the inclusion of 'regionally significant industry' into this clause is outside the scope of the intention of this clause. Staff recommend the addition of new clauses to take into account the operational and locational constraints of some activities, and the existing investment.

Further Submission No: 22 - 17 **Submission Type:** Oppose **Recommendation:** To Be Advised

Further Submitter: Toi Te Ora Public Health

Summary: We do not oppose the submitter seeking a definition of regionally significant industry; however we wish to emphasise that when considering the acceptability of a discharge, the effect on human health must be of paramount consideration. To highlight this point, we recommend that consideration of the effect on human health should be considered initially before having particular regard to other matters listed (a) to (g).

Decision Sought: Reject in part

Reasons for Staff Recommendation: The intention is for the matters listed in this policy to be had particular regard to and assessed alongside all other provisions in the plan as a whole. Provided discharges are managed according to the more directive policies (AQ P2 and AQ P3) and meet the objectives, then each and every matter does not need to apply, with full weight, for every situation

Further Submission No: 23 - 36 **Submission Type:** Support in Part **Recommendation:** Reject

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter support in part the inclusion of 'regionally significant industry' as recommended by submission 45 - 8. A corresponding robust definition of regionally significant infrastructure and industry must be included.

Decision Sought: Decision sought: Amend policy AQ P4(e) as recommended by submission 45-8, dependent on the inclusion of suitable definitions

Reasons for Staff Recommendation: Staff response is that the inclusion of 'regionally significant industry' into this clause is outside the scope of the intention of this clause. Staff recommend the addition of new clauses to take into account the operational and locational constraints of some activities, and the existing investment.

Further Submission No: 30 - 23 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Swap Stockfoods Ltd

Summary: Support the inclusion of (e) The effect of the discharge on human health, cultural values, amenity values, the environment, and regionally significant infrastructure

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Staff Recommendations on Submissions (By Submitter)

Submitter: 45 - Fonterra Ltd

[insert and regionally significant industry.]

Decision Sought: Accept

Reasons for Staff Recommendation: Staff response is that the inclusion of 'regionally significant industry' into this clause is outside the scope of the intention of this clause. Staff recommend the addition of new clauses to take into account the operational and locational constraints of some activities, and the existing investment.

Submission Point No: 9 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Reverse sensitivity

Section: Reverse Sensitivity

Submission Summary: Reverse sensitivity issues are increasingly becoming an issue for large scale industrial activities (and other activities including those which involve discharges to air). Fonterra seeks a policy which specifically directs that land uses sensitive to the effects of existing discharges to air avoid locating in proximity to those activities.
The proposed policy "seeks to avoid ..." on the basis that when BOPRC is submitting on land use proposals or district plan reviews it can advocate appropriate outcomes with policy support.

Decision Sought: New policy
Insert a new Policy AQ P11 as follows:
[insert - Seek to avoid the establishment or expansion of land uses which are sensitive to the effects of existing activities involving the discharge of contaminants to air.]

Reasons for Staff Recommendation: Do not include provisions to manage reverse sensitivity in the plan change

Further Submission No: 4 - 13 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Whakatane Mill Ltd

Summary: Whakatane Mill agree that additional provisions to manage reverse sensitivity should be included in PC13.

Decision Sought: Accept submission to insert new policy regarding reverse sensitivity

Reasons for Staff Recommendation: Decline original submission point

Further Submission No: 11 - 29 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Oji Fibre Solution

Summary: Oji FS agrees that additional provisions to manage reverse sensitivity should be included in PC13

Decision Sought: Accept submission

Reasons for Staff Recommendation: Decline original submission point

Further Submission No: 13 - 122 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks a new policy for reverse sensitivity with a similar intent to that sought by HortNZ. It is considered important that there is recognition of reverse sensitivity in the Plan

Decision Sought: Include provisions for reverse sensitivity in the Plan.

Reasons for Staff Recommendation: Decline original submission point

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Staff Recommendations on Submissions (By Submitter)

Submitter: 45 - Fonterra Ltd

Further Submission No: 23 - 72 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter support a proposed policy as recommended by submission 45 – 9. Lawter consider that a policy on reverse sensitivity should be included as part of Proposed Plan Change 13

Decision Sought: Decision sought: Adopt a policy as recommended by submission 45 – 9.

Reasons for Staff Recommendation: Decline original submission point

Further Submission No: 30 - 55 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Swap Stockfoods Ltd

Summary: Support the provision of policies to manage reverse sensitivity. Swap Stockfoods would like the opportunity to be involved in the discussions regarding the proposed wording of the policies.

Decision Sought: Accept

Reasons for Staff Recommendation: Decline original submission point

Submission Point No: 10 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R1

Submission Summary: Fonterra supports the permitted activity rule.

Decision Sought: Retain Rule AQ R1 as notified.

Reasons for Staff Recommendation: Staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 21 - 63 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Port of Tauranga

Summary: This submission point refers to retaining Rule AQR1 as notified. PoT request Rule AQR1 is amended as per the original submission

Decision Sought: Reject

Reasons for Staff Recommendation: Staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Submission Point No: 11 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R2

Submission Summary: Fonterra supports a discretionary activity status being applied to air discharge activities that are not provided for in any other rule in the plan.

Decision Sought: Retain Rule AQ R2 as notified

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Staff Recommendations on Submissions (By Submitter)

Submitter: 45 - Fonterra Ltd

Reasons for Staff Recommendation: Minor change made to make wording of rule clearer that does not affect the overall intention of the rule.

Submission Point No: 12 **Submission Type:** Support in Part **Recommendation:** Reject

Chapter: Rules

Section: AQ R3 - whole rule

Submission Summary: Fonterra submits that the discharge of contaminants to air from spray irrigation, soil injection, truck spreading or land soakage of milk, dairy factory wastewater, dairy liquids and/or other dairy factory by-products should be permitted under the Natural Resources Plan. Fonterra supports the retention of this rule, subject to the reference to 'noxious or dangerous' being removed. Fonterra seeks amendments to this rule to remove the reference to "noxious and dangerous". Fonterra considers that a significant proportion of the contaminants that are discharged to air would be captured under the very broad definition of "noxious and dangerous" which would result in unnecessary and inappropriate restrictions on activities such as spray irrigation.

Decision Sought: Amend Rule AQ R3 as follows:
...are permitted activities provided the discharge [delete - is not noxious or dangerous.] ... or delete the definition of "Noxious or dangerous" and make consequential amendments to all PC13 provisions referencing "Noxious or dangerous" as detailed in Submission Point 45-17.

Reasons for Staff Recommendation: The submitter's issues will likely be resolved by the assessment of the definition of 'noxious or dangerous' carried out in the definitions.

Submission Point No: 13 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R19

Submission Summary: Fonterra supports a controlled activity rule for intensive farming and also supports that any consents for intensive farming required under Rule AQ R19 are processed on a non-notified basis.

Decision Sought: Retain Rule AQ R19 as notified.

Reasons for Staff Recommendation: Retain rule as notified

Submission Point No: 14 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R21 - whole rule

Submission Summary: Fonterra supports that plant-based air discharge activities are treated as discretionary activities. However, Fonterra seeks policy support for its activities so that the provisions of the air plan recognise the positive benefits of regionally significant industries and that these benefits can be considered alongside the management and protection policies

Decision Sought: Retain Rule AQ R21 as notified

Reasons for Staff Recommendation: Some changes made to the rule to resolve other submission points however overall policy intent has not changed

Submission Point No: 15 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Definitions

Section: Definitions - Ambient air

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 45 - Fonterra Ltd

Submission Summary: "Ambient air"
Fonterra supports the definition of Ambient air, particularly as it is identical to that of the Ambient Air Quality Guidelines (2002).

Decision Sought: Retain the definition of Ambient air as notified.

Reasons for Staff Recommendation: Delete 'air in the workplace' from this definition to remove potential confusion as ambient air is any air outside of buildings and structures, and should apply regardless of whether it is a workplace or not.

Further Submission No: 11 - 9 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Oji Fibre Solution

Summary: The definition of ambient air is appropriate and should be retained.

Decision Sought: Accept submission

Reasons for Staff Recommendation: Delete 'air in the workplace' from this definition to remove potential confusion as ambient air is any air outside of buildings and structures, and should apply regardless of whether it is a workplace or not.

Submission Point No: 16 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Definitions

Section: Definitions - Liquid waste

Submission Summary: "Liquid waste"
Fonterra seeks amendment to the definition of liquid waste to specifically include milk, dairy factory wastewater, dairy liquids and other dairy factory byproducts. These substances classified as hazardous are not unsuitable for disposal by the means included in the permitted activity rule. For example, Milk is classified as a hazardous substance but can be safely disposed of through the methods in Rule AQ R3.

Decision Sought: Amend the definition of Liquid waste as follows:
Liquid waste means any waste liquid composed of less than 20 % solids and does not include hazardous substances, [insert - but does include milk, dairy factory wastewater, dairy liquids and other dairy factory byproducts.]
Or
Amend Rule AQ R3 (1) as detailed in Submission Point 45-26.

Reasons for Staff Recommendation: Retain definition as notified as discharges of the products listed by the submitter have the potential to generate odour beyond the boundary of the subject property and have been the subject of previous complaints to the Regional Council

Submission Point No: 17 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Definitions

Section: Definitions - Noxious or dangerous

Submission Summary: "Noxious or dangerous"
Fonterra opposes the breadth of this definition, and its lack of specificity if it is referenced in permitted activity Rule AQ R3. Fonterra seeks the deletion of reference to 'noxious or dangerous' in permitted activity Rule AQ R3. Fonterra considers that a significant proportion of the contaminants that are discharged to air would be captured under this definition, which is not appropriate and places an unwarranted level of regulation on activities such as spray irrigation. Alternatively, the definition of "Noxious or dangerous" could be deleted in its entirety, and consequential amendments made to all PC13 provisions referencing "Noxious or dangerous".

Decision Sought: Remove reference to "Noxious or dangerous" in Rule AQ R3 as detailed in Submission Point 45-12.
Or
Delete the definition of "Noxious or dangerous" and make consequential amendments to all

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Staff Recommendations on Submissions (By Submitter)

Submitter: 45 - Fonterra Ltd

PC13 provisions referencing "Noxious or dangerous".

Reasons for Staff Recommendation: Retain the term in the plan change and include text to clarify how this term will be interpreted by the rules in the plan change, not as a definition as removing this term from all parts of the plan change would remove the management of discharges according to their effect on human health. This is not consistent with the objectives or policies of the plan change, with the RPS, or with the Act.

Further Submission No: 11 - 13 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Oji Fibre Solution

Summary: The proposed definition is out of step with the current usage of this term in RMA planning, noting it is a key part of the RMA s17 obligation

Decision Sought: Accept submission

Reasons for Staff Recommendation: Retain the term in the plan change and include text to clarify how this term will be interpreted by the rules in the plan change, not as a definition as removing this term from all parts of the plan change would remove the management of discharges according to their effect on human health. This is not consistent with the objectives or policies of the plan change, with the RPS, or with the Act.

Further Submission No: 30 - 39 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Swap Stockfoods Ltd

Summary: Swap Stockfoods oppose deleting the definition for noxious or dangerous

Decision Sought: Reject

Reasons for Staff Recommendation: Retain the term in the plan change and include text to clarify how this term will be interpreted by the rules in the plan change, not as a definition as removing this term from all parts of the plan change would remove the management of discharges according to their effect on human health. This is not consistent with the objectives or policies of the plan change, with the RPS, or with the Act.

Submission Point No: 18 **Submission Type:** Support **Recommendation:** Reject

Chapter: Definitions

Section: Definitions - Regionally significant industry

Submission Summary: New definition "regionally significant industry"
 The Edgecumbe Site is regionally significant, given the significant economic benefits to the Whakatane District and the wider Bay of Plenty Region. There should be recognition of this in the plan. Fonterra therefore seeks a new definition of 'Regionally Significant Industry' and amendments to relevant policies to reference 'Regionally Significant Industry' in the same manner as Regionally Significant Infrastructure is referenced.
 Fonterra's proposed definition is identical to that of the Waikato Regional Policy Statement. The Waikato Regional Policy Statement sets out a management regime for both Regionally Significant Industry and Regionally Significant Infrastructure that recognises their contributions to social and economic wellbeing. Fonterra considers that it would be appropriate for a similar management framework to be implemented in the Bay of Plenty Region. As the Bay of Plenty and the Waikato Region share a border, it is therefore entirely appropriate for the management of the air resource to be consistent. This approach provides for the crossboundary, integrated management of effects.

Decision Sought: Include a new definition for "Regionally Significant Industry" as follows:
 Regionally significant industry - means an economic activity based on the use of natural and physical resources in the region and is identified in regional or district plans, which has been shown to have benefits that are significant at a regional or national scale. These may include social, economic or cultural benefits.

Reasons for Staff Recommendation: The addition of 'regionally significant industry' is not recommended for inclusion in clause (d) of policy AQ P3 therefore this term is not required for the plan change.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 45 - Fonterra Ltd

Further Submission No: 4 - 1 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Whakatane Mill Ltd

Summary: PC13 should include specific recognition of regionally significant industrial sites in Bay of Plenty.

Decision Sought: Include a new definition of regionally significant industry as set out in original submission point 45-18

Reasons for Staff Recommendation: The addition of 'regionally significant industry' is not recommended for inclusion in clause (d) of policy AQ P3 therefore this term is not required for the plan change.

Further Submission No: 11 - 20 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Oji Fibre Solution

Summary: PC13 should include specific recognition of regionally significant industrial sites in Bay of Plenty.

Decision Sought: Support

Reasons for Staff Recommendation: The addition of 'regionally significant industry' is not recommended for inclusion in clause (d) of policy AQ P3 therefore this term is not required for the plan change.

Further Submission No: 22 - 16 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Toi Te Ora Public Health

Summary: We do not oppose the suggestion to include a definition of regionally significant industry as we recognise that successful businesses may contribute to improving health. However, the social, economic or cultural benefits should not be at the known detriment of physical health

Decision Sought: Reject in part

Reasons for Staff Recommendation: The addition of 'regionally significant industry' is not recommended for inclusion in clause (d) of policy AQ P3 therefore this term is not required for the plan change.

Further Submission No: 23 - 54 **Submission Type:** Not Applicable **Recommendation:** Comment Note

Further Submitter: Lawter New Zealand Ltd

Summary: Until a definition of 'Regionally Significant Industry' has been drafted for Plan Change 13, Lawter neither support or object this definition. Lawter wish to be kept informed of any progression of this definition.

Decision Sought: Neutral - none sought

Reasons for Staff Recommendation: The addition of 'regionally significant industry' is not recommended for inclusion in clause (d) of policy AQ P3 therefore this term is not required for the plan change.

Submission Point No: 19 **Submission Type:** Support in Part **Recommendation:** Reject

Chapter: Policies

Section: AQ P3(d)

Submission Summary: Fonterra considers that it is significant effects that should be avoided – not all effects (given the implications of the use of 'avoid policies' post King Salmon). Therefore, Fonterra seeks amendments to this policy to ensure it is significant adverse effects being avoided, not all adverse effects (where remediation and mitigation are appropriate effects management mechanisms). The Edgecumbe Site is regionally significant, given the significant economic benefits to the Whakatane District and the wider Bay of Plenty. This should be recognised in the plan. Fonterra seeks the inclusion of a definition of 'Regionally Significant Industry' and amendments to relevant policies to reference 'Regionally Significant Industry' in the same manner as Regionally Significant Infrastructure is recognised. The Waikato Regional Policy Statement includes a management regime for both Regionally Significant Industry and

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 45 - Fonterra Ltd

Regionally Significant Infrastructure that recognises their contributions to social and economic wellbeing. Fonterra considers that it would be appropriate to do the same of the Bay of Plenty Region

Decision Sought: Amend (d) as follows:
(d) avoid the discharge of contaminants that may cause adverse effects on regionally significant infrastructure [insert - and regionally significant industry]

Reasons for Staff Recommendation: The clause does not seek to avoid adverse effects of discharges on the owners of the infrastructure, but on the structures themselves. This gives effect to RPS Policy EI 3B Protecting nationally and regionally significant infrastructure. There is no equivalent policy in the RPS for regionally significant industry

Further Submission No: 8 - 45 **Submission Type:** Support in Part **Recommendation:** Reject

Further Submitter: Mercury NZ Ltd

Summary: Mercury supports the intent of the submission to protect Regionally Significant Infrastructure

Decision Sought: Allow in part

Reasons for Staff Recommendation: The clause does not seek to avoid adverse effects of discharges on the owners of the infrastructure, but on the structures themselves. This gives effect to RPS Policy EI 3B Protecting nationally and regionally significant infrastructure. There is no equivalent policy in the RPS for regionally significant industry

Further Submission No: 23 - 26 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter support the inclusion of 'regionally significant industry' as recommended by submission 45 – 19, on the basis that a corresponding robust definition of regionally significant infrastructure and industry is included.

Decision Sought: Decision sought: Amend policy AQ P3(d) as recommended by submission 45-19, dependent on the inclusion of suitable definitions

Reasons for Staff Recommendation: The clause does not seek to avoid adverse effects of discharges on the owners of the infrastructure, but on the structures themselves. This gives effect to RPS Policy EI 3B Protecting nationally and regionally significant infrastructure. There is no equivalent policy in the RPS for regionally significant industry

Submission Point No: 20 **Submission Type:** Support in Part **Recommendation:** Reject

Chapter: Policies

Section: AQ P4 - new clause

Submission Summary: Fonterra seeks an additional matter (h) to consider of the utilisation of the best practicable option, and that the practices employed as the best practicable option should be appropriate to the effects of the discharge.

Decision Sought: Amend AQ P4 as follows:
[insert - (h) The utilisation of the best practicable option for emission control and management practices that are appropriate to the scale of the discharge and potential adverse effects

Reasons for Staff Recommendation: This has already been included in AQ P3, therefore no change is recommended

Further Submission No: 8 - 56 **Submission Type:** Support in Part **Recommendation:** Accept

Further Submitter: Mercury NZ Ltd

Summary: Mercury supports the intent of the submission. However, these matters are covered in

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Staff Recommendations on Submissions (By Submitter)

Submitter: 45 - Fonterra Ltd

policy 3

Decision Sought: Disallow

Reasons for Staff Recommendation: This has already been included in AQ P3, therefore no change is recommended

Further Submission No: 30 - 18 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Swap Stockfoods Ltd

Summary: Support including an additional matter to be considered as suggested by the submitter "(h) the utilisation of the best practicable option for emission control and management practices that are appropriate to the scale of the discharge and potential adverse effects".

Decision Sought: Accept

Reasons for Staff Recommendation: This has already been included in AQ P3, therefore no change is recommended

Submission Point No: 21 **Submission Type:** Support in Part **Recommendation:** Reject

Chapter: Policies

Section: AQ P4 - new clause

Submission Summary: Fonterra also seeks an additional matter (i) to this policy that recognises that discharges associated with industrial activities do result in substantial positive economic and social effects, which should be recognised by a decision maker when considering any resource consent application.

Decision Sought: Amend AQ P4 as follows:
[insert - (i) The extent to which the air discharge and associated activities may provide for economic or social wellbeing.

Reasons for Staff Recommendation: Social and economic well-being have already considered as part of the Section 32 analysis and during consideration of resource consent applications, s.104(a) specifically requires the decision makers to have regard to any actual and potential effects on the environment of allowing the activity. Staff do not recommend re-listing it here.

Further Submission No: 8 - 57 **Submission Type:** Support in Part **Recommendation:** Reject

Further Submitter: Mercury NZ Ltd

Summary: Mercury supports the intent of the submission. Wider policy discussion is needed to consider how policy enablers are assessed and balanced against the need to mitigate adverse effects

Decision Sought: Disallow

Reasons for Staff Recommendation: Social and economic well-being have already considered as part of the Section 32 analysis and during consideration of resource consent applications, s.104(a) specifically requires the decision makers to have regard to any actual and potential effects on the environment of allowing the activity. Staff do not recommend re-listing it here.

Further Submission No: 11 - 7 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Oji Fibre Solution

Summary: These are matters that decision makers should have particular regard to when considering the acceptability of a discharge

Decision Sought: Accept submission

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Staff Recommendations on Submissions (By Submitter)

Submitter: 45 - Fonterra Ltd

Reasons for Staff Recommendation: Social and economic well-being have already considered as part of the Section 32 analysis and during consideration of resource consent applications, s.104(a) specifically requires the decision makers to have regard to any actual and potential effects on the environment of allowing the activity. Staff do not recommend re-listing it here.

Further Submission No: 13 - 42 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Horticulture New Zealand

Summary: Recognition of positive effects such as economic and social wellbeing should be a matter to consider

Decision Sought: Accept submission

Reasons for Staff Recommendation: Social and economic well-being have already considered as part of the Section 32 analysis and during consideration of resource consent applications, s.104(a) specifically requires the decision makers to have regard to any actual and potential effects on the environment of allowing the activity. Staff do not recommend re-listing it here.

Further Submission No: 18 - 20 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Federated Farmers of New Zealand

Summary: We agree that the economic and social wellbeing (benefits) of the activity should be considered.

Decision Sought: Accept submission point

Reasons for Staff Recommendation: Social and economic well-being have already considered as part of the Section 32 analysis and during consideration of resource consent applications, s.104(a) specifically requires the decision makers to have regard to any actual and potential effects on the environment of allowing the activity. Staff do not recommend re-listing it here.

Further Submission No: 22 - 13 **Submission Type:** Support in Part **Recommendation:** Reject

Further Submitter: Toi Te Ora Public Health

Summary: Economic prosperity does help to improve health but the industries associated with this prosperity should not be producing discharges which are detrimental to physical health. The effective management of discharges from industrial activities or trade premises is important in protecting the health of the public.

Decision Sought: Accept in part

Reasons for Staff Recommendation: Social and economic well-being have already considered as part of the Section 32 analysis and during consideration of resource consent applications, s.104(a) specifically requires the decision makers to have regard to any actual and potential effects on the environment of allowing the activity. Staff do not recommend re-listing it here.

Further Submission No: 30 - 19 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Swap Stockfoods Ltd

Summary: Support including an additional matter to be considered as suggested by the submitter "(i) The extent to which the air discharge and associated activities may provide for economic or social wellbeing".

Decision Sought: Accept

Reasons for Staff Recommendation: Social and economic well-being have already considered as part of the Section 32 analysis and during consideration of resource consent applications, s.104(a) specifically requires the decision makers to have regard to any actual and potential effects on the environment of allowing the activity. Staff do not recommend re-listing it

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Staff Recommendations on Submissions (By Submitter)

Submitter: 45 - Fonterra Ltd

here.

Submission Point No: 22 **Submission Type:** Support in Part **Recommendation:** Accept

Chapter: Policies

Section: AQ P4 - new clause

Submission Summary: There should be consideration of the investment of an existing industry or consent holder into infrastructure that mitigates the adverse effects of air discharges as part of the decision-making process as new matter (j).

Decision Sought: Amend AQ P4 as follows:
[insert - (j) The value of investment in existing infrastructure to mitigate adverse effects associated with the discharge of contaminants to air.

Reasons for Staff Recommendation: Consideration of the investment of existing industry into infrastructure that mitigates air discharges should be added to the list of matters to consider. Staff consider there is sufficient directive towards environmental outcomes provided in policies AQ P2 and AQ P3 to allow the inclusion of this matter.

Further Submission No: 8 - 58 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Mercury NZ Ltd

Summary: Mercury seeks Policy 4 implement the correct tests in line with the RMA. This is an existing s104 test, so will be considered regardless of policy.

Decision Sought: Allow

Reasons for Staff Recommendation: Consideration of the investment of existing industry into infrastructure that mitigates air discharges should be added to the list of matters to consider. Staff consider there is sufficient directive towards environmental outcomes provided in policies AQ P2 and AQ P3 to allow the inclusion of this matter.

Further Submission No: 11 - 8 **Submission Type:** Support **Recommendation:** To Be Advised

Further Submitter: Oji Fibre Solution

Summary: These are matters that decision makers should have vparticular regard to when considering the acceptability of a discharge

Decision Sought: Accept submission

Reasons for Staff Recommendation: Consideration of the investment of existing industry into infrastructure that mitigates air discharges should be added to the list of matters to consider. Staff consider there is sufficient directive towards environmental outcomes provided in policies AQ P2 and AQ P3 to allow the inclusion of this matter.

Submission Point No: 23 **Submission Type:** Support in Part **Recommendation:** Accept

Chapter: Policies

Section: AQ P4 - new clause

Submission Summary: Fonterra also seeks an additional matter (k) requiring that the FIDOL factors should be considered when making an assessment of dust and odour

Decision Sought: Amend AQ P4 as follows:
[insert - (k) The FIDOL factors (frequency, intensity, duration, offensiveness and location) for determining the adverse effects in relation to dust and odour.]

Reasons for Staff Recommendation: Staff agree that particular regard should be given to the FIDOL factors when assessing acceptability of dust and odour to air.

Further Submission No: 8 - 59 **Submission Type:** Support in Part **Recommendation:** Accept

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 45 - Fonterra Ltd

Further Submitter: Mercury NZ Ltd

Summary: Mercury supports the intent of this submission and welcomes engagement on this matter. Should the FIDOL factors be included within clause (e)?

Decision Sought: Allow

Reasons for Staff Recommendation: Staff agree that particular regard should be given to the FIDOL factors when assessing acceptability of dust and odour to air.

Further Submission No: 12 - 10 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Z Energy Ltd, BP Oil NZ Ltd & Mobil Oil NZ Ltd

Summary: The submission is supported. The Oil Companies consider it appropriate to use the FIDOL factors for determining the adverse effects in relation to dust and odour.

Decision Sought: Accept submission

Reasons for Staff Recommendation: Staff agree that particular regard should be given to the FIDOL factors when assessing acceptability of dust and odour to air.

Further Submission No: 30 - 20 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Swap Stockfoods Ltd

Summary: Support including an additional matter to be considered as suggested by the submitter "(k) The FIDOL factors (frequency, intensity, duration, offensiveness and location) for determining the adverse effects in relation to dust and odour".

Decision Sought: Accept

Reasons for Staff Recommendation: Staff agree that particular regard should be given to the FIDOL factors when assessing acceptability of dust and odour to air.

Submission Point No: 24 **Submission Type:** Seek **Recommendation:** Accept in Part

Chapter: Objectives

Section: New objective

Submission Summary: Fonterra seeks that two additional objectives be included in PC13 that enable air discharges (provided effects are avoided, remedied and/or mitigated appropriately). Objectives of this nature recognise that there are significant positive economic and social effects from activities that are often reliant on the ability to discharge contaminants to air (such as the Edgecumbe Site). These positive effects should be considered alongside the management of adverse effects.

Decision Sought: Insert New Objective as follows:
[insert - Provide for activities discharging to air where significant adverse environmental effects can be avoided, and other effects can be appropriately remedied or mitigated.]

Reasons for Staff Recommendation: Staff recommend amending the wording of AQ P1 as follows:
Manage the discharge of contaminants to air according to the following:
(a) [insert - Provide for the discharge of contaminants to air by] permit [insert - ting] discharges from activities where the discharge can be suitably managed with general conditions to avoid, remedy or mitigate any adverse effects of the discharge

Further Submission No: 8 - 1 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Mercury NZ Ltd

Summary: Mercury supports the intent of the submission, which is to enable uses reliant upon discharges, which provide significant economic and social benefits to the region and New Zealand. Mercury would like to discuss whether including the text "appropriately remedied or mitigated" reads like a policy rather than an objective. Mercury supports having appropriate policy tests within policies and assessment criteria

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 45 - Fonterra Ltd

Decision Sought: Allow

Reasons for Staff Recommendation: Staff recommend amending the wording of AQ P1 as follows:
Manage the discharge of contaminants to air according to the following:
(a) [insert - Provide for the discharge of contaminants to air by] permit [insert - ting] discharges from activities where the discharge can be suitably managed with general conditions to avoid, remedy or mitigate any adverse effects of the discharge

Further Submission No: 11 - 1 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Oji Fibre Solution

Summary: The PC13 objectives do not adequately recognise the need to provide for activities to discharge contaminants to air in the region

Decision Sought: Accept submission

Reasons for Staff Recommendation: Staff recommend amending the wording of AQ P1 as follows:
Manage the discharge of contaminants to air according to the following:
(a) [insert - Provide for the discharge of contaminants to air by] permit [insert - ting] discharges from activities where the discharge can be suitably managed with general conditions to avoid, remedy or mitigate any adverse effects of the discharge

Further Submission No: 13 - 1 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Horticulture New Zealand

Summary: It is appropriate that the Plan recognises the need for some activities to discharge to air, provided effects are appropriately managed.

Decision Sought: Accept submission to include new objective as sought by 45-24.

Reasons for Staff Recommendation: Staff recommend amending the wording of AQ P1 as follows:
Manage the discharge of contaminants to air according to the following:
(a) [insert - Provide for the discharge of contaminants to air by] permit [insert - ting] discharges from activities where the discharge can be suitably managed with general conditions to avoid, remedy or mitigate any adverse effects of the discharge

Further Submission No: 18 - 1 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Federated Farmers of New Zealand

Summary: An enabling objective is needed.

Decision Sought: Accept submission point

Reasons for Staff Recommendation: Staff recommend amending the wording of AQ P1 as follows:
Manage the discharge of contaminants to air according to the following:
(a) [insert - Provide for the discharge of contaminants to air by] permit [insert - ting] discharges from activities where the discharge can be suitably managed with general conditions to avoid, remedy or mitigate any adverse effects of the discharge

Further Submission No: 22 - 6 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Toi Te Ora Public Health

Summary: It is not acceptable to harm to health.
Avoiding harm will keep people healthy and improve health.
The National Environment Standards for Air Quality set guaranteed minimum level of health protection for all New Zealand. It is unacceptable for any contaminants to be discharged at levels resulting in downwind concentrations that can cause ill health.
Every effort to avoid exposure to contaminants must be made when the adverse health effects are well known. It is not acceptable to knowingly harm the health of the public in the same way that it is not acceptable to harm the health of people in a workplace.
The effective management of discharges from industrial and trade activities is important in protecting the health of the public.

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 45 - Fonterra Ltd

Decision Sought: Reject

Reasons for Staff Recommendation: Staff recommend amending the wording of AQ P1 as follows:
Manage the discharge of contaminants to air according to the following:
(a) [insert - Provide for the discharge of contaminants to air by] permit [insert - ting] discharges from activities where the discharge can be suitably managed with general conditions to avoid, remedy or mitigate any adverse effects of the discharge

Further Submission No: 23 - 64 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter support the inclusion of a new objective which enables air discharges (as long as the effects are appropriately avoided, remedied or mitigated). Industries provide positive economic and social effects, which should be recognised

Decision Sought: Decision sought: Adopt new objective as recommended by submission 45 – 24.

Reasons for Staff Recommendation: Staff recommend amending the wording of AQ P1 as follows:
Manage the discharge of contaminants to air according to the following:
(a) [insert - Provide for the discharge of contaminants to air by] permit [insert - ting] discharges from activities where the discharge can be suitably managed with general conditions to avoid, remedy or mitigate any adverse effects of the discharge

Further Submission No: 30 - 1 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Swap Stockfoods Ltd

Summary: Agree that an objective should be included that provides for activities discharging to air where significant adverse environmental effects can be avoided, and other effects can be appropriately remedied or mitigated

Decision Sought: Accept

Reasons for Staff Recommendation: Staff recommend amending the wording of AQ P1 as follows:
Manage the discharge of contaminants to air according to the following:
(a) [insert - Provide for the discharge of contaminants to air by] permit [insert - ting] discharges from activities where the discharge can be suitably managed with general conditions to avoid, remedy or mitigate any adverse effects of the discharge

Submission Point No: 25 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Rules

Section: AQ R3(1)

Submission Summary: Fonterra submits that the discharge of contaminants to air from spray irrigation, soil injection, truck spreading or land soakage of milk, dairy factory wastewater, dairy liquids and/or other dairy factory by-products should be permitted under the Natural Resources Plan. Fonterra supports the retention of this rule, subject to the breadth of activities covered under the rule being expanded to include truck spreading, in addition to spray irrigation, soil injection or land soakage,

Decision Sought: Amend Rule AQ R3 as follows:
...(1) spray irrigation, soil injection, [insert - truck spreading] or land soakage of liquid waste...

Reasons for Staff Recommendation: Amend rule to include truck spreading as a method of discharging liquid waste to land

Further Submission No: 18 - 25 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Federated Farmers of New Zealand

Summary: For reasons provided in the submission

Decision Sought: Accept submission point

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 45 - Fonterra Ltd

Reasons for Staff Recommendation:

Amend rule to include truck spreading as a method of discharging liquid waste to land

Submission Point No: 26 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Rules

Section: AQ R3(1)

Submission Summary: Fonterra submits that the discharge of contaminants to air from spray irrigation, soil injection, truck spreading or land soakage of milk, dairy factory wastewater, dairy liquids and/or other dairy factory by-products should be permitted under the Natural Resources Plan. Fonterra supports the retention of this rule, subject to the inclusion of milk dairy factory wastewater, dairy waste and dairy factory by-products. Alternatively, the definition of liquid waste could be amended to ensure it captures milk, dairy factory wastewater, dairy liquids and/or other dairy factory byproducts so that these activities could be carried out as permitted activities.

Decision Sought: Amend Rule AQ R3 as follows:
 (1) spray irrigation, soil injection... of liquid waste [insert - or milk, dairy factory wastewater, dairy liquids and/or other dairy factory by-products].
 ...are permitted activities provided...
 Or
 Instead of amending Rule AQ R3 (1), amend the definition of 'liquid waste' as detailed in Submission Point 45-16 (but amend Rule AQ R3(1) as outlined in submission point 45-12 in any event).

Reasons for Staff Recommendation: Staff do not recommend this amendment to either the rule or the definition of 'liquid waste as discharges of the products listed by the submitter have the potential to generate odour beyond the boundary of the subject property and have been the subject of previous complaints to the Regional Council. As such, this activity is not considered appropriate for inclusion as a permitted activity.

Submission Point No: 27 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Rules

Section: AQ R3(1)

Submission Summary: Fonterra submits that the discharge of contaminants to air from spray irrigation, soil injection, truck spreading or land soakage of milk, dairy factory wastewater, dairy liquids and/or other dairy factory by-products should be permitted under the Natural Resources Plan. Fonterra supports the retention of this rule, subject to amendments to recognise management measures that should be employed to ensure that the discharge of contaminants is not offensive nor objectionable beyond the boundary of the subject property. These amendments would place the onus on the discharger to use appropriate methods, rather than the management measures being dictated by the Council. Fonterra's activities that would be covered by this rule have setbacks and buffer zones between wastewater disposal sites and other sensitive activities that manage the effects (eg odour), along with a range of other methods.

Decision Sought: Amend Rule AQ R3 as follows:
 (1) spray irrigation, soil injection....
 ...are permitted activities provided... [insert - does not cause any offensive or objectionable odour or spray drift beyond the boundary of the subject property...]

Reasons for Staff Recommendation: Staff agree with this change as in most cases throughout the plan change the discharge is the cause of the effect. However, in this case the wording of the rule describes the activity, which some members of the community may find offensive or objectionable on its own if it is discharged beyond the boundary of the subject property. The plan change only seeks to manage the effects of the discharge to air. However staff recommend that the effects are not limited to spray drift or odour but include all effects

Further Submission No: 13 - 61 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks that the condition clause be amended. This should apply to all clauses, not just clause 1.

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 45 - Fonterra Ltd

Decision Sought: Amend as sought by submitter but apply to all activities listed

Reasons for Staff Recommendation: Accept change based on the original submission

Submission Point No: 28 **Submission Type:** Not Applicable **Recommendation:** Accept

Chapter: Rules

Section: AQ R3(1)

Submission Summary: Fonterra submits that the discharge of contaminants to air from spray irrigation, soil injection, truck spreading or land soakage of milk, dairy factory wastewater, dairy liquids and/or other dairy factory by-products should be permitted under the Natural Resources Plan. Fonterra supports the retention of this rule, subject to the deletion of the reference to discharge into waterbodies, as this is captured in other chapters of the Plan and also referenced in the advice note.

Decision Sought: Amend Rule AQ R3 as follows:
(1) spray irrigation, soil injection....
...are permitted activities provided... [delete - or into any water body.]

Reasons for Staff Recommendation: Remove the reference to 'water bodies' as the primary discharge of these activities is already to land or water therefore this condition does not apply

Submitter: 46 - Draslovka a.s.

Submission Point No: 1 **Submission Type:** Neutral **Recommendation:** Reject

Chapter: Rules

Section: AQ R20

Submission Summary: Submission on Section 32 report - Topic 5 Methyl bromide and fumigation
On the basis of the recommendation to council by OPUS (2015) requiring resource consents for methyl bromide (as required by current plan), except where recapture technology is used, in which case it should be a controlled, non-notified activity.

Decision Sought: Where methyl bromide recapture technology is used the BoPRC deems it to be a controlled, non-notified activity.

Reasons for Staff Recommendation: Staff understand the reasoning behind this request for a controlled non-notified activity where methyl bromide is recaptured, is on the basis that submitters consider that the discharge will be minimal. However, the effectiveness of recapture technology is not sufficiently understood to justify a controlled, non-notified activity. It is staff's understanding that the current consent holder is still testing a range of technologies to recapture methyl bromide. The Regional Council has received no documentation or information of any kind detailing the results of this testing, including the efficiency or effectiveness of these recapture technologies. Without this information, staff cannot determine whether this technology provides sufficient mitigation for a controlled, non-notified activity

Further Submission No: 28 - 8 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Stakeholders in Methyl Bromide Reduction Inc (STIMBR)

Summary: The EPA is mandated to assess and set controls for hazardous substances including methyl bromide. EDN a sustainable alternative to methyl bromide is not yet available for use in New Zealand.

Decision Sought: Accept

Reasons for Staff Recommendation: Further submission point does not address issues in original submission point

Further Submission No: 29 - 7 **Submission Type:** Support **Recommendation:** Reject

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 46 - Draslovka a.s.

Further Submitter: Genera Ltd

Summary: The EPA is the agency mandated to manage fumigants such as methyl bromide and its alternatives. The EPA has recently determined that there are grounds for a reassessment of methyl bromide.

Decision Sought: Accept

Reasons for Staff Recommendation: Further submission point does not address issues in original submission point

Submission Point No: 2 **Submission Type:** Neutral **Recommendation:** Reject

Chapter: Rules

Section: AQ R20

Submission Summary: Submission on Section 32 report - Topic 5 Methyl bromide and fumigation
The scientific and technical expertise to analyse relevant data, identify risks and determine appropriate mitigations sits within the EPA. Draslovka anticipates that the EPA will not require the use of recapture technologies with EDN fumigations as the science indicates there are no significant quantities of EDN remaining at the end of fumigation.

Decision Sought: Recapture / destruction requirements by the BoPRC are taken from the EPA's decision allowing a fumigants use in new Zealand. Such requirements are determined by the EPA after their review of the science submitted to support the use of the chemical as a fumigant. Internationally the EPA is highly regarded for its transparent and robust process in considering new chemicals and their formulation of controls which can protect the public, workers and the environment.

Reasons for Staff Recommendation: The plan change is consistent with the 2010 EPA reassessment and requirements for methyl bromide. These EPA requirements only apply to methyl bromide, not to any other fumigants. Therefore, the plan change sets out a corresponding rule framework for methyl bromide, and classifies any other fumigant as discretionary, with no recapture necessarily required. No decision sought relevant to the rule wording

Further Submission No: 28 - 9 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Stakeholders in Methyl Bromide Reduction Inc (STIMBR)

Summary: The EPA is mandated to assess and set controls for hazardous substances including methyl bromide. EDN a sustainable alternative to methyl bromide is not yet available for use in New Zealand.

Decision Sought: Accept

Reasons for Staff Recommendation: The plan change is consistent with the 2010 EPA reassessment and requirements for methyl bromide. These EPA requirements only apply to methyl bromide, not to any other fumigants. Therefore, the plan change sets out a corresponding rule framework for methyl bromide, and classifies any other fumigant as discretionary, with no recapture necessarily required

Further Submission No: 29 - 8 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Genera Ltd

Summary: The EPA is the agency mandated to manage fumigants such as methyl bromide and its alternatives. The EPA has recently determined that there are grounds for a reassessment of methyl bromide.

Decision Sought: Accept

Reasons for Staff Recommendation: The plan change is consistent with the 2010 EPA reassessment and requirements for methyl bromide. These EPA requirements only apply to methyl bromide, not to any other fumigants. Therefore, the plan change sets out a corresponding rule framework for methyl bromide, and classifies any other fumigant as discretionary, with no recapture necessarily required

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 46 - Draslovka a.s.

Submission Point No: 3 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R20

Submission Summary: Submission on Section 32 report - Topic 5 Methyl bromide and fumigation
 Draslovka supports a situation similar to Option 3 which recognises the expertise of the EPA and its designated role in protecting the New Zealand(ers) The EPA's role is to protect the environment and the public while carefully balancing social, economic and safety to ensure evidence based decisions to provide an environment that we want now, and in the future. It is noted that EPA assessments of new (or reassessment of existing) fumigants include a public submission phase. This allows the EPA's risk determination (based on robust assessment of the science) and opinions of industry and community groups to be accommodated in the EPA's final decision/controls.

Decision Sought: That fumigation management is based on
 1. General rules within the proposed plan,
 2. Regional Policy Statement
 3. Draws on appropriate provisions of the RMA and HSNO Act that regional councils are bound to
 4. Acknowledging the expertise residing in the Environmental Protection Authority (EPA) and require their decisions and controls be used to undertake fumigant use in the Region. That is not choosing to require greater unwarranted 'protections'.

Reasons for Staff Recommendation: The EPA assessment committee approved the continued use of methyl bromide, but imposed further controls, including a requirement that '10 years from the date of this decision, all methyl bromide fumigations are to be subject to recapture.' The due date for this requirement is October 2020.
 The Regional Council has a clear role set out in section 30 of the Act to control the discharge of contaminants to air. Section 65 then allows Regional Councils to prepare regional plans where necessary to carry out these roles, and provides a rule framework ranging from permitted activity to prohibited activity
 The plan change is consistent with the 2010 EPA reassessment and requirements for methyl bromide. These EPA requirements only apply to methyl bromide, not to any other fumigants. Therefore, the plan change sets out a corresponding rule framework for methyl bromide, and classifies any other fumigant as discretionary, with no recapture necessarily required.
 The recommendation is for methyl bromide use without recapture to be non-complying and the policy provides for best practicable options. The use of methyl bromide with recapture or use of any other fumigant is discretionary. This is not a significant shift from the discretionary activity status under the operative Regional Air Plan

Further Submission No: 28 - 10 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Stakeholders in Methyl Bromide Reduction Inc (STIMBR)

Summary: The EPA is mandated to assess and set controls for hazardous substances including methyl bromide. EDN a sustainable alternative to methyl bromide is not yet available for use in New Zealand.

Decision Sought: Accept

Reasons for Staff Recommendation: The EPA assessment committee approved the continued use of methyl bromide, but imposed further controls, including a requirement that '10 years from the date of this decision, all methyl bromide fumigations are to be subject to recapture.' The due date for this requirement is October 2020.
 The Regional Council has a clear role set out in section 30 of the Act to control the discharge of contaminants to air. Section 65 then allows Regional Councils to prepare regional plans where necessary to carry out these roles, and provides a rule framework ranging from permitted activity to prohibited activity
 The plan change is consistent with the 2010 EPA reassessment and requirements for methyl bromide. These EPA requirements only apply to methyl bromide, not to any other fumigants. Therefore, the plan change sets out a corresponding rule framework for methyl bromide, and classifies any other fumigant as discretionary, with no recapture necessarily required.
 The recommendation is for methyl bromide use without recapture to be non-complying and the policy provides for best practicable options. The use of methyl bromide with recapture or use of any other fumigant is discretionary. This is not a significant shift from the discretionary activity status under the operative Regional Air Plan

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 46 - Draslovka a.s.

Further Submission No: 29 - 9 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Genera Ltd

Summary: The EPA is the agency mandated to manage fumigants such as methyl bromide and its alternatives. The EPA has recently determined that there are grounds for a reassessment of methyl bromide.

Decision Sought: Accept

Reasons for Staff Recommendation: The EPA assessment committee approved the continued use of methyl bromide, but imposed further controls, including a requirement that '10 years from the date of this decision, all methyl bromide fumigations are to be subject to recapture.' The due date for this requirement is October 2020.
The Regional Council has a clear role set out in section 30 of the Act to control the discharge of contaminants to air. Section 65 then allows Regional Councils to prepare regional plans where necessary to carry out these roles, and provides a rule framework ranging from permitted activity to prohibited activity
The plan change is consistent with the 2010 EPA reassessment and requirements for methyl bromide. These EPA requirements only apply to methyl bromide, not to any other fumigants. Therefore, the plan change sets out a corresponding rule framework for methyl bromide, and classifies any other fumigant as discretionary, with no recapture necessarily required.
The recommendation is for methyl bromide use without recapture to be non-complying and the policy provides for best practicable options. The use of methyl bromide with recapture or use of any other fumigant is discretionary. This is not a significant shift from the discretionary activity status under the operative Regional Air Plan

Submitter: 47 - Legacy Funeral Homes Ltd

Submission Point No: 1 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R21(g)

Submission Summary: Legacy supports Rule AQ R21 as it means crematoria installed prior to 27 February 2018 continue to be permitted activities and do not require retrospective resource consents. Legacy considers this approach is appropriate as it enables and provides for existing crematoria, particularly those which have been recently installed to suitable standards, which provide an important community service.

Decision Sought: Retain rule AQ R21

Reasons for Staff Recommendation: Some changes made to the rule to resolve other submission points however the issue raised in this submission point has not changed

Submitter: 48 - Lawter New Zealand Ltd

Submission Point No: 1 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Policies

Section: AQ P2

Submission Summary: This policy references the use of 'best practical option' however does not provide any further guidance. Reference to the Resource Management Acts definition of 'Best Practical Option' should be included.

Decision Sought: Further guidance on the use of 'best practical option' should be included in AQ P2.

Reasons for Staff Recommendation: A definition of 'best practicable option' is provided by the RMA and is duplicated in the Regional Natural Resources Plan

Submission Point No: 2 **Submission Type:** Seek **Recommendation:** Reject

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 48 - Lawter New Zealand Ltd

Chapter: Policies

Section: AQ P3 - whole policy

Submission Summary: The inclusion of "and/or" provides clarity for those using plans (including decision makers) as to whether only some of the matters within a list will need to be considered, or whether the entire list will need to be considered.

Decision Sought: Include the use of "and/or" in list.

Reasons for Staff Recommendation: Staff do not recommended this change as whether all clauses must be met, or only some is dependent on what type of activity is being carried out.

Further Submission No: 8 - 33 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Mercury NZ Ltd

Summary: It is unclear what relief is sought or implications for individual emissions, as some clauses are ands, other could be ors.

Decision Sought: Disallow

Reasons for Staff Recommendation: Staff do not recommended this change as whether all clauses must be met, or only some is dependent on what type of activity is being carried out.

Submission Point No: 3 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Policies

Section: AQ P4 - whole policy

Submission Summary: This policy clearly outlines matters which should be considered by decision makers assessing resource consent applications.

Decision Sought: Retain this policy without changes.

Reasons for Staff Recommendation: Some changes made to the policy as a result of other submissions but overall support is accepted.

Submission Point No: 4 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Rules

Section: AQ R4(a)

Submission Summary: A notable change from the Operative Air Plan is the removal of ships from AQ R4 of the Proposed Air Plan. Discharges from ships arriving and departing from the Port of Tauranga would potentially contribute to the TSP and SO2 concentrations within the Mount industrial area (which is understood to be in exceedance of the NES-AQ ambient air quality limits). It is also noted that discharges from ships are not considered in either the Natural Resource Plan, the Operative Coastal Plan, or the Proposed Coastal Plan. Clarification is sought as to how ships are considered under Proposed Plan Change 13.

Decision Sought: Clarification as to why discharges from ships have been excluded from PC13.

Reasons for Staff Recommendation: Regulation 16 of the Resource Management (Marine Pollution) Regulations 1998 states that no rule may be included in any regional coastal plan, or proposed regional coastal plan, nor any resource consent granted relating to shipping discharges incidental to or derived from or generated by normal operations of a ship. Therefore the plan change cannot target these emissions.

Submission Point No: 5 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R10

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 48 - Lawter New Zealand Ltd

Submission Summary: There is the potential that burning of the materials listed in Rule AQ R10 could impact on the NES-AQ ambient air quality limits.

Decision Sought: Retain this rule without changes.

Reasons for Staff Recommendation: Some changes made to the rule to resolve other submission points however overall policy intent has not changed

Submission Point No: 6 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Rules

Section: AQ R18

Submission Summary: Rule AQ R18 excludes any new fuel burning equipment using clean oil, coal or untreated wood from discharging particulates into any part of the Rotorua Airshed. The Mount industrial area is understood to be exceeding the NES-AQ ambient air quality limits for PM10. It is therefore pertinent to exclude new discharges of particulates as a permitted activity in the Mount industrial area.

Decision Sought: Exclude new discharges of particulates in the Mount industrial area.

Reasons for Staff Recommendation: Staff response is that the exclusion for Rotorua Airshed has only been included following over a decade of monitoring and research. Sufficient information is not yet available for the Mount Maunganui area to develop a rule framework on an airshed basis.

Submission Point No: 7 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R21 - whole rule

Submission Summary: Rule AQ R21 is supported.

Decision Sought: Retain this rule without changes.

Reasons for Staff Recommendation: Some changes made to the rule to resolve other submission points however overall policy intent has not changed

Submission Point No: 8 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Definitions

Section: Definitions - Airshed

Submission Summary: "Airshed"
The definition of 'Airshed' is designed to include all the ambient air within the Bay of Plenty, with the exclusion of areas which have been 'gazetted' under the NES-AQ. This definition does not provide for the identification of an airshed that is not gazetted. Subsequently, is unclear how Regional Council approaches air sheds that may be degraded but do not require gazettement under the NES-AQ, such as the Mount industrial area.

Decision Sought: Clarification as to how Regional Council approaches degraded airsheds.

Reasons for Staff Recommendation: Retain definition as proposed - This definition has been included in the plan change exactly as defined in the air standards. An airshed does not need to be gazetted for the regulations of the air standards to apply or for degraded air quality to be addressed.

Submission Point No: 9 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Definitions

Section: Definitions - Noxious or dangerous

Submission Summary: "Noxious or dangerous"

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 48 - Lawter New Zealand Ltd

The definition of 'Noxious or Dangerous' is up to date with the RMA, and relevant case law, and therefore represents best practice.

Decision Sought: Retain this definition without changes.

Reasons for Staff Recommendation: Remove this definition from the plan change as it is used in the RMA and case law considers this based on a normal English language definition. Including a definition could result in a conflict between further Court interpretation. However, staff recommend retaining text to clarify how this term will be interpreted by the rules in the plan change and that this text is based on the text in the proposed plan

Further Submission No: 30 - 40 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Swap Stockfoods Ltd

Summary: Support a definition for 'noxious or dangerous' being retained in the plan change. Swap Stockfoods would like the opportunity to be involved in the discussions regarding the proposed wording of the definition.

Decision Sought: Accept

Reasons for Staff Recommendation: Remove this definition from the plan change as it is used in the RMA and case law considers this based on a normal English language definition. Including a definition could result in a conflict between further Court interpretation. However, staff recommend retaining text to clarify how this term will be interpreted by the rules in the plan change and that this text is based on the text in the proposed plan

Submission Point No: 10 **Submission Type:** Support **Recommendation:** Accept

Chapter: Definitions

Section: Definitions - Open burning

Submission Summary: "Open burning"
The definition of open burning is supported

Decision Sought: Retain this definition without changes

Reasons for Staff Recommendation: One minor changes made to resolve another submission point however overall policy intent has not changed

Submission Point No: 11 **Submission Type:** Support **Recommendation:** Accept

Chapter: Definitions

Section: Definitions - Particulates

Submission Summary: "Particulates"
The definition of particulates is supported.

Decision Sought: Retain this definition without changes.

Reasons for Staff Recommendation: Retain this definition without changes.

Submission Point No: 12 **Submission Type:** Seek **Recommendation:** Accept in Part

Chapter: Reverse sensitivity

Section: Reverse Sensitivity

Submission Summary: "Reverse sensitivity"
Clarification as to why Reverse Sensitivity is included in PC13 (given that it is not referenced elsewhere).

Decision Sought: Although reverse sensitivity is defined in Proposed Plan Change 13, it is not referenced

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 48 - Lawter New Zealand Ltd

elsewhere. Clarification as to the purpose of its inclusion is sought.

Reasons for Staff Recommendation: Remove definition of reverse sensitivity therefore clarification as to its inclusion not required

Submission Point No: 13 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Definitions

Section: Definitions - Sensitive activity

Submission Summary: "Sensitive activity"
The definition of sensitive activity is supported.

Decision Sought: Retain this definition without changes.

Reasons for Staff Recommendation: Staff recommend changing wording from 'this includes' to 'this may include' to separate the definition from the examples. Staff do not then recommend amending the list itself, as it is no longer a key part of the definition, but a list of examples to provide guidance. This will relieve many of the concerns in the submission points.

Submission Point No: 14 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Reverse sensitivity

Section: Reverse Sensitivity

Submission Summary: District plan makers are required to consider regional plans during the preparation and renewal of district plans. It is considered that the inclusion of a policy discouraging sensitive activities within the Mount industrial area is appropriate

Decision Sought: Inclusion of a new policy surrounding reverse sensitivity effects.

Reasons for Staff Recommendation: Do not include provisions to manage reverse sensitivity in the plan change

Further Submission No: 30 - 56 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Swap Stockfoods Ltd

Summary: Support the provision of policies to manage reverse sensitivity. Swap Stockfoods would like the opportunity to be involved in the discussions regarding the proposed wording of the policies.

Decision Sought: Accept

Reasons for Staff Recommendation: Decline original submission point

Submission Point No: 15 **Submission Type:** Seek **Recommendation:** To Be Advised

Chapter: Policies

Section: AQ P3(b)

Submission Summary: There is no clarity as to how plan users (including decision makers) considers discharges from multiple sources which cumulatively may exceed the NES-AQ or AAQG. Current wording does not explain how an exceedance would be approached if more than one source is contributing to the breach of the NES-AQ.

Decision Sought: Provide clarity as to cumulative effects, with regard to AQ P3(b).

Reasons for Staff Recommendation: Monitoring, modelling and research into key contaminants in the Mount Maunganui area (of particular concern for this submitter) are in their early stages. The approach to how these contaminants will be addressed has not been determined at this stage, therefore no additional clarity can be provided in the plan change

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 48 - Lawter New Zealand Ltd

Submission Point No: 16 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Definitions

Section: Definitions - Regionally significant infrastructure

Submission Summary: There is no definition of 'regionally significant infrastructure' in Plan Change 13 or the Natural Resource Plan. It is considered that 'regionally significant infrastructure' should be defined or, identified to provide a degree of clarity for those using the plan.

Decision Sought: Either identify regionally significant infrastructure within the Bay of Plenty, or define 'regionally significant infrastructure'.

Reasons for Staff Recommendation: The Regional Policy Statement contains a definition of 'regionally significant infrastructure'. Staff do not recommended duplicating the definition in the plan change.

Further Submission No: 7 - 31 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Trustpower Ltd

Summary: Regionally significant infrastructure is defined in the operative Regional Policy Statement

Decision Sought: Reject submission point

Reasons for Staff Recommendation: The Regional Policy Statement contains a definition of 'regionally significant infrastructure'. Staff do not recommended duplicating the definition in the plan change.

Further Submission No: 8 - 87 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Mercury NZ Ltd

Summary: Any definition for Regionally Significant Infrastructure needs to be include electricity generation activities, and those activities that the generation plant is reliant upon to operate

Decision Sought: Allow

Reasons for Staff Recommendation: The Regional Policy Statement contains a definition of 'regionally significant infrastructure'. Staff do not recommended duplicating the definition in the plan change.

Submission Point No: 17 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Rules

Section: AQ R18

Submission Summary: Rule 18 (3) does not state whether the replacement of existing fuel burning equipment is included in this provision. There is the potential for other industrial operators to be upgrading their plant but complying with the pre-February 2018 provisions. Any upgrades should be compliant with the post-February 2018 provisions, while small scale maintenance activities would require compliance with pre-February 2018 provisions.

Decision Sought: Clarify whether Rule 18 (3) restricts the replacement of existing fuel burning equipment.

Reasons for Staff Recommendation: Section 3 refers to 'equipment installed after 27 February 2018'. There is no reference to what purpose the equipment is installed for therefore this section applies regardless of whether it is replacement equipment.

Submitter: 49 - Chris & Carol Meijer

Submission Point No: 1 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 49 - Chris & Carol Meijer

Section: Rotorua Burner Rules - General

Submission Summary: With regards to the Air Plan changes that were enforced on 27th February with no notice or consultation. Is the public expected to just accept and go by the new rules. It took a month for these changes to be made public by way of advertising on the radio and even longer in the local newspapers. I ask, WHY DID IT TAKE SO LONG TO LET THE PUBLIC KNOW!!!!!!!

Decision Sought: Better, earlier notification and rules to have legal effect only once operative.

Reasons for Staff Recommendation: The first campaign run by Council to raise public awareness was Winter 2009. Since then a campaign to raise awareness of various aspects of Rotorua air quality has been run every year. These campaigns have included dry wood, draft Bylaw, Hot Swap loans, and the low income free fire swap. In winter 2016 every homeowner in Rotorua was sent a letter explaining the draft rules and the implications. During consultation on the draft plan, a workshop and drop-in evening was held in Rotorua. A full consultation record is included in the Section 32 report. Notification of the plan change followed standard process, however due to the significance of the issue in Rotorua, a series of radio ads were also run within Rotorua.

Submission Point No: 2 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Section: Rotorua Burner Rules - General

Submission Summary: I work in the Woodburner industry and I am talking with some very irate customers whose choices are being taken away from them. I keep getting hearing comments " They are Morons", "What are these idiots doing", "If I won Lotto, I would take them to court." They should all be shot at dawn". I have not had one positive comment said about the regional council and its ideas to clean up the air quality in Rotorua. I can see what will happen in the future and that is that people will then turn to buying a fire and installing it themselves without a building consent and taking the risk that the house will not burn down. The choices for the ordinary public are being taken away from them and who has the right to do this??????????

Decision Sought: That any woodburner remains an option for home heating in Rotorua

Reasons for Staff Recommendation: The rules are designed as a package, with all three rules acting together to reduce emissions from burners to ensure the Airshed meets the National Environmental Standards for Air Quality (NESAQ). Using this approach, some burners are permitted in any circumstances (pellet burners) while others must meet certain criteria (indoor open fires). The rules make allowance for new low emission woodburners, provided they are replacing an existing burner and there is no net increase of discharges to the Airshed. All of these allowances rely on coal burners, multifuel burners and old woodburners (pre-2005) being phased out by 2019

Further Submission No: 14 - 14 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Envirosolve

Summary: There is no need for taking wood burners away. They will help towards the goal for zero energy and carbon neutral New Zealand. The emission can be taken care of with secondary emission devices which can be retro-fitted

Decision Sought: Support

Reasons for Staff Recommendation: The plan change does not seek to take woodburners away. There is not enough certainty that secondary emission devices will reduce the particulates discharged from any burner to the extent necessary for the Rotorua Airshed to meet the NESAQ

Submission Point No: 3 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Section: Rotorua Burner Rules - General

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 49 - Chris & Carol Meijer

Submission Summary: With regards to the new regulations that were brought into effect last year on 24th August 2017, the Council has not given these changes enough time to be able to measure whether they have had a significant result in improving the air quality as they were brought in at the end of WINTER. Wouldn't it be more sensible to measure the results over this winter before making changes again.

Decision Sought: Measure changes to air quality from 2017 Bylaw before introducing more rules

Reasons for Staff Recommendation: The Bylaw has been in place since 2010. It is making progress towards achieving the reductions required to meet the NESAQ but not sufficient. The amendments to the Bylaw in 2017 took into account that further rules would be necessary.

Submission Point No: 4 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Section: Rotorua Burner Rules - General

Submission Summary: We have the added ingredients in our Rotorua air quality that includes pollen especially from the pine trees as well as sulphur as well as all the smoking vehicles and carbon emissions from cars and trucks.

Decision Sought: Consider other sources before targeting burners

Reasons for Staff Recommendation: Pine pollen is a large particulate, far greater in size than 10 microns. Therefore it does not make up any proportion of the particulates monitored in the Rotorua Airshed. The sulphur in Rotorua is hydrogen sulphide gas from natural sources, and is not part of the air quality issue being addressed by the plan change. Although vehicle emissions do discharge particulates, these are a small proportion of the total wintertime emissions – only 12% (according to the Rotorua Air Emissions Inventory 2005). Central Government is mandated to reduce emissions from vehicles.

Submission Point No: 5 **Submission Type:** Neutral **Recommendation:** Reject

Chapter: Rules

Section: Rotorua Burner Rules - General

Submission Summary: What information is being used to make these decisions? This information should be published to the community, so they are better able to understand why these decisions are being made. Would it not be better to have a public forum or even better a referendum before enforcing any changes.

Decision Sought: Improve information and consult with the public before enforcing changes

Reasons for Staff Recommendation: The first campaign run by Council to raise public awareness was Winter 2009. Since then a campaign to raise awareness of various aspects of Rotorua air quality has been run every year. These campaigns have included dry wood, draft Bylaw, Hot Swap loans, and the low income free fire swap. In winter 2016 every homeowner in Rotorua was sent a letter explaining the draft rules and the implications. During consultation on the draft plan, a workshop and drop-in evening was held in Rotorua. A full consultation record is included in the Section 32 report. Notification of the plan change followed standard process, however due to the significance of the issue in Rotorua, a series of radio ads were also run within Rotorua.

Submission Point No: 6 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Section: Rotorua Burner Rules - General

Submission Summary: I feel that the Regional Council is not taking into consideration how this will affect the ordinary person, whether they are on a benefit, elderly or a limited income. We hear how prices of food, power, rates etc have all gone up and that families are struggling. How are the changes that the council have implemented going to affect these families. They will only get poorer, sicker and be more of a burden on our government and our taxes.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 49 - Chris & Carol Meijer

Decision Sought: Consideration of other impacts on households

Reasons for Staff Recommendation: Avoiding a scenario where health effects from poor air quality are replaced with health effects from cold, damp homes, has been a principle of the Rotorua Air Quality programme since its inception in 2008 and Council provides a number of financial support schemes to assist homeowners

Submission Point No: 7 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Section: Rotorua Burner Rules - General

Submission Summary: The council is definitely giving the impression that they do not want fires. A woodburner is the most efficient form of heating which when used properly, ie serviced each year and dry firewood burned will result in a warm dry home in Rotorua in the winter. A woodburner depending on size will give off more than double of the heat output of a Gas Heater or a Heatpump. You only need to look at the specs and this will tell you. A woodburner is designed to heat a whole house but a heatpump or gas heater will only heat the room you are in. An example is a woodburner for a 150sq mtr house is recommended to have a 15KW fire. A heatpump will be approx 6 to 8KW and a gas heater will be 6-7KW. I know which I would sooner have in my house. That is a woodburner. It gives you over double the heat output for much less running cost.

Decision Sought: Consider that woodburners are the most efficient way of heating homes

Reasons for Staff Recommendation: Each year Consumer magazine carries out an assessment of heating types, and for four years, heat pumps have proven to be the most cost effective way to heat homes unless the homeowner has access to free firewood.

Further Submission No: 14 - 15 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Envirosolve

Summary: Wood burners are the most efficient heating and the most affordable one. Many people have access to wood and especially in Rotorua as well as Tokoroa and many people work in the industry and their fire wood is freely accessible and with no cost attached. Saturday wood chopping with family and friends. Social aspect as well

Decision Sought: Support

Reasons for Staff Recommendation: Each year Consumer magazine carries out an assessment of heating types, and for four years, heat pumps have proven to be the most cost effective way to heat homes unless the homeowner has access to free firewood.
The Home Heating Survey carried out by the Regional Council in 2004 showed that two thirds of people bought their wood with only one third self collecting. Since then, the forests have been closed to the public, further limiting sources of free firewood. While there will be many who still have access to free wood, self collecting is not as widespread as generally believed. Anecdotal evidence from Council staff visiting low-income homes in Rotorua is that a large proportion of these households buy their wood

Submitter: 50 - Ravensdown Ltd

Submission Point No: 1 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Definitions

Section: Definitions - Fertiliser

Submission Summary: "Fertiliser"
Ravensdown, in preparing this submission, has considered the implications of the definition of 'fertiliser' contained in the operative Regional Natural Resources Plan (RNRP) and the Bay of Plenty Regional Air Plan (RAP). It is acknowledged that as the RNRP definition is operative, and given that PPC13 is proposed as a plan change to RNRP and as PPC13 does not propose any changes to the fertiliser definition contained in RNRP, the definition of fertiliser in the RNRP is not necessarily subject to amendment. However, Ravensdown is of

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Staff Recommendations on Submissions (By Submitter)

Submitter: 50 - Ravensdown Ltd

the opinion that consideration needs to be given to the fertiliser definition that should apply to PPC13, and ultimately the RNRP.

Decision Sought:

Replace the PNRP definition of 'fertiliser' with the operative RAP definition as follows:
 "Fertiliser
 (a) means a substance or mix of substances 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; and
 (d) does not include substances that are plant growth regulators containing the active ingredient hydrogen cyanamide.

Reasons for Staff Recommendation:

Retain the definition as proposed as the primary adverse effect of discharging fertiliser is to water and land. The rules in the RNRP were developed alongside the existing definition. If this definition were to be altered, this could have unintended consequences for the provisions that manage discharges to water and land, particularly in catchments of concern

Submission Point No: 2 **Submission Type:** Support in Part **Recommendation:** Reject

Chapter: Definitions

Section: Definitions - Fertiliser

Submission Summary: "Fertiliser"
 While Rule AQ R3(3) permits discharges to air from the use and application of fertiliser, Ravensdown considers that the rule also needs to provide for the related use and application of lime where it is applied as a soil conditioner. Lime is a 'non-nutrient attribute' of fertilisers that are used within New Zealand (refer to the proposed definition of 'fertiliser' (part (b) requested below – refer to Sub. Ref. 18). While lime principally consists of calcium, lime is not a 'nutrient' utilised directly by plants (i.e., as provided for by part (a)(i) of the proposed fertiliser definition) and therefore is not provided for by the proposed fertiliser definition. Lime is applied to land to change the pH of soils (e.g., to correct for acidic soils) which then facilitates nutrient uptake by plants. Therefore, while lime is not providing nutrients to the soil or plants directly, it does play an important role in supporting plant growth.

Decision Sought:

As an alternative to Submission Point 50-3 on AQ R3, provide for the application of lime in the 'fertiliser' definition by amending clause (b) of the definition as requested in Sub. Ref. 18 below, as follows:
 ...(b) includes non-nutrient attributes of the materials [delete - used in fertiliser], [insert - including materials that adjust the pH of soils:] but...

Reasons for Staff Recommendation:

Submission point remedied through change to plan provision

Submission Point No: 3 **Submission Type:** Support in Part **Recommendation:** Accept

Chapter: Rules

Section: AQ R3(3)

Submission Summary: This rule permits discharges from a range of activities, including the use and application of fertiliser, provided that the discharge is not noxious or dangerous beyond the subject boundary or into any water body. A permitted activity status in relation to potential discharges to air associated with fertiliser use in the region, subject to the rule conditions, is considered appropriate. While Rule AQ R3(3) permits discharges to air from the use and application of fertiliser, Ravensdown considers that the rule also needs to provide for the related use and application of lime where it is applied as a soil conditioner. Lime is a 'non-nutrient attribute' of fertilisers that are used within New Zealand (refer to the proposed definition of 'fertiliser' (part (b) requested below – refer to submission point 50-2). While lime

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Staff Recommendations on Submissions (By Submitter)

Submitter: 50 - Ravensdown Ltd

principally consists of calcium, lime is not a 'nutrient' utilised directly by plants (i.e., as provided for by part (a)(i) of the proposed fertiliser definition) and therefore is not provided for by the proposed fertiliser definition. Lime is applied to land to change the pH of soils (e.g., to correct for acidic soils) which then facilitates nutrient uptake by plants. Therefore, while lime is not providing nutrients to the soil or plants directly, it does play an important role in supporting plant growth.

Decision Sought: Amend Rule AQ R3 as follows:
 ...(3) the use and application of fertiliser [insert - and lime when applied to land as a soil conditioner]...

Reasons for Staff Recommendation: Include applicaiton of lime, as lime is not included in the defintion of fertiliser

Submission Point No: 4 **Submission Type:** Support **Recommendation:** Comment Note

Chapter: Whole Plan

Section: Whole Plan - Support

Submission Summary: Ravensdown supports the intent of PP13 to provide for the use and development of the region's air resource, subject to a management framework, while ensuring that the air resource is safeguarded. The overall approach adopted is supported, subject to amendments to address the matters raised in this submission.
 In relation to PPC13 provisions, Ravensdown supports:
 (a) Objectives for the region's air resource that aim to protect the mauri of the air resource, enhance degraded ambient air quality and manage adverse effects on human health, cultural values, amenity values and the environment.
 (b) The general policy framework that will underpin Ravensdown's activities in the region.
 (c) The rule hierarchy approach. This includes permitting specific discharges, including the use and application of fertiliser, permitting the discharge of agrichemicals and - discretionary activity status for activities that are not provided for by other PPC13 rules.

Decision Sought: Retain provisions of plan subject to amendments (detailed in submission points)

Reasons for Staff Recommendation: This submission point is a general support for the overall intent of the plan change, subject to submission points addressed elsewhere. Comment noted - no change recommended

Submission Point No: 5 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Objectives

Section: AQ 01

Submission Summary: This objective contains two different concepts. The first is the protection of the mauri of the air resource and human health, and the second is the enhancement of degraded air quality. The first element of this objective is an appropriate resource management approach to managing the region's air resource and it is considered that this matter should standalone as an objective. In relation to the region's ambient air quality and the associated management response, it is considered that this should be part of a separate objective AQ O2.
 Ravensdown acknowledges that the National Environmental Standards for Air Quality (NES) and the Ambient Air Quality Guidelines (AAQG) are tools for use within New Zealand's resource management framework. The NES specifies standards, and the AAQG contains guidelines values, which are able to be used as a technical tool to identify whether or not an area's ambient air quality provides for the protection of human health and the environment. In the context of the RMA, these standards (or guidelines) can then guide community decisions about whether the air quality needs to be improved or enhanced, based on whether or not these standards and guidelines are met, due to the fact that ambient air quality is sufficiently degraded that it does not provide for or protect human health or the environment. It is appropriate to utilise these tools. On this basis, Ravensdown considers that the basis of PPC13 in relation to ambient air quality should be to maintain it where human health and the environment is provided for, and where it is not then ambient air quality can be considered degraded and improvement then becomes the aim. Then at the policy level, the NES, AAQG, or revised or replacement standards and guidelines are one of the tools that can be utilised to determine the state of the region's ambient air quality.

Decision Sought: Amend Objective AQ O1 as follows:

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Staff Recommendations on Submissions (By Submitter)

Submitter: 50 - Ravensdown Ltd

"Protect the mauri of air and human health from adverse effects of anthropogenic contaminant discharges to air [delete - , and enhance air quality where degraded.]"

Reasons for Staff Recommendation: Remove requirement to 'enhance air quality where degraded' as this is already required by AQ Q2 and AQ O3

Further Submission No: 8 - 11 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Mercury NZ Ltd

Summary: Mercury supports and agrees with the logic presented, specifically that there are tools such as the Air Quality NES and relevant guidelines, which determine whether air quality is degraded or not.

Decision Sought: Allow

Reasons for Staff Recommendation: Remove requirement to 'enhance air quality where degraded' as this is already required by AQ Q2 and AQ O3

Further Submission No: 23 - 2 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter generally support the proposed amendment to AQ 01, as recommended by submission 50 - 5. Lawter seek clarity as to what the term 'degraded' means for them. The term needs to either;

- Be removed from objective AQ O1, or
- Amended so guidance is provided for the purpose of the plan user.

Decision Sought: Decision sought: Either; • amend the proposed objective as recommended by submission 50 - 5 and 76 - 1; or • amend the proposed objective as follows; '...and enhance air quality where degraded [insert: (where it does not meet national air quality standards)].

Reasons for Staff Recommendation: Remove requirement to 'enhance air quality where degraded' as this is already required by AQ Q2 and AQ O3

Submission Point No: 6 **Submission Type:** Oppose **Recommendation:** Accept in Part

Chapter: Objectives

Section: AQ 02

Submission Summary: The National Environmental Standards for Air Quality (NES) and the Ambient Air Quality Guidelines (AAQG) are tools which are able to be used within a resource management framework to determine whether or not an area's ambient air quality will protect human health and the environment. That is, where the standards and guidelines are met then human health and the environment is protected or provided for, and where it is not then an appropriate resource management response is to provide for improvement of ambient air quality. In this context, as resource management tools it is considered that the NES and AAQG are more appropriately utilised within a policy that supports an objective which aims to maintain acceptable air quality and improve degraded air quality.

Decision Sought: Amend Objective AQ O2 as follows:
 "The region's ambient air quality [insert - is maintained where human health and the environment is provided for, and enhanced where ambient air quality is degraded] [delete - meets the National Environmental Standards for Air Quality (2004) and the Ambient Air Quality Guidelines (2002).]"

Reasons for Staff Recommendation: Retain reference to NESAQ as removal of reference means providing alternative, non-specific wording. If the objective is to meet the requirements of the NESAQ then it should say so. Remove reference to AAQGs as they are only guidelines, not developed under RMA process (taking into account costs and benefits) and not appropriate to set thresholds which must be met.
 Add text to allow for amendments or replacements to ensure that if NESAQ is amended, the objective will still apply

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Staff Recommendations on Submissions (By Submitter)

Submitter: 50 - Ravensdown Ltd

Further Submission No: 8 - 14 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Mercury NZ Ltd

Summary: Mercury supports the relief sought.

Decision Sought: Support

Reasons for Staff Recommendation: Retain reference to NESAQ as removal of reference means providing alternative, non-specific wording. If the objective is to meet the requirements of the NESAQ then it should say so.
Remove reference to AAQGs as they are only guidelines, not developed under RMA process (taking into account costs and benefits) and not appropriate to set thresholds which must be met.
Add text to allow for amendments or replacements to ensure that if NESAQ is amended, the objective will still apply

Further Submission No: 13 - 12 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Horticulture New Zealand

Summary: HortNZ does not support use of the Ambient Air Quality Guidelines as proposed in PC13.

Decision Sought: Either delete AQ O2 or amend as sought by HortNZ.

Reasons for Staff Recommendation: Retain reference to NESAQ as removal of reference means providing alternative, non-specific wording. If the objective is to meet the requirements of the NESAQ then it should say so.
Remove reference to AAQGs as they are only guidelines, not developed under RMA process (taking into account costs and benefits) and not appropriate to set thresholds which must be met.
Add text to allow for amendments or replacements to ensure that if NESAQ is amended, the objective will still apply

Submission Point No: 7 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Objectives

Section: AQ 03

Submission Summary: The aim of this objective is to ensure that discharges of contaminants to air are managed according to their adverse effects on human health, cultural values, amenity values and the environment. This is an appropriate resource management approach

Decision Sought: Retain Objective AQ O3 as notified.

Reasons for Staff Recommendation: Change wording 'manage' to 'management' as it sets an outcome instead of an action

Further Submission No: 21 - 26 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Port of Tauranga

Summary: This submission seeks for Objective AQ03 to be retained as notified, and broadly reflects the original submission made by PoT.

Decision Sought: Accept

Reasons for Staff Recommendation: Change wording 'manage' to 'management' as it sets an outcome instead of an action

Submission Point No: 8 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Policies

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 50 - Ravensdown Ltd

Section: AQ P1

Submission Summary: This policy seeks to provide for discharges, where adverse effects are managed such that they are avoided, remedied or mitigated, as permitted activities. All other activities which discharge contaminants to air are to be classified as controlled, discretionary or non-complying activities. This hierarchy of rules is considered an appropriate resource management approach.

Decision Sought: Retain Policy AQ P1 as notified.

Reasons for Staff Recommendation: Some minor changes made as a result of other submission points

Submission Point No: 9 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Policies

Section: AQ P3(a)

Submission Summary: Policy AQ P3 seeks to manage activities that discharge contaminants to air, by a range of approaches, including avoiding discharges or effects on specific values. Ravensdown does acknowledge that under the RMA, there is the potential to establish a hierarchy, whereby avoidance is the first management response, then remediation and mitigation of adverse effects. However, in this instance, the policy does not provide for this hierarchy. Rather only avoidance is being sought, which means that resource users do not have access to remediation or mitigation approaches that effectively have the potential to result in the same environmental outcome. Ravensdown considers that this policy needs to enable resource users to avoid, remedy and mitigate adverse effects in accordance with the approach provided for by the RMA. Another issue with the proposed reliance on avoidance only approaches, is that as a result of recent case law, policy guidance that aims to avoid adverse effects requires activities that do not achieve this to be prohibited. Ravensdown anticipates that this outcome was not what was envisaged when the policy was drafted.

Decision Sought: Amend Policy AQ P3 as follows:
 ...(a) safeguard the life supporting capacity of the air, [delete - avoid adverse effects on human health.] and manage adverse effects on [insert - human health], cultural values, amenity values, and the environment...

Reasons for Staff Recommendation: Allowing for the 'remedy' or 'mitigation' of adverse effects on human health implies that there is a threshold below which human health effects are acceptable, until they become significant.

Further Submission No: 8 - 38 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Mercury NZ Ltd

Summary: Mercury supports this amendment. Mercury seeks Policy 3 implement the correct tests in line with the RMA.

Decision Sought: Allow

Reasons for Staff Recommendation: Allowing for the 'remedy' or 'mitigation' of adverse effects on human health implies that there is a threshold below which human health effects are acceptable, until they become significant.

Further Submission No: 22 - 11 **Submission Type:** Oppose **Recommendation:** To Be Advised

Further Submitter: Toi Te Ora Public Health

Summary: It is not acceptable to harm to health.
 Avoiding harm will keep people healthy and improve health.
 The National Environment Standards for Air Quality set guaranteed minimum level of health protection for all New Zealand. It is unacceptable for any contaminants to be discharged at levels resulting in downwind concentrations that can cause ill health. Every effort to avoid exposure to contaminants must be made when the adverse health effects are well known. It is not acceptable to knowingly harm the health of the public in the same way that it is not acceptable to harm the health of people in a workplace.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 50 - Ravensdown Ltd

The effective management of discharges from industrial and trade activities is important in protecting the health of the public.

Decision Sought: Reject

Reasons for Staff Recommendation: Staff agree that allowing for the 'remedy' or 'mitigation' of adverse effects on human health implies that there is a threshold below which human health effects are acceptable, until they become significant.

Further Submission No: 23 - 19 **Submission Type:** Support in Part **Recommendation:** Reject

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter generally support the recommendation made in submission 45 – 7 with regards to the notified wording of Policy AQ P3(a). The current wording does not provide for adverse effects on human health which are 'significant'. It is Lawter's position that effects on human health which are significant should be avoided

Decision Sought: Decision sought: amend policy AQ P3(a) so that: • Significant adverse effects on human health is avoided; and • All other adverse effects (including all other effects on human health) are managed (remedied or mitigated) accordingly.

Reasons for Staff Recommendation: Allowing for the 'remedy' or 'mitigation' of adverse effects on human health or only avoiding 'significant' effects on human health implies that there is a threshold below which human health effects are acceptable, until they become significant.

Submission Point No: 10 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Policies

Section: AQ P4(g)

Submission Summary: The matters to have regard to when considering resource consents to discharge contaminants to air are generally appropriate, subject to addressing the issue of 'sensitive activities' and reverse sensitivity issues. It is agreed that when considering applications, it is important to consider the proximity of sensitive activities to the discharge and therefore part (a) of this policy is supported. Given part (a) of this policy, it is considered that part (g), as currently drafted, effectively repeats part (a) and therefore is not required. In relation to part (g), it seems that it was an attempt to address 'reverse sensitivity' issues although it seemed to take a reverse approach to this issue (i.e., protecting existing sensitive activities, not preventing new sensitive activities establishing near existing activities). Given that this policy relates to activities seeking air discharge permits, and that part (a) requires that consideration is given to sensitive activities, it is considered that part (g) should recognise if a discharge permit is from an existing activity. Accordingly, amendments to part (g) of this policy are proposed which requires consideration to be given discharges from existing lawfully established and appropriately located activities.

Decision Sought: Amend as follows:
 ...(g) [delete - The effect of new activities discharging contaminants into air near established sensitive activities.] [insert - Where the discharge is from an existing lawfully established activity, the existing investment associated with the activity's location and whether the activity is appropriately located in relation to the land use anticipated and provided for in that area.]

Reasons for Staff Recommendation: Staff have recommended the inclusion of additional clauses from other submission points that will resolve this issue

Further Submission No: 4 - 6 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Whakatane Mill Ltd

Summary: It is appropriate to recognise existing investments when addressing the effects from existing lawfully established activities.

Decision Sought: Accept submission point 50-10 and amend clause (g) as identified in the submission

Reasons for Staff Recommendation: Staff have recommended the inclusion of additional clauses (discussed below) that will resolve this issue

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Staff Recommendations on Submissions (By Submitter)

Submitter: 50 - Ravensdown Ltd

Further Submission No: 23 - 40 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Lawter New Zealand Ltd

Summary: The matters raised in submission 50-10 is better addressed through the new reverse sensitivity objective promulgated in submission 33-4.

Decision Sought: Decision sought: Retain policy AQ P4(g).

Reasons for Staff Recommendation: Staff have recommended the inclusion of additional clauses (discussed below) that will resolve this issue

Submission Point No: 11 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Policies

Section: AQ P8

Submission Summary: This policy aims to manage adverse effects on human health and the environment arising from the spraying of agrichemical by adopting a risk management approach, avoiding spray drift beyond the property boundary, and where this is not possible mitigating effects on sensitive activities. This approach represents good management practice for such activities.

Decision Sought: Retain Policy AQ P8 as notified

Reasons for Staff Recommendation: Some changes made to the policy to resolve other submission points however overall policy intent has not changed

Submission Point No: 12 **Submission Type:** Oppose **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R1

Submission Summary: This rule permits the discharges to air from activities not subject to other rules, subject to conditions, including the requirement that the discharge is not to be noxious or dangerous beyond the subject boundary or into any water body (Condition (a)). Providing for activities that do not discharge noxious or dangerous contaminants in these circumstances is appropriate. However, Ravensdown's bulk stores are considered an 'industrial or trade premise' as they involve the "intervening storage of ... product". On this basis, even though these stores have controls in place to ensure that there is no discharge of dust, let alone 'noxious or dangerous' contaminants beyond the property boundary, as Condition (c) of this rule specifies that the discharge is not to be from an industrial or trade premise this rule does not permit any discharges to air from these stores. In addition, as there are no activity specific rules that provide for this activity, a resource consent would be required under Rule AQ R2 (discretionary activity). This is not considered an appropriate resource management approach in circumstances where the effects of the activity will be less than minor, especially when the discharge of contaminants to air from a range of other industrial and trade premises are permitted (e.g., spray painting; abrasive blasting; and, fuel burning equipment, such as generators, at industrial sites).

Decision Sought: Amend Rule AQ R1 by deleting Condition (c) as follows:
...[delete - (c) The discharge is not from industrial or trade premises.]

Reasons for Staff Recommendation: The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent. However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 50 - Ravensdown Ltd

Further Submission No: 1 - 8 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: GBC Winstone

Summary: The deletion or amendment of AQ R1(c) is supported, as the Plan should provide a means of permitting incidental and de minimus discharges from industrial and trade premises, by stating the type and levels of effects as a permitted activity standard.

GBC Winstone has a service centre for bulk storage and handling of cement at Port of Tauranga, Mt Maunganui, operating under an air discharge consent, but contains the cement by means of a baghouse dust removal system. GBC Winstone original submission No. 27 on Plan Change 13 sought permitted activity status for cement storage and handling at Port of Tauranga, subject to meeting permitted activity standards. The permitted activity standards could be specific to bulk storage and handling of cement and associated materials, as detailed in GBC Winstone's original submission and as used in the Auckland Unitary Plan, or more general in relation to adverse effects on human health, property or the environment beyond the boundary of the premises where the activity takes place. Such permitted activity standards would ensure that a baghouse or similar dust removal system is used to ensure the nature and levels of adverse effects are acceptable.

Decision Sought: The permitted activity standards could be specific to bulk storage and handling of cement and associated materials, as detailed in GBC Winstone's original submission and as used in the Auckland Unitary Plan, or more general in relation to adverse effects on human health, property or the environment beyond the boundary of the premises where the activity takes place. Such permitted activity standards would ensure that a baghouse or similar dust removal system is used to ensure the nature and levels of adverse effects are acceptable.

Reasons for Staff Recommendation: The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent.

However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 7 - 18 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Trustpower Ltd

Summary: It aligns with the relief sought by Trustpower

Decision Sought: Accept submission point

Reasons for Staff Recommendation: The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent.

However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 21 - 70 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Port of Tauranga

Summary: PoT supports the underlying premise of this submission, which opposes the inclusion of Rule AQR1(c) as notified. This rule would capture all discharges from an industrial or trade premise as a Discretionary Activity, irrespective of the size, scale and effect of the discharge. PoT requests that Rule AQR1 is amended as per the original submission.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 50 - Ravensdown Ltd

Decision Sought: Accept in part

Reasons for Staff Recommendation:

The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent.

However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 22 - 22 **Submission Type:** Oppose **Recommendation:** To Be Advised

Further Submitter: Toi Te Ora Public Health

Summary:

The effective management of discharges is important in protecting the health of the public. The proposed plan change enables better management of air discharges through resource consenting and more efficient enforcement.

The Section 32 Report states that 'the National Environmental Standard for Air Quality relies on the policies and rules in a regional plan to be effective'.

Decision Sought: Reject

Reasons for Staff Recommendation:

The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent.

However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 23 - 48 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Lawter New Zealand Ltd

Summary:

Lawter oppose the proposed amendment recommended by submission 50 - 12. Although it is accepted that some industrial and trade premises will discharge contaminants at 'less than minor' or 'de minimis' levels, we note that there is no way in knowing whether cumulative effects are occurring, which may result from several different 'permitted' discharges from industrial and trade premises. These discharges could contribute to the degradation of ambient air quality. For this reason, Lawter support the 'catch-all' approach with regards to industrial and trade facilities, which has been adopted in Proposed Plan Change 13.

Decision Sought: Decision sought: Retain rule AQ R1 as notified.

Reasons for Staff Recommendation:

Agree that adverse effects are being caused by discharges from industrial and trade premises across the region, particularly in industrial areas, that do need to be better managed moving forward. When activities are not managed by any other rule in the plan and are causing adverse effects, the burden of proving such effects when enforcing the plan rules falls to the Regional Council. Where there are several sources of a contaminant of concern it can be difficult to determine the main cause, if any. Even when there is one single source causing adverse effects it can still be a difficult process.

The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent.

However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 50 - Ravensdown Ltd

recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 30 - 30 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Swap Stockfoods Ltd

Summary: Support is provided as the submission is consistent with the intent of Swap Stockfoods original submission.

Decision Sought: Accept

Reasons for Staff Recommendation: The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent.
However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Submission Point No: 13 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R2

Submission Summary: Discretionary activity status for the discharge of contaminants to air which are not provided for by other rules of PPC13 is appropriate

Decision Sought: Retain Rule AQ R2 as notified.

Reasons for Staff Recommendation: Minor change made to make wording of rule clearer that does not affect the overall intention of the rule.

Submission Point No: 14 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Rules

Section: AQ R15(4)

Submission Summary: AQ R15(4)
This rule provides for agrichemical spraying within the region subject to a range of conditions relating to general use, method of application, signage, notification and spray risk management plans (where required). Permitted activity status, subject to complying the conditions of the rule, is considered appropriate. However, Conditions 4 and 5 of the rule, which specify conditions in relation to notification and Spray Risk Management Plans are more stringent than the requirements of the Hazardous Substances and New Organisms Act 1996 and the New Zealand Standards that apply to such activities. The retention of Conditions 4 and 5 has the potential to duplicate and complicate requirements for those undertaking agrichemical spraying, while not necessarily providing for any additional avoidance, remediation or mitigation of potential effects arising from the activity.

Decision Sought: Amend Rule AQ R15 by:
- deleting Condition (4) (and condition 5 see submission point 50-15) which relates to 'Notification' and - replacing this condition with the following requirements:
"The substance is approved under the Hazardous Substances and New Organisms Act 1996, or any replacement or revised legislation, and the use and discharge of the substance is in accordance with all conditions of the approval; and The application of the agrichemicals is undertaken in accordance with Appendix L4 (Storage), Part 5.3 (Use), Appendix S (Disposal) and Appendix C9 (Records) of NZS8409:2004 Management of Agrichemicals, or replacement or revised standards, where relevant to the particular substance and application method being used."

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Staff Recommendations on Submissions (By Submitter)

Submitter: 50 - Ravensdown Ltd

Reasons for Staff Recommendation: HSNO Act requirements must be met regardless of the plan change. Staff have also designed rules experienced through implementation of the operative Regional Air Plan to address concerns regarding spray drift. These rules are intended to be as self-contained as possible, without excessive reference to another document which contains many other practices not relevant to management of spray drift.

Further Submission No: 13 - 95 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks that Conditions 4 and 5 are deleted and replaced with a condition based on Hazardous Substances and New Organisms Act (HSNO) and NZS8409:2004. HSNO requirements need to be met regardless of the Plan but they do not usually address need for notification to other parties. HortNZ supports the use of NZS8409:2004, which includes notification in Appendix M2. The Proposed Plan provisions seek to address specific issues that have arisen in the BOP.

Decision Sought: Reject submission

Reasons for Staff Recommendation: HSNO Act requirements must be met regardless of the plan change. Staff have also designed rules experienced through implementation of the operative Regional Air Plan to address concerns regarding spray drift. These rules are intended to be as self-contained as possible, without excessive reference to another document which contains many other practices not relevant to management of spray drift.

Submission Point No: 15 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Rules

Section: AQ R15(5)

Submission Summary: AQ R15 (5)
This rule provides for agrichemical spraying within the region subject to a range of conditions relating to general use, method of application, signage, notification and spray risk management plans (where required). Permitted activity status, subject to complying the conditions of the rule, is considered appropriate. However, Conditions 4 and 5 of the rule, which specify conditions in relation to notification and Spray Risk Management Plans are more stringent than the requirements of the Hazardous Substances and New Organisms Act 1996 and the New Zealand Standards that apply to such activities. The retention of Conditions 4 and 5 has the potential to duplicate and complicate requirements for those undertaking agrichemical spraying, while not necessarily providing for any additional avoidance, remediation or mitigation of potential effects arising from the activity.

Decision Sought: Amend Rule AQ R15 by:
- deleting Condition (5) which relates to 'Spray Risk Management Plans'; and
- replacing this condition (and condition 4 see submission point 50-14) with the following requirements:
"The substance is approved under the Hazardous Substances and New Organisms Act 1996, or any replacement or revised legislation, and the use and discharge of the substance is in accordance with all conditions of the approval; and The application of the agrichemicals is undertaken in accordance with Appendix L4 (Storage), Part 5.3 (Use), Appendix S (Disposal) and Appendix C9 (Records) of NZS8409:2004 Management of Agrichemicals, or replacement or revised standards, where relevant to the particular substance and application method being used."

Reasons for Staff Recommendation: HSNO Act requirements must be met regardless of the plan change. Staff have also designed rules experienced through implementation of the operative Regional Air Plan to address concerns regarding spray drift. These rules are intended to be as self-contained as possible, without excessive reference to another document which contains many other practices not relevant to management of spray drift

Further Submission No: 13 - 101 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks that Conditions 4 and 5 are deleted and replaced with a condition based on HSNO and NZS8409:2004. HSNO requirements need to be met regardless of the Plan but they do not usually address need for notification to other parties.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 50 - Ravensdown Ltd

HortNZ supports the use of NZS8409:2004, which includes spray plans in Appendix M4. The Proposed Plan provisions are consistent with Appendix M4

Decision Sought: Reject submission.

Reasons for Staff Recommendation: HSNO Act requirements must be met regardless of the plan change. Staff have also designed rules experienced through implementation of the operative Regional Air Plan to address concerns regarding spray drift. These rules are intended to be as self-contained as possible, without excessive reference to another document which contains many other practices not relevant to management of spray drift

Submission Point No: 16 **Submission Type:** Seek **Recommendation:** Accept in Part

Chapter: Definitions

Section: Definitions - Intensive farming

Submission Summary: "Intensive farming"
 Rules AQ R19 (controlled activity) and AQ R21(j) (discretionary activity) provide for the discharges to air associated with 'intensive farming' activities as defined in PPC13. It is considered, given that PPC13 relates to discharges to air and the examples contained within the definition, that it is intended that 'intensive farming' in the context of these rules actually relates to intensive farming activities where produce or animals are predominantly accommodated indoors in buildings or structures and where there is an associated 'point source' discharge to air. As currently worded, the definition could refer to all farming activities. This is because products, including fertiliser, has been and is applied to New Zealand farmland to improve natural soil quality (and associated plant growth), irrespective of the intensity of the farming activity. Given this issue an amended definition that reflects the nature of the farming activity to which the rules relate is proposed. In proposing amendments, the following definition contained in the operative Waikato Regional Plan has been referred to:
 "Intensive indoor farming. The housing and growth of livestock, or fungi, that is reliant on food and/or raw materials brought into the building. It specifically excludes intensive pastoral farming or greenhouses."

Decision Sought: Amend the 'intensive farming' definition as follows:
 Intensive [insert - indoor] farming means agricultural production where [insert - produce or livestock, accommodated within buildings or structures, are reliant on] [delete - the stocking density limits or prevents dependence on natural soil quality on the site, and/or] food and/or raw materials that is [delete - required to be] brought [insert - into the building or structure] to the site. Includes poultry farming, piggeries, mushroom production but excludes free-range farming, and greenhouses...

And, any consequential amendments arising from this submission point.

Reasons for Staff Recommendation: Amend the definition to ensure submitters' concerns are relieved and the rule targets the correct activity.

Further Submission No: 20 - 34 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Fonterra Ltd

Summary: For the reasons outlined in Ravensdown's submission. Further discussion is required on the appropriate wording for this definition

Decision Sought: Accept in part

Reasons for Staff Recommendation: Amend the definition to ensure submitters' concerns are relieved and the rule targets the correct activity.

Submission Point No: 17 **Submission Type:** Support **Recommendation:** Accept

Chapter: Definitions

Section: Definitions - Low pressure boom

Submission Summary: "Low pressure boom"
 In the context of PPC13, 'low pressure boom' is one of the methods in the agrichemical

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 50 - Ravensdown Ltd

spraying permitted activity rule. The definition identifies that low pressure booms are where: the liquid pressure is less than 3 bar; the discharge occurs less than 1m above ground; the nozzles point down; and, the nozzles are designed to create coarse droplets greater than 250 microns in diameter. It is understood that these requirements reflect normal ground spray booms used for agrichemical spraying.

Decision Sought: Retain the 'low pressure boom' definition as notified.

Reasons for Staff Recommendation: Retain definition as proposed.

Submission Point No: 18 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Definitions

Section: Definitions - Noxious or dangerous

Submission Summary: "Noxious or dangerous"
 The proposed definition, with the exception of parts (c) and (e), is considered to appropriately outline discharges to air that have the potential to create noxious or dangerous effects. This includes part (f) which relates to the "discharge of fertiliser and agrichemical spray that compromises the organic status of another property". Parts (c) and (e) of the definition relate to the agrichemical residue on food or stock food (part (c)) and contaminants in crops or plants that exceed safe levels for human consumption or where the market value of a crop is reduced (part (e)). It is considered that these matters relate to land and farm management practices and are not relevant to the management of discharges of contaminants to air pursuant to the RMA.

Decision Sought: Amend the 'noxious or dangerous' definition by deleting parts (c) and (e) as follows:
 ...[delete - (c) Exceedance of a maximum residue limit for an agrichemical on, or in, food or stock feed at harvest or slaughter.]...
 ...[delete - (e) Damage to crops or plants where contaminants have affected the growth or quality of the crop such that levels exceed safe levels for human consumption and/or the market value of the crop is reduced.]...

Reasons for Staff Recommendation: It is unlikely that any discharge to air will be of such a serious nature to cause these effects However, as unlikely as they may be, they could still occur and the plan change should anticipate this, particularly where human health is of concern, and these clauses should be retained

Further Submission No: 13 - 111 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Horticulture New Zealand

Summary: Clause e) provides a basis for assessing where a crop or plants have been damaged. This is important where the damage leads to loss of income for the affected party, such as the market value of the crop is lost or reduced

Decision Sought: Reject submission to delete clause e).

Reasons for Staff Recommendation: It is unlikely that any discharge to air will be of such a serious nature to cause these effects However, as unlikely as they may be, they could still occur and the plan change should anticipate this, particularly where human health is of concern, and these clauses should be retained

Further Submission No: 30 - 41 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Swap Stockfoods Ltd

Summary: Support a definition for 'noxious or dangerous' being retained in the plan change. Swap Stockfoods would like the opportunity to be involved in the discussions regarding the proposed wording of the definition.

Decision Sought: Accept

Reasons for Staff Recommendation: It is unlikely that any discharge to air will be of such a serious nature to cause these effects However, as unlikely as they may be, they could still occur and the plan change

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Staff Recommendations on Submissions (By Submitter)

Submitter: 50 - Ravensdown Ltd

should anticipate this, particularly where human health is of concern, and these clauses should be retained

Submission Point No: 19 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Reverse sensitivity

Section: Reverse Sensitivity

Submission Summary: "Reverse sensitivity"
The proposed definition correctly outlines that reverse sensitivity is where, as a result of a new more sensitive activity locating in an area, an existing activity may be compromised, constrained or curtailed. In this context, the sensitivity between the two different activities relate to differing expectations. An example, would be where a residential activity is able to establish alongside a light industrial activity which is located within an appropriately zoned industrial area (i.e., where the nature of industrial activity is anticipated and provided for by regional and district plan rules). This sensitivity does not necessarily relate to the adverse environmental effects of the existing activity (i.e., if the activity is permitted then the effects form part of the environmental baseline and thus there is no adverse effect), but rather from the differing nature and expectations arising from both activities. It is therefore considered that the definition should not refer to new activities being sensitive to the adverse environmental effects of existing activity. It is acknowledged that the proposed PPC13 definition is the same as that contained in the RPS. However, although this is the case it is still considered that an amendment to the PPC13 definition is required to reflect the generally accepted approach to reverse sensitivity issues as discussed above.

Decision Sought: Amend the 'reverse sensitivity' definition as follows:
Reverse sensitivity means the potential for the operation of an existing lawfully established activity to be compromised, constrained or curtailed by the more recent establishment of other activities which are sensitive to [delete - the adverse environmental effects being generated by] the pre-existing activity.

Reasons for Staff Recommendation: Remove definition of reverse sensitivity

Further Submission No: 30 - 57 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Swap Stockfoods Ltd

Summary: Support the provision of a definition for reverse sensitivity. Swap Stockfoods would like the opportunity to be involved in the discussions regarding the proposed wording of the definition.

Decision Sought: Accept

Reasons for Staff Recommendation: Decline submission point

Submission Point No: 20 **Submission Type:** Oppose **Recommendation:** Accept in Part

Chapter: Definitions

Section: Definitions - Sensitive activity

Submission Summary: "Sensitive activity"
The RPS contains a definition for 'sensitive activities' that differs, particularly in relation to the range of activities identified, from that proposed in the PPC13. For the purposes of general consistency of terminology and definitions used within the region, it is considered that the operative RPS definition should also be utilised within PPC13.

Decision Sought: Delete the 'sensitive activity' definition as notified, and replace it with the definition contained in the RPS, as follows:
Sensitive activities: Activities which suffer should they experience adverse effects typically associated with some lawful activities. For example, smells from a sewage treatment facility or noise from a port facility. Activities considered to be sensitive include but are not necessarily limited to any residential activity, any childhood education centre and any other accommodation facility.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 50 - Ravensdown Ltd

Reasons for Staff Recommendation: The focus of the definition is narrower than the RPS, therefore staff recommend it is retained. However there could be conflict therefore staff recommend that the term 'sensitive activity' is replaced with 'sensitive area' in the plan change. This removes any conflict between the terms in the RPS and the plan change.

Further Submission No: 4 - 3 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Whakatane Mill Ltd

Summary: The PC13 definition of sensitive activity is too broad and could include a number of activities that are not sensitive

Decision Sought: Accept submission point 50-20 to amend definition of sensitive activity

Reasons for Staff Recommendation: The focus of the definition is narrower than the RPS, therefore staff recommend it is retained. However there could be conflict therefore staff recommend that the term 'sensitive activity' is replaced with 'sensitive area' in the plan change. This removes any conflict between the terms in the RPS and the plan change. Staff recommend changing wording from 'this includes' to 'this may include' to separate the definition from the examples. Staff do not then recommend amending the list itself, as it is no longer a key part of the definition, but a list of examples to provide guidance. This will relieve many of the concerns in the submission points.

Further Submission No: 8 - 89 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Mercury NZ Ltd

Summary: Mercury considers the RPS definition must be given effect to in the context of RPS objectives and policies. The focus of the Regional Air Plan is narrower than the RPS

Decision Sought: Disallow

Reasons for Staff Recommendation: The focus of the definition is narrower than the RPS, therefore staff recommend it is retained. However there could be conflict therefore staff recommend that the term 'sensitive activity' is replaced with 'sensitive area' in the plan change. This removes any conflict between the terms in the RPS and the plan change.

Further Submission No: 11 - 22 **Submission Type:** Support **Recommendation:** To Be Advised

Further Submitter: Oji Fibre Solution

Summary: The PC13 definition of sensitive activity is too broad and could include a number of activities that are not sensitive.

Decision Sought: Accept submission

Reasons for Staff Recommendation: Staff recommend changing wording from 'this includes' to 'this may include' to separate the definition from the examples. Staff do not then recommend amending the list itself, as it is no longer a key part of the definition, but a list of examples to provide guidance. This will relieve many of the concerns in the submission points.

Submission Point No: 21 **Submission Type:** Support **Recommendation:** Accept

Chapter: Consequential Changes

Section: Consequential Changes - Definition of Agrichemical

Submission Summary: The proposed amendments to the operative definition more accurately reflects the nature of and purpose of agrichemicals.

Decision Sought: Retain the amendments to the 'agrichemical' definition as notified.

Reasons for Staff Recommendation: No change to definition of agrichemicals as proposed

Submission Point No: 22 **Submission Type:** Seek **Recommendation:** Accept

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 50 - Ravensdown Ltd

Chapter: Policies

Section: AQ P3(b)

Submission Summary: It is agreed that the standards and guidelines contained in the NES and AAGQ are the current resource management tools to be used when managing the discharge of contaminants to air. However, it is possible that during the term of the PPC13 that the tools to be used may change.

Decision Sought: Amend Policy AQ P3 as follows:
 "Activities that discharge contaminants to air must be managed, including by use of the best practicable option, to:
 ...(b) avoid, [insert - remedy or mitigate] the discharge of contaminants at a rate or volume that may contribute to, or cause an exceedance or breach of the ambient air quality standards of the NESAQ or exceed the health-based values of the AAQGs, [insert - or revised or replacement standards or guidelines.]

Reasons for Staff Recommendation: Staff agree that text should be added to ensure amendments or replacements of the listed documents provided for.

Further Submission No: 23 - 24 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter support the proposed amendment to Policy AQ P3(b). Like any planning tool, national environmental standards are revised periodically to ensure that they represent best practice. Changes to this policy should seek to provide for updated guidelines and relevant planning documents

Decision Sought: Decision sought: Amend Policy AQ P3(b) to provide for updated resource management tools.

Reasons for Staff Recommendation: Staff agree that text should be added to ensure amendments or replacements of the listed documents provided for.

Submission Point No: 23 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Policies

Section: AQ P3(c)

Submission Summary: Policy AQ P3 seeks to manage activities that discharge contaminants to air, by a range of approaches, including avoiding discharges or effects on specific values. Ravensdown does acknowledge that under the RMA, there is the potential to establish a hierarchy, whereby avoidance is the first management response, then remediation and mitigation of adverse effects. However, in this instance, the policy does not provide for this hierarchy. Rather only avoidance is being sought, which means that resource users do not have access to remediation or mitigation approaches that effectively have the potential to result in the same environmental outcome. Ravensdown considers that this policy needs to enable resource users to avoid, remedy and mitigate adverse effects in accordance with the approach provided for by the RMA. Another issue with the proposed reliance on avoidance only approaches, is that as a result of recent case law, policy guidance that aims to avoid adverse effects requires activities that do not achieve this to be prohibited. Ravensdown anticipates that this outcome was not what was envisaged when the policy was drafted.

Decision Sought: Amend Policy AQ P3 as follows:
 ...(c) avoid, [insert - remedy or mitigate the] reduction in visibility where it may cause adverse effects on vehicle, aircraft, or ship safety

Reasons for Staff Recommendation: Any option to mitigate a reduction in visibility is essentially the same as avoiding it.

Further Submission No: 30 - 9 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Swap Stockfoods Ltd

Summary: Support the inclusion of "remedy and mitigate" in terms of consistency with the RMA.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 50 - Ravensdown Ltd

Decision Sought: Accept

Reasons for Staff Recommendation: Any option to mitigate a reduction in visibility is essentially the same as avoiding it.

Submission Point No: 24 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Policies

Section: AQ P3(d)

Submission Summary: Policy AQ P3 seeks to manage activities that discharge contaminants to air, by a range of approaches, including avoiding discharges or effects on specific values. Ravensdown does acknowledge that under the RMA, there is the potential to establish a hierarchy, whereby avoidance is the first management response, then remediation and mitigation of adverse effects. However, in this instance, the policy does not provide for this hierarchy. Rather only avoidance is being sought, which means that resource users do not have access to remediation or mitigation approaches that effectively have the potential to result in the same environmental outcome. Ravensdown considers that this policy needs to enable resource users to avoid, remedy and mitigate adverse effects in accordance with the approach provided for by the RMA. Another issue with the proposed reliance on avoidance only approaches, is that as a result of recent case law, policy guidance that aims to avoid adverse effects requires activities that do not achieve this to be prohibited. Ravensdown anticipates that this outcome was not what was envisaged when the policy was drafted.

Decision Sought: Amend Policy AQ P3 as follows:
...(d) avoid, [insert - remedy or mitigate] the discharge of contaminants that may cause adverse effects on regionally significant infrastructure

Reasons for Staff Recommendation: Use of the term 'avoid' on its own is not appropriate for protecting what is essentially structures, no matter how regionally significant the structure is. It is unlikely that any air discharge will have a short term effect that will cause catastrophic failure of any infrastructure. Therefore allowing for remedying or mitigation of effects is appropriate.

Further Submission No: 8 - 46 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Mercury NZ Ltd

Summary: Mercury seeks Policy 3 implements the correct tests inline with the RMA. The addition of "remedy or mitigate", would allow for better outcomes

Decision Sought: Allow

Reasons for Staff Recommendation: Use of the term 'avoid' on its own is not appropriate for protecting what is essentially structures, no matter how regionally significant the structure is. It is unlikely that any air discharge will have a short term effect that will cause catastrophic failure of any infrastructure. Therefore allowing for remedying or mitigation of effects is appropriate.

Further Submission No: 30 - 12 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Swap Stockfoods Ltd

Summary: Support the intent of the addition in terms of consistency with the RMA.

Decision Sought: Accept

Reasons for Staff Recommendation: Use of the term 'avoid' on its own is not appropriate for protecting what is essentially structures, no matter how regionally significant the structure is. It is unlikely that any air discharge will have a short term effect that will cause catastrophic failure of any infrastructure. Therefore allowing for remedying or mitigation of effects is appropriate.

Submission Point No: 25 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Policies

Section: AQ P4(b)

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Staff Recommendations on Submissions (By Submitter)

Submitter: 50 - Ravensdown Ltd

Submission Summary: The matters to have regard to when considering resource consents to discharge contaminants to air are generally appropriate, subject to addressing this issue. The second issue is that while it is agreed that the standards and guidelines contained in the NES and AAGQ are the current resource management tools to be used when managing the discharge of contaminants to air, it is possible that during the term of the PPC13 these tools may change and it is considered that this potential should be provided for within the policy.

Decision Sought: Amend as follows:
 ...(b) The location of any Gazetted airsheds, or areas where the discharge may cause an exceedance or breach of the ambient air quality standards of the NESAQ or exceed the health-based values of the AAQGs, [insert - or revised or replacement standards or guidelines].

Reasons for Staff Recommendation: Staff agree that text is added to the clause to allow for amendments or replacements of the listed documents.

Further Submission No: 23 - 34 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter support the proposed amendment to Policy AQ P4(e). Like any planning tool, national environmental standards are revised periodically to ensure that they represent best practice. Changes to this policy should seek to provide for updated guidelines and relevant planning documents.

Decision Sought: Decision sought: Amend Policy AQ P4(e) to provide for updated resource management tools.

Reasons for Staff Recommendation: Staff agree that text is added to the clause to allow for amendments or replacements of the listed documents.

Submitter: 51 - Nga Potiki Resource Management Unit

Submission Point No: 1 **Submission Type:** Neutral **Recommendation:** Comment Note

Chapter: Whole Plan

Section: Whole Plan - Air Quality

Submission Summary: For Maori, air is a taonga. In Maori mythology, following the separation of Ranginui and Papatuanuku (the earth mother) their child Tawhirimatea fled with Ranginui to his new home in the sky from where Tawhirimatea controls the wind and elements. Pollution degrades or lessens the mauri of these elements and in so doing negatively impacts the mauri of all other living things. It is important that Maori exercise kaitiakitanga and protect the mauri of this resource. We are concerned about contaminant emissions that are released into the atmosphere. Of particular concern, are:

1. Emissions that are harmful to health of plants, animals and humankind;
2. The accumulative effects of persistent contaminant emissions especially its contribution to climate change;
3. Visibility of the sky, moon and stars.

On these grounds we believe the Regional Natural Resources Plan (RNRP) can make a positive contribution toward air quality and its restoration through taking the correct, appropriate and sincere stand against air pollution.

Decision Sought: Retain provisions that make a positive contribution toward air quality and its restoration through taking the correct, appropriate and sincere stand against air pollution.

Reasons for Staff Recommendation: No change is requested however the submitter requests that Council takes a sincere stand against air pollution.

Submission Point No: 2 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Objectives

Section: AQ 01

Submission Summary: The mauri of air quality should not be limited to only its impact on human health or areas of

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 51 - Nga Potiki Resource Management Unit

human habitation. Emissions contribution to atmospheric changes

Decision Sought: Amend as follows:
Protect the mauri of air [delete - and human health] from adverse effects of anthropogenic contaminant discharges to air, and enhance air quality where degraded.

Reasons for Staff Recommendation: The plan change cannot include rules for climate change

Further Submission No: 22 - 1 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Toi Te Ora Public Health

Summary: We recognise that mauri and human health overlap and are complementary. However there are differences, particularly regarding measurement. Therefore reference to human health needs to be retained.

Decision Sought: We seek objective AQ01 to be retained as initially proposed.

Reasons for Staff Recommendation: The plan change cannot include rules for climate change

Submission Point No: 3 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Objectives

Section: AQ 03

Submission Summary: This policy reflects contaminant discharge based on economic gains are no longer acceptable and positive steps towards phasing out fossil fuels and other negative atmospheric pollutants.

Decision Sought: Retain AQ 03 as proposed

Reasons for Staff Recommendation: Change wording 'manage' to 'management' as it sets an outcome instead of an action

Submission Point No: 4 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Policies

Section: AQ P2

Submission Summary: Complaints to date have shown that where avoidance was not upheld, remedy and mitigation efforts fail. Best practical option is not an acceptable excuse.

Decision Sought: Amend as follows:
Avoid discharges of hazardous substances to air and where avoidance is not possible, remedy or mitigate the discharge [delete - using the best practicable option]

Reasons for Staff Recommendation: The submitter requests that the use of best practicable option is removed from the requirement to remedy or mitigate. This is not recommended as best practicable option means (summarised) the best method for preventing or minimising the adverse effects on the environment. Without this requirement in the policy, the discharger could select any method to remedy or mitigate, regardless of how effective it is.

Further Submission No: 21 - 34 **Submission Type:** Oppose **Recommendation:** To Be Advised

Further Submitter: Port of Tauranga

Summary: PoT opposes this submission to delete 'best practicable option' from the objective, and seeks that Policy AQP2 is amended as per its original submission.

Decision Sought: Reject

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Staff Recommendations on Submissions (By Submitter)

Submitter: 51 - Nga Potiki Resource Management Unit

Reasons for Staff Recommendation: Staff agree that best practicable option should remain as best practicable option means (summarised) the best method for preventing or minimising the adverse effects on the environment. Without this requirement in the policy, the discharger could select any method to remedy or mitigate, regardless of how effective it is.

Submission Point No: 5 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Policies

Section: AQ P3(e)

Submission Summary: Any discharge of contaminants beyond the boundary of the subject property is an intrusion on property rights to not be subject to any contaminant discharge of any manner. In the case of horticulture spaying these have been conducted when weather conditions increased the likelihood of spray drift into neighbouring properties. Any intrusion beyond the subject zone is unacceptable

Decision Sought: Amend:
Activities that discharge contaminants to air must be managed, including by use of the best practicable option, to:
(e) [delete - minimise] [insert - Avoid] 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.

Reasons for Staff Recommendation: 'Avoid' is too high a requirement when addressing adverse effects of discharges on cultural and amenity values. Avoiding all discharges beyond the boundary would mean many discharges could not occur. This is not consistent with sustainable management and the rules do not manage discharges to avoid all discharges.

Further Submission No: 8 - 49 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Mercury NZ Ltd

Summary: Mercury seeks to ensure the correct RMA tests are applied to policy for air discharges. Mercury does not support a prohibitive approach to the management of air discharges

Decision Sought: Disallow

Reasons for Staff Recommendation: 'Avoid' is too high a requirement when addressing adverse effects of discharges on cultural and amenity values. Avoiding all discharges beyond the boundary would mean many discharges could not occur. This is not consistent with sustainable management and the rules do not manage discharges to avoid all discharges.

Further Submission No: 13 - 38 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks to amend 'minimise' to 'avoid'. The issue is ensuring that potential adverse effects are managed

Decision Sought: Reject submission

Reasons for Staff Recommendation: 'Avoid' is too high a requirement when addressing adverse effects of discharges on cultural and amenity values. Avoiding all discharges beyond the boundary would mean many discharges could not occur. This is not consistent with sustainable management and the rules do not manage discharges to avoid all discharges.

Further Submission No: 18 - 15 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Federated Farmers of New Zealand

Summary: We consider that to avoid all contaminants post King Salmon will be too restrictive

Decision Sought: Reject submission point

Reasons for Staff Recommendation: 'Avoid' is too high a requirement when addressing adverse effects of discharges on cultural and amenity values. Avoiding all discharges beyond the boundary would mean

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Staff Recommendations on Submissions (By Submitter)

Submitter: 51 - Nga Potiki Resource Management Unit

many discharges could not occur. This is not consistent with sustainable management and the rules do not manage discharges to avoid all discharges.

Further Submission No: 20 - 19 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Fonterra Ltd

Summary: Fonterra supports the intent of this submission point; however Fonterra is concerned with use of "avoid" in provisions as it has significant consequences in a post King Salmon context. There are a number of ways to manage the effects of discharges rather than avoiding them

Decision Sought: Disallow

Reasons for Staff Recommendation: 'Avoid' is too high a requirement when addressing adverse effects of discharges on cultural and amenity values. Avoiding all discharges beyond the boundary would mean many discharges could not occur. This is not consistent with sustainable management and the rules do not manage discharges to avoid all discharges.

Further Submission No: 21 - 58 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Port of Tauranga

Summary: PoT opposes this submission as the suggested replacement word "avoid" is far more restrictive than the current wording of "minimise". It is requested that the relief sought in this submission is rejected. As per PoT's original submission it is requested that AQP3(e) is deleted entirely.

Decision Sought: Reject

Reasons for Staff Recommendation: 'Avoid' is too high a requirement when addressing adverse effects of discharges on cultural and amenity values. Avoiding all discharges beyond the boundary would mean many discharges could not occur. This is not consistent with sustainable management and the rules do not manage discharges to avoid all discharges.

Further Submission No: 23 - 29 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Lawter New Zealand Ltd

Summary: Although Lawter understand the intent behind the proposed amendments, we consider that the proposed amendments unfairly capture industries who have tall discharge stacks to prevent discharging contaminants onto neighbouring property. Lawter oppose the recommendation made by submission 51 - 5, however we consider this matter can be resolved through the inclusion of 'remedy or mitigate', as well as 'avoid'.

Decision Sought: Decision sought: amend policy P3(e) as followed; 'avoid [insert -, remedy or mitigate] the discharge of...'

Reasons for Staff Recommendation: 'Avoid' is too high a requirement when addressing adverse effects of discharges on cultural and amenity values. Avoiding all discharges beyond the boundary would mean many discharges could not occur. This is not consistent with sustainable management and the rules do not manage discharges to avoid all discharges.

Submission Point No: 6 **Submission Type:** Support **Recommendation:** Comment Note

Chapter: Policies

Section: AQ P5

Submission Summary: Recreational and cultural practices such as barbeques, hangi and umu create minimal impact and such practices should be preserved.

Decision Sought: Retain AQ P5 as proposed

Reasons for Staff Recommendation: Some changes made to the policy to resolve other submission points however overall policy intent has not changed

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Staff Recommendations on Submissions (By Submitter)

Submitter: 51 - Nga Potiki Resource Management Unit

Submission Point No: 7 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Policies

Section: AQ P6

Submission Summary: Section is covered in AQ P7

Decision Sought: Amend:
Avoid significant adverse effects on the environment from the operation of solid fuel burners installed in dwelling houses or buildings by avoiding:
[delete - (a) excessive discharge of particulates (eg. caused by burning wet wood or restricting oxygen flow to the fire)]...

Reasons for Staff Recommendation: Particulates are the main contaminant of concern from domestic burners even in urban areas not gazetted as polluted airsheds. Therefore, including a specific clause in the policy that targets particulates is appropriate, even if there is some duplication with clause (b).

Submission Point No: 8 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Policies

Section: AQ P8

Submission Summary: Mitigation is unacceptable where there is potential for effects on neighbouring properties.

Decision Sought: Amend:
...[delete - (b) mitigating effects particularly on sensitive activities where avoidance of spray drift is not possible]...

Reasons for Staff Recommendation: Complete avoidance places an extremely onerous requirement on the sprayer and would mean that spraying would only be able to occur in limited circumstances where sprayers are absolutely certain that no spray drift would occur. Staff do not recommend this approach. Where avoidance is not possible, mitigation methods should be provided for as set out in (b).

Further Submission No: 13 - 52 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks deletion of AQ P8b). However, there are mitigation actions that can be taken as part of best practice and these should be provided for in the Plan

Decision Sought: Reject submission and accept changes sought by HortNZ

Reasons for Staff Recommendation: Staff agree that mitigation should be provided for

Submission Point No: 9 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R1

Submission Summary: Any discharge not covered under other rules should be considered on a case-by-case basis and monitored for compliance.

Decision Sought: Retain AQ R1 as proposed

Reasons for Staff Recommendation: Staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 21 - 64 **Submission Type:** Oppose **Recommendation:** To Be Advised

Further Submitter: Port of Tauranga

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Staff Recommendations on Submissions (By Submitter)

Submitter: 51 - Nga Potiki Resource Management Unit

Summary: This submission point refers to retaining Rule AQR1 as notified. PoT request Rule AQR1 is amended as per the original submission

Decision Sought: Reject

Reasons for Staff Recommendation: Staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Submission Point No: 10 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Rules

Section: AQ R3 - whole rule

Submission Summary: By changing to a controlled status acknowledges potential health hazards (especially from waste effluent). Conditions and monitored of the consent can be imposed as the case requires.

Decision Sought: Change activity status to controlled
Miscellaneous discharges – [delete - Permitted] [insert - Controlled] — Nga tukunga matahuhua – E hakaaehia ana

Reasons for Staff Recommendation: Most activities have a primary effect is on land and water, with a secondary effect on air. Provided the activities are carried out according to related rules relevant to water and land, and that the conditions of this rule are met, they are not expected to have a more than minor effect. Therefore a controlled status would be too stringent

Further Submission No: 13 - 60 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Horticulture New Zealand

Summary: Rule AQ R3 provides for Miscellaneous Permitted Activities subject to conditions. The submitter seeks that the Rule is amended to a Controlled Activity, thereby requiring all activities covered by AQ R3 to require resource consents. This is not considered to be effects based

Decision Sought: Reject submission

Reasons for Staff Recommendation: Most activities have a primary effect is on land and water, with a secondary effect on air. Provided the activities are carried out according to related rules relevant to water and land, and that the conditions of this rule are met, they are not expected to have a more than minor effect. Therefore a controlled status would be too stringent.

Further Submission No: 20 - 28 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Fonterra Ltd

Summary: Fonterra supports the intent of this submission. However, for the reasons outlined in Fonterra's submission a permitted activity status is appropriate for these activities. The effects of these activities can be appropriately managed through performance standards such that a controlled activity status is not necessary.

Decision Sought: Disallow

Reasons for Staff Recommendation: Most activities have a primary effect is on land and water, with a secondary effect on air. Provided the activities are carried out according to related rules relevant to water and land, and that the conditions of this rule are met, they are not expected to have a more than minor effect. Therefore a controlled status would be too stringent

Further Submission No: 21 - 73 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Port of Tauranga

Summary: PoT opposes this submission as the suggested amendment removes the permitted activity status of discharges to air from several industrial and commercial activities and

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Staff Recommendations on Submissions (By Submitter)

Submitter: 51 - Nga Potiki Resource Management Unit

makes the plan unnecessarily restrictive

Decision Sought: Reject

Reasons for Staff Recommendation: Most activities have a primary effect is on land and water, with a secondary effect on air. Provided the activities are carried out according to related rules relevant to water and land, and that the conditions of this rule are met, they are not expected to have a more than minor effect. Therefore a controlled status would be too stringent

Further Submission No: 26 - 9 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Western Bay of Plenty District Council

Summary: Whilst we recognise Nga Potiki concern driven by kaitiakitanga, we do not think the suggested amendment will offer a workable response. Changing the discharges from Permitted to Controlled will place a significant cost and unnecessary administrative burden on many routine activities, without providing any corresponding benefit.

Decision Sought: Reject

Reasons for Staff Recommendation: Most activities have a primary effect is on land and water, with a secondary effect on air. Provided the activities are carried out according to related rules relevant to water and land, and that the conditions of this rule are met, they are not expected to have a more than minor effect. Therefore a controlled status would be too stringent

Submission Point No: 11 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R19

Submission Summary: Agriculture and significantly, intensive farming is a major contributor to greenhouse gas (GHG) emissions and council has an obligation to reduce these emissions. This will involve a strategic approach that takes into consideration the economic wellbeing of those farmers and the technological developments that may mitigate much of the adverse effects from this industry. In the meantime, the councils control over compliance monitoring and consent conditions can begin to reduce emissions.

Decision Sought: Retain AQ R19 as proposed

Reasons for Staff Recommendation: Retain rule as notified

Submission Point No: 12 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R20

Submission Summary: Strict monitoring of fumigant chemicals is required and conditions should include onsite data collection and reporting.

Decision Sought: Retain AQ R20 as proposed

Reasons for Staff Recommendation: Retain rule as notified

Submitter: 52 - Department of Conservation

Submission Point No: 1 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R15 - Advice note

Submission Summary: Advice Note
Support the inclusion of New Zealand Standard Management of Agrichemicals 8409: 2004

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Staff Recommendations on Submissions (By Submitter)

Submitter: 52 - Department of Conservation

in the advice note as a matter that should be considered when using agrichemicals, rather than as a rule. This allows for agrichemical use that is undertaken in accordance with Hazardous Substances and New Organism Act 1996 controls, but in a different way to that prescribed by NZS 8409: 2004.

Decision Sought: Retain as proposed

Reasons for Staff Recommendation: Requiring compliance with the standard is not necessary to meet the objectives of the plan change and is impractical to enforce. The standard contains a number of requirements to comply with the requirements of the HSNO Act and only some sections apply to spray drift. It would be unreasonable for regulatory compliance officers to need to refer to the entire standard to ensure compliance with the rule. The conditions have been designed based on the standard, with the purpose of managing spray drift

Further Submission No: 6 - 1 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: New Zealand Agrichemical Education Trust (NZAET)

Summary: NZS8409:2004 Management of Agrichemicals should be used as a basis of the provisions in the plan, not just as an advice note

Decision Sought:

Reasons for Staff Recommendation: Requiring compliance with the standard is not necessary to meet the objectives of the plan change and is impractical to enforce. The standard contains a number of requirements to comply with the requirements of the HSNO Act and only some sections apply to spray drift. It would be unreasonable for regulatory compliance officers to need to refer to the entire standard to ensure compliance with the rule. The conditions have been designed based on the standard, with the purpose of managing spray drift

Further Submission No: 13 - 66 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Horticulture New Zealand

Summary: The Plan provides for NZS8409:2004 as an advice note only, which is supported by the submitter. HortNZ seeks that NZS8409:2004 Management of Agrichemicals be used as a basis of the provisions in the Plan, not just as an advice note

Decision Sought: Reject submission to retain advice note as proposed

Reasons for Staff Recommendation: Requiring compliance with the standard is not necessary to meet the objectives of the plan change and is impractical to enforce. The standard contains a number of requirements to comply with the requirements of the HSNO Act and only some sections apply to spray drift. It would be unreasonable for regulatory compliance officers to need to refer to the entire standard to ensure compliance with the rule. The conditions have been designed based on the standard, with the purpose of managing spray drift

Further Submission No: 19 - 1 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Agcarm

Summary: NZS8409:2004 Management of Agrichemicals should be used as a basis of the provisions in the Plan, not just as an advice note.

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Requiring compliance with the standard is not necessary to meet the objectives of the plan change and is impractical to enforce. The standard contains a number of requirements to comply with the requirements of the HSNO Act and only some sections apply to spray drift. It would be unreasonable for regulatory compliance officers to need to refer to the entire standard to ensure compliance with the rule. The conditions have been designed based on the standard, with the purpose of managing spray drift

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Staff Recommendations on Submissions (By Submitter)

Submitter: 52 - Department of Conservation

Submission Point No: 2 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R15(1)

Submission Summary: AQ R15(1)
The rules for the general use of agrichemicals are considered appropriate.

Decision Sought: Retain AQ R15(1) as proposed

Reasons for Staff Recommendation: Some changes made to the rule to resolve other submission points

Further Submission No: 13 - 75 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks that 1) be retained. HortNZ has sought changes to 1a) to ensure that provisions are appropriate.

Decision Sought: Reject submission to retain R15 (1) as proposed

Reasons for Staff Recommendation: Some changes made to the rule to resolve other submission points

Submission Point No: 3 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R15(2)

Submission Summary: AQ R15(2)
The more permissive requirements for hand-held, nonmotorised methods is appropriate considering there is a lower risk of spray drift.

Decision Sought: Retain AQ R15(2) as proposed

Reasons for Staff Recommendation: Some changes made to the rule to resolve other submission points however no substantial change made to the clause

Submission Point No: 4 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R15(3)

Submission Summary: AQ R15(3)
The rules for signage are considered appropriate.

Decision Sought: Retain AQ R15(3) as proposed

Reasons for Staff Recommendation: Some changes made to the rule to resolve other submission points however overall policy intent has not changed

Submission Point No: 5 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Rules

Section: AQ R15(4)

Submission Summary: AQ R15(4)
The small window of notification in 4(e) is impractical, and more restrictive than the current Operative Bay of Plenty Regional Air Plan. The Department's weed control programmes cover numerous small sites, scattered across the region, and are often implemented over 12-month periods. Notifying these works would require continuous notification for the spraying of each individual site, creating a large amount of work. It would be more appropriate for the

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Staff Recommendations on Submissions (By Submitter)

Submitter: 52 - Department of Conservation

rule to require notification "at least one week prior to application".

Decision Sought: Amend AQ 15(4)(e) to:
 "Where agrichemicals are sprayed on public amenity areas, the owner/occupier or agent must publicly notify the agrichemical spraying using an appropriate method [delete - from] at least [delete - 24 hours prior, up to] one week prior to the agrichemical use..."

Reasons for Staff Recommendation: Staff recommend changing the minimum 24 hour notification window to 12 hours. As this the current system is working for most, then retaining the 12 hour notification window is the best way forward..
 Given this recommendation, staff remind the Hearing Panel, submitters and all others involved with agrichemical spraying that policy AQ P8 clearly states that spray drift should be avoided in the first instance. Even when mitigation measures, in the form of notification, are carried out according to the conditions, any spray drift must still comply with condition (1)(a) of the rule and where this cannot be achieved, staff highly recommend that parties enter into a notification agreement to determine what is the best form, timing and format for notification to occur to allow for sufficient preparation

Submission Point No: 6 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R15(5)

Submission Summary: AQ R15(5)
 The rules for spray risk management plans are considered appropriate.

Decision Sought: Retain AQ R15(5) as proposed

Reasons for Staff Recommendation: Some changes made to the rule to resolve other submission points however overall policy intent has not changed

Submitter: 53 - Matariki Forests Trading Ltd

Submission Point No: 1 **Submission Type:** Oppose in Part **Recommendation:** Reject

Chapter: Rules

Section: AQ R20

Submission Summary: Submission on Section 32 Evaluation Report (Chapter 7.8 Methyl bromide and fumigation)
 MFT understand that OPUS recommended to Council in 2015 to require resource consents for methyl bromide (as required by current plan), except where recapture technology is used where it would be a controlled, non-notified activity.

Decision Sought: MFT requests that where methyl bromide recapture technology is used as required by the EPA the BoPRC accepts that the use of methyl bromide is a controlled, non-notified activity

Reasons for Staff Recommendation: Staff understand the reasoning behind this request for a controlled non-notified activity where methyl bromide is recaptured, is on the basis that submitters consider that the discharge will be minimal. However, the effectiveness of recapture technology is not sufficiently understood to justify a controlled, non-notified activity. It is staff's understanding that the current consent holder is still testing a range of technologies to recapture methyl bromide. The Regional Council has received no documentation or information of any kind detailing the results of this testing, including the efficiency or effectiveness of these recapture technologies. Without this information, staff cannot determine whether this technology provides sufficient mitigation for a controlled, non-notified activity

Further Submission No: 28 - 18 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Stakeholders in Methyl Bromide Reduction Inc (STIMBR)

Summary: The environmental Protection Authority (then ERMA) completed a reassessment of methyl bromide (MB) in 2010. The EPA determined that recapture technologies are to be used in conjunction with all methyl bromide fumigations from October 2020 onward. Since that time it has become apparent that the aspiration of applying recapture technologies to all fumigations is not possible by 2020. The EPA has determined that

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Staff Recommendations on Submissions (By Submitter)

Submitter: 53 - Matariki Forests Trading Ltd

there are grounds for a reassessment of methyl bromide. The EPA is mandated to assess and set controls for hazardous substances including methyl bromide. EDN a sustainable alternative to methyl bromide is not yet available for use in New Zealand. Log exports are a significant export earner for the New Zealand economy bringing in \$2.7b in the year ending June 2017. Importing countries such as China and India require the use of phytosanitary treatments including fumigation with methyl bromide. New Zealand's forestry industry contributes significantly to regional economies and rural communities. Methyl bromide is also used as a biosecurity treatment for imported commodities, personal effects and managing potato wart.

Decision Sought: Accept

Reasons for Staff Recommendation:

Staff understand the reasoning behind this request for a controlled non-notified activity where methyl bromide is recaptured, is on the basis that submitters consider that the discharge will be minimal. However, the effectiveness of recapture technology is not sufficiently understood to justify a controlled, non-notified activity. It is staff's understanding that the current consent holder is still testing a range of technologies to recapture methyl bromide. The Regional Council has received no documentation or information of any kind detailing the results of this testing, including the efficiency or effectiveness of these recapture technologies. Without this information, staff cannot determine whether this technology provides sufficient mitigation for a controlled, non-notified activity

Further Submission No: 29 - 10 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Genera Ltd

Summary:

EPA completed a reassessment of methyl bromide (MB) in 2010. An aspirational MB recapture target of 100% was set. Since that time it has become apparent that 100% recapture of MB is not possible by 2020. Based on learnings gained since 2010, the EPA has recently determined that there are grounds for a reassessment of methyl bromide. The EPA is the agency mandated to assess and set controls for hazardous substances such as methyl bromide. There are currently no other practicable options for the fumigation of top stow logs to China, logs to India and other imported and exported cargos. The value of log exports for the June 2017 year was \$2.7 billion. Currently export requires the use of phytosanitary treatments including fumigation with MB. Without the ability to export logs the impacts would flow down to our local communities and have significant effects on the region's economy. Methyl bromide is also used for treating imported cargo and is the main fumigant used to protect New Zealand's border from pest incursions as mandated under the Biosecurity Act 1993. Without MB as a biosecurity tool, MPI's ability to protect local industry from pests (eg. Brown Marmorated Stick Bug) will be put at significant risk.

Decision Sought: Accept

Reasons for Staff Recommendation:

Staff understand the reasoning behind this request for a controlled non-notified activity where methyl bromide is recaptured, is on the basis that submitters consider that the discharge will be minimal. However, the effectiveness of recapture technology is not sufficiently understood to justify a controlled, non-notified activity. It is staff's understanding that the current consent holder is still testing a range of technologies to recapture methyl bromide. The Regional Council has received no documentation or information of any kind detailing the results of this testing, including the efficiency or effectiveness of these recapture technologies. Without this information, staff cannot determine whether this technology provides sufficient mitigation for a controlled, non-notified activity

Submission Point No: 2 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Section: AQ R20

Submission Summary:

Submission on Section 32 Evaluation Report (Chapter 7.8 Methyl bromide and fumigation) The EPA is mandated to consider the impacts of hazardous substances and to make informed decisions regarding the controls needed to manage risk. The agency applies the precautionary principle to all that it does. The imposition of further rules if they are to be made must be able to be supported with robust science.

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 53 - Matariki Forests Trading Ltd

Decision Sought: MFT considers that recapture destruction requirements should be determined solely by the EPA. Where the EPA considers that recapture destruction technologies are not required (i.e. the science does not support the need) the BoPRC will not impose rules requiring the use of recapture technologies.

Reasons for Staff Recommendation: The EPA assessment committee approved the continued use of methyl bromide, but imposed further controls, including a requirement that '10 years from the date of this decision, all methyl bromide fumigations are to be subject to recapture.' The due date for this requirement is October 2020.

The Regional Council has a clear role set out in section 30 of the Act to control the discharge of contaminants to air. Section 65 then allows Regional Councils to prepare regional plans where necessary to carry out these roles, and provides a rule framework ranging from permitted activity to prohibited activity

The plan change is consistent with the 2010 EPA reassessment and requirements for methyl bromide. These EPA requirements only apply to methyl bromide, not to any other fumigants. Therefore, the plan change sets out a corresponding rule framework for methyl bromide, and classifies any other fumigant as discretionary, with no recapture necessarily required.

The recommendation is for methyl bromide use without recapture to be non-complying and the policy provides for best practicable options. The use of methyl bromide with recapture or use of any other fumigant is discretionary. This is not a significant shift from the discretionary activity status under the operative Regional Air Plan

Further Submission No: 12 - 11 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Z Energy Ltd, BP Oil NZ Ltd & Mobil Oil NZ Ltd

Summary: The submission is opposed. The Oil Companies support the consideration of and use of recapture technology for fumigant gases. The primary concern in relation to fumigant gases is the potential health effects for neighbours (such as port workers). While the Oil Companies are opposed in principle to duplicating regulation, they acknowledge that sometimes that may be necessary to promote the purposes of the RMA.

Decision Sought: Reject submission

Reasons for Staff Recommendation: The EPA assessment committee approved the continued use of methyl bromide, but imposed further controls, including a requirement that '10 years from the date of this decision, all methyl bromide fumigations are to be subject to recapture.' The due date for this requirement is October 2020.

The Regional Council has a clear role set out in section 30 of the Act to control the discharge of contaminants to air. Section 65 then allows Regional Councils to prepare regional plans where necessary to carry out these roles, and provides a rule framework ranging from permitted activity to prohibited activity

The plan change is consistent with the 2010 EPA reassessment and requirements for methyl bromide. These EPA requirements only apply to methyl bromide, not to any other fumigants. Therefore, the plan change sets out a corresponding rule framework for methyl bromide, and classifies any other fumigant as discretionary, with no recapture necessarily required.

The recommendation is for methyl bromide use without recapture to be non-complying and the policy provides for best practicable options. The use of methyl bromide with recapture or use of any other fumigant is discretionary. This is not a significant shift from the discretionary activity status under the operative Regional Air Plan

Further Submission No: 28 - 19 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Stakeholders in Methyl Bromide Reduction Inc (STIMBR)

Summary: The environmental Protection Authority (then ERMA) completed a reassessment of methyl bromide (MB) in 2010. The EPA determined that recapture technologies are to be used in conjunction with all methyl bromide fumigations from October 2020 onward. Since that time it has become apparent that the aspiration of applying recapture technologies to all fumigations is not possible by 2020. The EPA has determined that there are grounds for a reassessment of methyl bromide. The EPA is mandated to assess and set controls for hazardous substances including methyl bromide. EDN a sustainable alternative to methyl bromide is not yet available for use in New Zealand. Log exports are a significant export earner for the New Zealand economy bringing in \$2.7b in the year ending June 2017. Importing countries such as China and India require the use of phytosanitary treatments including fumigation with methyl bromide.

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 53 - Matariki Forests Trading Ltd

New Zealand's forestry industry contributes significantly to regional economies and rural communities. Methyl bromide is also used as a biosecurity treatment for imported commodities, personal effects and managing potato wart.

Decision Sought: Accept

Reasons for Staff Recommendation:

The EPA assessment committee approved the continued use of methyl bromide, but imposed further controls, including a requirement that '10 years from the date of this decision, all methyl bromide fumigations are to be subject to recapture.' The due date for this requirement is October 2020.

The Regional Council has a clear role set out in section 30 of the Act to control the discharge of contaminants to air. Section 65 then allows Regional Councils to prepare regional plans where necessary to carry out these roles, and provides a rule framework ranging from permitted activity to prohibited activity

The plan change is consistent with the 2010 EPA reassessment and requirements for methyl bromide. These EPA requirements only apply to methyl bromide, not to any other fumigants. Therefore, the plan change sets out a corresponding rule framework for methyl bromide, and classifies any other fumigant as discretionary, with no recapture necessarily required.

The recommendation is for methyl bromide use without recapture to be non-complying and the policy provides for best practicable options. The use of methyl bromide with recapture or use of any other fumigant is discretionary. This is not a significant shift from the discretionary activity status under the operative Regional Air Plan

Further Submission No: 29 - 11 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Genera Ltd

Summary:

EPA completed a reassessment of methyl bromide (MB) in 2010. An aspirational MB recapture target of 100% was set. Since that time it has become apparent that 100% recapture of MB is not possible by 2020. Based on learnings gained since 2010, the EPA has recently determined that there are grounds for a reassessment of methyl bromide. The EPA is the agency mandated to assess and set controls for hazardous substances such as methyl bromide. There are currently no other practicable options for the fumigation of top stow logs to China, logs to India and other imported and exported cargos.

The value of log exports for the June 2017 year was \$2.7 billion. Currently export requires the use of phytosanitary treatments including fumigation with MB. Without the ability to export logs the impacts would flow down to our local communities and have significant effects on the region's economy.

Methyl bromide is also used for treating imported cargo and is the main fumigant used to protect New Zealand's border from pest incursions as mandated under the Biosecurity Act 1993. Without MB as a biosecurity tool, MPI's ability to protect local industry from pests (eg. Brown Marmorated Stick Bug) will be put at significant risk.

Decision Sought: Accept

Reasons for Staff Recommendation:

The EPA assessment committee approved the continued use of methyl bromide, but imposed further controls, including a requirement that '10 years from the date of this decision, all methyl bromide fumigations are to be subject to recapture.' The due date for this requirement is October 2020.

The Regional Council has a clear role set out in section 30 of the Act to control the discharge of contaminants to air. Section 65 then allows Regional Councils to prepare regional plans where necessary to carry out these roles, and provides a rule framework ranging from permitted activity to prohibited activity

The plan change is consistent with the 2010 EPA reassessment and requirements for methyl bromide. These EPA requirements only apply to methyl bromide, not to any other fumigants. Therefore, the plan change sets out a corresponding rule framework for methyl bromide, and classifies any other fumigant as discretionary, with no recapture necessarily required.

The recommendation is for methyl bromide use without recapture to be non-complying and the policy provides for best practicable options. The use of methyl bromide with recapture or use of any other fumigant is discretionary. This is not a significant shift from the discretionary activity status under the operative Regional Air Plan

Submission Point No: 3 **Submission Type:** Neutral **Recommendation:** Comment Note

Chapter: Rules

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 53 - Matariki Forests Trading Ltd

Section: AQ R20

Submission Summary: Submission on Section 32 Evaluation Report (Chapter 7.8 Methyl bromide and fumigation) MFT notes the Envirofume application for consent to fumigate using methyl bromide was not a recapture system but a chimney that pushed the emissions into the air.

Decision Sought: To note that the Envirofume application for consent to fumigate using methyl bromide was not a recapture system but a chimney that pushed the emissions into the air.

Reasons for Staff Recommendation: No decision sought relevant to the rule wording

Further Submission No: 28 - 20 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Stakeholders in Methyl Bromide Reduction Inc (STIMBR)

Summary: The environmental Protection Authority (then ERMA) completed a reassessment of methyl bromide (MB) in 2010. The EPA determined that recapture technologies are to be used in conjunction with all methyl bromide fumigations from October 2020 onward. Since that time it has become apparent that the aspiration of applying recapture technologies to all fumigations is not possible by 2020. The EPA has determined that there are grounds for a reassessment of methyl bromide. The EPA is mandated to assess and set controls for hazardous substances including methyl bromide. EDN a sustainable alternative to methyl bromide is not yet available for use in New Zealand. Log exports are a significant export earner for the New Zealand economy bringing in \$2.7b in the year ending June 2017. Importing countries such as China and India require the use of phytosanitary treatments including fumigation with methyl bromide. New Zealand's forestry industry contributes significantly to regional economies and rural communities. Methyl bromide is also used as a biosecurity treatment for imported commodities, personal effects and managing potato wart.

Decision Sought: Accept

Reasons for Staff Recommendation: Further submission point not relevant to original submission point decision sought.

Further Submission No: 29 - 12 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Genera Ltd

Summary: EPA completed a reassessment of methyl bromide (MB) in 2010. An aspirational MB recapture target of 100% was set. Since that time it has become apparent that 100% recapture of MB is not possible by 2020. Based on learnings gained since 2010, the EPA has recently determined that there are grounds for a reassessment of methyl bromide. The EPA is the agency mandated to assess and set controls for hazardous substances such as methyl bromide. There are currently no other practicable options for the fumigation of top stow logs to China, logs to India and other imported and exported cargos. The value of log exports for the June 2017 year was \$2.7 billion. Currently export requires the use of phytosanitary treatments including fumigation with MB. Without the ability to export logs the impacts would flow down to our local communities and have significant effects on the region's economy. Methyl bromide is also used for treating imported cargo and is the main fumigant used to protect New Zealand's border from pest incursions as mandated under the Biosecurity Act 1993. Without MB as a biosecurity tool, MPI's ability to protect local industry from pests (eg. Brown Marmorated Stick Bug) will be put at significant risk.

Decision Sought: Accept

Reasons for Staff Recommendation: Further submission point not relevant to original submission point decision sought.

Submission Point No: 4 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 53 - Matariki Forests Trading Ltd

Section: AQ R20

Submission Summary: Submission on Section 32 Evaluation Report (Chapter 7.8 Methyl bromide and fumigation) Genera regularly reports the results of its methyl bromide monitoring programme to Council. Log exporters are also briefed regularly. MFT notes that the TEL and WES levels are lower than the EPA determined thresholds. The monitoring results for methyl bromide emissions during fumigation and venting are consistently below the thresholds determined by the EPA.

Decision Sought: MFT asks that the data is used to inform decisions regarding the buffer distances required by Council. In doing so MFT notes that the distances should be no greater than the buffers set by the EPA.

Reasons for Staff Recommendation: The plan change does not include buffer distances nor TELs for methyl bromide use

Further Submission No: 12 - 12 **Submission Type:** Support in Part **Recommendation:** Reject

Further Submitter: Z Energy Ltd, BP Oil NZ Ltd & Mobil Oil NZ Ltd

Summary: The submission is supported in part. The Oil Companies agree with the submission insofar as the data is used to inform decisions regarding the buffer distances required by Council. However, this resides on the ability and integrity to appropriately monitor in the first place. While the Oil Companies are opposed in principle to duplicating regulation, they acknowledge that sometimes that may be necessary to promote the purposes of the RMA. The Oil Companies do not support total reliance on the thresholds determined by the EPA as there may be circumstances when additional monitoring is necessary to determine the buffer distances

Decision Sought: Accept in part

Reasons for Staff Recommendation: The plan change does not include buffer distances nor TELs for methyl bromide use

Further Submission No: 28 - 21 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Stakeholders in Methyl Bromide Reduction Inc (STIMBR)

Summary: The environmental Protection Authority (then ERMA) completed a reassessment of methyl bromide (MB) in 2010. The EPA determined that recapture technologies are to be used in conjunction with all methyl bromide fumigations from October 2020 onward. Since that time it has become apparent that the aspiration of applying recapture technologies to all fumigations is not possible by 2020. The EPA has determined that there are grounds for a reassessment of methyl bromide. The EPA is mandated to assess and set controls for hazardous substances including methyl bromide. EDN a sustainable alternative to methyl bromide is not yet available for use in New Zealand. Log exports are a significant export earner for the New Zealand economy bringing in \$2.7b in the year ending June 2017. Importing countries such as China and India require the use of phytosanitary treatments including fumigation with methyl bromide. New Zealand's forestry industry contributes significantly to regional economies and rural communities. Methyl bromide is also used as a biosecurity treatment for imported commodities, personal effects and managing potato wart.

Decision Sought: Accept

Reasons for Staff Recommendation: The plan change does not include buffer distances nor TELs for methyl bromide use

Further Submission No: 29 - 13 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Genera Ltd

Summary: EPA completed a reassessment of methyl bromide (MB) in 2010. An aspirational MB recapture target of 100% was set. Since that time it has become apparent that 100% recapture of MB is not possible by 2020. Based on learnings gained since 2010, the EPA has recently determined that there are grounds for a reassessment of methyl bromide. The EPA is the agency mandated to assess and set controls for hazardous substances such as methyl bromide. There are currently no other practicable options

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Staff Recommendations on Submissions (By Submitter)

Submitter: 53 - Matariki Forests Trading Ltd

for the fumigation of top stow logs to China, logs to India and other imported and exported cargos.

The value of log exports for the June 2017 year was \$2.7 billion. Currently export requires the use of phytosanitary treatments including fumigation with MB. Without the ability to export logs the impacts would flow down to our local communities and have significant effects on the region's economy.

Methyl bromide is also used for treating imported cargo and is the main fumigant used to protect New Zealand's border from pest incursions as mandated under the Biosecurity Act 1993. Without MB as a biosecurity tool, MPI's ability to protect local industry from pests (eg. Brown Marmorated Stick Bug) will be put at significant risk.

Decision Sought: Accept

Reasons for Staff Recommendation: The plan change does not include buffer distances nor TELs for methyl bromide use

Submission Point No: 5 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R20

Submission Summary: Submission on Section 32 report 7.8.3 Option 3 (Submission on Section 32 Evaluation Report - Chapter 7.8 Methyl bromide and fumigation)
 MFT's preferred option recognises the expertise of the EPA and the mandate that it has to protect the environment while carefully balancing social, economic, safety, and environmental factors to ensure evidence based decisions. MFT notes that Option 3 acknowledges the expertise of the EPA. That agency has the mandate to protect the environment and to consider social, economic, safety, and environmental factors to make balanced evidence based decisions for New Zealand.
 The EPA processes require a public submission stage when hazardous substances are assessed. This democratic process provides for scrutiny of the EPA's assessment, risk evaluation (through the application of robust science assessment) for the views of sector and the community to be heard prior to the EPA making its final decision and setting controls
 Submission on Option 3 for 7.8.3 (Section 32 Evaluation Report - Chapter 7.8 Methyl bromide and fumigation)
 MFT notes the use of the words 'less stringent' with regard to Option 3. The provisions of the proposed option 3 are not 'less stringent' they are fit for purpose positioning the Air plan where it should be in relation to the legislation and regularly implements.

Decision Sought: MFT seek the adoption of an option, to manage fumigation that is based on;
 1. General rules within the proposed plan,
 2. Regional Policy Statement
 3. Draw, where appropriate, on those provisions of the RMA and HSNO Act that regional councils are bound to.
 4. Respect the expertise and decisions of the Environmental Protection Authority and not imposing greater 'unwarranted' protections'.

Reasons for Staff Recommendation: The EPA assessment committee approved the continued use of methyl bromide, but imposed further controls, including a requirement that '10 years from the date of this decision, all methyl bromide fumigations are to be subject to recapture.' The due date for this requirement is October 2020.
 The Regional Council has a clear role set out in section 30 of the Act to control the discharge of contaminants to air. Section 65 then allows Regional Councils to prepare regional plans where necessary to carry out these roles, and provides a rule framework ranging from permitted activity to prohibited activity
 The plan change is consistent with the 2010 EPA reassessment and requirements for methyl bromide. These EPA requirements only apply to methyl bromide, not to any other fumigants. Therefore, the plan change sets out a corresponding rule framework for methyl bromide, and classifies any other fumigant as discretionary, with no recapture necessarily required.
 The recommendation is for methyl bromide use without recapture to be non-complying and the policy provides for best practicable options. The use of methyl bromide with recapture or use of any other fumigant is discretionary. This is not a significant shift from the discretionary activity status under the operative Regional Air Plan

Further Submission No: 28 - 22 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Stakeholders in Methyl Bromide Reduction Inc (STIMBR)

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 53 - Matariki Forests Trading Ltd

Summary: The environmental Protection Authority (then ERMA) completed a reassessment of methyl bromide (MB) in 2010. The EPA determined that recapture technologies are to be used in conjunction with all methyl bromide fumigations from October 2020 onward. Since that time it has become apparent that the aspiration of applying recapture technologies to all fumigations is not possible by 2020. The EPA has determined that there are grounds for a reassessment of methyl bromide. The EPA is mandated to assess and set controls for hazardous substances including methyl bromide. EDN a sustainable alternative to methyl bromide is not yet available for use in New Zealand. Log exports are a significant export earner for the New Zealand economy bringing in \$2.7b in the year ending June 2017. Importing countries such as China and India require the use of phytosanitary treatments including fumigation with methyl bromide. New Zealand's forestry industry contributes significantly to regional economies and rural communities. Methyl bromide is also used as a biosecurity treatment for imported commodities, personal effects and managing potato wart.

Decision Sought: Accept

Reasons for Staff Recommendation: The EPA assessment committee approved the continued use of methyl bromide, but imposed further controls, including a requirement that '10 years from the date of this decision, all methyl bromide fumigations are to be subject to recapture.' The due date for this requirement is October 2020.
The Regional Council has a clear role set out in section 30 of the Act to control the discharge of contaminants to air. Section 65 then allows Regional Councils to prepare regional plans where necessary to carry out these roles, and provides a rule framework ranging from permitted activity to prohibited activity
The plan change is consistent with the 2010 EPA reassessment and requirements for methyl bromide. These EPA requirements only apply to methyl bromide, not to any other fumigants. Therefore, the plan change sets out a corresponding rule framework for methyl bromide, and classifies any other fumigant as discretionary, with no recapture necessarily required.
The recommendation is for methyl bromide use without recapture to be non-complying and the policy provides for best practicable options. The use of methyl bromide with recapture or use of any other fumigant is discretionary. This is not a significant shift from the discretionary activity status under the operative Regional Air Plan

Further Submission No: 29 - 14 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Genera Ltd

Summary: EPA completed a reassessment of methyl bromide (MB) in 2010. An aspirational MB recapture target of 100% was set. Since that time it has become apparent that 100% recapture of MB is not possible by 2020. Based on learnings gained since 2010, the EPA has recently determined that there are grounds for a reassessment of methyl bromide. The EPA is the agency mandated to assess and set controls for hazardous substances such as methyl bromide. There are currently no other practicable options for the fumigation of top stow logs to China, logs to India and other imported and exported cargos.
The value of log exports for the June 2017 year was \$2.7 billion. Currently export requires the use of phytosanitary treatments including fumigation with MB. Without the ability to export logs the impacts would flow down to our local communities and have significant effects on the region's economy.
Methyl bromide is also used for treating imported cargo and is the main fumigant used to protect New Zealand's border from pest incursions as mandated under the Biosecurity Act 1993. Without MB as a biosecurity tool, MPI's ability to protect local industry from pests (eg. Brown Marmorated Stick Bug) will be put at significant risk.

Decision Sought: Accept

Reasons for Staff Recommendation: The EPA assessment committee approved the continued use of methyl bromide, but imposed further controls, including a requirement that '10 years from the date of this decision, all methyl bromide fumigations are to be subject to recapture.' The due date for this requirement is October 2020.
The Regional Council has a clear role set out in section 30 of the Act to control the discharge of contaminants to air. Section 65 then allows Regional Councils to prepare regional plans where necessary to carry out these roles, and provides a rule framework ranging from permitted activity to prohibited activity
The plan change is consistent with the 2010 EPA reassessment and requirements for methyl bromide. These EPA requirements only apply to methyl bromide, not to any

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 53 - Matariki Forests Trading Ltd

other fumigants. Therefore, the plan change sets out a corresponding rule framework for methyl bromide, and classifies any other fumigant as discretionary, with no recapture necessarily required.

The recommendation is for methyl bromide use without recapture to be non-complying and the policy provides for best practicable options. The use of methyl bromide with recapture or use of any other fumigant is discretionary. This is not a significant shift from the discretionary activity status under the operative Regional Air Plan

Submission Point No: 7 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Section: AQ R20

Submission Summary: Submission on Section 32 Evaluation Report - Chapter 7.8 Methyl bromide and fumigation
The assessments of effectiveness in the analyses and the allocated scores in the document are incomplete. MFT also considers that the assessments are not objective and that more work needs to be done on the costs and benefits.

Decision Sought: MFT seeks balanced decisions informed by science rather than those with biased with leading statements, misinformation drawn from the internet, opinion or without the support of sound science.

Reasons for Staff Recommendation: The EPA assessment committee approved the continued use of methyl bromide, but imposed further controls, including a requirement that '10 years from the date of this decision, all methyl bromide fumigations are to be subject to recapture.' The due date for this requirement is October 2020.
The Regional Council has a clear role set out in section 30 of the Act to control the discharge of contaminants to air. Section 65 then allows Regional Councils to prepare regional plans where necessary to carry out these roles, and provides a rule framework ranging from permitted activity to prohibited activity
The plan change is consistent with the 2010 EPA reassessment and requirements for methyl bromide. These EPA requirements only apply to methyl bromide, not to any other fumigants. Therefore, the plan change sets out a corresponding rule framework for methyl bromide, and classifies any other fumigant as discretionary, with no recapture necessarily required.
The recommendation is for methyl bromide use without recapture to be non-complying and the policy provides for best practicable options. The use of methyl bromide with recapture or use of any other fumigant is discretionary. This is not a significant shift from the discretionary activity status under the operative Regional Air Plan

Further Submission No: 28 - 23 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Stakeholders in Methyl Bromide Reduction Inc (STIMBR)

Summary: The environmental Protection Authority (then ERMA) completed a reassessment of methyl bromide (MB) in 2010. The EPA determined that recapture technologies are to be used in conjunction with all methyl bromide fumigations from October 2020 onward. Since that time it has become apparent that the aspiration of applying recapture technologies to all fumigations is not possible by 2020. The EPA has determined that there are grounds for a reassessment of methyl bromide. The EPA is mandated to assess and set controls for hazardous substances including methyl bromide. EDN a sustainable alternative to methyl bromide is not yet available for use in New Zealand. Log exports are a significant export earner for the New Zealand economy bringing in \$2.7b in the year ending June 2017. Importing countries such as China and India require the use of phytosanitary treatments including fumigation with methyl bromide. New Zealand's forestry industry contributes significantly to regional economies and rural communities. Methyl bromide is also used as a biosecurity treatment for imported commodities, personal effects and managing potato wart.

Decision Sought: Accept

Reasons for Staff Recommendation: The EPA assessment committee approved the continued use of methyl bromide, but imposed further controls, including a requirement that '10 years from the date of this decision, all methyl bromide fumigations are to be subject to recapture.' The due date for this requirement is October 2020.
The Regional Council has a clear role set out in section 30 of the Act to control the discharge of contaminants to air. Section 65 then allows Regional Councils to prepare regional plans where necessary to carry out these roles, and provides a rule framework ranging from permitted activity to prohibited activity

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 53 - Matariki Forests Trading Ltd

The plan change is consistent with the 2010 EPA reassessment and requirements for methyl bromide. These EPA requirements only apply to methyl bromide, not to any other fumigants. Therefore, the plan change sets out a corresponding rule framework for methyl bromide, and classifies any other fumigant as discretionary, with no recapture necessarily required.

The recommendation is for methyl bromide use without recapture to be non-complying and the policy provides for best practicable options. The use of methyl bromide with recapture or use of any other fumigant is discretionary. This is not a significant shift from the discretionary activity status under the operative Regional Air Plan

Further Submission No: 29 - 15 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Genera Ltd

Summary: EPA completed a reassessment of methyl bromide (MB) in 2010. An aspirational MB recapture target of 100% was set. Since that time it has become apparent that 100% recapture of MB is not possible by 2020. Based on learnings gained since 2010, the EPA has recently determined that there are grounds for a reassessment of methyl bromide. The EPA is the agency mandated to assess and set controls for hazardous substances such as methyl bromide. There are currently no other practicable options for the fumigation of top stow logs to China, logs to India and other imported and exported cargos. The value of log exports for the June 2017 year was \$2.7 billion. Currently export requires the use of phytosanitary treatments including fumigation with MB. Without the ability to export logs the impacts would flow down to our local communities and have significant effects on the region's economy. Methyl bromide is also used for treating imported cargo and is the main fumigant used to protect New Zealand's border from pest incursions as mandated under the Biosecurity Act 1993. Without MB as a biosecurity tool, MPI's ability to protect local industry from pests (eg. Brown Marmorated Stick Bug) will be put at significant risk.

Decision Sought: Accept

Reasons for Staff Recommendation: The EPA assessment committee approved the continued use of methyl bromide, but imposed further controls, including a requirement that '10 years from the date of this decision, all methyl bromide fumigations are to be subject to recapture.' The due date for this requirement is October 2020. The Regional Council has a clear role set out in section 30 of the Act to control the discharge of contaminants to air. Section 65 then allows Regional Councils to prepare regional plans where necessary to carry out these roles, and provides a rule framework ranging from permitted activity to prohibited activity. The plan change is consistent with the 2010 EPA reassessment and requirements for methyl bromide. These EPA requirements only apply to methyl bromide, not to any other fumigants. Therefore, the plan change sets out a corresponding rule framework for methyl bromide, and classifies any other fumigant as discretionary, with no recapture necessarily required. The recommendation is for methyl bromide use without recapture to be non-complying and the policy provides for best practicable options. The use of methyl bromide with recapture or use of any other fumigant is discretionary. This is not a significant shift from the discretionary activity status under the operative Regional Air Plan

Submitter: 54 - Tauranga City Council

Submission Point No: 1 **Submission Type:** Support in Part **Recommendation:** Reject

Chapter: Policies

Section: AQ P4(a)

Submission Summary: It is important that the maintenance of public assets is not unduly restricted through AQ P4. The majority of parks and recreation assets constitute a 'sensitive activity'. However, these assets require ongoing maintenance in order to enable fit-for-purpose infrastructure. Provisions that overly restrict activities in public places will increase the costs associated with maintenance. Policy AQ P4 rightly focuses on the adverse effects potentially generated by discharges to air. However, it is also appropriate to have regard to the role of infrastructure and other territorial authority assets which may represent beneficial environmental outcomes. Given the expanded role of discretionary activity status, policy support for such activities is

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Staff Recommendations on Submissions (By Submitter)

Submitter: 54 - Tauranga City Council

appropriate.

Decision Sought: Amend AQ P4(a) as follows:
 ...(a) The proximity of sensitive activities to the discharge, [insert - or in situations where the purpose of the discharge relates to the management of a site comprising a sensitive activity then particular regard must be had to (b) to (f) below.]

Reasons for Staff Recommendation: Staff response is that the nature of sensitive activities is implicit in the term itself, however the intention of the request is understood. Staff recommend the addition of new clauses to take into account the FIDOL factors and the locational constraints of some activities therefore no change is recommended to this clause.

Further Submission No: 8 - 65 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Mercury NZ Ltd

Summary: Mercury seeks clarification as effects from consented discharges should be measured at the boundary of the relevant site, not within a site

Decision Sought: Disallow

Reasons for Staff Recommendation: Adverse effects may occur within a site and should also be assessed

Submission Point No: 2 **Submission Type:** Support in Part **Recommendation:** Reject

Chapter: Policies

Section: AQ P8

Submission Summary: The suggested changes recognise that the range of sensitive activities include sites that require agrichemical spray for maintenance purposes.

Decision Sought: Amend AQ P8 as follows:
 ...(b) mitigating effects particularly on sensitive activities where avoidance of spray drift is not possible, [insert - or where the spray application of agrichemical relates to a site comprising a sensitive activity]...

Reasons for Staff Recommendation: Mitigation is still possible even when agrichemicals are being applied to a sensitive activity, for example, public notification, and these are a requirement of the rule.

Submission Point No: 3 **Submission Type:** Support in Part **Recommendation:** Reject

Chapter: Definitions

Section: Definitions - Risk management

Submission Summary: "Risk management"
 Plan Change 13 does not include definitions of 'Risk management'.

Decision Sought: Tauranga City Council suggest that the Plan be amended to include a definition of this term

Reasons for Staff Recommendation: Staff have recommended a change to the wording of the policy to clarify the intent and therefore this definition is not required

Further Submission No: 23 - 56 **Submission Type:** Other **Recommendation:** Reject

Further Submitter: Lawter New Zealand Ltd

Summary: Until a definition of 'Risk Management' has been drafted for Plan Change 13, Lawter neither support or object this definition. Lawter wish to be kept informed of any progression of this definition

Decision Sought: Neutral - none sought

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Staff Recommendations on Submissions (By Submitter)

Submitter: 54 - Tauranga City Council

Reasons for Staff Recommendation: Staff have recommended a change to the wording of the policy to clarify the intent and therefore this definition is not required

Submission Point No: 4 **Submission Type:** Support in Part **Recommendation:** Reject

Chapter: Rules

Section: AQ R3 - new activity

Submission Summary: Rule AQ R21 makes crematoria installed after 27 February 2018 a discretionary activity. As noted in the s 32 report, it is only existing crematoria that are to be provided for as a permitted activity. TCC supports recognition of existing crematoria as a permitted activity. Crematoria are a vital function for society and it is appropriate that existing facilities are provided for under the Plan. Furthermore, it is also appropriate to allow for replacement and maintenance (proposed paragraph 7) to incentivise upgrades that may include improvements and efficiencies that are beneficial to air quality outcomes.
This submission point should be read alongside the submission points 54-1, and 54-9 which also relate to crematoria.

Decision Sought: Amend AQ R3 as follows:
...[insert - (6) Existing crematoria established in accordance with the permitted rules of the Regional Air Plan or where an existing resource consent has been granted under the Regional Air Plan prior to (insert date of operative plan change)
(7) Replacement of existing crematoria.]...

Reasons for Staff Recommendation: Staff preference is that those crematoria that currently require consent, should continue to do so. The policy shift proposed in the plan change is to make it more stringent for crematoria, not more lenient. Existing crematoria can be sufficiently assessed using AQ R1, without a specific rule

Submission Point No: 5 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R6

Submission Summary: Support the open burning permitted provisions with further consideration of the definition of 'urban property' as included in submission point 54-26

Decision Sought: Retain as proposed subject to changes to definition of "urban property"

Reasons for Staff Recommendation: Staff agree that a more effects based approach is appropriate and recommend the amendment is made for a setback distance of 100 metres. For clarity, staff recommend retaining the reference to urban properties. The definition provides certainty for urban areas connected to municipal wastewater, and a clear distinction for any potential enforcement actions

Submission Point No: 6 **Submission Type:** Support in Part **Recommendation:** Reject

Chapter: Rules

Section: AQ R15 - whole rule

Submission Summary: Support AQR15 (1) on the basis of further consideration to the definition of 'noxious and dangerous' as set out submission point 54-21.
Support the intent of AQR15 (2) – (5). However, TCC suggest restructuring these Rules to reduce cross references to signage, notification, and spray risk management plan requirements. The changes are intended to increase the usability of the Plan, and increase environmental compliance. It is recognised that the suggested changes lead to repetition. Ease of plan use is considered a better outcome than avoiding repetition.

Decision Sought: Restructure the rule with sections 2-4 according to application method as follows:
(2) hand-held non-motorised application...
(3) hand-held motorised application and low pressure boom...
(4) other methods...
and include all relevant conditions to each application type in the relevant section.

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Submitter: 54 - Tauranga City Council

Reasons for Staff Recommendation: Ease of plan use is a better outcome than avoiding repetition.
The definition of noxious and dangerous is discussed elsewhere

Further Submission No: 13 - 71 **Submission Type:** Oppose **Recommendation:** Accept
Further Submitter: Horticulture New Zealand
Summary: The submitter seeks that the whole rule is restructured to reduce cross referencing, with specific provisions for each type of application set out. HortNZ seeks to ensure that the plan is clear for users but repetition will increase the size of the rule
Decision Sought: Consider setting out Rule 15 in a clearer format
Reasons for Staff Recommendation: Ease of plan use is a better outcome than avoiding repetition.

Further Submission No: 26 - 13 **Submission Type:** Support **Recommendation:** Reject
Further Submitter: Western Bay of Plenty District Council
Summary: Some restructuring of the rule is supported in so far as it will aid clarity and usability
Decision Sought: Accept
Reasons for Staff Recommendation: Ease of plan use is a better outcome than avoiding repetition.

Submission Point No: 7 **Submission Type:** Support in Part **Recommendation:** Accept
Chapter: Rules
Section: AQ R16
Submission Summary: It is noted that almost all paints contain an organic plasticiser (as advised from Dulux pain specialist). TCC applies surface coatings by way of spray application for public art, road marking and sports field marking. It would be impracticable and would impose significant cost for these activities to comply with the proposed conditions. The suggested amendments aim to exclude these activities from this Rule.
Decision Sought: Amend rule as follows:
...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, [insert - public art, road markings, and sports field markings]) is a permitted activity...
Reasons for Staff Recommendation: Recommend the removal of organic plasticisers from the rule. It is not the intention to manage all painting operations under the conditions of this rule

Further Submission No: 8 - 77 **Submission Type:** Support in Part **Recommendation:** Accept
Further Submitter: Mercury NZ Ltd
Summary: Mercury seeks Policy 4 implement the correct tests in line with the RMA and supports a permissive rule framework for infrastructure related uses
Decision Sought: Allow
Reasons for Staff Recommendation: Recommend the removal of organic plasticisers from the rule. It is not the intention to manage all painting operations under the conditions of this rule. T

Further Submission No: 26 - 15 **Submission Type:** Support in Part **Recommendation:** Accept
Further Submitter: Western Bay of Plenty District Council
Summary: The suggested amendment is supported. As TCC and ourselves both carry out similar functions, we share the same concern.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 54 - Tauranga City Council

Further consideration to allowing the use of small quantities of di-isocyanates or organic plasticisers to be a permitted activity, given the large number of products that use these, is sought. It is suggested that R14 of the Greater Wellington Regional Council Regional Air Quality Management Plan may form a suitable model.

Decision Sought: Accept in part

Reasons for Staff Recommendation: Recommend the removal of organic plasticisers from the rule. It is not the intention to manage all painting operations under the conditions of this rule

Submission Point No: 8 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R20

Submission Summary: Support for AQ R20 as it intends to protect human health and the environment from adverse effects from the use of fumigants for quarantine application or pre-shipment application

Decision Sought: Retain as proposed

Reasons for Staff Recommendation: Retain rule as notified

Further Submission No: 28 - 25 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Stakeholders in Methyl Bromide Reduction Inc (STIMBR)

Summary: The environmental Protection Authority (then ERMA) completed a reassessment of methyl bromide (MB) in 2010. The EPA determined that recapture technologies are to be used in conjunction with all methyl bromide fumigations from October 2020 onward. Since that time it has become apparent that the aspiration of applying recapture technologies to all fumigations is not possible by 2020. The EPA has determined that there are grounds for a reassessment of methyl bromide. The EPA is mandated to assess and set controls for hazardous substances including methyl bromide. EDN a sustainable alternative to methyl bromide is not yet available for use in New Zealand. Log exports are a significant export earner for the New Zealand economy bringing in \$2.7b in the year ending June 2017. Importing countries such as China and India require the use of phytosanitary treatments including fumigation with methyl bromide. New Zealand's forestry industry contributes significantly to regional economies and rural communities. Methyl bromide is also used as a biosecurity treatment for imported commodities, personal effects and managing potato wart.

Decision Sought: Reject

Reasons for Staff Recommendation: The EPA assessment committee approved the continued use of methyl bromide, but imposed further controls, including a requirement that '10 years from the date of this decision, all methyl bromide fumigations are to be subject to recapture.' The due date for this requirement is October 2020.

The Regional Council has a clear role set out in section 30 of the Act to control the discharge of contaminants to air. Section 65 then allows Regional Councils to prepare regional plans where necessary to carry out these roles, and provides a rule framework ranging from permitted activity to prohibited activity

The plan change is consistent with the 2010 EPA reassessment and requirements for methyl bromide. These EPA requirements only apply to methyl bromide, not to any other fumigants. Therefore, the plan change sets out a corresponding rule framework for methyl bromide, and classifies any other fumigant as discretionary, with no recapture necessarily required.

The recommendation is for methyl bromide use without recapture to be non-complying and the policy provides for best practicable options. The use of methyl bromide with recapture or use of any other fumigant is discretionary. This is not a significant shift from the discretionary activity status under the operative Regional Air Plan

Further Submission No: 29 - 16 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Genera Ltd

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Staff Recommendations on Submissions (By Submitter)

Submitter: 54 - Tauranga City Council

Summary: EPA completed a reassessment of methyl bromide (MB) in 2010. An aspirational MB recapture target of 100% was set. Since that time it has become apparent that 100% recapture of MB is not possible by 2020. Based on learnings gained since 2010, the EPA has recently determined that there are grounds for a reassessment of methyl bromide. The EPA is the agency mandated to assess and set controls for hazardous substances such as methyl bromide. There are currently no other practicable options for the fumigation of top stow logs to China, logs to India and other imported and exported cargos.

The value of log exports for the June 2017 year was \$2.7 billion. Currently export requires the use of phytosanitary treatments including fumigation with MB. Without the ability to export logs the impacts would flow down to our local communities and have significant effects on the region's economy.

Methyl bromide is also used for treating imported cargo and is the main fumigant used to protect New Zealand's border from pest incursions as mandated under the Biosecurity Act 1993. Without MB as a biosecurity tool, MPI's ability to protect local industry from pests (eg. Brown Marmorated Stick Bug) will be put at significant risk.

Decision Sought: Reject

Reasons for Staff Recommendation: The EPA assessment committee approved the continued use of methyl bromide, but imposed further controls, including a requirement that '10 years from the date of this decision, all methyl bromide fumigations are to be subject to recapture.' The due date for this requirement is October 2020.

The Regional Council has a clear role set out in section 30 of the Act to control the discharge of contaminants to air. Section 65 then allows Regional Councils to prepare regional plans where necessary to carry out these roles, and provides a rule framework ranging from permitted activity to prohibited activity

The plan change is consistent with the 2010 EPA reassessment and requirements for methyl bromide. These EPA requirements only apply to methyl bromide, not to any other fumigants. Therefore, the plan change sets out a corresponding rule framework for methyl bromide, and classifies any other fumigant as discretionary, with no recapture necessarily required.

The recommendation is for methyl bromide use without recapture to be non-complying and the policy provides for best practicable options. The use of methyl bromide with recapture or use of any other fumigant is discretionary. This is not a significant shift from the discretionary activity status under the operative Regional Air Plan

Submission Point No: 9 **Submission Type:** Support in Part **Recommendation:** Reject

Chapter: Rules

Section: AQ R21(g)

Submission Summary: While TCC's preference would be to retain the status quo (permitted activity status), it recognises that this issue is of significance to tangata whenua. The limitation of this rule to new crematoria is therefore an appropriate response. The changes are to clarify that the rule applies to new crematoria facilities, as opposed to replacement of the actual cremator plant within an existing crematorium.
Also see submission point 54-4.

Decision Sought: Amend rule as follows
...(g) New crematoria facilities built after [delete - 27 February 2018] [insert - date when Plan Change made operative] [insert - (excluding replacement crematoria that complies with Rule AQ R1).]

Reasons for Staff Recommendation: Where existing crematoria have resource consents any adverse effects can be managed through the consent process. However where an existing crematorium is permitted under AQ R1 (previously Rule 17) any increase in emissions may have adverse effects that exceed the limits of the general rule. Council prefer to assess these situations using the resource consent process, especially in areas where particulates are an issue.

Further Submission No: 2 - 2 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Legacy Funeral Homes Ltd

Summary: Support insertion of "excluding replacement crematoria that complies with Rule AQ R1". An amendment should be made clarifying that the rule applies to new crematoria facilities not to replacements of existing crematoria that complies with the permitted

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Staff Recommendations on Submissions (By Submitter)

Submitter: 54 - Tauranga City Council

activity limits under AQ R1

Decision Sought: Insert "excluding replacement crematoria that complies with Rule AQ R1"

Reasons for Staff Recommendation: Where existing crematoria have resource consents any adverse effects can be managed through the consent process. However where an existing crematorium is permitted under AQ R1 (previously Rule 17) any increase in emissions may have adverse effects that exceed the limits of the general rule. Council prefer to assess these situations using the resource consent process, especially in areas where particulates are an issue.

Submission Point No: 10 **Submission Type:** Support in Part **Recommendation:** Accept

Chapter: Rules

Section: AQ R21(x)

Submission Summary: TCC maintains and operates several odour beds above pipe infrastructure, which are not all located within municipal sewage treatment plant sites. TCC would like certainty that they are not to be covered by (x)(i). e.g. rewritten as suggested, or certainty that they would be a permitted activity under rule AQ R3.

Decision Sought: Amend rule as follows:
...(x)municipal sewage treatment plants (excluding pump stations [insert - and odour beds])...

Reasons for Staff Recommendation: It would be unreasonable to expect resource consents for these activities

Submission Point No: 11 **Submission Type:** Support in Part **Recommendation:** Reject

Chapter: Definitions

Section: Definitions - Waste facilities

Submission Summary: "Waste facilities"
Definitions for "Resource recovery", "bailing stations" and "landfills" should be defined, as different activities could be argued to be included.

Decision Sought: Include definition of terms "Resource recovery", "bailing stations", and "landfills".

Reasons for Staff Recommendation: The wording of the rule is that waste processing facilities are discretionary, therefore all waste processing facilities require consent. The terms listed in the rule are examples of types of waste processing facilities and do not need further definition to clarify whether they need a consent or not, as this is already required by the wording of the rule

Submission Point No: 12 **Submission Type:** Support **Recommendation:** Accept

Chapter: Definitions

Section: Definitions - Aerial application

Submission Summary: 'Aerial application'
Support this definition

Decision Sought: Retain as proposed

Reasons for Staff Recommendation: Retain as proposed

Submission Point No: 13 **Submission Type:** Support **Recommendation:** Accept

Chapter: Consequential Changes

Section: Consequential Changes - Definition of Agrichemical

Submission Summary: "Agrichemical"

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Submitter: 54 - Tauranga City Council

Support this definition

Decision Sought: Retain as proposed

Reasons for Staff Recommendation: No change to definition of agrichemicals as proposed

Submission Point No: 14 **Submission Type:** Support in Part **Recommendation:** Accept

Chapter: Definitions

Section: Definitions - Ambient air

Submission Summary: "Ambient air"
TCC is aware that this definition is consistent with the definition provided by the Ministry for the Environment in the 'User Guide to the Revised National Environmental Standards for Air Quality Updated 2014'. However, the inclusion of 'air in the workplace' creates confusion as to whether this includes air in the workplace that is outside buildings and structures. Clarity is required.

Decision Sought: Ambient air means the air outside buildings and structures. This does not include indoor air, [delete - air in the workplace,] or contaminated air discharged from a source.

Reasons for Staff Recommendation: Delete 'air in the workplace' from this definition to remove potential confusion as ambient air is any air outside of buildings and structures, and should apply regardless of whether it is a workplace or not.

Submission Point No: 15 **Submission Type:** Support **Recommendation:** Accept

Chapter: Consequential Changes

Section: Definitions - Contaminant

Submission Summary: "Contaminant"
Support this definition

Decision Sought: Retain definition of contaminant as proposed

Reasons for Staff Recommendation: Retain amended definition of 'Contaminant'

Submission Point No: 16 **Submission Type:** Support **Recommendation:** Accept

Chapter: Definitions

Section: Definitions - Drone application

Submission Summary: "Drone application"
Support this definition

Decision Sought: Retain definition of Drone application as proposed

Reasons for Staff Recommendation: Retain definition of Drone application as proposed

Submission Point No: 17 **Submission Type:** Support **Recommendation:** Accept

Chapter: Definitions

Section: Definitions - Ground-based application

Submission Summary: "Ground-based application"
Support this definition

Decision Sought: Retain definition of Ground-based application as proposed

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Staff Recommendations on Submissions (By Submitter)

Submitter: 54 - Tauranga City Council

Reasons for Staff Recommendation: Retain definition of Ground-based application as proposed

Submission Point No: 18 **Submission Type:** Support **Recommendation:** Accept

Chapter: Definitions

Section: Definitions - Hand-held non-motorised application

Submission Summary: "Hand-held non-motorised application"
Support this definition

Decision Sought: Retain definition of Hand-held non-motorised application as proposed

Reasons for Staff Recommendation: Retain definition of Hand-held non-motorised application as proposed

Submission Point No: 19 **Submission Type:** Support **Recommendation:** Accept

Chapter: Definitions

Section: Definitions - Hand-held motorised application

Submission Summary: "Hand-held motorised application"
Support this definition

Decision Sought: Retain definition of Hand-held motorised application as proposed

Reasons for Staff Recommendation: Retain definition of Hand-held motorised application as proposed

Submission Point No: 20 **Submission Type:** Support **Recommendation:** Accept

Chapter: Definitions

Section: Definitions - Low pressure boom

Submission Summary: "Low pressure boom"
Support this definition

Decision Sought: Retain definition of Low pressure boom as proposed

Reasons for Staff Recommendation: Retain definition as proposed.

Submission Point No: 21 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Chapter: Definitions

Section: Definitions - Noxious or dangerous

Submission Summary: "Noxious or dangerous"
TCC is concerned with the measure of human health effects. It is often difficult to ascertain the cause of a human health effect. It is noted that most substances will cause an allergic reaction in at least one individual, and that different health organisations define substances as carcinogens in different ways. Further, there are some substances that are carcinogenic where exposure is common but not necessarily noxious or dangerous. Cigarette smoke, for example, is a carcinogen, making exposure to this noxious or dangerous. Further consideration is required to the way human health effects are measured as, in its current form, a determination of noxious or dangerous is all encompassing.

Decision Sought: Amend definition as follows:
...(a) Human health effects [delete - from acute exposure or chronic exposure. These include allergic reactions, toxic poisoning or exposure to carcinogens.]

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Staff Recommendations on Submissions (By Submitter)

Submitter: 54 - Tauranga City Council

Reasons for Staff Recommendation: Remove this definition from the plan change as it is used in the RMA and case law considers this based on a normal English language definition. Including a definition could result in a conflict between further Court interpretation. However, staff recommend retaining text to clarify how this term will be interpreted by the rules in the plan change and that this text is based on the text in the proposed plan.
Amend the wording of the primary definition to refer to human health. This term is broad, as this term is recommended to sit outside the definitions of terms, a broad approach is appropriate

Further Submission No: 8 - 81 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Mercury NZ Ltd

Summary: Mercury interprets the relief sought to result in any human health effect being defined as Offensive or Objectionable

Decision Sought: Disallow

Reasons for Staff Recommendation: Remove this definition from the plan change as it is used in the RMA and case law considers this based on a normal English language definition. Including a definition could result in a conflict between further Court interpretation. However, staff recommend retaining text to clarify how this term will be interpreted by the rules in the plan change and that this text is based on the text in the proposed plan.
Amend the wording of the primary definition to refer to human health. This term is broad, as this term is recommended to sit outside the definitions of terms, a broad approach is appropriate

Further Submission No: 30 - 42 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Swap Stockfoods Ltd

Summary: Support a definition for 'noxious or dangerous' being retained in the plan change. Swap Stockfoods would like the opportunity to be involved in the discussions regarding the proposed wording of the definition.

Decision Sought: Accept

Reasons for Staff Recommendation: Remove this definition from the plan change as it is used in the RMA and case law considers this based on a normal English language definition. Including a definition could result in a conflict between further Court interpretation. However, staff recommend retaining text to clarify how this term will be interpreted by the rules in the plan change and that this text is based on the text in the proposed plan.
Amend the wording of the primary definition to refer to human health. This term is broad, as this term is recommended to sit outside the definitions of terms, a broad approach is appropriate

Submission Point No: 22 **Submission Type:** Support in Part **Recommendation:** Reject

Chapter: Definitions

Section: Definitions - Open burning

Submission Summary: "Open burning"
Fireworks appear to be a permitted activity as the definition of open burning excludes fireworks. However, AQ R1 (which makes activities not covered elsewhere permitted) has strict limits including not being offensive beyond property boundaries. This is subjective and uncertain and in all likelihood would mean a discretionary consent is needed for fireworks.

Decision Sought: TCC suggest further clarification is provided regarding fireworks.

Reasons for Staff Recommendation: This is not intended to capture small scale fireworks displays that are standard for Guy Fawkes or New Year's celebrations. However, larger scale fireworks displays have caused significant discharges that breach the National Environmental Standards for Air Quality. While this was an exceptional event, the Regional Council would prefer to retain the ability to assess larger events according to whether they may be noxious or dangerous, offensive or objectionable.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 54 - Tauranga City Council

Submission Point No: 23 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Chapter: Definitions

Section: Definitions - Public amenity area

Submission Summary: "Public amenity area"
TCC suggest further consideration of this definition as to include or exclude road berms. This relates to our submission point 54-6

Decision Sought: Council suggest further consideration of this definition as to the inclusion or exclusion of road berms.

Reasons for Staff Recommendation: Staff recommend that the wording is changed to 'may include', to separate the definition from the examples. This will relieve the concerns in the submission points

Further Submission No: 13 - 96 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks changes to the notification requirements as part of a suite of provisions to restructure the rule, particularly relating to public amenity areas and for applications by other methods. Any restructure of the rule needs to ensure that notification requirements are clear and certain

Decision Sought: Ensure that there is clarity in the notification provisions in the rule.

Reasons for Staff Recommendation: Staff recommend that the wording is changed to 'may include', to separate the definition from the examples. This will relieve the concerns in the submission points. Staff have also ensured clarity of notification provisions in the rule

Submission Point No: 24 **Submission Type:** Support in Part **Recommendation:** Accept

Chapter: Definitions

Section: Definitions - Recreational/cultural

Submission Summary: "Recreational/cultural"
We interpret 'recognised cultural practices' to include bonfires and fireworks displays on or around 5th November (Guy Fawkes) celebrations. There is also a suggestion at p62 of the s 32 report that this could be a recognised cultural practice.

Decision Sought: TCC suggest further clarification is provided

Reasons for Staff Recommendation: Staff accept that there may be some confusion over whether Guy Fawkes celebrations, as the primary example of note, would be included. Staff propose an amendment to include this as an explicit example to avoid any such confusion

Submission Point No: 25 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Definitions

Section: Definitions - Sensitive activity

Submission Summary: "Sensitive activity"
Support this definition

Decision Sought: Retain as proposed

Reasons for Staff Recommendation: Staff recommend changing wording from 'this includes' to 'this may include' to separate the definition from the examples. Staff do not then recommend amending the list itself, as it is no longer a key part of the definition, but a list of examples to provide guidance. This will relieve many of the concerns in the submission points.

Submission Point No: 26 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Chapter: Definitions

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 54 - Tauranga City Council

Section: Definitions - Urban property

Submission Summary: "Urban property"
TCC consider that any property over 2 hectares is of sufficient size to accommodate open burning. The reference to a wastewater system and trigger of an urban property requiring such a connection, means that properties less than 2 hectares in size that are not connected to the wastewater system will not be captured under this definition. TCC have approximately 1,800 properties within its jurisdiction which are not connected to the municipal wastewater system. It is suggested that the definition be amended to include reference only to the size of the property for the purposes of consistency and clarity.

Decision Sought: Amend as follows:
Urban property in relation to open burning means any property that is less than 2 hectares [delete - and is connected to a municipal wastewater system.]

Reasons for Staff Recommendation: Staff recommend a more effects based approach is appropriate and have recommended changes to the rules to remedy this. This will also remedy the submitter's concerns without the need to amend the definition.

Submission Point No: 27 **Submission Type:** Support **Recommendation:** Comment Note

Chapter: General

Section: General - Tauranga Air

Submission Summary: TCC support the approach to investigating air quality and emissions sources in the Mount Industrial Area

Decision Sought: No change to proposed plan

Reasons for Staff Recommendation: No change requested to proposed plan - note comment only

Submission Point No: 28 **Submission Type:** Neutral **Recommendation:** Comment Note

Chapter: Whole Plan

Section: Whole Plan - Support

Submission Summary: In addition to the relief set out in the submission points above, TCC seeks: any similar relief with like effect; any consequential amendments to the plan change which arise from the reasons for the submission or the relief sought; and such other relief as is appropriate.

Decision Sought: TCC seeks: any similar relief with like effect; any consequential amendments to the plan change which arise from the reasons for the submission or the relief sought; and such other relief as is appropriate.

Reasons for Staff Recommendation: This submission point is a general support for the overall intent of the plan change, subject to submission points addressed elsewhere. Comment noted - no change recommended

Submission Point No: 29 **Submission Type:** Support in Part **Recommendation:** Reject

Chapter: Rules

Section: AQ R15(3)

Submission Summary: It is noted that it is not always practicable to place signage at all entrances to a public amenity area. Places such as cycleways and road berms do not have specified entrance points. Consideration needs to be had to the range of public amenity areas that exist and their differences in form. Amending the rule to include 'where practicable' recognises that in some cases it will not be possible to place signage at all entrance points to a public amenity area. Further, TCC suggest amending the signage information requirements to include a description of the location of the spray applied. This will help users identify the locations within a public amenity area they should avoid. It is also suggested that the signage state that it is not safe to enter the 'sprayed area' rather than the whole public amenity area. It is noted that the wording 'not safe' could be viewed as excessive when considering the agrichemicals used by TCC in public amenity areas.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 54 - Tauranga City Council

TCC question is whether it is appropriate to require agrichemical users (other than TCC staff or its contractors) to display signage on public amenity areas stating that spraying is in progress. Council is concerned that requiring signage to be displayed on public amenity areas when the spray activity is being undertaken some distance from the site will result in a proliferation of spray signage on public amenity areas and, in turn, create a perception that public amenity areas are frequently sprayed with agrichemicals when that is not the case. As an example, Council have spray free reserves. If an independent person were to be required to place a sign on the reserve stating that spray was in progress, this would likely cause contention and confusion amongst the public.

Decision Sought:

Amend AQ R15(3) as follows:
 (a) Where agrichemicals are sprayed on public amenity areas signs must be displayed [insert - where practicable] at every entrance where the public usually have entry to the area where the agrichemical is being sprayed, and must clearly state:
 ... (iii) [insert - a description of the location of the spray applied]...
 (vi) that while signs are in place, it is not safe to enter [insert - the sprayed area.]
 [delete - (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.]
 [delete - (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 [delete - 3(a),] 3(b) [delete - or 3(c)] should remain in place until all airborne spray has settled and the agrichemical has dried on its target surface...

Reasons for Staff Recommendation:

No change as the wording of the rule requires 'signs to be displayed at every entrance where the public usually have entry to the area where the agrichemical is being sprayed'. Therefore signage is only required for the particular area being sprayed, not the whole amenity area. Where the area being sprayed doesn't have an entrance, Council would expect sprayers to use good judgement and place the signs where it is reasonably expected that a member of the public will see it if entering the area being sprayed

Further Submission No: 13 - 85 **Submission Type:** Support in Part **Recommendation:** Reject

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks changes to the signage requirements as part of a suite of provisions to restructure the rule, particularly relating to signage near public amenity areas. There needs to be clarity that the signage requirements are practical and related to the potential risk of the spraying operation.

Decision Sought: Ensure that there is clarity in the signage provisions in the rule.

Reasons for Staff Recommendation: No change as the wording of the rule requires 'signs to be displayed at every entrance where the public usually have entry to the area where the agrichemical is being sprayed'. Therefore signage is only required for the particular area being sprayed, not the whole amenity area. Where the area being sprayed doesn't have an entrance, Council would expect sprayers to use good judgement and place the signs where it is reasonably expected that a member of the public will see it if entering the area being sprayed

Submission Point No: 30 **Submission Type:** Seek **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R15 - whole rule

Submission Summary: "Applicator"
 The notification requirements refer to an 'applicator'. A definition of whom an 'applicator' is, would provide additional clarity as to the roles and responsibility under this rule.

Decision Sought: Include a definition of applicator.

Reasons for Staff Recommendation: Amend the term 'applicator' in this rule, wherever it refers to a person carrying out the spraying to 'person carrying out the spraying'.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 54 - Tauranga City Council

Further Submission No: 13 - 105 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks a definition of 'applicator' for clarity but does not seek specific wording. NZS8409:2004 defines applicator as 'any person or organisation engaged in the application of any agrichemical. Where application is delegated to employees it also includes the person (s) directly responsible for those employees.' In the context of AQ R15 this may be too broad a definition so clarity is sought.

Decision Sought: Clarify who an 'applicator' is in the context of AQ R 15.

Reasons for Staff Recommendation: Amend the term 'applicator' in this rule, wherever it refers to a person carrying out the spraying to 'person carrying out the spraying'.

Submission Point No: 31 **Submission Type:** Support in Part **Recommendation:** Accept

Chapter: Rules

Section: AQ R15 - whole rule

Submission Summary: It is also noted that when referring to aerial applications, it will be important to consider whether the rule is intended to capture drone applications that comply with Rule 1(c). If not, then this will need to be specifically excluded.

Decision Sought: When referring to aerial applications consider whether the rule is intended to capture drone applications that comply with Rule 1(c). If not, then specifically exclude.
eg
(5)(b)(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 [insert - (excluding drone applications that comply with condition 1(c)).]...

Reasons for Staff Recommendation: Wherever aerial applications are referred to the rule specifically excluded drone application from aerial application.

Submission Point No: 32 **Submission Type:** Support in Part **Recommendation:** Accept

Chapter: Rules

Section: AQ R15(5)

Submission Summary: In regard to spray risk management plans, TCC suggest removing the requirement to provide this to any 'potentially affected parties' upon request. An affected person is a term under the RMA that may easily be confused with 'affected parties'. It is assumed that this rule aims to require an applicator to make s spray risk management plan available when requested. To whom is not relevant. Deleting the words 'potentially affected parties' will help reduce any such confusion.

Decision Sought: (5) Spray Risk Management Plan
...(v) Strategies to manage any specific hazard associated with the agrichemical to be sprayed. [delete - (eg. Toxicity to bees)]...
(e) The spray risk management plan must be made available to the Regional Council and [delete - to potentially affected parties] upon request within 20 working days of such a request being made...

Reasons for Staff Recommendation: Consistent with the requirement in the agrichemicals standard which does not specify who the plan is to be provided to

Further Submission No: 13 - 102 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks to delete provision of the Spray Risk Management Plan to potentially affected parties. This is inconsistent with Appendix M4 of NZS8409:2004

Decision Sought: Reject submission

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Staff Recommendations on Submissions (By Submitter)

Submitter: 54 - Tauranga City Council

Reasons for Staff Recommendation: Consistent with the requirement in the agrichemicals standard which does not specify who the plan is to be provided to

Further Submission No: 26 - 14 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Western Bay of Plenty District Council

Summary: Deletion of the words 'potentially affected parties' will prevent confusion with 'affected persons'. However, it is suggested that 'potentially affected parties' be replaced with 'any other party'. This would provide clarity that it is not just BOPRC that are able to request a spray risk management plan.

Decision Sought: Accept in part

Reasons for Staff Recommendation: Consistent with the requirement in the agrichemicals standard which does not specify who the plan is to be provided to

Submission Point No: 33 **Submission Type:** Support in Part **Recommendation:** Reject

Chapter: Rules

Section: AQ R15(4)

Submission Summary: It is noted that AQ R15(4) requires notification of spray activities within a certain distance of a spray location. Awareness can be raised this way, rather than through locating signage on public amenity areas that have not been sprayed.

Decision Sought: Amend notification conditions as follows:
 (e) Where agrichemicals are sprayed on public amenity areas, the owner/occupier or agent must publicly notify the agrichemical spraying using an appropriate method, [insert - required no earlier than one week and no later than] [delete - from at least] 24 hours prior, [delete - up to one week prior] to the agrichemical use. Notification must include the following information:
 [insert - (i) The address and location of proposed application;
 (ii)The date/s of proposed application;]
 (iii) Name and type of agrichemical [delete - used] to be applied; and
 [delete - (iv) A start and end date for spray operations.]
 [insert - (v)Name and phone number of the applicator.]
 (f) [insert - For ground based applications or drone applications that comply with Rule AQ R15 (1)(c),] the owner/occupier or agent must notify the occupier of any property within 50 metres [delete (ground-based application or drone application complying with condition 1(c)) and 200 metres (aerial application)] of where the agrichemical is being sprayed.
 [insert - (g)For aerial applications, excluding drone applications that comply with Rule AQ R15(1) (c), the owner/occupier or agent must notify the occupier of any property within 200 metres of where the agrichemical is being sprayed.
 (h)Notification required under (d) or (e) must be made in accordance with either of the following:]...
 (i) and (ii) as included in (a)

Reasons for Staff Recommendation: This assumes only those people within close proximity to any public amenity area are likely to visit it. Sprayers cannot anticipate who will be present in a public amenity area at any time. The submitter requests changes that would increase their notification requirements, with no guarantee that the correct audience is receiving the message. Staff do not recommend this change.

Submitter: 55 - Genera Ltd

Submission Point No: 1 **Submission Type:** Neutral **Recommendation:** Reject

Chapter: Rules

Section: AQ R20

Submission Summary: Submission made on Section 32 Evaluation Report Topic 5 Methyl bromide and fumigation We understand that OPUS recommended to Council in 2015 that resource consents are not required for methyl bromide (as required by current plan are a controlled, non-notified activity) where recapture technology is used.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 55 - Genera Ltd

Decision Sought: We ask that where methyl bromide recapture technology is used as required by the EPA the BoPRC accepts that the use of methyl bromide is a controlled, non-notified activity.

Reasons for Staff Recommendation: Staff understand the reasoning behind this request for a controlled non-notified activity where methyl bromide is recaptured, is on the basis that submitters consider that the discharge will be minimal. However, the effectiveness of recapture technology is not sufficiently understood to justify a controlled, non-notified activity. It is staff's understanding that the current consent holder is still testing a range of technologies to recapture methyl bromide. The Regional Council has received no documentation or information of any kind detailing the results of this testing, including the efficiency or effectiveness of these recapture technologies. Without this information, staff cannot determine whether this technology provides sufficient mitigation for a controlled, non-notified activity

Further Submission No: 28 - 11 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Stakeholders in Methyl Bromide Reduction Inc (STIMBR)

Summary: The Ozone Layer Protection Act 1996 is designed to protect the environment requires. Recapture / destruction technologies must be verified scientifically to demonstrate the intent of the act is met. The EPA is mandated to assess and set controls for hazardous substances including methyl bromide. Science and monitoring data must be used to inform decisions. The environmental Protection Authority (then ERMA) completed a reassessment of methyl bromide (MB) in 2010. The EPA determined that recapture technologies are to be used in conjunction with all methyl bromide fumigations from October 2020 onward. Since that time it has become apparent that the aspiration of applying recapture technologies to all fumigations is not possible by 2020. The EPA has determined that there are grounds for a reassessment of methyl bromide. EDN a sustainable alternative to methyl bromide is not yet available for use in New Zealand. Log exports are a significant export earner for the New Zealand economy bringing in \$2.7b in the year ending June 2017. Importing countries such as China and India require the use of phytosanitary treatments including fumigation with methyl bromide. New Zealand's forestry industry contributes significantly to regional economies and rural communities. Methyl bromide is also used as a biosecurity treatment for imported commodities, personal effects and managing potato wart.

Decision Sought: Accept

Reasons for Staff Recommendation: Staff understand the reasoning behind this request for a controlled non-notified activity where methyl bromide is recaptured, is on the basis that submitters consider that the discharge will be minimal. However, the effectiveness of recapture technology is not sufficiently understood to justify a controlled, non-notified activity. It is staff's understanding that the current consent holder is still testing a range of technologies to recapture methyl bromide. The Regional Council has received no documentation or information of any kind detailing the results of this testing, including the efficiency or effectiveness of these recapture technologies. Without this information, staff cannot determine whether this technology provides sufficient mitigation for a controlled, non-notified activity

Submission Point No: 2 **Submission Type:** Neutral **Recommendation:** Reject

Chapter: Rules

Section: AQ R20

Submission Summary: Submission made on Section 32 Evaluation Report Topic 5 Methyl bromide and fumigation The EPA is mandated to consider the impacts of hazardous substances and to make informed decisions regarding the controls needed to manage risk. The agency applies the precautionary principle to all that it does. The imposition of further rules if they are to be made must be able to be supported by robust science.

Decision Sought: We believe that recapture / destruction requirements should be determined solely by the EPA. Where the EPA considers that recapture / destruction technologies are not required [i.e. the science does not support the need] the BoPRC will not impose rules requiring the use of recapture technologies.
We believe that the EPA requirements should be applied consistently New Zealand wide.

Reasons for Staff Recommendation: The EPA assessment committee approved the continued use of methyl bromide, but imposed further controls, including a requirement that '10 years from the date of this decision, all methyl bromide fumigations are to be subject to recapture.' The due date for this

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Staff Recommendations on Submissions (By Submitter)

Submitter: 55 - Genera Ltd

requirement is October 2020.

The Regional Council has a clear role set out in section 30 of the Act to control the discharge of contaminants to air. Section 65 then allows Regional Councils to prepare regional plans where necessary to carry out these roles, and provides a rule framework ranging from permitted activity to prohibited activity

The plan change is consistent with the 2010 EPA reassessment and requirements for methyl bromide. These EPA requirements only apply to methyl bromide, not to any other fumigants.

Therefore, the plan change sets out a corresponding rule framework for methyl bromide, and classifies any other fumigant as discretionary, with no recapture necessarily required.

The recommendation is for methyl bromide use without recapture to be non-complying and the policy provides for best practicable options. The use of methyl bromide with recapture or use of any other fumigant is discretionary. This is not a significant shift from the discretionary activity status under the operative Regional Air Plan

Further Submission No: 28 - 12 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Stakeholders in Methyl Bromide Reduction Inc (STIMBR)

Summary:

The Ozone Layer Protection Act 1996 is designed to protect the environment requires. Recapture / destruction technologies must be verified scientifically to demonstrate the intent of the act is met. The EPA is mandated to assess and set controls for hazardous substances including methyl bromide. Science and monitoring data must be used to inform decisions. The environmental Protection Authority (then ERMA) completed a reassessment of methyl bromide (MB) in 2010. The EPA determined that recapture technologies are to be used in conjunction with all methyl bromide fumigations from October 2020 onward. Since that time it has become apparent that the aspiration of applying recapture technologies to all fumigations is not possible by 2020. The EPA has determined that there are grounds for a reassessment of methyl bromide. EDN a sustainable alternative to methyl bromide is not yet available for use in New Zealand. Log exports are a significant export earner for the New Zealand economy bringing in \$2.7b in the year ending June 2017. Importing countries such as China and India require the use of phytosanitary treatments including fumigation with methyl bromide. New Zealand's forestry industry contributes significantly to regional economies and rural communities. Methyl bromide is also used as a biosecurity treatment for imported commodities, personal effects and managing potato wart.

Decision Sought: Accept

Reasons for Staff Recommendation:

The EPA assessment committee approved the continued use of methyl bromide, but imposed further controls, including a requirement that '10 years from the date of this decision, all methyl bromide fumigations are to be subject to recapture.' The due date for this requirement is October 2020.

The Regional Council has a clear role set out in section 30 of the Act to control the discharge of contaminants to air. Section 65 then allows Regional Councils to prepare regional plans where necessary to carry out these roles, and provides a rule framework ranging from permitted activity to prohibited activity

The plan change is consistent with the 2010 EPA reassessment and requirements for methyl bromide. These EPA requirements only apply to methyl bromide, not to any other fumigants. Therefore, the plan change sets out a corresponding rule framework for methyl bromide, and classifies any other fumigant as discretionary, with no recapture necessarily required.

The recommendation is for methyl bromide use without recapture to be non-complying and the policy provides for best practicable options. The use of methyl bromide with recapture or use of any other fumigant is discretionary. This is not a significant shift from the discretionary activity status under the operative Regional Air Plan

Submission Point No: 3 **Submission Type:** Neutral **Recommendation:** Comment Note

Chapter: Rules

Section: AQ R20

Submission Summary: Submission made on Section 32 Evaluation Report Topic 5 Methyl bromide and fumigation. We note a previous application for consent proposed to deploy a process to vent methyl bromide to air via a chimney rather than use a recapture system. We note that this technology does not meet the requirements of the Ozone Layer Protection Act. The primary driver behind controlling methyl bromide emissions is ozone depletion.

Decision Sought: For this to be noted.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 55 - Genera Ltd

For the application to vent methyl bromide to air via a chimney rather than use a recapture system to be noted as not meeting the requirements of the Ozone Layer Protection Act.

Reasons for Staff Recommendation: No decision sought relevant to the rule wording

Further Submission No: 28 - 13 **Submission Type:** Support **Recommendation:** Comment Note

Further Submitter: Stakeholders in Methyl Bromide Reduction Inc (STIMBR)

Summary: The Ozone Layer Protection Act 1996 is designed to protect the environment requires. Recapture / destruction technologies must be verified scientifically to demonstrate the intent of the act is met. The EPA is mandated to assess and set controls for hazardous substances including methyl bromide. Science and monitoring data must be used to inform decisions. The environmental Protection Authority (then ERMA) completed a reassessment of methyl bromide (MB) in 2010. The EPA determined that recapture technologies are to be used in conjunction with all methyl bromide fumigations from October 2020 onward. Since that time it has become apparent that the aspiration of applying recapture technologies to all fumigations is not possible by 2020. The EPA has determined that there are grounds for a reassessment of methyl bromide. EDN a sustainable alternative to methyl bromide is not yet available for use in New Zealand. Log exports are a significant export earner for the New Zealand economy bringing in \$2.7b in the year ending June 2017. Importing countries such as China and India require the use of phytosanitary treatments including fumigation with methyl bromide. New Zealand's forestry industry contributes significantly to regional economies and rural communities. Methyl bromide is also used as a biosecurity treatment for imported commodities, personal effects and managing potato wart.

Decision Sought: Accept

Reasons for Staff Recommendation:

Submission Point No: 4 **Submission Type:** Neutral **Recommendation:** Reject

Chapter: Rules

Section: AQ R20

Submission Summary: Submission made on Section 32 Evaluation Report Topic 5 Methyl bromide and fumigation. Genera, regularly reports the results of its methyl bromide monitoring programme to Council, Log exporters and Port of Tauranga. We note that the TEL and WES levels are consistently lower than the EPA determined thresholds.

Decision Sought: Monitoring results for methyl bromide emissions during fumigation and venting demonstrate that levels are consistently below the thresholds determined by the EPA. We ask that real data is used to inform decisions regarding the buffer distances required by Council.

Reasons for Staff Recommendation: The plan change does not include buffer distances for methyl bromide use

Further Submission No: 28 - 14 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Stakeholders in Methyl Bromide Reduction Inc (STIMBR)

Summary: The Ozone Layer Protection Act 1996 is designed to protect the environment requires. Recapture / destruction technologies must be verified scientifically to demonstrate the intent of the act is met. The EPA is mandated to assess and set controls for hazardous substances including methyl bromide. Science and monitoring data must be used to inform decisions. The environmental Protection Authority (then ERMA) completed a reassessment of methyl bromide (MB) in 2010. The EPA determined that recapture technologies are to be used in conjunction with all methyl bromide fumigations from October 2020 onward. Since that time it has become apparent that the aspiration of applying recapture technologies to all fumigations is not possible by 2020. The EPA has determined that there are grounds for a reassessment of methyl bromide. EDN a sustainable alternative to methyl bromide is not yet available for use in New Zealand. Log exports are a significant export earner for the New Zealand economy bringing in

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Staff Recommendations on Submissions (By Submitter)

Submitter: 55 - Genera Ltd

\$2.7b in the year ending June 2017. Importing countries such as China and India require the use of phytosanitary treatments including fumigation with methyl bromide. New Zealand's forestry industry contributes significantly to regional economies and rural communities. Methyl bromide is also used as a biosecurity treatment for imported commodities, personal effects and managing potato wart.

Decision Sought: Accept

Reasons for Staff Recommendation: The plan change does not include buffer distances for methyl bromide use

Submission Point No: 5 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R20

Submission Summary: Submission made on Section 32 Evaluation Report Topic 5 Methyl bromide and fumigation. Our preferred option recognises the technical expertise of the EPA and the mandate that it has to protect the environment while carefully balancing social, economic, safety, and environmental factors to ensure evidence based decisions. We note Option 3 acknowledges the expertise of the EPA. The agency has the mandate to protect the environment and to consider social, economic, safety, and environmental factors to make balanced evidence based decisions for New Zealand. The EPA processes require a public submission stage when hazardous substances are assessed. This democratic process provides for scrutiny of the EPA's assessment, risk evaluation (through the application of robust science assessment) for the views of sector and the community to be heard prior to the EPA making its final decision and setting controls. We note the use of the words 'less stringent' with regard to Option 3. The provisions of the proposed option 3 are not 'less stringent' they are fit for purpose positioning the Air plan where it should be in relation to the legislation and regularly implements. They are also technically justified based on existing knowledge.

Decision Sought: We seek the adoption of an option, to manage fumigation that is based on;

1. General rules within the proposed plan,
2. Regional Policy Statement
3. Draw where appropriate on those provisions of the RMA and HSNO Act that regional councils are bound to while
4. Respecting the expertise and decisions of the Environmental Protection Authority and not imposing greater unwarranted 'protections'.

Reasons for Staff Recommendation: The EPA assessment committee approved the continued use of methyl bromide, but imposed further controls, including a requirement that '10 years from the date of this decision, all methyl bromide fumigations are to be subject to recapture.' The due date for this requirement is October 2020. The Regional Council has a clear role set out in section 30 of the Act to control the discharge of contaminants to air. Section 65 then allows Regional Councils to prepare regional plans where necessary to carry out these roles, and provides a rule framework ranging from permitted activity to prohibited activity. The plan change is consistent with the 2010 EPA reassessment and requirements for methyl bromide. These EPA requirements only apply to methyl bromide, not to any other fumigants. Therefore, the plan change sets out a corresponding rule framework for methyl bromide, and classifies any other fumigant as discretionary, with no recapture necessarily required. The recommendation is for methyl bromide use without recapture to be non-complying and the policy provides for best practicable options. The use of methyl bromide with recapture or use of any other fumigant is discretionary. This is not a significant shift from the discretionary activity status under the operative Regional Air Plan

Further Submission No: 28 - 15 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Stakeholders in Methyl Bromide Reduction Inc (STIMBR)

Summary: The Ozone Layer Protection Act 1996 is designed to protect the environment requires. Recapture / destruction technologies must be verified scientifically to demonstrate the intent of the act is met. The EPA is mandated to assess and set controls for hazardous substances including methyl bromide. Science and monitoring data must be used to inform decisions. The environmental Protection Authority (then ERMA) completed a reassessment of methyl bromide (MB) in 2010. The EPA determined that recapture

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Staff Recommendations on Submissions (By Submitter)

Submitter: 55 - Genera Ltd

technologies are to be used in conjunction with all methyl bromide fumigations from October 2020 onward. Since that time it has become apparent that the aspiration of applying recapture technologies to all fumigations is not possible by 2020. The EPA has determined that there are grounds for a reassessment of methyl bromide. EDN a sustainable alternative to methyl bromide is not yet available for use in New Zealand. Log exports are a significant export earner for the New Zealand economy bringing in \$2.7b in the year ending June 2017. Importing countries such as China and India require the use of phytosanitary treatments including fumigation with methyl bromide. New Zealand's forestry industry contributes significantly to regional economies and rural communities. Methyl bromide is also used as a biosecurity treatment for imported commodities, personal effects and managing potato wart.

Decision Sought: Accept

Reasons for Staff Recommendation:

Submission Point No:	7	Submission Type:	Neutral	Recommendation:	Reject
Chapter:	Rules				
Section:	AQ R20				
Submission Summary:	Submission made on Section 32 Evaluation Report Topic 5 Methyl bromide and fumigation. The assessments of effectiveness in the analyses and the allocated scores in the document do not appear consistent with objective analysis based on known technical knowledge. We consider that more work needs to be done on the costs / benefits.				
Decision Sought:	We seek balanced decisions informed by science made by appropriately qualified and informed decision makers.				
Reasons for Staff Recommendation:	<p>The EPA assessment committee approved the continued use of methyl bromide, but imposed further controls, including a requirement that '10 years from the date of this decision, all methyl bromide fumigations are to be subject to recapture.' The due date for this requirement is October 2020.</p> <p>The Regional Council has a clear role set out in section 30 of the Act to control the discharge of contaminants to air. Section 65 then allows Regional Councils to prepare regional plans where necessary to carry out these roles, and provides a rule framework ranging from permitted activity to prohibited activity</p> <p>The plan change is consistent with the 2010 EPA reassessment and requirements for methyl bromide. These EPA requirements only apply to methyl bromide, not to any other fumigants. Therefore, the plan change sets out a corresponding rule framework for methyl bromide, and classifies any other fumigant as discretionary, with no recapture necessarily required.</p> <p>The recommendation is for methyl bromide use without recapture to be non-complying and the policy provides for best practicable options. The use of methyl bromide with recapture or use of any other fumigant is discretionary. This is not a significant shift from the discretionary activity status under the operative Regional Air Plan</p>				

Further Submission No: 28 - 16 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Stakeholders in Methyl Bromide Reduction Inc (STIMBR)

Summary: The Ozone Layer Protection Act 1996 is designed to protect the environment requires. Recapture / destruction technologies must be verified scientifically to demonstrate the intent of the act is met. The EPA is mandated to assess and set controls for hazardous substances including methyl bromide. Science and monitoring data must be used to inform decisions. The environmental Protection Authority (then ERMA) completed a reassessment of methyl bromide (MB) in 2010. The EPA determined that recapture technologies are to be used in conjunction with all methyl bromide fumigations from October 2020 onward. Since that time it has become apparent that the aspiration of applying recapture technologies to all fumigations is not possible by 2020. The EPA has determined that there are grounds for a reassessment of methyl bromide. EDN a sustainable alternative to methyl bromide is not yet available for use in New Zealand. Log exports are a significant export earner for the New Zealand economy bringing in \$2.7b in the year ending June 2017. Importing countries such as China and India require the use of phytosanitary treatments including fumigation with methyl bromide. New Zealand's forestry industry contributes significantly to regional economies and rural communities. Methyl bromide is also used as a biosecurity treatment for imported

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Staff Recommendations on Submissions (By Submitter)

Submitter: 55 - Genera Ltd

commodities, personal effects and managing potato wart.

Decision Sought: Accept

Reasons for Staff Recommendation: The EPA assessment committee approved the continued use of methyl bromide, but imposed further controls, including a requirement that '10 years from the date of this decision, all methyl bromide fumigations are to be subject to recapture.' The due date for this requirement is October 2020.

The Regional Council has a clear role set out in section 30 of the Act to control the discharge of contaminants to air. Section 65 then allows Regional Councils to prepare regional plans where necessary to carry out these roles, and provides a rule framework ranging from permitted activity to prohibited activity

The plan change is consistent with the 2010 EPA reassessment and requirements for methyl bromide. These EPA requirements only apply to methyl bromide, not to any other fumigants. Therefore, the plan change sets out a corresponding rule framework for methyl bromide, and classifies any other fumigant as discretionary, with no recapture necessarily required.

The recommendation is for methyl bromide use without recapture to be non-complying and the policy provides for best practicable options. The use of methyl bromide with recapture or use of any other fumigant is discretionary. This is not a significant shift from the discretionary activity status under the operative Regional Air Plan

Submission Point No: 9 **Submission Type:** Neutral **Recommendation:** Reject

Chapter: Rules

Section: AQ R20

Submission Summary: Submission made on Section 32 Evaluation Report Topic 5 Methyl bromide and fumigation. If Option 3 is not adopted then Genera ask that a reasonable period of consultation occurs to clarify what status quo means.

Decision Sought: We consider that more work needs to be done to clarify status quo. If option 1 was applied objectively using standards set by EPA rather than imposing arbitrary additional standards we would support option 1.

Reasons for Staff Recommendation: The EPA assessment committee approved the continued use of methyl bromide, but imposed further controls, including a requirement that '10 years from the date of this decision, all methyl bromide fumigations are to be subject to recapture.' The due date for this requirement is October 2020.

The Regional Council has a clear role set out in section 30 of the Act to control the discharge of contaminants to air. Section 65 then allows Regional Councils to prepare regional plans where necessary to carry out these roles, and provides a rule framework ranging from permitted activity to prohibited activity

The plan change is consistent with the 2010 EPA reassessment and requirements for methyl bromide. These EPA requirements only apply to methyl bromide, not to any other fumigants. Therefore, the plan change sets out a corresponding rule framework for methyl bromide, and classifies any other fumigant as discretionary, with no recapture necessarily required.

The recommendation is for methyl bromide use without recapture to be non-complying and the policy provides for best practicable options. The use of methyl bromide with recapture or use of any other fumigant is discretionary. This is not a significant shift from the discretionary activity status under the operative Regional Air Plan

Further Submission No: 28 - 17 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Stakeholders in Methyl Bromide Reduction Inc (STIMBR)

Summary: The Ozone Layer Protection Act 1996 is designed to protect the environment requires. Recapture / destruction technologies must be verified scientifically to demonstrate the intent of the act is met. The EPA is mandated to assess and set controls for hazardous substances including methyl bromide. Science and monitoring data must be used to inform decisions. The environmental Protection Authority (then ERMA) completed a reassessment of methyl bromide (MB) in 2010. The EPA determined that recapture technologies are to be used in conjunction with all methyl bromide fumigations from October 2020 onward. Since that time it has become apparent that the aspiration of applying recapture technologies to all fumigations is not possible by 2020. The EPA has determined that there are grounds for a reassessment of methyl bromide. EDN a sustainable alternative to methyl bromide is not yet available for use in New Zealand. Log exports are a significant export earner for the New Zealand economy bringing in

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Staff Recommendations on Submissions (By Submitter)

Submitter: 55 - Genera Ltd

\$2.7b in the year ending June 2017. Importing countries such as China and India require the use of phytosanitary treatments including fumigation with methyl bromide. New Zealand's forestry industry contributes significantly to regional economies and rural communities. Methyl bromide is also used as a biosecurity treatment for imported commodities, personal effects and managing potato wart.

Decision Sought: Accept

Reasons for Staff Recommendation:

The EPA assessment committee approved the continued use of methyl bromide, but imposed further controls, including a requirement that '10 years from the date of this decision, all methyl bromide fumigations are to be subject to recapture.' The due date for this requirement is October 2020.

The Regional Council has a clear role set out in section 30 of the Act to control the discharge of contaminants to air. Section 65 then allows Regional Councils to prepare regional plans where necessary to carry out these roles, and provides a rule framework ranging from permitted activity to prohibited activity

The plan change is consistent with the 2010 EPA reassessment and requirements for methyl bromide. These EPA requirements only apply to methyl bromide, not to any other fumigants. Therefore, the plan change sets out a corresponding rule framework for methyl bromide, and classifies any other fumigant as discretionary, with no recapture necessarily required.

The recommendation is for methyl bromide use without recapture to be non-complying and the policy provides for best practicable options. The use of methyl bromide with recapture or use of any other fumigant is discretionary. This is not a significant shift from the discretionary activity status under the operative Regional Air Plan

Submitter: 56 - Bob Russell

Submission Point No: 1 **Submission Type:** Seek **Recommendation:** Reject

Chapter: General

Section: General - Tauranga Air

Submission Summary: The summary of Proposed Plan Change 13 provisions does not consider, monitor, quantify or address the potential health effects of Tauranga's potentially increasing numbers of residential wood burners

Over the last 4 years, I've noticed a marked degradation in the Poike Rd area neighbourhood winter air quality.

Decision Sought: Adoption of a monitoring standard and method that allows a user friendly 15-minute measurement of ambient neighbourhood residential wood smoke levels. Documentation of an appropriate targeted air quality standard. Responsive monitoring and representative sampling of the winter air quality of various Tauranga suburbs. Consideration of formalising and duplicating any Rotorua and/or Auckland air shed measures in Tauranga, to future proof Tauranga's air quality.

Reasons for Staff Recommendation: The Regional Council has been monitoring air quality in Otumoetai Road in Tauranga for several years and air quality is acceptable with no sign that any action is needed to address residential air quality. However, we acknowledge that Tauranga is a high growth area and that this may not always be the case. Work is currently underway to assess the extent of domestic emissions in the Tauranga area. This information was not available when developing the draft plan change. However, the introduction of rules to target solid fuel burners in Rotorua was a decision that was not taken lightly, even with more than ten years of monitoring data. These rules are controversial and were only introduced when all other options were explored and exhausted (see Section xxx). We do not have any evidence that similar rules are necessary in Tauranga at this stage. No change is recommended to the plan change

Submission Point No: 2 **Submission Type:** Seek **Recommendation:** Reject

Chapter: General

Section: General - Tauranga Air

Submission Summary: The summary of Proposed Plan Change 13 provisions does not consider, monitor, quantify or address the potential health effects of Tauranga's potentially increasing numbers of residential wood burners.

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 56 - Bob Russell

More people, more houses in Tauranga's surrounding new subdivisions, more residential wood burners in Tauranga's air shed, - and possibly no planning or building consent consideration of the cumulative effect of these new residential wood burners upon Tauranga's existing air quality. The summary of Proposed Plan Change 13 provisions does not seem to consider, monitor, quantify or address the potential health effects of Tauranga's potentially increasing numbers of residential wood burners.

Decision Sought: Responsive monitoring and representative sampling of the winter air quality of various Tauranga suburbs. Consideration of formalising and duplicating any Rotorua and/or Auckland air shed measures in Tauranga, to future proof Tauranga's air quality.

Reasons for Staff Recommendation: The Regional Council has been monitoring air quality in Otumoetai Road in Tauranga for several years and air quality is acceptable with no sign that any action is needed to address residential air quality. However, we acknowledge that Tauranga is a high growth area and that this may not always be the case. Work is currently underway to assess the extent of domestic emissions in the Tauranga area. This information was not available when developing the draft plan change. However, the introduction of rules to target solid fuel burners in Rotorua was a decision that was not taken lightly, even with more than ten years of monitoring data. These rules are controversial and were only introduced when all other options were explored and exhausted. We do not have any evidence that similar rules are necessary in Tauranga at this stage. No change is recommended to the plan change

Submitter: 57 - Stakeholders in Methyl Bromide Reduction Inc (STIMBR)

Submission Point No: 1 **Submission Type:** Neutral **Recommendation:** Reject

Chapter: Rules

Section: AQ R20

Submission Summary: Submission on Section 32 Evaluation Report Topic 5 Methyl bromide and fumigation
Within the document there are a number of subtle, and not so subtle, misrepresentations of the facts. Various reasons may have led to this situation, including the authors not being subject matter experts, not having access to reputable scientific resources and a possible reliance on the internet for their information. For instance, the authors state that "methyl bromide is also a greenhouse gas and ozone-depleting substance...." Methyl bromide is an ozone depleting gas – that is not disputed. There are no references in the scientific literature that methyl bromide is regarded as a greenhouse gas. . Inaccurate interpretation (or only reading the regulation titles) can result in misidentification of methyl bromide as a greenhouse gas, especially if bias against methyl bromide and a lack of scientific acumen are involved. Council is obligated to make decisions based on fact.

Decision Sought: STIMBR asks that Council seeks out and uses reputable science to formulate policy and decisions

Reasons for Staff Recommendation: The EPA assessment committee approved the continued use of methyl bromide, but imposed further controls, including a requirement that '10 years from the date of this decision, all methyl bromide fumigations are to be subject to recapture.' The due date for this requirement is October 2020.
The Regional Council has a clear role set out in section 30 of the Act to control the discharge of contaminants to air. Section 65 then allows Regional Councils to prepare regional plans where necessary to carry out these roles, and provides a rule framework ranging from permitted activity to prohibited activity
The plan change is consistent with the 2010 EPA reassessment and requirements for methyl bromide. These EPA requirements only apply to methyl bromide, not to any other fumigants. Therefore, the plan change sets out a corresponding rule framework for methyl bromide, and classifies any other fumigant as discretionary, with no recapture necessarily required. The recommendation is for methyl bromide use without recapture to be non-complying and the policy provides for best practicable options. The use of methyl bromide with recapture or use of any other fumigant is discretionary. This is not a significant shift from the discretionary activity status under the operative Regional Air Plan

Further Submission No: 29 - 17 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Genera Ltd

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 57 - Stakeholders in Methyl Bromide Reduction Inc (STIMBR)

Summary: The EPA is the agency mandated to manage fumigants such as methyl bromide and its alternatives. The EPA has recently determined that there are grounds for a reassessment of methyl bromide.

Decision Sought: Accept

Reasons for Staff Recommendation: The EPA assessment committee approved the continued use of methyl bromide, but imposed further controls, including a requirement that '10 years from the date of this decision, all methyl bromide fumigations are to be subject to recapture.' The due date for this requirement is October 2020.
The Regional Council has a clear role set out in section 30 of the Act to control the discharge of contaminants to air. Section 65 then allows Regional Councils to prepare regional plans where necessary to carry out these roles, and provides a rule framework ranging from permitted activity to prohibited activity
The plan change is consistent with the 2010 EPA reassessment and requirements for methyl bromide. These EPA requirements only apply to methyl bromide, not to any other fumigants. Therefore, the plan change sets out a corresponding rule framework for methyl bromide, and classifies any other fumigant as discretionary, with no recapture necessarily required.
The recommendation is for methyl bromide use without recapture to be non-complying and the policy provides for best practicable options. The use of methyl bromide with recapture or use of any other fumigant is discretionary. This is not a significant shift from the discretionary activity status under the operative Regional Air Plan

Submission Point No: 2 **Submission Type:** Neutral **Recommendation:** Reject

Chapter: Rules

Section: AQ R20

Submission Summary: Submission on Section 32 Evaluation Report Topic 5 Methyl bromide and fumigation Note that a recommendation to council by OPUS (2015) 'was to require resource consents for methyl bromide (as required by current plan), except where recapture technology is used where it would be a controlled, non-notified activity.'

Decision Sought: Where methyl bromide recapture technology is used as stipulated by the EPA the use of methyl bromide is deemed by the BoPRC to be a controlled, non-notified activity.

Reasons for Staff Recommendation: Staff understand the reasoning behind this request for a controlled non-notified activity where methyl bromide is recaptured, is on the basis that submitters consider that the discharge will be minimal. However, the effectiveness of recapture technology is not sufficiently understood to justify a controlled, non-notified activity. It is staff's understanding that the current consent holder is still testing a range of technologies to recapture methyl bromide. The Regional Council has received no documentation or information of any kind detailing the results of this testing, including the efficiency or effectiveness of these recapture technologies. Without this information, staff cannot determine whether this technology provides sufficient mitigation for a controlled, non-notified activity

Further Submission No: 29 - 18 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Genera Ltd

Summary: The EPA is the agency mandated to manage fumigants such as methyl bromide and its alternatives. The EPA has recently determined that there are grounds for a reassessment of methyl bromide.

Decision Sought: Accept

Reasons for Staff Recommendation: Staff understand the reasoning behind this request for a controlled non-notified activity where methyl bromide is recaptured, is on the basis that submitters consider that the discharge will be minimal. However, the effectiveness of recapture technology is not sufficiently understood to justify a controlled, non-notified activity. It is staff's understanding that the current consent holder is still testing a range of technologies to recapture methyl bromide. The Regional Council has received no documentation or information of any kind detailing the results of this testing, including the efficiency or effectiveness of these recapture technologies. Without this information, staff cannot determine whether this technology provides sufficient mitigation for a controlled, non-notified activity

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 57 - Stakeholders in Methyl Bromide Reduction Inc (STIMBR)

Submission Point No: 3 **Submission Type:** Neutral **Recommendation:** Reject

Chapter: Rules

Section: AQ R20

Submission Summary: Submission on Section 32 Evaluation Report Topic 5 Methyl bromide and fumigation
The scientific and technical expertise to analyse relevant data, identify risks and determine appropriate mitigations sits within the EPA

Decision Sought: Recapture / destruction requirements to be determined by the EPA. Where the EPA considers that recapture/destruction does not support the need] the BoPRC will not impose rules requiring the use of recapture technologies.

Reasons for Staff Recommendation: The Regional Council has a clear role set out in section 30 of the Act to control the discharge of contaminants to air. Section 65 then allows Regional Councils to prepare regional plans where necessary to carry out these roles, and provides a rule framework ranging from permitted activity to prohibited activity
The plan change is consistent with the 2010 EPA reassessment and requirements for methyl bromide. These EPA requirements only apply to methyl bromide, not to any other fumigants. Therefore, the plan change sets out a corresponding rule framework for methyl bromide, and classifies any other fumigant as discretionary, with no recapture necessarily required.
The recommendation is for methyl bromide use without recapture to be non-complying and the policy provides for best practicable options. The use of methyl bromide with recapture or use of any other fumigant is discretionary. This is not a significant shift from the discretionary activity status under the operative Regional Air Plan

Further Submission No: 29 - 19 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Genera Ltd

Summary: The EPA is the agency mandated to manage fumigants such as methyl bromide and its alternatives. The EPA has recently determined that there are grounds for a reassessment of methyl bromide.

Decision Sought: Accept

Reasons for Staff Recommendation: The Regional Council has a clear role set out in section 30 of the Act to control the discharge of contaminants to air. Section 65 then allows Regional Councils to prepare regional plans where necessary to carry out these roles, and provides a rule framework ranging from permitted activity to prohibited activity
The plan change is consistent with the 2010 EPA reassessment and requirements for methyl bromide. These EPA requirements only apply to methyl bromide, not to any other fumigants. Therefore, the plan change sets out a corresponding rule framework for methyl bromide, and classifies any other fumigant as discretionary, with no recapture necessarily required.
The recommendation is for methyl bromide use without recapture to be non-complying and the policy provides for best practicable options. The use of methyl bromide with recapture or use of any other fumigant is discretionary. This is not a significant shift from the discretionary activity status under the operative Regional Air Plan

Submission Point No: 4 **Submission Type:** Neutral **Recommendation:** Comment Note

Chapter: Rules

Section: AQ R20

Submission Summary: Submission on Section 32 Evaluation Report Topic 5 Methyl bromide and fumigation
STIMBR notes the Envirofume application for consent to fumigate using methyl bromide relied on a technology that was not a recapture / destruction system i.e. it did not prevent methyl bromide emissions.

Decision Sought: Note that the Envirofume application for consent to fumigate using methyl bromide relied on a technology that was not a recapture / destruction system i.e. it did not prevent methyl bromide emissions.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 57 - Stakeholders in Methyl Bromide Reduction Inc (STIMBR)

Reasons for Staff Recommendation: No decision sought relevant to the rule wording

Further Submission No: 29 - 20 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Genera Ltd

Summary: The EPA is the agency mandated to manage fumigants such as methyl bromide and its alternatives. The EPA has recently determined that there are grounds for a reassessment of methyl bromide.

Decision Sought: Accept

Reasons for Staff Recommendation: No decision sought relevant to the rule wording

Submission Point No: 5 **Submission Type:** Neutral **Recommendation:** Reject

Chapter: Rules

Section: AQ R20

Submission Summary: Submission on Section 32 Evaluation Report Topic 5 Methyl bromide and fumigation Genera, has developed significant monitoring capability using standard monitoring practices and capacity since 2017. Regular reports are furnished to Council. TEL and WES levels are significantly lower than the EPA determined thresholds.

Decision Sought: The monitoring results for methyl bromide emissions during fumigation and venting reported by Genera to Council are used to inform decisions regarding appropriate buffer distance. These distances should at a maximum be those determined by the EPA unless there are consistent exceedances which should be referred to the EPA for review.

Reasons for Staff Recommendation: The plan change does not include buffer distances nor TELs for methyl bromide use

Further Submission No: 29 - 21 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Genera Ltd

Summary: The EPA is the agency mandated to manage fumigants such as methyl bromide and its alternatives. The EPA has recently determined that there are grounds for a reassessment of methyl bromide.

Decision Sought: Accept

Reasons for Staff Recommendation: Further submission point not relevant to original submission point decision sought.

Submission Point No: 6 **Submission Type:** Neutral **Recommendation:** Comment Note

Chapter: Rules

Section: AQ R20

Submission Summary: Submission on Section 32 Evaluation Report Topic 5 Methyl bromide and fumigation International treaties are a given – they cannot be contracted out of by the BoPRC. New Zealand's Ozone Protection legislation is also a given.

Decision Sought: Note that international treaties and New Zealand's Ozone Protection legislation are a given – they cannot be contracted out of by the BoPRC.

Reasons for Staff Recommendation: No decision sought relevant to the rule wording

Further Submission No: 29 - 22 **Submission Type:** Support **Recommendation:** Reject

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Staff Recommendations on Submissions (By Submitter)

Submitter: 57 - Stakeholders in Methyl Bromide Reduction Inc (STIMBR)

Further Submitter: Genera Ltd

Summary: The EPA is the agency mandated to manage fumigants such as methyl bromide and its alternatives. The EPA has recently determined that there are grounds for a reassessment of methyl bromide.

Decision Sought: Accept

Reasons for Staff Recommendation: Further submission point not relevant to original submission point decision sought.

Submission Point No: 8 **Submission Type:** Neutral **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R20

Submission Summary: Submission on Section 32 Evaluation Report Topic 5 Methyl bromide and fumigation STIMBR favours a situation similar to Option 3 which recognises the expertise of the EPA and the mandate that it has to protect the environment while carefully balancing social, economic, safety, and environmental factors to ensure evidence based decisions to provide an environment that we want now, and in the future.

It is noted that EPA assessments of new (or reassessment of existing) fumigants include a public submission phase. This allows the EPA's risk determination (based on robust assessment of the science) and opinions of industry and community groups to be accommodated in the EPA's final decision/controls.

STIMBR notes the use of the words 'less stringent'. We do not believe the provisions of the proposed option 3 are 'less stringent'. In the context in which the phrase is used it is a leading statement. Option 3 better reflects the situation as it should be and as such should be considered 'fit for purpose'.

Decision Sought: The adoption of an option to manage fumigation that is based on:

1. General rules within the proposed plan,
2. Regional Policy Statement
3. Draw where appropriate on those provisions of the RMA and HSNO Act that regional councils are bound to while
4. Respecting the expertise and decisions of the Environmental Protection Authority and not imposing greater unwarranted 'protections'.

Reasons for Staff Recommendation: The EPA assessment committee approved the continued use of methyl bromide, but imposed further controls, including a requirement that '10 years from the date of this decision, all methyl bromide fumigations are to be subject to recapture.' The due date for this requirement is October 2020.

The Regional Council has a clear role set out in section 30 of the Act to control the discharge of contaminants to air. Section 65 then allows Regional Councils to prepare regional plans where necessary to carry out these roles, and provides a rule framework ranging from permitted activity to prohibited activity

The plan change is consistent with the 2010 EPA reassessment and requirements for methyl bromide. These EPA requirements only apply to methyl bromide, not to any other fumigants. Therefore, the plan change sets out a corresponding rule framework for methyl bromide, and classifies any other fumigant as discretionary, with no recapture necessarily required.

The recommendation is for methyl bromide use without recapture to be non-complying and the policy provides for best practicable options. The use of methyl bromide with recapture or use of any other fumigant is discretionary. This is not a significant shift from the discretionary activity status under the operative Regional Air Plan

Further Submission No: 29 - 23 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Genera Ltd

Summary: The EPA is the agency mandated to manage fumigants such as methyl bromide and its alternatives. The EPA has recently determined that there are grounds for a reassessment of methyl bromide.

Decision Sought: Accept

Reasons for Staff Recommendation: The EPA assessment committee approved the continued use of methyl bromide, but imposed further controls, including a requirement that '10 years from the date of this decision, all methyl bromide fumigations are to be subject to recapture.' The due date

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Staff Recommendations on Submissions (By Submitter)

Submitter: 57 - Stakeholders in Methyl Bromide Reduction Inc (STIMBR)

for this requirement is October 2020.

The Regional Council has a clear role set out in section 30 of the Act to control the discharge of contaminants to air. Section 65 then allows Regional Councils to prepare regional plans where necessary to carry out these roles, and provides a rule framework ranging from permitted activity to prohibited activity

The plan change is consistent with the 2010 EPA reassessment and requirements for methyl bromide. These EPA requirements only apply to methyl bromide, not to any other fumigants. Therefore, the plan change sets out a corresponding rule framework for methyl bromide, and classifies any other fumigant as discretionary, with no recapture necessarily required.

The recommendation is for methyl bromide use without recapture to be non-complying and the policy provides for best practicable options. The use of methyl bromide with recapture or use of any other fumigant is discretionary. This is not a significant shift from the discretionary activity status under the operative Regional Air Plan

Submission Point No:	10	Submission Type:	Neutral	Recommendation:	Reject
Chapter:	Rules				
Section:	AQ R20				
Submission Summary:	<p>Submission on Section 32 Evaluation Report Topic 5 Methyl bromide and fumigation The assessments of effectiveness and the prescribed scores are incomplete, and are subjective. Incomplete. Lack objectivity in some instances. There is a flavor of seeking to appease which devalues the quality of the Evaluation Report</p>				
Decision Sought:	<p>Balanced decisions are sought that are informed by science rather than biased by leading statements and opinion or influenced by interest groups without the support of reputable science.</p>				
Reasons for Staff Recommendation:	<p>The EPA assessment committee approved the continued use of methyl bromide, but imposed further controls, including a requirement that '10 years from the date of this decision, all methyl bromide fumigations are to be subject to recapture.' The due date for this requirement is October 2020. The Regional Council has a clear role set out in section 30 of the Act to control the discharge of contaminants to air. Section 65 then allows Regional Councils to prepare regional plans where necessary to carry out these roles, and provides a rule framework ranging from permitted activity to prohibited activity The plan change is consistent with the 2010 EPA reassessment and requirements for methyl bromide. These EPA requirements only apply to methyl bromide, not to any other fumigants. Therefore, the plan change sets out a corresponding rule framework for methyl bromide, and classifies any other fumigant as discretionary, with no recapture necessarily required. The recommendation is for methyl bromide use without recapture to be non-complying and the policy provides for best practicable options. The use of methyl bromide with recapture or use of any other fumigant is discretionary. This is not a significant shift from the discretionary activity status under the operative Regional Air Plan</p>				

Further Submission No:	29 - 24	Submission Type:	Support	Recommendation:	Reject
Further Submitter:	Genera Ltd				
Summary:	<p>The EPA is the agency mandated to manage fumigants such as methyl bromide and its alternatives. The EPA has recently determined that there are grounds for a reassessment of methyl bromide.</p>				
Decision Sought:	Accept				
Reasons for Staff Recommendation:	<p>The EPA assessment committee approved the continued use of methyl bromide, but imposed further controls, including a requirement that '10 years from the date of this decision, all methyl bromide fumigations are to be subject to recapture.' The due date for this requirement is October 2020. The Regional Council has a clear role set out in section 30 of the Act to control the discharge of contaminants to air. Section 65 then allows Regional Councils to prepare regional plans where necessary to carry out these roles, and provides a rule framework ranging from permitted activity to prohibited activity The plan change is consistent with the 2010 EPA reassessment and requirements for methyl bromide. These EPA requirements only apply to methyl bromide, not to any other fumigants. Therefore, the plan change sets out a corresponding rule framework</p>				

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 57 - Stakeholders in Methyl Bromide Reduction Inc (STIMBR)

for methyl bromide, and classifies any other fumigant as discretionary, with no recapture necessarily required.

The recommendation is for methyl bromide use without recapture to be non-complying and the policy provides for best practicable options. The use of methyl bromide with recapture or use of any other fumigant is discretionary. This is not a significant shift from the discretionary activity status under the operative Regional Air Plan

Submitter: 58 - Horticulture New Zealand

Submission Point No:	1	Submission Type:	Neutral	Recommendation:	Reject
Chapter:	Whole Plan				
Section:	Whole Plan - Consistency between RPS and RNRP				
Submission Summary:	Relevant provisions in the Regional Policy Statement relating to Air Quality and discharges to air, particularly agrichemical use, are Objective 1, Policy AQ 1A, Policy AQ 2, Method 2, Method 6, Method 54.				
Decision Sought:	HortNZ seeks that these provisions in the RPS are given effect to in the Regional Air Plan.				
Reasons for Staff Recommendation:	<p>Appendix 5 of the Section 32 report provides details of how the plan change gives effect to the RPS. In summary, Objective 1 is given effect to by the inclusion of AQ O1, AQ O2, AQ O3 and all policies and rules of the plan change that are designed to meet the three objectives. Policy AQ 1A - reverse sensitivity is not given effect to by the plan change and this is addressed in submission points 19-18, 19-21, 22-5, 33-4, 33-19, 45-9, 48-12, 48-14, 50-19, 58-6, 58-38, 63-2, 63-11, 74-16, 76-4, 76-5, 76-12, 76-13, and 76-14.</p> <p>Policy AQ 2A is given effect to in particular by AQ P1, AQ P2, AQ P3, and AQ P4.</p> <p>Method 2 - regional plan implementation is given effect to by notification of the plan change</p> <p>Method 6 - agrichemical users to apply best practice is given effect to by AQ P8 and AQ R15</p> <p>Method 54 - research and monitor agrichemical spray drift effects on human health is being implemented by the council and this method does not need to be replicated in the plan change.</p>				

Submission Point No:	2	Submission Type:	Neutral	Recommendation:	Reject
Chapter:	Whole Plan				
Section:	Whole Plan - Consistency between RPS and RNRP				
Submission Summary:	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.				
Reasons for Staff Recommendation:	<p>This submission point calls for consistency between the plan change and the current provisions of the Regional Natural Resources Plan. The plan change was assessed for consistency and changes made where required.</p> <p>The submitter has pointed out one area of concern. This is addressed in the definition of fertiliser in submission points 33-15, 50-1, 50-2, 58-27, 73-7, and 76-38. No other areas have been identified, therefore it is assumed that the plan change is consistent with the provisions and definitions in the Regional Natural Resources Plan.</p>				

Submission Point No:	3	Submission Type:	Seek	Recommendation:	Accept in Part
Chapter:	Objectives				
Section:	AQ 03				

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 58 - Horticulture New Zealand

Submission Summary: 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.

Decision 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, [insert - recognising that the background receiving environment varies across the region].

Reasons for Staff Recommendation: Do not add 'relevant receiving' to 'environment' as it appears to advocate for an approach that accepts poorer air quality in some areas. Add 'sustainable' to beginning of objective to clarify that the objective provides for full suite of management options (avoid, remedy or mitigate) and this is made clearer by changing wording to 'sustainable management'

Further Submission No: 8 - 20 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Mercury NZ Ltd

Summary: Mercury supports this minor change.

Decision Sought: Allow

Reasons for Staff Recommendation: Do not add 'relevant receiving' to 'environment' as it appears to advocate for an approach that accepts poorer air quality in some areas. Add 'sustainable' to beginning of objective to clarify that the objective provides for full suite of management options (avoid, remedy or mitigate) and this is made clearer by changing wording to 'sustainable management'

Submission Point No: 4 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Policies

Section: AQ P4 - new clause

Submission Summary: 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.

Decision Sought: Add an additional clause in AQ P4: [insert - The nature of the background receiving environment.]

Reasons for Staff Recommendation: Staff agree that particular regard should be given to the FIDOL factors when assessing acceptability of dust and odour to air, which provides relief similar to that requested in this submission point.

Further Submission No: 8 - 60 **Submission Type:** Support in Part **Recommendation:** Accept

Further Submitter: Mercury NZ Ltd

Summary: Mercury supports the intent of this submission. However, seeks clarification and discussion on the outcomes for all emitters.

Decision Sought: Allow in part

Reasons for Staff Recommendation: Staff agree that particular regard should be given to the FIDOL factors when assessing acceptability of dust and odour to air, which provides relief similar to that requested in this submission point.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 58 - Horticulture New Zealand

Further Submission No: 23 - 33 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter support the proposed insertion of a clause on 'receiving environment' as recommended by submission 58 - 4. As discussed in earlier submissions, what might be considered as offensive or objectionable in a residential zone is likely to be completely different in an area which is zoned industrial. This should be taken into consideration by decision makers.

Decision Sought: Decision sought: Adopt a clause relating to 'receiving environment' to policy AQ P4, as recommended by submission 58 - 4.

Reasons for Staff Recommendation: Staff agree that particular regard should be given to the FIDOL factors when assessing acceptability of dust and odour to air, which provides relief similar to that requested in this submission point.

Submission Point No: 5 **Submission Type:** Seek **Recommendation:** Accept in Part

Chapter: Definitions

Section: Definitions - Offensive or objectionable

Submission Summary: "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. 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. 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,

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Submitter: 58 - Horticulture New Zealand

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.

Reasons for Staff Recommendation:

Some clarity around how the term will be applied during implementation of the plan change would be helpful. Staff recommend that brief advice text is provided, but that the terms not be specifically defined in order to ensure consistency with current and future case law

Further Submission No: 8 - 83 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Mercury NZ Ltd

Summary: Mercury considers a definition for 'Offensive or Objectionable' is not required. This term is used within the RMA and case law has considered this based on a normal English language definition. The inclusion of the definition could result in a conflict between further court interpretation under the Act and the definition in the Plan. Further guidance on what is considered offensive or objectionable is also included in the MfE Good Practice Guide for Assessing and Managing Odour. Mercury acknowledges that Horticulture NZ's submission on this point is comprehensive.

Decision Sought: Disallow

Reasons for Staff Recommendation: Some clarity around how the term will be applied during implementation of the plan change would be helpful. Staff recommend that brief advice text is provided, but that the terms not be specifically defined in order to ensure consistency with current and future case law

Further Submission No: 11 - 16 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Oji Fibre Solution

Summary: Oji FS does not consider a definition of offensive or objectionable is needed in PC13. Oji FS notes that despite this term being used extensively in regional air plans under the RMA, it is not aware of any regional air plan which has included a definition of the term

Decision Sought: Reject submission

Reasons for Staff Recommendation: Some clarity around how the term will be applied during implementation of the plan change would be helpful. Staff recommend that brief advice text is provided, but that the terms not be specifically defined in order to ensure consistency with current and future case law

Further Submission No: 12 - 13 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Z Energy Ltd, BP Oil NZ Ltd & Mobil Oil NZ Ltd

Summary: The submission is supported. The Proposed Plan Change does not include a definition for the phrase 'Offensive or objectionable' and it is considered, given the context of the proposed policy framework, that a definition for the term is appropriate. The wording of the definition should reflect current case law.

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Submitter: 58 - Horticulture New Zealand

Decision Sought: Accept

Reasons for Staff Recommendation: Some clarity around how the term will be applied during implementation of the plan change would be helpful. Staff recommend that brief advice text is provided, but that the terms not be specifically defined in order to ensure consistency with current and future case law

Further Submission No: 20 - 32 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Fonterra Ltd

Summary: For the reasons outlined in Horticulture NZ's submission. Further discussion is required around the appropriate wording of any definition.

Decision Sought: Accept in part

Reasons for Staff Recommendation: Some clarity around how the term will be applied during implementation of the plan change would be helpful. Staff recommend that brief advice text is provided, but that the terms not be specifically defined in order to ensure consistency with current and future case law

Further Submission No: 30 - 48 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Swap Stockfoods Ltd

Summary: Support for the provision of a definition for offensive or objectionable. Swap Stockfoods would like the opportunity to be involved in the discussions regarding the proposed wording of the definition.

Decision Sought: Accept

Reasons for Staff Recommendation: Some clarity around how the term will be applied during implementation of the plan change would be helpful. Staff recommend that brief advice text is provided, but that the terms not be specifically defined in order to ensure consistency with current and future case law

Submission Point No: 6 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Reverse sensitivity

Section: Reverse Sensitivity

Submission Summary: new policy "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. The proposed plan does not contain any policy or provide any clear direction relating to reverse sensitivity (as did the Draft Air Plan.) 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.

Decision Sought: That a policy framework be added to PC13 to provide for consideration of reverse sensitivity effects 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.

Reasons for Staff Recommendation: Do not include provisions to manage reverse sensitivity in the plan change

Further Submission No: 4 - 14 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Whakatane Mill Ltd

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Staff Recommendations on Submissions (By Submitter)

Submitter: 58 - Horticulture New Zealand

Summary: Whakatane Mill agree that additional provisions to manage reverse sensitivity should be included in PC13.

Decision Sought: Accept submission to insert new policy regarding reverse sensitivity

Reasons for Staff Recommendation: Decline original submission point

Further Submission No: 11 - 30 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Oji Fibre Solution

Summary: Oji FS agrees that additional provisions to manage reverse sensitivity should be included in PC13.

Decision Sought: Accept submission

Reasons for Staff Recommendation: Decline original submission point

Further Submission No: 20 - 26 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Fonterra Ltd

Summary: For the reasons outlined in Horticulture New Zealand and Fonterra's submissions it is appropriate that new provisions be introduced relating to reverse sensitivity. Further discussion is required regarding the most appropriate provisions to manage reverse sensitivity

Decision Sought: Accept in part

Reasons for Staff Recommendation: Decline original submission point

Further Submission No: 30 - 58 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Swap Stockfoods Ltd

Summary: Support the provision of policies to manage reverse sensitivity. Swap Stockfoods would like the opportunity to be involved in the discussions regarding the proposed wording of the policies.

Decision Sought: Accept

Reasons for Staff Recommendation: Decline original submission point

Submission Point No: 7 **Submission Type:** Support in Part **Recommendation:** Reject

Chapter: General

Section: General - Introduction

Submission Summary: The introduction distinguishes between ambient and local air quality. This distinction is supported, but the term local should be 'localised'.

Decision Sought: Amend Introduction Para 2 by replacing 'local' with 'localised' as follows:
The air quality as a result of specific [delete - local] [insert - localised] discharge to air such as dust or smoke

Reasons for Staff Recommendation: As the intended meaning is the same staff recommend retaining the shorter, more commonly used term 'local'

Submission Point No: 8 **Submission Type:** Support in Part **Recommendation:** Reject

Chapter: Objectives

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 58 - Horticulture New Zealand

Section: AQ 01

Submission Summary: 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 Objective 1 of the RPS as it does not provide a framework for adverse effects to be remedied or mitigated.

Decision Sought: 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.

Reasons for Staff Recommendation: Use of the term 'protect' does not mean activities will be prohibited and is consistent with wording in relevant national air quality documents.

Further Submission No: 8 - 12 **Submission Type:** Support in Part **Recommendation:** Reject

Further Submitter: Mercury NZ Ltd

Summary: Mercury supports deletion of the word 'protect'. However, the the phrase "are not adversely affected" could be interpreted to mean that any adverse effect needs to be managed. Contaminants with a linear effect on human health can have a small effect and be well within health guidelines, which would not require management from the emitter.

Decision Sought: Allow in part

Reasons for Staff Recommendation: Use of the term 'protect' does not mean activities will be prohibited and is consistent with wording in relevant national air quality documents.

Submission Point No: 9 **Submission Type:** Oppose in Part **Recommendation:** Accept

Chapter: Objectives

Section: AQ 02

Submission Summary: The Ambient Air Quality Guidelines are not standards and should not be given the status of standards in the Plan as they have not been developed through a robust RMA process and the economic benefits and cost associated with achieving the values have not been taken into account. 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. 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. 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.

Decision Sought: Amend Objective 2:
The region's ambient air quality meets the National Environmental Standards for Air Quality 2004 [delete - and the Ambient Air Quality Guidelines 2002.]

Reasons for Staff Recommendation: Remove reference to AAQGs as they are only guidelines, not developed under RMA process (taking into account costs and benefits) and not appropriate to set thresholds which must be met.
Add text to allow for amendments or replacements to ensure that if NESAQ is amended, the objective will still apply

Further Submission No: 18 - 9 **Submission Type:** Support **Recommendation:** Accept

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Staff Recommendations on Submissions (By Submitter)

Submitter: 58 - Horticulture New Zealand

Further Submitter: Federated Farmers of New Zealand
Summary: For reasons provided in HortNZ's submission.
Decision Sought: Accept submission point
Reasons for Staff Recommendation: Remove reference to AAQGs as they are only guidelines, not developed under RMA process (taking into account costs and benefits) and not appropriate to set thresholds which must be met.
 Add text to allow for amendments or replacements to ensure that if NESAQ is amended, the objective will still apply

Submission Point No: 11 **Submission Type:** Neutral **Recommendation:** Reject
Chapter: Definitions
Section: Definitions - Localised air quality
Submission Summary: "Localised air quality"
 The introduction and objectives distinguish 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.'
Decision Sought: 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
Reasons for Staff Recommendation: The term is not used in any objective, policy or rule therefore it is unnecessary to provide a definition

Further Submission No: 11 - 10 **Submission Type:** Oppose **Recommendation:** Accept
Further Submitter: Oji Fibre Solution
Summary: Oji FS considers the proposed definition confusing and the proposal to, via definition, classify air as either "ambient air" or "localised air quality" unnecessarily complicated
Decision Sought: Reject submission
Reasons for Staff Recommendation: the term is not used in any objective, policy or rule therefore it is unnecessary to provide a definition

Further Submission No: 20 - 38 **Submission Type:** Support in Part **Recommendation:** Reject
Further Submitter: Fonterra Ltd
Summary: For the reasons outlined in Horticulture New Zealand's submission. Further discussion is required regarding the appropriate definition
Decision Sought: Accept in part
Reasons for Staff Recommendation: the term is not used in any objective, policy or rule therefore it is unnecessary to provide a definition

Submission Point No: 12 **Submission Type:** Neutral **Recommendation:** Accept in Part
Chapter: Objectives
Section: New objective
Submission Summary: 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.
Decision Sought: Enable discharges of contaminants to air where the potential for adverse effects can be managed through the application of best practice.
Reasons for Staff Recommendation: Staff disagree that there is no provision for air discharges. The plan change provides for appropriately managed air discharges from industry, infrastructure and rural activities

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Staff Recommendations on Submissions (By Submitter)

Submitter: 58 - Horticulture New Zealand

through the proposed policies and rules.
 The inclusion of an objective to enable discharges to air would elevate this requirement too high in the hierarchy of aims set out in the purpose of the RNRP. It may also create an internal tension within the plan change where for example the goal of providing for a discharge is at odds with meeting the NESAQ.
 Recommend a wording change to AQ P1 to better reflect that the policy provides for appropriately managed discharges to air.

Further Submission No: 8 - 8 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Mercury NZ Ltd

Summary: Mercury supports the use of best practice, and policy enablers for Infrastructure (including geothermal electricity generation and development). Consideration of what activities are strategically important to the region needs to be guided by the RPS, and national policy statements, which need to be given effect to. If there is going to be a prescriptive list of activities, geothermal electricity generation needs to be included.

Decision Sought: Allow

Reasons for Staff Recommendation: Staff disagree that there is no provision for air discharges. The plan change provides for appropriately managed air discharges from industry, infrastructure and rural activities through the proposed policies and rules.
 The inclusion of an objective to enable discharges to air would elevate this requirement too high in the hierarchy of aims set out in the purpose of the RNRP. It may also create an internal tension within the plan change where for example the goal of providing for a discharge is at odds with meeting the NESAQ.
 Recommend a wording change to AQ P1 to better reflect that the policy provides for appropriately managed discharges to air.

Further Submission No: 18 - 8 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Federated Farmers of New Zealand

Summary: An enabling objective is needed.

Decision Sought: Accept submission point

Reasons for Staff Recommendation: Staff disagree that there is no provision for air discharges. The plan change provides for appropriately managed air discharges from industry, infrastructure and rural activities through the proposed policies and rules.
 The inclusion of an objective to enable discharges to air would elevate this requirement too high in the hierarchy of aims set out in the purpose of the RNRP. It may also create an internal tension within the plan change where for example the goal of providing for a discharge is at odds with meeting the NESAQ.
 Recommend a wording change to AQ P1 to better reflect that the policy provides for appropriately managed discharges to air.

Further Submission No: 20 - 9 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Fonterra Ltd

Summary: For the reasons outlined in the Oji Fibre Solutions submission, and also the Fonterra submission. Further discussion regarding the wording of any new objective is required

Decision Sought: Accept

Reasons for Staff Recommendation: Staff disagree that there is no provision for air discharges. The plan change provides for appropriately managed air discharges from industry, infrastructure and rural activities through the proposed policies and rules.
 The inclusion of an objective to enable discharges to air would elevate this requirement too high in the hierarchy of aims set out in the purpose of the RNRP. It may also create an internal tension within the plan change where for example the goal of providing for a discharge is at odds with meeting the NESAQ.
 Recommend a wording change to AQ P1 to better reflect that the policy provides for appropriately managed discharges to air.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 58 - Horticulture New Zealand

Further Submission No: 21 - 6 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Port of Tauranga

Summary: The submissions identified all recognise that PC13, as notified, does not provide for any enabling provisions. PoT support the inclusion of such an enabling provision.

Decision Sought: Accept

Reasons for Staff Recommendation: Staff disagree that there is no provision for air discharges. The plan change provides for appropriately managed air discharges from industry, infrastructure and rural activities through the proposed policies and rules.
The inclusion of an objective to enable discharges to air would elevate this requirement too high in the hierarchy of aims set out in the purpose of the RNRP. It may also create an internal tension within the plan change where for example the goal of providing for a discharge is at odds with meeting the NESAQ.
Recommend a wording change to AQ P1 to better reflect that the policy provides for appropriately managed discharges to air.

Further Submission No: 23 - 66 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter support the inclusion of an enabling objective as recommended by submission 58 - 12. The current plan does not provide such an objective, and therefore should be included as part of proposed plan change 13.

Decision Sought: Decision sought: Adopt new objective as recommended by submission 58 – 12.

Reasons for Staff Recommendation: Staff disagree that there is no provision for air discharges. The plan change provides for appropriately managed air discharges from industry, infrastructure and rural activities through the proposed policies and rules.
The inclusion of an objective to enable discharges to air would elevate this requirement too high in the hierarchy of aims set out in the purpose of the RNRP. It may also create an internal tension within the plan change where for example the goal of providing for a discharge is at odds with meeting the NESAQ.
Recommend a wording change to AQ P1 to better reflect that the policy provides for appropriately managed discharges to air.

Further Submission No: 30 - 4 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Swap Stockfoods Ltd

Summary: Agree that an objective should be provided which enables discharges of contaminants to air where the potential for adverse effects can be managed through the application of best practice.

Decision Sought: Accept

Reasons for Staff Recommendation: Staff disagree that there is no provision for air discharges. The plan change provides for appropriately managed air discharges from industry, infrastructure and rural activities through the proposed policies and rules.
The inclusion of an objective to enable discharges to air would elevate this requirement too high in the hierarchy of aims set out in the purpose of the RNRP. It may also create an internal tension within the plan change where for example the goal of providing for a discharge is at odds with meeting the NESAQ.
Recommend a wording change to AQ P1 to better reflect that the policy provides for appropriately managed discharges to air.

Submission Point No: 13 **Submission Type:** Support in Part **Recommendation:** Accept

Chapter: Policies

Section: AQ P1

Submission Summary: 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

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Staff Recommendations on Submissions (By Submitter)

Submitter: 58 - Horticulture New Zealand

Decision Sought: Amend Policy AQP1 (b) by adding 'restricted discretionary activities'

Reasons for Staff Recommendation: Staff recommend a minor change to clause (b) to include restricted discretionary activities, if restricted discretionary activities are included in the plan change.

Further Submission No: 8 - 22 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Mercury NZ Ltd

Summary: Mercury supports a rule framework which provides for some discharges as a Restricted Discretionary activity, where effects can be appropriately managed.

Decision Sought: Allow

Reasons for Staff Recommendation: Staff recommend a minor change to clause (b) to include restricted discretionary activities, if restricted discretionary activities are included in the plan change.

Submission Point No: 14 **Submission Type:** Oppose in Part **Recommendation:** Reject

Chapter: Policies

Section: AQ P2

Submission Summary: 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. 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.

Decision Sought: 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 that HSNO controls for specific substances are met.

Reasons for Staff Recommendation: The Regional Council's ability to control land use in order to prevent or mitigate adverse effects from the use, transport, storage or disposal of hazardous substances, was removed from its RMA s30 functions in April 2017 therefore the need to comply with HSNO controls in the plan is not necessary. The use of the term 'avoid' does not operate as a prohibition, however staff recommend wording changes to clarify that avoidance is preferable, but not the bottom line

Further Submission No: 8 - 26 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Mercury NZ Ltd

Summary: Hazardous substance regulation is managed through alternative regulatory mechanisms, such as the Health and Safety Act. The wording proposed by Horticulture NZ is an improvement on the notified version. Does this policy need to be targeted to specific land uses which land contamination from such air discharges is relevant?

Decision Sought: Disallow

Reasons for Staff Recommendation: The Regional Council's ability to control land use in order to prevent or mitigate adverse effects from the use, transport, storage or disposal of hazardous substances, was removed from its RMA s30 functions in April 2017 therefore the need to comply with HSNO controls in the plan is not necessary.

Submission Point No: 15 **Submission Type:** Support in Part **Recommendation:** To Be Advised

Chapter: Policies

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Staff Recommendations on Submissions (By Submitter)

Submitter: 58 - Horticulture New Zealand

Section: AQ P3(b)

Submission Summary: 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.
(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, especially given that it applies to all air quality and not just ambient air quality.

Decision Sought: Amend (b) as follows:
(b)...[delete - or exceed the health based values of the AAQG's.]

Reasons for Staff Recommendation: Staff agree that the AAQGs are only guidelines, and their inclusion in a policy intended to set a clear direction to achieve specific environmental outcomes is not appropriate. Staff recommend that the AAQGs are removed from this policy

Further Submission No: 8 - 42 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Mercury NZ Ltd

Summary: Mercury supports the intent of the submission, but considers the air quality guidelines are a relevant tool to be considered

Decision Sought: Disallow

Reasons for Staff Recommendation: Staff agree that the AAQGs are only guidelines, and their inclusion in a policy intended to set a clear direction to achieve specific environmental outcomes is not appropriate. Staff recommend that the AAQGs are removed from this policy

Submission Point No: 16 **Submission Type:** Support in Part **Recommendation:** Accept

Chapter: Policies

Section: AQ P4(c)

Submission Summary: Policy AQ P4 sets out matters to consider and have regard to when undertaking discharges to air.
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

Decision Sought: Amend Policy AQP4 by
Amend b) by deleting 'or exceed the health based values of the AAQG's.'
Deleting clause c)
Retain clause a) and d)
Distinguish the matters in Policy AQ P4 which apply to consented discharges to air as opposed to permitted activities.

Reasons for Staff Recommendation: Iwi and hapu resource management plans have been considered as part of the plan change development (according to the requirements of the RPS) and when drafting permitted activities. As this clause applies to both permitted activities and resource consent application processes, staff recommend that this clause is only applied to resource consent applications.

Further Submission No: 8 - 66 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Mercury NZ Ltd

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Staff Recommendations on Submissions (By Submitter)

Submitter: 58 - Horticulture New Zealand

Summary: Mercury seeks clarification that by deleting the reference to AAQG's, how this would improve the implementation and interpretation of the policy. Mercury acknowledges that the guidelines are not statutory standards.

Decision Sought: Disallow

Reasons for Staff Recommendation: Iwi and hapu resource management plans have been considered as part of the plan change development (according to the requirements of the RPS) and when drafting permitted activities. As this clause applies to both permitted activities and resource consent application processes, staff recommend that this clause is only applied to resource consent applications.

Submission Point No: 17 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Chapter: Policies

Section: AQ P5

Submission Summary: 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. 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.

Decision Sought: 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:
 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.

Reasons for Staff Recommendation: Some changes made to the policy to resolve other submission points however overall policy intent has not changed and the policy has been reworded in line with the submitter's request

Submission Point No: 18 **Submission Type:** Support in Part **Recommendation:** Reject

Chapter: Definitions

Section: Definitions - Urban property

Submission Summary: 'Urban property'
 The policy for open burning is dependent on the definition of urban property – which is any property 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.

Decision Sought: Amend the definition of urban properties to:
 Property zoned residential in district plans.

Reasons for Staff Recommendation: Using district plan definitions require reference to each district plan every time an assessment is carried out under this rule and this is not recommended

Further Submission No: 18 - 33 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Federated Farmers of New Zealand

Summary: For reasons provided in the submissions.

Decision Sought: Accept submission point

Reasons for Staff Recommendation: Using district plan definitions require reference to each district plan every time an assessment is carried out under this rule and this is not recommended

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Staff Recommendations on Submissions (By Submitter)

Submitter: 58 - Horticulture New Zealand

Submission Point No: 20 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Definitions

Section: Definitions - Buildings

Submission Summary: "Buildings"
HortNZ supports the policy framework for solid fuel burners but notes that it uses the term 'buildings' which is not defined. It should be clear how the term will be applied.

Decision Sought: Clarify the use of 'buildings'

Reasons for Staff Recommendation: Staff note that 'building' is not defined in the RMA or in the Natural Resources Plan but the meaning of the term is generally understood. Staff have considered the definition of the term in the Building Act 2004 and note that it is defined extremely broadly and would not be suitable for the current purposes. Staff do not consider that there is such uncertainty with this term that would warrant its own definition specifically (and solely) for the purposes of the air quality section of the NRP

Submission Point No: 21 **Submission Type:** Support in Part **Recommendation:** Reject

Chapter: Policies

Section: AQ P8

Submission Summary: 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.

Decision Sought: Amend Policy AQP8 as follows:
Agrichemical sprayers will manage adverse effects on human health and the environment by:
a) [delete - avoiding] [insert - minimising the potential for] spraydrift beyond the boundary of the subject property and into water
[delete - 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
[insert - d) ensuring that best practice is used in all agrichemical applications]

Reasons for Staff Recommendation: Best practice for agrichemical applications is a part of hazardous substance use and should be carried out by all users automatically. The plan change is only concerned with discharges of contaminants to air and the policies and rules are designed with this purpose, not for the general use of agrichemicals.

Submission Point No: 22 **Submission Type:** Support **Recommendation:** Accept

Chapter: Policies

Section: AQ P9

Submission Summary: It is important that fumigation is able to be undertaken as it is necessary to protect NZ and enable export of products

Decision Sought: Retain Policy AQP9

Reasons for Staff Recommendation: Retain policy as notified

Submission Point No: 24 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R1

Submission Summary: 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.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 58 - Horticulture New Zealand

Decision Sought: Retain AQR1 but provide clarification in the Plan as to how 'offensive and objectionable' will be assessed.

Reasons for Staff Recommendation: Staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule.
The definition of offensive and objectionable is addressed in the definitions section

Further Submission No: 30 - 31 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Swap Stockfoods Ltd

Summary: Support is provided as the submission is consistent with the intent of Swap Stockfoods original submission. Clarification should be provided as to how 'offensive and objectionable' will be assessed.

Decision Sought: Accept

Reasons for Staff Recommendation: Staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule.
The definition of offensive and objectionable is addressed in the definitions section

Submission Point No: 25 **Submission Type:** Support in Part **Recommendation:** Reject

Chapter: Rules

Section: AQ R2

Submission Summary: HortNZ seeks that there be provision for restricted discretionary activities so seek that AQR2 be amended to include reference to RDA's.

Decision Sought: Amend AQR2 by adding
"and is not otherwise a controlled, [insert - restricted discretionary] or non-complying activity"

Reasons for Staff Recommendation: Minor change made to make wording of rule clearer that does not affect the overall intention of the rule, but the decision sought by this submitter is no longer required.

Submission Point No: 26 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R3(3)

Submission Summary: 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. This means that the definition of fertiliser does not include all components of fertiliser and so does not provide for their discharge.

Decision Sought: Retain AQ R3, subject to change to definition of "fertiliser" - see submission point 58-27

Reasons for Staff Recommendation: The primary adverse effect of discharging fertiliser is to water and land. The rules in the RNRP were developed alongside the existing definition. If this definition were to be altered, this could have unintended consequences for the provisions that manage discharges to water and land, particularly in catchments of concern. Therefore staff do not recommend that the definition of 'fertiliser' is amended. Any substances that are not included in the current definition in the RNRP can be assessed using AQ R1

Submission Point No: 27 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Definitions

Section: Definitions - Fertiliser

Submission Summary: "Fertiliser"
HortNZ supports the use and application of fertiliser as a permitted activity, subject to

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Staff Recommendations on Submissions (By Submitter)

Submitter: 58 - Horticulture New Zealand

conditions but note that the definition of 'fertiliser' in the Regional Natural Resources Plan will apply. This means that the definition of fertiliser does not include all components of fertiliser and so does not provide for their discharge. 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. 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:

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

(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.

Reasons for Staff Recommendation:

Retain the definition as proposed as the primary adverse effect of discharging fertiliser is to water and land. The rules in the RNRP were developed alongside the existing definition. If this definition were to be altered, this could have unintended consequences for the provisions that manage discharges to water and land, particularly in catchments of concern

Submission Point No:	28	Submission Type:	Support in Part	Recommendation:	Reject
Chapter:	Rules				
Section:	AQ R6				
Submission Summary:	The provision relating to the activity being noxious or dangerous, offensive or objectionable should focus on the adverse effects of the activity.				
Decision Sought:	Amend AQ R6 c) The discharge [delete - must not be] [insert - does not cause] noxious or dangerous, offensive or objectionable [insert - adverse effects] beyond the boundary of the subject property				
Reasons for Staff Recommendation:	No amendment required				

Submission Point No:	29	Submission Type:	Support in Part	Recommendation:	Accept
Chapter:	Rules				
Section:	AQ R7				

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Staff Recommendations on Submissions (By Submitter)

Submitter: 58 - Horticulture New Zealand

Submission Summary: 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'. 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.

Decision Sought: Amend Rule AQR7 condition c)
The BOP Regional Council must be notified a minimum of one hour before burning begins [insert - if the conditions in Rule AQR 6 will not be met.]

Reasons for Staff Recommendation: Staff agree and recommend a change to the wording so that it applies to "infected" and "diseased" vegetation

Submission Point No: 30 **Submission Type:** Support in Part **Recommendation:** Reject

Chapter: Rules

Section: AQ R10

Submission Summary: 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.

Decision Sought: Retain Rule AQR10 subject to the inclusion of a method to develop and promote recycling schemes to reduce the need for open burning - see submission point 58-37.

Reasons for Staff Recommendation: There are no non-regulatory methods proposed in the plan change and the addition of one in response to this submission point is not recommended. The Regional Council's role in managing waste is outlined in its Waste and Resource Efficiency Strategy.

Submission Point No: 31 **Submission Type:** Support in Part **Recommendation:** Reject

Chapter: Rules

Section: AQ R18

Submission Summary: 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 However the general provision relating to the activity being noxious or dangerous, offensive or objectionable should focus on the adverse effects of the activity

Decision Sought: Amend AQ R18 1) e)
The discharge [delete - must not be] [insert - does not cause] noxious or dangerous, offensive or objectionable [insert - adverse effects] beyond the boundary of the subject property or into any waterbody.

Reasons for Staff Recommendation: Current wording is considered sufficient to manage effects

Submission Point No: 32 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R20

Submission Summary: HortNZ supports providing for quarantine application or pre-shipment application use of fumigants as this is essential for export trade and biosecurity

Decision Sought: Retain AQ R20.

Reasons for Staff Recommendation: Retain rule as notified

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Staff Recommendations on Submissions (By Submitter)

Submitter: 58 - Horticulture New Zealand

Further Submission No: 28 - 26 **Submission Type:** Support in Part **Recommendation:** Reject

Further Submitter: Stakeholders in Methyl Bromide Reduction Inc (STIMBR)

Summary: The environmental Protection Authority (then ERMA) completed a reassessment of methyl bromide (MB) in 2010. The EPA determined that recapture technologies are to be used in conjunction with all methyl bromide fumigations from October 2020 onward. Since that time it has become apparent that the aspiration of applying recapture technologies to all fumigations is not possible by 2020. Consequently the EPA determined that there are grounds for a reassessment of methyl bromide. Log exports are a significant export earner for the New Zealand economy bringing in \$2.7b in the year ending June 2017. Importing countries such as China and India require the use of phytosanitary treatments including fumigation with methyl bromide. New Zealand's forestry industry contributes significantly to regional economies and rural communities.

Decision Sought: Accept with modification - AQ R20 (c) Using methyl bromide without recapture, is a controlled, non-notified activity.

Reasons for Staff Recommendation: Staff understand the reasoning behind this request for a controlled non-notified activity where methyl bromide is recaptured, is on the basis that submitters consider that the discharge will be minimal. However, the effectiveness of recapture technology is not sufficiently understood to justify a controlled, non-notified activity. It is staff's understanding that the current consent holder is still testing a range of technologies to recapture methyl bromide. The Regional Council has received no documentation or information of any kind detailing the results of this testing, including the efficiency or effectiveness of these recapture technologies. Without this information, staff cannot determine whether this technology provides sufficient mitigation for a controlled, non-notified activity

Further Submission No: 29 - 25 **Submission Type:** Support in Part **Recommendation:** Reject

Further Submitter: Genera Ltd

Summary: EPA completed a reassessment of methyl bromide (MB) in 2010. An aspirational MB recapture target of 100% was set. Since that time it has become apparent that 100% recapture of MB is not possible by 2020. Based on learnings gained since 2010, the EPA has recently determined that there are grounds for a reassessment of methyl bromide. Methyl bromide is also used for treating imported cargo and is the main fumigant used to protect New Zealand's border from pest incursions as mandated under the Biosecurity Act 1993. Without MB as a biosecurity tool, MPIs ability to protect local industry from pests (eg. Brown Marmorated Stick Bug) will be put at significant risk.

Decision Sought: Accept with modification - AQ R20(c) Using methyl bromide without recapture, is a controlled, non-notified activity.

Reasons for Staff Recommendation: Staff understand the reasoning behind this request for a controlled non-notified activity where methyl bromide is recaptured, is on the basis that submitters consider that the discharge will be minimal. However, the effectiveness of recapture technology is not sufficiently understood to justify a controlled, non-notified activity. It is staff's understanding that the current consent holder is still testing a range of technologies to recapture methyl bromide. The Regional Council has received no documentation or information of any kind detailing the results of this testing, including the efficiency or effectiveness of these recapture technologies. Without this information, staff cannot determine whether this technology provides sufficient mitigation for a controlled, non-notified activity

Submission Point No: 33 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Chapter: Definitions

Section: Definitions - Hand-held non-motorised application

Submission Summary: "Hand held non-motorised application"
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

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Staff Recommendations on Submissions (By Submitter)

Submitter: 58 - Horticulture New Zealand

clear.

Decision Sought: Amend 'applicator' in the definition hand held non-motorised application to 'dispensing device'

Reasons for Staff Recommendation: Staff have amended the term "applicator" where it refers to 'person carrying out the spraying' and have not amended the term in this definition

Submission Point No: 34 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Chapter: Definitions

Section: Definitions - Hand-held motorised application

Submission Summary: "Hand held motorised application"
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.

Decision Sought: Amend 'applicator' in the definition hand held non-motorised application to 'dispensing device'

Reasons for Staff Recommendation: Staff have amended the term "applicator" where it refers to 'person carrying out the spraying' and have not amended the term in this definition

Submission Point No: 35 **Submission Type:** Support in Part **Recommendation:** Accept

Chapter: Definitions

Section: Definitions - Intensive farming

Submission Summary: "Intensive farming"
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.

Decision Sought: Amend the definition of intensive farming:
Means agricultural production [insert - undertaken indoors on a permanent basis]

Reasons for Staff Recommendation: Amend the definition to ensure submitters' concerns are relieved and the rule targets the correct activity.

Submission Point No: 36 **Submission Type:** Support in Part **Recommendation:** Accept

Chapter: Definitions

Section: Definitions - Intensive farming

Submission Summary: "Intensive farming"
The exclusion of greenhouses is supported

Decision Sought: Retain exclusion for greenhouses.

Reasons for Staff Recommendation: Retain exclusion of greenhouses

Submission Point No: 37 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Methods

Section: New method

Submission Summary: 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

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Submitter: 58 - Horticulture New Zealand

Decision Sought: 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

Reasons for Staff Recommendation: Methods are no longer encouraged for regional plans. The reason for this is that to be included in a regional plan, a method needs to be established as most effective and efficient way to achieve the objectives. There is no consideration of costs, resources required or its priority against all other regional council projects. This process is carried out in the Long Term Plans and Annual Plan processes.
The Regional Council's role in managing waste is outlined in the Waste and Resource Efficiency Strategy. Collaboration with other key agencies and stakeholders already occurs and so it would be unnecessary to include the type of methods being proposed

Submission Point No: 38 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Reverse sensitivity

Section: Reverse Sensitivity

Submission Summary: 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. The proposed plan does not 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. 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.

Decision Sought: 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, chemical emissions or particulates from locating near sensitive activities

Reasons for Staff Recommendation: Do not include provisions to manage reverse sensitivity in the plan change

Further Submission No: 4 - 15 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Whakatane Mill Ltd

Summary: Whakatane Mill agree that additional provisions to manage reverse sensitivity should be included in PC13.

Decision Sought: Accept submission to insert new method regarding reverse sensitivity

Reasons for Staff Recommendation: Decline original submission point

Further Submission No: 11 - 31 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Oji Fibre Solution

Summary: Oji FS agrees that additional provisions to manage reverse sensitivity should be included in PC13

Decision Sought: Accept submission

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Staff Recommendations on Submissions (By Submitter)

Submitter: 58 - Horticulture New Zealand

Reasons for Staff Recommendation: Do not include provisions to manage reverse sensitivity in the plan change

Further Submission No: 20 - 39 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Fonterra Ltd

Summary: For the reasons outlined in Horticulture New Zealand's submission. Further discussion is required regarding the most appropriate methods for recognising reverse sensitivity

Decision Sought: Accept

Reasons for Staff Recommendation: Do not include provisions to manage reverse sensitivity in the plan change

Further Submission No: 30 - 59 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Swap Stockfoods Ltd

Summary: Support the provision of a method to manage reverse sensitivity. Swap Stockfoods would like the opportunity to be involved in the discussions regarding the proposed wording of the method.

Decision Sought: Accept

Reasons for Staff Recommendation: Do not include provisions to manage reverse sensitivity in the plan change

Submission Point No: 39 **Submission Type:** Support **Recommendation:** Accept

Chapter: Consequential Changes

Section: Consequential Changes - Management of Air Resources under the Act

Submission Summary: HortNZ supports the wording to be included in the RNRP regarding management of air resources.

Decision Sought: Retain proposed wording.

Reasons for Staff Recommendation: Retain proposed wording

Submission Point No: 40 **Submission Type:** Support **Recommendation:** Accept

Chapter: Consequential Changes

Section: Consequential Changes - Definition of Agrichemical

Submission Summary: HortNZ supports the definition of agrichemical including the addition of vertebrate pest control products and oral nutritional compounds as exclusions

Decision Sought: Retain definition of agrichemical

Reasons for Staff Recommendation: No change to definition of agrichemicals as proposed

Submission Point No: 41 **Submission Type:** Support in Part **Recommendation:** Accept

Chapter: Rules

Section: AQ R15(4)

Submission Summary: Notification has been an issue of concern to the Council and affected parties. HortNZ is aware that there are a range of perspectives regarding what is 'appropriate' notification and that it presents a challenge. 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,

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Staff Recommendations on Submissions (By Submitter)

Submitter: 58 - Horticulture New Zealand

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

Decision Sought:

(a) The owner/occupier or agent must notify the occupier . . .
(i) by notification, required no earlier than 72 hours and no later than [delete - 24] [insert - 12] hours before the agrichemical spraying. Notification must include the following. . .
(e) Where agrichemicals are sprayed on public amenity areas, the owner/occupier or agent must publicly notify the agrichemical spraying using an appropriate method from at least [delete - 24] [insert - 12] hours prior, up to one week prior to the agrichemical use. Notification must include the following information. . .

Reasons for Staff Recommendation:

Staff recommend changing the minimum 24 hour notification window to 12 hours. As this the current system is working for most, then retaining the 12 hour notification window is the best way forward..
Given this recommendation, staff remind the Hearing Panel, submitters and all others involved with agrichemical spraying that policy AQ P8 clearly states that spray drift should be avoided in the first instance. Even when mitigation measures, in the form of notification, are carried out according to the conditions, any spray drift must still comply with condition (1)(a) of the rule and where this cannot be achieved, staff highly recommend that parties enter into a notification agreement to determine what is the best form, timing and format for notification to occur to allow for sufficient preparation

Further Submission No: 6 - 14 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: New Zealand Agrichemical Education Trust (NZAET)

Summary: The submitter seeks that the notification clauses are amended to no later than 12 hours. This time change is supported as a minimum of 12 hours is supported because 24 hours is impractical and unworkable for those undertaking spraying.

Decision Sought:

Reasons for Staff Recommendation:

Staff recommend changing the minimum 24 hour notification window to 12 hours. As this the current system is working for most, then retaining the 12 hour notification window is the best way forward..
Given this recommendation, staff remind the Hearing Panel, submitters and all others involved with agrichemical spraying that policy AQ P8 clearly states that spray drift should be avoided in the first instance. Even when mitigation measures, in the form of notification, are carried out according to the conditions, any spray drift must still comply with condition (1)(a) of the rule and where this cannot be achieved, staff highly recommend that parties enter into a notification agreement to determine what is the best form, timing and format for notification to occur to allow for sufficient preparation

Further Submission No: 19 - 14 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Agcarm

Summary: The submitter seeks that the notification clauses are amended to no later than 12 hours. This time change is supported as a minimum of 12 hours is supported because 24 hours is impractical and unworkable for those undertaking spraying

Decision Sought: Accept submission point

Reasons for Staff Recommendation:

Staff recommend changing the minimum 24 hour notification window to 12 hours. As this the current system is working for most, then retaining the 12 hour notification window is the best way forward..
Given this recommendation, staff remind the Hearing Panel, submitters and all others involved with agrichemical spraying that policy AQ P8 clearly states that spray drift should be avoided in the first instance. Even when mitigation measures, in the form of notification, are carried out according to the conditions, any spray drift must still comply with condition (1)(a) of the rule and where this cannot be achieved, staff highly recommend that parties enter into a notification agreement to determine what is the

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Staff Recommendations on Submissions (By Submitter)

Submitter: 58 - Horticulture New Zealand

best form, timing and format for notification to occur to allow for sufficient preparation

Submission Point No:	42	Submission Type:	Support in Part	Recommendation:	Reject
Chapter:	Rules				
Section:	AQ R15(1)				
Submission Summary:	<p>There is an absence of requiring best management practices to be used and ensuring adequate competency of users of agrichemicals. 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 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 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.</p>				
Decision Sought:	<p>(1) General use of agrichemicals (a) The discharge must not [delete - be] [insert -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... [insert - 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.]</p> <p>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). [delete - 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.]</p>				
Reasons for Staff Recommendation:	<p>All users of agrichemicals, particularly large-scale and/or commercial use, should already be complying with HSNO and WorkSafe requirements and should have any appropriate qualifications. It is not the Regional Council's responsibility to require or monitor this. The Council's principal concern, in this plan change, is to control spray drift, and the rule is designed for this purpose. It does not rely on training, provided by a third party, to manage spray drift. Staff consider that if the conditions of the rule are met, the effects of spray drift are mitigated. A condition requiring training and qualifications will add no further value and staff do not recommend this addition</p>				

Further Submission No:	6 - 7	Submission Type:	Support	Recommendation:	Reject
Further Submitter:	New Zealand Agrichemical Education Trust (NZAET)				
Summary:	<p>The submitter seeks that NZS8409:2004 Management of Agrichemicals is included as a general condition in AQ R15 (1). This is supported as it sets out best practice for agrichemical use.</p>				
Decision Sought:					
Reasons for Staff Recommendation:	<p>All users of agrichemicals, particularly large-scale and/or commercial use, should already be complying with HSNO and WorkSafe requirements and should have any appropriate qualifications. It is not the Regional Council's responsibility to require or monitor this. The Council's principal concern, in this plan change, is to control spray drift, and the rule is designed for this purpose. It does not rely on training, provided by a third party, to manage spray drift. Staff consider that if the conditions of the rule are met, the effects of spray drift are mitigated. A condition requiring training and qualifications will add no further value and staff do not recommend this addition</p>				

Further Submission No:	19 - 7	Submission Type:	Support	Recommendation:	Reject
Further Submitter:	Agcarm				

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Staff Recommendations on Submissions (By Submitter)

Submitter: 58 - Horticulture New Zealand

Summary: The submitter seeks that NZS8409:2004 Management of Agrichemicals is included as a general condition in AQ R15 (1). This is supported as it sets out best practice for agrichemical use.

Decision Sought: Accept submission point

Reasons for Staff Recommendation: All users of agrichemicals, particularly large-scale and/or commercial use, should already be complying with HSNO and WorkSafe requirements and should have any appropriate qualifications. It is not the Regional Council's responsibility to require or monitor this. The Council's principal concern, in this plan change, is to control spray drift, and the rule is designed for this purpose. It does not rely on training, provided by a third party, to manage spray drift. Staff consider that if the conditions of the rule are met, the effects of spray drift are mitigated. A condition requiring training and qualifications will add no further value and staff do not recommend this addition

Submission Point No: 43 **Submission Type:** Seek **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R15(3)

Submission Summary: 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.

Decision Sought: (3) Signage
 ...(e) Any vehicles associated with agrichemical spraying [insert - in public places] must display prominent signs front and back that clearly state "CAUTION – SPRAYING IN PROGRESS" or similar wording.
 [insert - 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]

Reasons for Staff Recommendation: This clause should be included but that it should only apply to the higher risk application methods of condition 2(c). This provides suitable mitigation for higher risk methods, but allows lower risk application methods to take place without unnecessary signage.

Further Submission No: 6 - 11 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: New Zealand Agrichemical Education Trust (NZAET)

Summary: The submitter seeks that signage on vehicles is limited to where the vehicles are in public places. This is supported so vehicles on private property are not included in the provision. Requiring signage at entrance to private land is supported.

Decision Sought:

Reasons for Staff Recommendation: This clause should be included but that it should only apply to the higher risk application methods of condition 2(c). This provides suitable mitigation for higher risk methods, but allows lower risk application methods to take place without unnecessary signage.

Further Submission No: 19 - 9 **Submission Type:** Support in Part **Recommendation:** Accept

Further Submitter: Agcarm

Summary: The submitter seeks that signage on vehicles is limited to where the vehicles are in

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Staff Recommendations on Submissions (By Submitter)

Submitter: 58 - Horticulture New Zealand

public places. This is supported so vehicles on private property are not included in the provision. Requiring signage at entrance to private land is supported

Decision Sought: Accept submission point in part

Reasons for Staff Recommendation: This clause should be included but that it should only apply to the higher risk application methods of condition 2(c). This provides suitable mitigation for higher risk methods, but allows lower risk application methods to take place without unnecessary signage.

Submission Point No: 44 **Submission Type:** Support in Part **Recommendation:** Reject

Chapter: Rules

Section: AQ R15 - new condition

Submission Summary: 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. 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.

Decision Sought: (2) Method of application of agrichemicals
(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), 5(f), and [insert - 6a), b) or c)] are complied with.

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)

Reasons for Staff Recommendation: All users of agrichemicals, particularly large-scale and/or commercial use, should already be complying with HSNO and WorkSafe requirements and should have any appropriate qualifications. It is not the Regional Council's responsibility to require or monitor this. The Council's principal concern, in this plan change, is to control spray drift, and the rule is designed for this purpose. It does not rely on training, provided by a third party, to manage spray drift. Staff consider that if the conditions of the rule are met, the effects of spray drift are mitigated. A condition requiring training and qualifications will add no further value and staff do not recommend this addition

Further Submission No: 6 - 5 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: New Zealand Agrichemical Education Trust (NZAET)

Summary: The submitter seeks that training requirements are included in Rule 15 for application of agrichemicals. Being adequately trained is important in ensuring that the potential for adverse effects of spraying are appropriately managed

Decision Sought:

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Staff Recommendations on Submissions (By Submitter)

Submitter: 58 - Horticulture New Zealand

Reasons for Staff Recommendation: All users of agrichemicals, particularly large-scale and/or commercial use, should already be complying with HSNO and WorkSafe requirements and should have any appropriate qualifications. It is not the Regional Council's responsibility to require or monitor this. The Council's principal concern, in this plan change, is to control spray drift, and the rule is designed for this purpose. It does not rely on training, provided by a third party, to manage spray drift. Staff consider that if the conditions of the rule are met, the effects of spray drift are mitigated. A condition requiring training and qualifications will add no further value and staff do not recommend this addition

Further Submission No: 18 - 27 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Federated Farmers of New Zealand

Summary: We support requirements for the competency of the applicator of agrichemical for method AQ R15 (2)(c).

Decision Sought: Accept submission point

Reasons for Staff Recommendation: All users of agrichemicals, particularly large-scale and/or commercial use, should already be complying with HSNO and WorkSafe requirements and should have any appropriate qualifications. It is not the Regional Council's responsibility to require or monitor this. The Council's principal concern, in this plan change, is to control spray drift, and the rule is designed for this purpose. It does not rely on training, provided by a third party, to manage spray drift. Staff consider that if the conditions of the rule are met, the effects of spray drift are mitigated. A condition requiring training and qualifications will add no further value and staff do not recommend this addition

Further Submission No: 19 - 3 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Agcarm

Summary: The submitter seeks that training requirements are included in Rule 15 for application of agrichemicals. Being adequately trained is important in ensuring that the potential for adverse effects of spraying are appropriately managed

Decision Sought: Accept submission point

Reasons for Staff Recommendation: All users of agrichemicals, particularly large-scale and/or commercial use, should already be complying with HSNO and WorkSafe requirements and should have any appropriate qualifications. It is not the Regional Council's responsibility to require or monitor this. The Council's principal concern, in this plan change, is to control spray drift, and the rule is designed for this purpose. It does not rely on training, provided by a third party, to manage spray drift. Staff consider that if the conditions of the rule are met, the effects of spray drift are mitigated. A condition requiring training and qualifications will add no further value and staff do not recommend this addition

Submission Point No: 45 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R15 - new condition

Submission Summary: 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: 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

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 58 - Horticulture New Zealand

- 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

Reasons for Staff Recommendation:

An alternative pathway for consents for agrichemical spray is appropriate and suggest a controlled activity AQ R25. This allows the Regional Council to consider effects through a consent process and for tailored consent conditions, but also gives certainty to the applicant. Staff have amended the matters of discretion provided by the submitter to matters of control. The matters of control have also been amended to control only those matters within the Council's role, and to be consistent with the rule AQ R15

Further Submission No: 19 - 4 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Agcarm

Summary: The submitter seeks that a Restricted Discretionary Rule is included where the permitted activity standards in Rule15 cannot be met. There are clear matters of discretion that the Council could use for such a rule rather than having a full discretionary activity apply.

Decision Sought: Accept submission point

Reasons for Staff Recommendation:

An alternative pathway for consents for agrichemical spray is appropriate and suggest a controlled activity AQ R25. This allows the Regional Council to consider effects through a consent process and for tailored consent conditions, but also gives certainty to the applicant. Staff have amended the matters of discretion provided by the submitter to matters of control. The matters of control have also been amended to control only those matters within the Council's role, and to be consistent with the rule AQ R15

Submission Point No: 46 **Submission Type:** Support in Part **Recommendation:** Accept

Chapter: Policies

Section: AQ P3(d)

Submission Summary: 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 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.

Decision Sought: Amend (d) as follows:
(d) Avoid [insert - where reasonably possible] the discharge of contaminants that may cause adverse effects on regionally significant infrastructure [insert - and where avoidance is not possible, remedy or mitigate the adverse effects of the discharge]

Reasons for Staff Recommendation:

Use of the term 'avoid' on its own is not appropriate for protecting what is essentially structures, no matter how regionally significant the structure is. It is unlikely that any air discharge will have a short term effect that will cause catastrophic failure of any infrastructure. Therefore allowing for avoidance only where reasonably possible is appropriate.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 58 - Horticulture New Zealand

Further Submission No: 8 - 47 **Submission Type:** Support in Part **Recommendation:** Accept

Further Submitter: Mercury NZ Ltd

Summary: Mercury supports the intent of the submission to protect Regionally Significant Infrastructure, however considers the wording could be improved

Decision Sought: Allow in part

Reasons for Staff Recommendation: Use of the term 'avoid' on its own is not appropriate for protecting what is essentially structures, no matter how regionally significant the structure is. It is unlikely that any air discharge will have a short term effect that will cause catastrophic failure of any infrastructure. Therefore allowing for avoidance only where reasonably possible is appropriate.

Further Submission No: 30 - 13 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Swap Stockfoods Ltd

Summary: Support the intent of the addition to provide a level of effect in terms of the potential effects of discharges on regionally significant infrastructure.

Decision Sought: Accept

Reasons for Staff Recommendation: Use of the term 'avoid' on its own is not appropriate for protecting what is essentially structures, no matter how regionally significant the structure is. It is unlikely that any air discharge will have a short term effect that will cause catastrophic failure of any infrastructure. Therefore allowing for avoidance only where reasonably possible is appropriate.

Submission Point No: 47 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Chapter: Policies

Section: AQ P3(e)

Submission Summary: 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 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.

Decision Sought: Amend (e) as follows:
(e)... Minimise the discharge of contaminants into areas beyond the boundary of the subject property [delete - where it may cause adverse effects on human health, cultural values, amenity values, or the environment] [insert - to avoid remedy or mitigate adverse effects.]

Reasons for Staff Recommendation: There is an internal inconsistency between clauses (a) to (d) which require the management of the adverse effects of discharges regardless of where the effects occur and clause (e) which introduces the property boundary as a line beyond where assessment of adverse effects begins. It implies that Council will use the property boundary to assess adverse effects in every case, in conflict with clause (a) where adverse effects are assessed regardless of location. Decision makers may then find it difficult to determine which of the requirements apply. To resolve this conflict, staff recommend that the clause is deleted in its entirety.

Submitter: 59 - Allan Neil

Submission Point No: 1 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Section: AQ R14

Submission Summary: The fire place that we have in our dwelling house must be replaced or removed by us,

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Staff Recommendations on Submissions (By Submitter)

Submitter: 59 - Allan Neil

before registered transfer of ownership of the dwelling house in which the non-complying solid fuel burner is located takes place. How can we as ratepayers make decisions affecting our future, when the controlling body can make a decision giving 1 year 10 months' notice of a major change to our lives. The information in support of the Plan Change Section 32 Evaluation Report 7.5 Topic 2 justifying the change is out-of-date. To make such a change council needs to use factual data collected since the Regional Air Plan 2003 was put in place. We cannot find such justification. Council has not consulted in a reasonable and direct manner. The alternative heating suggestions by the Council do not meet our expectations. Our house is 45 years old and does not allow cost efficient installation of the suggested or other heating equipment.

Decision Sought: That the following wording in Plan Change 13 (Topic 2: Rotorua burners) be removed:
 • Old burners cannot be used from 1 February, 2020

Reasons for Staff Recommendation: The first campaign run by Council to raise public awareness was Winter 2009. Since then a campaign to raise awareness of various aspects of Rotorua air quality has been run every year. These campaigns have included dry wood, draft Bylaw, Hot Swap loans, and the low income free fire swap. In winter 2016 every homeowner in Rotorua was sent a letter explaining the draft rules and the implications. During consultation on the draft plan, a workshop and drop-in evening was held in Rotorua. A full consultation record is included in the Section 32 report. Notification of the plan change followed standard process, however due to the significance of the issue in Rotorua, a series of radio ads were also run within Rotorua. The Rotorua Air Emissions Inventory was carried out in 2005 and has been available to the public for the past 13 years, during public awareness campaigns and during development of the initial Rotorua Air Quality Control Bylaw in 2010 and its replacement in 2017.

Submitter: 60 - New Zealand Home Heating Association

Submission Point No: 1 **Submission Type:** Neutral **Recommendation:** Accept

Chapter: Rules

Section: Rotorua Burner Rules - General

Submission Summary: The NZHHA considers that a Point of Sale (POS) method has limitations at capturing a broad number of non-compliant wood burners and therefore will unlikely make a significant difference to air quality. Compared to other methods of improving air quality, POS is not a method widely supported by other regional councils. In addition, the POS method imposes physical or administrative tasks onto the homeowner in what is already a very stressful experience of selling their home. The NZHHA considers that there are simpler and more effective ways to implement meaningful change to air quality.

Decision Sought: Remove the Point of Sale Rule in favour of simpler and more effective regime of incrementally phasing out older style burners

Reasons for Staff Recommendation: The rules are designed to phase out older style burners.

Further Submission No: 14 - 16 **Submission Type:** Other **Recommendation:** Reject

Further Submitter: EnviroSolve

Summary: POS does not make sense. Phase the older wood burners out and allow new technology in so older wood burners can be use longer with less cost especially old wood burner with wet backs. Secondary emission devices

Decision Sought: Neutral

Reasons for Staff Recommendation: There is not enough certainty that these devices will reduce the particulates discharged from any burner to the extent necessary for the Rotorua Airshed to meet the NESAQ

Submission Point No: 2 **Submission Type:** Neutral **Recommendation:** Accept

Chapter: Rules

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Staff Recommendations on Submissions (By Submitter)

Submitter: 60 - New Zealand Home Heating Association

Section: AQ R14

Submission Summary: The NZHHA considers that the major source of emissions will be from the 4000 older style burners that are still in use in the Rotorua air shed. Without affirmative action on reducing the number of older style burners, it is submitted that the point of sale rule will have comparatively little effect on air quality. We recommend a graduated phasing out of older style burners. For example, older style burners over a certain age could be deemed non-compliant and could be incrementally phased out. When introducing a phasing out scheme two points must be considered:

- 1 The effect on vulnerable persons; hardship could be mitigated by the availability of the current financial assistance packages such as "Hot Swap" and the rates rebate scheme.
- 2 The effect on the local market to keep up with demand. This would require consultation with local suppliers and installers.

The NZHHA welcomes the current financial assistance available to Rotorua residents, and asks that any enforced changes attract the same level of funding.

Decision Sought: NZHHA recommends that low emission burners with less than 1.5g/kg are not subject to any phasing out regime.

Reasons for Staff Recommendation: Rule AQ R12(c)(iii) allows continued use of low emission burners installed after 2005, which are assumed to have an emission rate less than 1.5g/kg.

Further Submission No: 14 - 24 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Envirosolve

Summary: The fact is that we do not have to wait much longer with reducing emission causing health issues and of course a lot of money. Furthermore, you can't promote Green Clean and 100 % image and treat the air so badly. You have to acknowledge that technology is available but you have to use it. Very quick, very efficient and cost effective

Decision Sought: Oppose

Reasons for Staff Recommendation: There is not enough certainty that these devices will reduce the particulates discharged from any burner to the extent necessary for the Rotorua Airshed to meet the NESAQ

Submission Point No: 3 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Rules

Section: AQ R12

Submission Summary: The NZHHA welcomes the permitted installation of pellet burners in cases where no solid fuel burner is present. The NZHHA submits that the same dispensation ought to extend to Ultra Low Emission Burners (ULEBs) as the test results as sufficient to warrant of installation of ULEBs into new homes or homes without existing wood burners.

Decision Sought: Introduction of a rule to permit the instalation of ULEB burners into new homes and homes that do not already have wood burners

Reasons for Staff Recommendation: ULEBs are still largely untested in real-life. Council carried out real-life testing of ten ULEBs during Winter 2017. The results were encouraging, indicating an average discharge of 1.0 g/kg (low emissions woodburners discharge 4.5g/kg in real-life). However, the tests were carried out on only one model of ULEB. Staff are not yet confident that all ULEB models will perform in a similar manner. Environment Canterbury is carrying out real-life tests and staff prefer to wait until these results are available before calculating whether ULEBs can be introduced into the Rotorua Airshed as a permitted activity.

Further Submission No: 14 - 17 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Envirosolve

Summary: Allow ULEBs (and not only pellet burners) for houses with no burners are allowed.

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 60 - New Zealand Home Heating Association

Decision Sought: Support

Reasons for Staff Recommendation: Staff response is that ULEBs are still largely untested in real-life. Council carried out real-life testing of ten ULEBs during Winter 2017. The results were encouraging, indicating an average discharge of 1.0 g/kg (low emissions woodburners discharge 4.5g/kg in real-life). However, the tests were carried out on only one model of ULEB. Staff are not yet confident that all ULEB models will perform in a similar manner. Environment Canterbury is carrying out real-life tests and staff prefer to wait until these results are available before calculating whether ULEBs can be introduced into the Rotorua Airshed as a permitted activity

Submission Point No: 4 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Section: AQ R12

Submission Summary: The NZHHA opposes the emissions rate being set at 0.6g/kg and recommends that the rate be set at 1g/kg. It is submitted that imposing the 0.6g/kg does not have the effect of halving the exceedances of a 1g/kg emissions regime. Moreover, it is the NZHHA's view that imposing a 0.6g/kg standard will, over time, yield higher emissions because appliances between 0.6 and 1g/kg are typically lower powered appliances that yield smaller emissions per hour of use. A small woodburner producing 6.7kw at 0.7g/kg will produce more emissions, over the same time period, as a large scale woodburner producing 16.9kw at 0.5g/kg.14 Therefore, it is submitted there is little to be gained by banning fires between 0.6g/kg - 1.0 g/kg.

Decision Sought: Recommend increasing emission rate from 0.6g/kg to 1.0g/kg of solids burnt:

Reasons for Staff Recommendation: During development of the 2017 Bylaw, staff investigated the power outputs and wetback options of lower emissions appliances to ensure an appropriate range of size and wetback options were available. This shows that 0.6g/kg woodburners are typically entered on the list as higher powered, but that there are a number of suitable options available in all sizes

Submission Point No: 5 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Section: AQ R12

Submission Summary: Restricting appliances to below 0.6g/kg severely impacts the range of appropriately powered appliances to suit the homes that need heating. Many smaller houses are not suited to large powerful wood burners. The NZHHA continually emphasises the importance of selecting the appropriate power to suit the size of the home. The common misconception amongst purchasers is to get a big appliance because they "...can always dampen it down." However, as in many cases, the overpowered wood burner makes the living space uncomfortable and the occupants end up opening windows in order to cool down, thus wasting energy. Moreover, the fire spends most of its operational life dampened down and thus is likely producing more emissions than a smaller fire running on a higher setting. Following on from the small v large scale woodburner example above, the installing of only larger fires will result in higher emissions overall, compared to installing wood burners covering a wide range of small and large powered appliances. Furthermore the 0.6g/kg limit reduces the vast majority of many insert fires. The 0.6 rule eliminates 25 of the 40 fires that are below 0.6g/kg emission rating. The 0.6 limit significantly reduces the number of insert fires available for installations. Insert fires are typically found in older houses and a significant proportion of these will have vulnerable occupiers or. Importantly, other regional councils that have seen significant improvement in air quality such as Canterbury and Nelson have not relied on limitations less than 1g/kg. The NZHHA submits that the focus ought to be on the reduction of polluting appliances as discussed above in Phasing out of Older Style Burners rather than tighter restrictions on low emission burners.

Decision Sought: Ensure sufficient choices available of woodburners at 0.6g/kg.

Reasons for Staff Recommendation: During development of the 2017 Bylaw, staff investigated the power outputs and wetback options of lower emissions appliances to ensure an appropriate range of size and wetback options were available. The table below is a summary of woodburners on the Ministry for the Environment's Authorised Woodburner list, of the size required by the plan change. This shows that 0.6g/kg woodburners are typically entered on the list as higher powered, but that there are a number of suitable options available in all sizes

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 60 - New Zealand Home Heating Association

Further Submission No: 14 - 18 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Envirosolve

Summary: Low Emission burners are need at least double the amount of wood and therefore double amount of the emission. Please have a look in Christchurch where they are running out of dry fire wood now. Does not make sense and putting a bylaw in from 0.7 g/kg to 0.6 g/kg does not make any sense at all

Decision Sought: Support

Reasons for Staff Recommendation: During development of the 2017 Bylaw, staff investigated the power outputs and wetback options of lower emissions appliances to ensure an appropriate range of size and wetback options were available. The table below is a summary of woodburners on the Ministry for the Environment's Authorised Woodburner list , of the size required by the plan change. This shows that 0.6g/kg woodburners are typically entered on the list as higher powered, but that there are a number of suitable options available in all sizes

Submission Point No: 6 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Section: AQ R12

Submission Summary: A major effect on the emissions of a low emission wood burner, regardless of its emission rating, is the fuel placed in the appliance. Wet wood or appliances treated as incinerators by burning rubbish, will dramatically affect the appliance's emissions. The NZHHA recommends that the Rotorua Lakes Council work with the NZHHA in a "good wood" public education programme. Also the Council could run a campaign similar to those run in Canterbury to educate the public on the importance of using the right fuel.

Decision Sought: Further gains are achievable by introducing a monitoring scheme of local wood merchants to ensure that quality and properly seasoned wood is available to residents in the local area.

Reasons for Staff Recommendation: Regulating commercial activities of this nature is outside the scope of the plan change, which is to regulate discharges to air. Firewood merchants may sell wet wood intended for storage and seasoning by the consumer. It is the homeowner's responsibility to ensure they operate their burner appropriately to minimise discharges, and this includes burning seasoned firewood. Rule AQ R12(e) contains a condition that requires this.

Further Submission No: 14 - 19 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Envirosolve

Summary: Totally agree that wood merchants has to be licensed and randomly checked that they sell dry wood

Decision Sought: Support

Reasons for Staff Recommendation: Regulating commercial activities of this nature is outside the scope of the plan change, which is to regulate discharges to air. Firewood merchants may sell wet wood intended for storage and seasoning by the consumer. It is the homeowner's responsibility to ensure they operate their burner appropriately to minimise discharges, and this includes burning seasoned firewood. Rule AQ R12(e) contains a condition that requires this.

Submitter: 61 - Sanra Farms Ltd

Submission Point No: 1 **Submission Type:** Oppose **Recommendation:** Accept

Chapter: Rules

Section: AQ R21(j)

Submission Summary: a) PC13 does not provide recognition of the existing consented and established free range poultry activities. Rule AQ R21(j) requires that all existing and new free range farming

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 61 - Sancra Farms Ltd

activities would require a Discretionary consent. The activity status is Opposed for the following reasons:

- i) Discretionary consent is opposed as it requires additional consenting and compliance costs;
- ii) There are limited assessment criteria in PC13 relating to free range poultry activities which results in the applicant having a limited understanding of how any potential consent will be assessed;
- iii) Established activities have known environmental effects and it is unfair to require resource consent for lawfully established activities to require a Discretionary consent that could potentially be refused; and
- iv) Significant infrastructure and investment has been made at this site, and this activity and commitment now becomes uncertain due to Discretionary status.

Decision Sought:

Decision Sought

- a) Provide for existing free range activities established at time of PC13 notification as Permitted activities; and
- b) Provide for new free range activities established after PC13 notification as Controlled or Restricted Discretionary activities with appropriate assessment criteria.
- c) Provide robust assessment criteria within PC13 for free range activities to ensure that the relevant effects of free range poultry activities will be assessed

Reasons for Staff Recommendation:

Recommend a change to the proposed rule to allow for existing activities where there is no increase in the scale or intensity of the effects of the established activity to give certainty to existing farms.

Submitter: 62 - Craddock Farms Ltd

Submission Point No:

1

Submission Type: Oppose

Recommendation: Accept

Chapter:

Rules

Section:

AQ R21(j)

Submission Summary:

a) PC13 does not provide recognition of the existing consented and established free range poultry activities. Rule AQ R21(j) requires that all existing and new free range farming activities would require a Discretionary consent. The activity status is Opposed for the following reasons:

- i) Discretionary consent is opposed as it requires additional consenting and compliance costs;
- ii) There are limited assessment criteria in PC13 relating to free range poultry activities which results in the applicant having a limited understanding of how any potential consent will be assessed;
- iii) Established activities have known environmental effects and it is unfair to require resource consent for lawfully established activities to require a Discretionary consent that could potentially be refused; and
- iv) Significant infrastructure and investment has been made at this site, and this activity and commitment now becomes uncertain due to Discretionary status.

Decision Sought:

Decision Sought:

- a) Provide for existing free range activities established at time of PC13 notification as Permitted activities; and
- b) Provide for new free range activities established after PC13 notification as Controlled or Restricted Discretionary activities with appropriate assessment criteria.
- c) Provide robust assessment criteria within PC13 for free range activities to ensure that the relevant effects of free range poultry activities will be assessed

Reasons for Staff Recommendation:

Recommend a change to the proposed rule to allow for existing activities where there is no increase in the scale or intensity of the effects of the established activity to give certainty to existing farms.

Submitter: 63 - Silver Fern Farms Management Ltd

Submission Point No:

1

Submission Type: Support in Part

Recommendation: Reject

Chapter:

Policies

Section:

AQ P3(e)

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 63 - Silver Fern Farms Management Ltd

Submission Summary: By their very nature, odours and noise do not physically constrain themselves to property boundaries, and may dissipate at some notional boundary beyond the property boundary. Where it is stated "... the discharge of contaminants into areas beyond the boundary of the subject property ..." somewhat recognises the principal of notional boundaries by recognising effects beyond the boundary of the property. However, for clarity it would be appropriate to recognise notional boundaries.

Decision Sought: Recognise notional boundaries.

Reasons for Staff Recommendation: The policy and rules require that the adverse effects are not noxious or dangerous, or offensive or objectionable, beyond the boundary. Recognising notional boundaries would introduce confusion to assessment of these effects. Except for discharges where the boundary is not relevant, any adverse effects of discharges should be avoided, remedied or mitigated before they reach the boundary

Further Submission No: 10 - 17 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Greg Misson

Summary: There has been a lack of regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. A more straightforward way of addressing the issue would be to make the activity causing these dust problems discretionary. This is on the basis that there is considerable evidence of adverse effects from these activities.

Decision Sought: Reject

Reasons for Staff Recommendation: The policy and rules require that the adverse effects are not noxious or dangerous, or offensive or objectionable, beyond the boundary. Recognising notional boundaries would introduce confusion to assessment of these effects. Except for discharges where the boundary is not relevant, any adverse effects of discharges should be avoided, remedied or mitigated before they reach the boundary

Further Submission No: 15 - 17 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Hangar It

Summary: This amendment will further reduce Councils ability to properly regulate. Most concerning is that the duty of care to provide a safe environment for hangar users will continue to be undermined by a continuation of toxic organic dust crossing the boundary from 101 Aerodrome Road

Decision Sought: Reject submission point

Reasons for Staff Recommendation: The policy and rules require that the adverse effects are not noxious or dangerous, or offensive or objectionable, beyond the boundary. Recognising notional boundaries would introduce confusion to assessment of these effects. Except for discharges where the boundary is not relevant, any adverse effects of discharges should be avoided, remedied or mitigated before they reach the boundary

Further Submission No: 16 - 19 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Solo Wings

Summary: There are a wide range of adverse health effects that can arise from exposure to particulate matter and BOPRC has recognised this in the proposed plan change-13. The requested amendment will further frustrate BOPRC's ability to effectively perform its regulatory role. Tauranga Airport is a public area. General public are subject to breathing contaminated air, as a consequence of 101 Aerodrome road particulate discharges. It would clearly run counter to the public health interest for BOPRC to adopt these amendments

Decision Sought: Reject submission point

Reasons for Staff Recommendation: The policy and rules require that the adverse effects are not noxious or dangerous, or offensive or objectionable, beyond the boundary. Recognising notional boundaries would introduce confusion to assessment of these effects. Except for discharges

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Submitter: 63 - Silver Fern Farms Management Ltd

where the boundary is not relevant, any adverse effects of discharges should be avoided, remedied or mitigated before they reach the boundary

Further Submission No: 17 - 17 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Tony Christiansen

Summary: There has been a lack of effective regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. Concern with the amendments sought by this enterprise will further degrade Councils ability to respond effectively.

Decision Sought: Reject

Reasons for Staff Recommendation: The policy and rules require that the adverse effects are not noxious or dangerous, or offensive or objectionable, beyond the boundary. Recognising notional boundaries would introduce confusion to assessment of these effects. Except for discharges where the boundary is not relevant, any adverse effects of discharges should be avoided, remedied or mitigated before they reach the boundary

Submission Point No: 2 **Submission Type:** Oppose in Part **Recommendation:** Reject

Chapter: Reverse sensitivity

Section: Reverse Sensitivity

Submission Summary: When considering the acceptability of any discharge of contaminants to air, regard needs to be provided to recognise the investment and contribution of existing well-established industries over a period of time, and for which are zoned appropriately for the activities being carried out. Given a number of industrial operations may have been in the same location for a number of years, largely due to the level of investment, it could be argued that the effects of those operations may have set the permitted baseline for that location. Without giving appropriate regard to these matters, undue restrictions may be placed on legally established industrial operations.

Decision Sought: Include in matters for consideration:
- Reverse sensitivity; and,
- The District Plan zone, and relevant outcomes expected for that zone, where the activity is being carried out.

Reasons for Staff Recommendation: Do not include provisions to manage reverse sensitivity in the plan change

Further Submission No: 10 - 18 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Greg Misson

Summary: There has been a lack of regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. A more straightforward way of addressing the issue would be to make the activity causing these dust problems discretionary. This is on the basis that there is considerable evidence of adverse effects from these activities.

Decision Sought: Reject

Reasons for Staff Recommendation: Decline original submission point

Further Submission No: 15 - 18 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Hangar It

Summary: This amendment will further reduce Councils ability to properly regulate. Most concerning is that the duty of care to provide a safe environment for hangar users will continue to be undermined by a continuation of toxic organic dust crossing the boundary from 101 Aerodrome Road

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Staff Recommendations on Submissions (By Submitter)

Submitter: 63 - Silver Fern Farms Management Ltd

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Decline original submission point

Further Submission No: 16 - 20 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Solo Wings

Summary: There are a wide range of adverse health effects that can arise from exposure to particulate matter and BOPRC has recognised this in the proposed plan change-13. The requested amendment will further frustrate BOPRC's ability to effectively perform its regulatory role. Tauranga Airport is a public area. General public are subject to breathing contaminated air, as a consequence of 101 Aerodrome road particulate discharges. It would clearly run counter to the public health interest for BOPRC to adopt these amendments

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Decline original submission point

Further Submission No: 17 - 18 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Tony Christiansen

Summary: There has been a lack of effective regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. Concern with the amendments sought by this enterprise will further degrade Councils ability to respond effectively.

Decision Sought: Reject

Reasons for Staff Recommendation: Decline original submission point

Further Submission No: 30 - 60 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Swap Stockfoods Ltd

Summary: Support the provision of policies to manage reverse sensitivity. Swap Stockfoods would like the opportunity to be involved in the discussions regarding the proposed wording of the policies.

Decision Sought: Accept

Reasons for Staff Recommendation: Decline original submission point

Submission Point No: 3 **Submission Type:** Oppose in Part **Recommendation:** Reject

Chapter: Rules

Section: AQ R1

Submission Summary: By their very nature, odours and noise do not physically constrain themselves to property boundaries, and may dissipate at some notional boundary beyond the property boundary. Making provision to apply the rule at a notional boundary, beyond the boundary of the site, may be the most practical option for monitoring purposes for lawfully established existing activities that may result in odour or noise.

Decision Sought: Make provision for notional boundaries

Reasons for Staff Recommendation: Recognising notional boundaries would introduce confusion to assessment of these effects. Except for discharges where the boundary is not relevant, any adverse effects of discharges should be avoided, remedied or mitigated before they reach the boundary

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Staff Recommendations on Submissions (By Submitter)

Submitter: 63 - Silver Fern Farms Management Ltd

Further Submission No: 10 - 19 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Greg Misson

Summary: Support of proposed AQ R1 as currently drafted. This rule is clear in providing that discharges to air should not cause adverse effects beyond the boundary of the site where any activity is being undertaken. Particularly strong support for Rule AQ R1(c) which provides that any activity on industrial or trade premises that has discharges to air that have adverse effects offsite will require resource consent (i.e. it is no longer a permitted activity). A straightforward application of this rule means that the bulk materials handling facility at 101 Aerodrome Road (which have caused adverse effects at mine and adjacent properties) would no longer be a permitted activity and would require resource consent.

Decision Sought: Reject in part with modification
To assist with enforcement of this rule, carry out monitoring for PM10 in accordance with the Resource Management (National Environmental Standards for Air Quality) Regulations 2004.
Include additional text in the AQ R1 - (d) The discharge does not cause an exceedance of the national environmental standard for PM10

Reasons for Staff Recommendation: Recognising notional boundaries would introduce confusion to assessment of these effects. Except for discharges where the boundary is not relevant, any adverse effects of discharges should be avoided, remedied or mitigated before they reach the boundary

Further Submission No: 15 - 19 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Hangar It

Summary: This amendment will further reduce Councils ability to properly regulate. Most concerning is that the duty of care to provide a safe environment for hangar users will continue to be undermined by a continuation of toxic organic dust crossing the boundary from 101 Aerodrome Road

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Recognising notional boundaries would introduce confusion to assessment of these effects. Except for discharges where the boundary is not relevant, any adverse effects of discharges should be avoided, remedied or mitigated before they reach the boundary

Further Submission No: 16 - 21 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Solo Wings

Summary: In support of proposed AQ R1 as currently drafted. This rule requires discharges to air should NOT cause adverse effects beyond the boundary of the site where any activity is being undertaken. In particular, support of Rule AQ R1(c) which provides that any activity on industrial or trade premises that has discharges to air that have adverse effects offsite, such as 101 Aerodrome Road (which has caused serious adverse effects at mine and other properties), will now require resource consent

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Recognising notional boundaries would introduce confusion to assessment of these effects. Except for discharges where the boundary is not relevant, any adverse effects of discharges should be avoided, remedied or mitigated before they reach the boundary

Further Submission No: 17 - 19 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Tony Christiansen

Summary: Support of proposed AQ R1 as currently drafted. This rule is clear in providing that discharges to air should not cause adverse effects beyond the boundary of the site

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Staff Recommendations on Submissions (By Submitter)

Submitter: 63 - Silver Fern Farms Management Ltd

where any activity is being undertaken.

Support for Rule AQ R1(c) which provides that any activity on industrial or trade premises that has discharges to air that have adverse effects offsite will require resource consent with an amendment to add condition (d) "The discharge does not cause an exceedance of the national environmental standard for PM10." Application of this rule would mean that the bulk materials handling facility at 101 Aerodrome Road would no longer be a permitted activity and would require resource consent. When there are neighbouring properties, such as a public Airport, where people and aircraft with sensitive equipment exist and frequent, the resource consent should be publicly notifiable.

To assist with enforcement of this rule, monitoring should be carried out for PM10 in accordance with the Resource Management (National Environmental Standards for Air Quality) Regulations 2004.

Decision Sought: Reject

Reasons for Staff Recommendation: Recognising notional boundaries would introduce confusion to assessment of these effects. Except for discharges where the boundary is not relevant, any adverse effects of discharges should be avoided, remedied or mitigated before they reach the boundary

Submission Point No: 4 **Submission Type:** Oppose **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R1

Submission Summary: The blanket presumption that all industrial activities default to discretionary is unreasonable. It is more appropriate to apply a default to discretionary when an activity cannot meet all of the standards for a permitted activity, rather than a blanket criteria. The RMA is effects-based, with the provision of cascading controls. Not providing a permitted activity threshold for industry is unreasonable and overly restrictive.

Decision Sought: Include provision for Industrial activities as permitted activities.

Reasons for Staff Recommendation: The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent. However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 1 - 9 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: GBC Winstone

Summary: The deletion or amendment of AQ R1(c) is supported, as the Plan should provide a means of permitting incidental and de minimus discharges from industrial and trade premises, by stating the type and levels of effects as a permitted activity standard.

GBC Winstone has a service centre for bulk storage and handling of cement at Port of Tauranga, Mt Maunganui, operating under an air discharge consent, but contains the cement by means of a baghouse dust removal system. GBC Winstone original submission No. 27 on Plan Change 13 sought permitted activity status for cement storage and handling at Port of Tauranga, subject to meeting permitted activity standards. The permitted activity standards could be specific to bulk storage and handling of cement and associated materials, as detailed in GBC Winstone's original submission and as used in the Auckland Unitary Plan, or more general in relation to adverse effects on human health, property or the environment beyond the boundary of the premises where the activity takes place. Such permitted activity standards would ensure that a baghouse or similar dust removal system is used to ensure the nature and levels of adverse effects are acceptable.

Decision Sought: The permitted activity standards could be specific to bulk storage and handling of

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Submitter: 63 - Silver Fern Farms Management Ltd

cement and associated materials, as detailed in GBC Winstone's original submission and as used in the Auckland Unitary Plan, or more general in relation to adverse effects on human health, property or the environment beyond the boundary of the premises where the activity takes place. Such permitted activity standards would ensure that a baghouse or similar dust removal system is used to ensure the nature and levels of adverse effects are acceptable.

Reasons for Staff Recommendation:

The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent.
However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 8 - 70 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Mercury NZ Ltd

Summary: Mercury seeks clarification how notional boundaries will be represented in a spatial sense. Mercury seeks that air discharges are assessed at the relevant locations, where sensitive receptors are located.

Decision Sought: Disallow

Reasons for Staff Recommendation:

Recognising notional boundaries would introduce confusion to assessment of these effects. Except for discharges where the boundary is not relevant, any adverse effects of discharges should be avoided, remedied or mitigated before they reach the boundary

Further Submission No: 10 - 20 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Greg Misson

Summary: Support of proposed AQ R1 as currently drafted. This rule is clear in providing that discharges to air should not cause adverse effects beyond the boundary of the site where any activity is being undertaken.
Particularly strong support for Rule AQ R1(c) which provides that any activity on industrial or trade premises that has discharges to air that have adverse effects offsite will require resource consent (i.e. it is no longer a permitted activity). A straightforward application of this rule means that the bulk materials handling facility at 101 Aerodrome Road (which have caused adverse effects at mine and adjacent properties) would no longer be a permitted activity and would require resource consent.

Decision Sought:

Reject in part with modification
To assist with enforcement of this rule, carry out monitoring for PM10 in accordance with the Resource Management (National Environmental Standards for Air Quality) Regulations 2004.
Include additional text in the AQ R1 - (d) The discharge does not cause an exceedance of the national environmental standard for PM10

Reasons for Staff Recommendation:

Adverse effects are being caused by discharges from industrial and trade premises across the region, particularly in industrial areas, that do need to be better managed moving forward. When activities are not managed by any other rule in the plan and are causing adverse effects, the burden of proving such effects when enforcing the plan rules falls to the Regional Council. Where there are several sources of a contaminant of concern it can be difficult to determine the main cause, if any. Even when there is one single source causing adverse effects it can still be a difficult process.
The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent.
However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not

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Staff Recommendations on Submissions (By Submitter)

Submitter: 63 - Silver Fern Farms Management Ltd

the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 15 - 20 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Hangar It

Summary: In strong support of proposed AQ R1 as it is currently drafted. AQ R1 requires discharges to air should not cause adverse effects beyond the boundary of a site where any activity is being undertaken. Importantly AQ R1(c) provides that any activity on industrial or trade premises that has discharges to air that have adverse effects offsite, such as 101 Aerodrome Road, will now require resource consent

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Adverse effects are being caused by discharges from industrial and trade premises across the region, particularly in industrial areas, that do need to be better managed moving forward. When activities are not managed by any other rule in the plan and are causing adverse effects, the burden of proving such effects when enforcing the plan rules falls to the Regional Council. Where there are several sources of a contaminant of concern it can be difficult to determine the main cause, if any. Even when there is one single source causing adverse effects it can still be a difficult process. The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent. However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 16 - 22 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Solo Wings

Summary: In support of proposed AQ R1 as currently drafted. This rule requires discharges to air should NOT cause adverse effects beyond the boundary of the site where any activity is being undertaken. In particular, support of Rule AQ R1(c) which provides that any activity on industrial or trade premises that has discharges to air that have adverse effects offsite, such as 101 Aerodrome Road (which has caused serious adverse effects at mine and other properties), will now require resource consent

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Adverse effects are being caused by discharges from industrial and trade premises across the region, particularly in industrial areas, that do need to be better managed moving forward. When activities are not managed by any other rule in the plan and are causing adverse effects, the burden of proving such effects when enforcing the plan rules falls to the Regional Council. Where there are several sources of a contaminant of concern it can be difficult to determine the main cause, if any. Even when there is one single source causing adverse effects it can still be a difficult process. The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent. However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

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Staff Recommendations on Submissions (By Submitter)

Submitter: 63 - Silver Fern Farms Management Ltd

Further Submission No: 17 - 20 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Tony Christiansen

Summary: Support of proposed AQ R1 as currently drafted. This rule is clear in providing that discharges to air should not cause adverse effects beyond the boundary of the site where any activity is being undertaken.
Support for Rule AQ R1(c) which provides that any activity on industrial or trade premises that has discharges to air that have adverse effects offsite will require resource consent with an amendment to add condition (d) "The discharge does not cause an exceedance of the national environmental standard for PM10." Application of this rule would mean that the bulk materials handling facility at 101 Aerodrome Road would no longer be a permitted activity and would require resource consent. When there are neighbouring properties, such as a public Airport, where people and aircraft with sensitive equipment exist and frequent, the resource consent should be publicly notifiable.
To assist with enforcement of this rule, monitoring should be carried out for PM10 in accordance with the Resource Management (National Environmental Standards for Air Quality) Regulations 2004.

Decision Sought: Reject

Reasons for Staff Recommendation: Adverse effects are being caused by discharges from industrial and trade premises across the region, particularly in industrial areas, that do need to be better managed moving forward. When activities are not managed by any other rule in the plan and are causing adverse effects, the burden of proving such effects when enforcing the plan rules falls to the Regional Council. Where there are several sources of a contaminant of concern it can be difficult to determine the main cause, if any. Even when there is one single source causing adverse effects it can still be a difficult process.
The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent.
However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 21 - 71 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Port of Tauranga

Summary: PoT supports the underlying premise of this submission, which opposes the inclusion of Rule AQR1(c) as notified. This rule would capture all discharges from an industrial or trade premise as a Discretionary Activity, irrespective of the size, scale and effect of the discharge. PoT requests that Rule AQR1 is amended as per the original submission.

Decision Sought: Accept in part

Reasons for Staff Recommendation: The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent.
However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 23 - 49 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Lawter New Zealand Ltd

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Staff Recommendations on Submissions (By Submitter)

Submitter: 63 - Silver Fern Farms Management Ltd

Summary: Lawter oppose the proposed amendment recommended by submission 63 - 4. Although it is accepted that some industrial and trade premises will discharge contaminants at 'less than minor' or 'de minimis' levels, we note that this does not take into consideration cumulative effects which may result from several different industrial and trade premises, which could cause the degradation of ambient air quality. For this reason, Lawter support the 'catch-all' approach with regards to industrial and trade facilities, which has been adopted in Proposed Plan Change 13.

Decision Sought: Decision sought: Retain rule AQ R1 as notified

Reasons for Staff Recommendation: The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent.
However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 30 - 32 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Swap Stockfoods Ltd

Summary: Support is provided as the submission is consistent with the intent of Swap Stockfoods original submission.

Decision Sought: Accept

Reasons for Staff Recommendation: The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent.
However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Submission Point No: 5 **Submission Type:** Oppose in Part **Recommendation:** Reject

Chapter: Rules

Section: AQ R2

Submission Summary: The blanket presumption in AQ R1 (c) that that all industrial activities default to discretionary, then also means that this rule directly applies to all industrial activities. The discretionary presumptive test being applied in PC13 across any industrial activity, and by not providing any permitted activity threshold for industry, would appear unreasonable and overly restrictive.

Decision Sought: Remove the blanket discretionary presumptive test on industry

Reasons for Staff Recommendation: Addressed through recommended changes to AQ R1

Further Submission No: 1 - 10 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: GBC Winstone

Summary: AQ R2 should include provision for permitting incidental and de minimus discharges from industrial and trade premises, by stating the type and levels of effects as a permitted activity standard. AQ R2 currently has a presumption that all discharges from industrial and trade activities will be a discretionary activity, as they cannot

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Submitter: 63 - Silver Fern Farms Management Ltd

comply with AQ R1(c) permitted activity standard.

Decision Sought: AQ R2 should include provision for permitting incidental and de minimus discharges from industrial and trade premises, by stating the type and levels of effects as a permitted activity standard.

Reasons for Staff Recommendation: Addressed through recommended changes to AQ R1

Further Submission No: 10 - 21 **Submission Type:** Oppose **Recommendation:** To Be Advised

Further Submitter: Greg Misson

Summary: Support of proposed AQ R1 as currently drafted. This rule is clear in providing that discharges to air should not cause adverse effects beyond the boundary of the site where any activity is being undertaken. Particularly strong support for Rule AQ R1(c) which provides that any activity on industrial or trade premises that has discharges to air that have adverse effects offsite will require resource consent (i.e. it is no longer a permitted activity). A straightforward application of this rule means that the bulk materials handling facility at 101 Aerodrome Road (which have caused adverse effects at mine and adjacent properties) would no longer be a permitted activity and would require resource consent.

Decision Sought: Reject in part with modification
To assist with enforcement of this rule, carry out monitoring for PM10 in accordance with the Resource Management (National Environmental Standards for Air Quality) Regulations 2004.
Include additional text in the AQ R1 - (d) The discharge does not cause an exceedance of the national environmental standard for PM10

Reasons for Staff Recommendation: Addressed through recommended changes to AQ R1

Further Submission No: 15 - 21 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Hangar It

Summary: In strong support of proposed AQ R1 as it is currently drafted. AQ R1 requires discharges to air should not cause adverse effects beyond the boundary of a site where any activity is being undertaken. Importantly AQ R1(c) provides that any activity on industrial or trade premises that has discharges to air that have adverse effects offsite, such as 101 Aerodrome Road, will now require resource consent

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Addressed through recommended changes to AQ R1

Further Submission No: 16 - 23 **Submission Type:** Oppose **Recommendation:** To Be Advised

Further Submitter: Solo Wings

Summary: In support of proposed AQ R1 as currently drafted. This rule requires discharges to air should NOT cause adverse effects beyond the boundary of the site where any activity is being undertaken. In particular, support of Rule AQ R1(c) which provides that any activity on industrial or trade premises that has discharges to air that have adverse effects offsite, such as 101 Aerodrome Road (which has caused serious adverse effects at mine and other properties), will now require resource consent

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Addressed through recommended changes to AQ R1

Further Submission No: 17 - 21 **Submission Type:** Oppose **Recommendation:** To Be Advised

Further Submitter: Tony Christiansen

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Staff Recommendations on Submissions (By Submitter)

Submitter: 63 - Silver Fern Farms Management Ltd

Summary: Support of proposed AQ R1 as currently drafted. This rule is clear in providing that discharges to air should not cause adverse effects beyond the boundary of the site where any activity is being undertaken.
Support for Rule AQ R1(c) which provides that any activity on industrial or trade premises that has discharges to air that have adverse effects offsite will require resource consent with an amendment to add condition (d) "The discharge does not cause an exceedance of the national environmental standard for PM10." Application of this rule would mean that the bulk materials handling facility at 101 Aerodrome Road would no longer be a permitted activity and would require resource consent. When there are neighbouring properties, such as a public Airport, where people and aircraft with sensitive equipment exist and frequent, the resource consent should be publicly notifiable.
To assist with enforcement of this rule, monitoring should be carried out for PM10 in accordance with the Resource Management (National Environmental Standards for Air Quality) Regulations 2004.

Decision Sought: Reject

Reasons for Staff Recommendation: Addressed through recommended changes to AQ R1

Further Submission No: 23 - 52 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter oppose the recommendation made by submission 63 - 5. As stated in our further submission relating to rule AQ R1, the 'catch-all' approach that has been adopted in Proposed Plan Change 13 ensures new industries and existing industries are held accountable of degraded air quality.

Decision Sought: Decision sought: Retain rule AQ R2 as notified.

Reasons for Staff Recommendation: Addressed through recommended changes to AQ R1

Submission Point No: 6 **Submission Type:** Support in Part **Recommendation:** Reject

Chapter: Rules

Section: AQ R3(2)

Submission Summary: It is positive that provision of permitted activity status is provided for the transient contaminants associated with the displacement of liquids, including from storage tanks such as those on stock trucks when being emptied following transit. However, by their nature, displacement contaminants do not physically constrain themselves to property boundaries, and may dissipate beyond the property boundary. Making provision to apply the permitted rule at a notional boundary (beyond the boundary of the site) may be the most practical option for monitoring purposes for lawfully established existing activities.

Decision Sought: Support the ventilation and displacement, but need to make provision for notional boundaries alongside.

Reasons for Staff Recommendation: Not recommended as recognising notional boundaries would introduce confusion to assessment of these effects. Except for discharges where the boundary is not relevant, any adverse effects of discharges should be avoided, remedied or mitigated before they reach the boundary

Further Submission No: 10 - 22 **Submission Type:** Oppose **Recommendation:** To Be Advised

Further Submitter: Greg Misson

Summary: There has been a lack of regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. A more straightforward way of addressing the issue would be to make the activity causing these dust problems discretionary. This is on the basis that there is considerable evidence of adverse effects from these activities.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 63 - Silver Fern Farms Management Ltd

Decision Sought:	Reject	
Reasons for Staff Recommendation:	The further submission point is highly specific to particulates in the Mount Maunganui area from handling of bulk materials. This rule does not manage this type of activity.	
Further Submission No:	15 - 22	Submission Type: Oppose
		Recommendation: Reject
Further Submitter:	Hangar It	
Summary:	This amendment will further reduce Councils ability to properly regulate. Most concerning is that the duty of care to provide a safe environment for hangar users will continue to be undermined by a continuation of toxic organic dust crossing the boundary from 101 Aerodrome Road	
Decision Sought:	Reject submission point	
Reasons for Staff Recommendation:	The further submission point is highly specific to particulates in the Mount Maunganui area from handling of bulk materials. This rule does not manage this type of activity.	
Further Submission No:	16 - 24	Submission Type: Oppose
		Recommendation: To Be Advised
Further Submitter:	Solo Wings	
Summary:	There are a wide range of adverse health effects that can arise from exposure to particulate matter and BOPRC has recognised this in the proposed plan change-13. The requested amendment will further frustrate BOPRC's ability to effectively perform its regulatory role. Tauranga Airport is a public area. General public are subject to breathing contaminated air, as a consequence of 101 Aerodrome road particulate discharges. It would clearly run counter to the public health interest for BOPRC to adopt these amendments.	
Decision Sought:	Reject submission point	
Reasons for Staff Recommendation:	The further submission point is highly specific to particulates in the Mount Maunganui area from handling of bulk materials. This rule does not manage this type of activity.	
Further Submission No:	17 - 22	Submission Type: Oppose
		Recommendation: To Be Advised
Further Submitter:	Tony Christiansen	
Summary:	There has been a lack of effective regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. Concern with the amendments sought by this enterprise will further degrade Councils ability to respond effectively.	
Decision Sought:	Reject	
Reasons for Staff Recommendation:	The further submission point is highly specific to particulates in the Mount Maunganui area from handling of bulk materials. This rule does not manage this type of activity.	
Submission Point No:	7	Submission Type: Oppose in Part
		Recommendation: Reject
Chapter:	Rules	
Section:	AQ R4(b)	
Submission Summary:	It is positive that provision of permitted activity status is provided for vehicle movements. In doing so recognises the short-lived and transient nature of those discharges. However, the rule does not capture transient effects from the movement of stock trucks and any associated odours. By their nature livestock have an odour, and their transportation should be included as a permitted activity.	
Decision Sought:	Amend to include the discharge of contaminants (generally odour) from intransit stock movements.	
Reasons for Staff Recommendation:	This is outside the scope of this rule. The rule targets dust from unsealed roads, not discharges from the vehicles themselves. Odour from vehicle loads can be assessed under	

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 63 - Silver Fern Farms Management Ltd

rule AQ R1

Further Submission No: 10 - 23 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Greg Misson

Summary: There has been a lack of regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. A more straightforward way of addressing the issue would be to make the activity causing these dust problems discretionary. This is on the basis that there is considerable evidence of adverse effects from these activities.

Decision Sought: Reject

Reasons for Staff Recommendation: Original submission point is regarding odour, not particulates

Further Submission No: 15 - 23 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Hangar It

Summary: This amendment will further reduce Councils ability to properly regulate. Most concerning is that the duty of care to provide a safe environment for hangar users will continue to be undermined by a continuation of toxic organic dust crossing the boundary from 101 Aerodrome Road

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Original submission point is regarding odour, not particulates

Further Submission No: 16 - 25 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Solo Wings

Summary: There are a wide range of adverse health effects that can arise from exposure to particulate matter and BOPRC has recognised this in the proposed plan change-13. The requested amendment will further frustrate BOPRC's ability to effectively perform its regulatory role. Tauranga Airport is a public area. General public are subject to breathing contaminated air, as a consequence of 101 Aerodrome road particulate discharges. It would clearly run counter to the public health interest for BOPRC to adopt these amendments

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Original submission point is regarding odour, not particulates

Further Submission No: 17 - 23 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Tony Christiansen

Summary: There has been a lack of effective regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. Concern with the amendments sought by this enterprise will further degrade Councils ability to respond effectively.

Decision Sought: Reject

Reasons for Staff Recommendation: Original submission point is regarding odour, not particulates

Further Submission No: 26 - 11 **Submission Type:** Support in Part **Recommendation:** Reject

Further Submitter: Western Bay of Plenty District Council

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 63 - Silver Fern Farms Management Ltd

Summary: Allowing the discharge of contaminants (generally odour) from in transit stock movements is supported, were it is a transient effect. We note that there are other similar activities that produce similar effects (such as the transportation of fertilisers, animal feed and bio-solids between sites). It is suggested that the suggested amendment be expanded to address such cases. Clarity as to the activity status of items not explicitly listed in the plan is sought, and if such activities would become controlled.

Decision Sought: Accept in part

Reasons for Staff Recommendation: This is outside the scope of this rule. The rule targets dust from unsealed roads, not discharges from the vehicles themselves. Odour from vehicle loads can be assessed under rule AQ R1

Submission Point No: 8 **Submission Type:** Support in Part **Recommendation:** Reject

Chapter: Rules

Section: AQ R7

Submission Summary: It is positive that provision of permitted activity status is provided for open burning for the emergency disposal of diseased carcasses. However, if such an emergency were to occur it is possible that food processed / packaged prior, or during, the emergency declaration may also be quarantined and require burning. It is appropriate to allow for the burning of those items.

Decision Sought: Amend to include the burning of food items processed/packaged prior, or during, the emergency declaration.

Reasons for Staff Recommendation: This rule is not intended to permit the burning of packaging, particularly where it is plastic and could produce harmful chemicals that could lead to human health effects. Food that has been processed and packaged is unlikely to need to be disposed of immediately (ie. with the same sense of urgency) in order to prevent further adverse effects or the spread of disease. Due to the lack of immediacy and the lack of clarity around the nature of the material that could be burned when disposing of processed and/or packaged food, it is considered appropriate that such an activity be subject to the requirement that it not be noxious or dangerous, offensive or objectionable beyond the boundary in order to be permitted (per Rule AQ R1). If it cannot meet this standard it is considered appropriate that a consent be obtained so conditions can be imposed to manage effects. No change is recommended to Rule AQ R7 as a result of this submission point.

Further Submission No: 10 - 24 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Greg Misson

Summary: There has been a lack of regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. A more straightforward way of addressing the issue would be to make the activity causing these dust problems discretionary. This is on the basis that there is considerable evidence of adverse effects from these activities.

Decision Sought: Reject

Reasons for Staff Recommendation: The further submission point is highly specific to particulates in the Mount Maunganui area from handling of bulk materials. This rule does not manage this type of activity.

Further Submission No: 15 - 24 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Hangar It

Summary: This amendment will further reduce Councils ability to properly regulate. Most concerning is that the duty of care to provide a safe environment for hangar users will continue to be undermined by a continuation of toxic organic dust crossing the boundary from 101 Aerodrome Road

Decision Sought: Reject submission point

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 63 - Silver Fern Farms Management Ltd

Reasons for Staff Recommendation: The further submission point is highly specific to particulates in the Mount Maunganui area from handling of bulk materials. This rule does not manage this type of activity.

Further Submission No: 16 - 26 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Solo Wings

Summary: There are a wide range of adverse health effects that can arise from exposure to particulate matter and BOPRC has recognised this in the proposed plan change-13. The requested amendment will further frustrate BOPRC's ability to effectively perform its regulatory role. Tauranga Airport is a public area. General public are subject to breathing contaminated air, as a consequence of 101 Aerodrome road particulate discharges. It would clearly run counter to the public health interest for BOPRC to adopt these amendments

Decision Sought: Reject submission point

Reasons for Staff Recommendation: The further submission point is highly specific to particulates in the Mount Maunganui area from handling of bulk materials. This rule does not manage this type of activity.

Further Submission No: 17 - 24 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Tony Christiansen

Summary: There has been a lack of effective regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. Concern with the amendments sought by this enterprise will further degrade Councils ability to respond effectively.

Decision Sought: Reject

Reasons for Staff Recommendation: The further submission point is highly specific to particulates in the Mount Maunganui area from handling of bulk materials. This rule does not manage this type of activity.

Submission Point No: 9 **Submission Type:** Oppose in Part **Recommendation:** Accept

Chapter: Rules

Section: AQ R18

Submission Summary: Whilst the s.32 Evaluation Report outlines that "Existing boilers are unaffected by new requirements ...". However, as written in the rule it is unclear whether the rule applies to emission stacks constructed prior to the end of December 2003. It is appropriate to clarify that the rule applies to all emission stacks constructed prior to the end of December 2003.

Decision Sought: Amend to include permitted activity if emission stack constructed prior to end of December 2003.

Reasons for Staff Recommendation: Staff agree that the wording in 2(b), 2(c)(i) and 2(d)(i) is unclear and recommend minor changes to clarify this

Further Submission No: 10 - 25 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Greg Misson

Summary: There has been a lack of regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. A more straightforward way of addressing the issue would be to make the activity causing these dust problems discretionary. This is on the basis that there is considerable evidence of adverse effects from these activities.

Decision Sought: Reject in part with modification
Include text below (new Rule AQ 21(y)).
(y) Transfer, storage and transport of bulk cargo in excess of 30,000 tonnes per year

Reasons for Staff Recommendation: The further submission point is highly specific to particulates in the Mount Maunganui area from handling of bulk materials. This rule does not manage this type of activity.

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 63 - Silver Fern Farms Management Ltd

Further Submission No: 15 - 25 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Hangar It

Summary: This amendment will further reduce Councils ability to properly regulate. Most concerning is that the duty of care to provide a safe environment for hangar users will continue to be undermined by a continuation of toxic organic dust crossing the boundary from 101 Aerodrome Road

Decision Sought: Reject submission point

Reasons for Staff Recommendation: The further submission point is highly specific to particulates in the Mount Maunganui area from handling of bulk materials. This rule does not manage this type of activity.

Further Submission No: 16 - 27 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Solo Wings

Summary: There are a wide range of adverse health effects that can arise from exposure to particulate matter and BOPRC has recognised this in the proposed plan change-13. The requested amendment will further frustrate BOPRC's ability to effectively perform its regulatory role. Tauranga Airport is a public area. General public are subject to breathing contaminated air, as a consequence of 101 Aerodrome road particulate discharges. It would clearly run counter to the public health interest for BOPRC to adopt these amendments

Decision Sought: Reject submission point

Reasons for Staff Recommendation: The further submission point is highly specific to particulates in the Mount Maunganui area from handling of bulk materials. This rule does not manage this type of activity.

Further Submission No: 17 - 25 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Tony Christiansen

Summary: There has been a lack of effective regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. Concern with the amendments sought by this enterprise will further degrade Councils ability to respond effectively.

Decision Sought: Reject

Reasons for Staff Recommendation: The further submission point is highly specific to particulates in the Mount Maunganui area from handling of bulk materials. This rule does not manage this type of activity.

Submission Point No: 10 **Submission Type:** Oppose in Part **Recommendation:** Reject

Chapter: Rules

Section: AQ R21(s)

Submission Summary: Whilst recognise that the activities listed have the potential to release odours from their operations, it is unclear if this rule captures meat processing operations. Bundling modern meat processing operations in with the other aspects of animal product processing, is a somewhat outdated perception of the industry. It is appropriate to exclude meat processing operations within this rule.

Decision Sought: Amend to exclude meat processing operations.

Reasons for Staff Recommendation: Council has previously received complaints regarding meat processing plants and therefore it is still appropriate to include this as a discretionary activity. Although modern meat processing plants are more likely to have better management of odours, the activity does generate the potential for adverse effects and Council would prefer to assess this through a resource consent process.

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 63 - Silver Fern Farms Management Ltd

Further Submission No: 15 - 26 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Hangar It

Summary: This amendment will further reduce Councils ability to properly regulate. Most concerning is that the duty of care to provide a safe environment for hangar users will continue to be undermined by a continuation of toxic organic dust crossing the boundary from 101 Aerodrome Road

Decision Sought: Reject submission point

Reasons for Staff Recommendation: The further submission point is highly specific to particulates in the Mount Maunganui area from handling of bulk materials. This rule does not manage this type of activity.

Further Submission No: 16 - 28 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Solo Wings

Summary: There are a wide range of adverse health effects that can arise from exposure to particulate matter and BOPRC has recognised this in the proposed plan change-13. The requested amendment will further frustrate BOPRC's ability to effectively perform its regulatory role. Tauranga Airport is a public area. General public are subject to breathing contaminated air, as a consequence of 101 Aerodrome road particulate discharges. It would clearly run counter to the public health interest for BOPRC to adopt these amendments

Decision Sought: Reject submission point

Reasons for Staff Recommendation: The further submission point is highly specific to particulates in the Mount Maunganui area from handling of bulk materials. This rule does not manage this type of activity.

Further Submission No: 17 - 26 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Tony Christiansen

Summary: There has been a lack of effective regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. Concern with the amendments sought by this enterprise will further degrade Councils ability to respond effectively.
A practical way of addressing the issue would be to make the activity causing these dust problems discretionary with an amendment to Rule 21 "(y) Transfer, storage and transport of bulk material in excess of 30,000 tonnes per year."

Decision Sought: Reject

Reasons for Staff Recommendation: The further submission point is highly specific to particulates in the Mount Maunganui area from handling of bulk materials. This rule does not manage this type of activity.

Submission Point No: 11 **Submission Type:** Support **Recommendation:** Reject

Chapter: Reverse sensitivity

Section: Reverse Sensitivity

Submission Summary: It is positive that an appropriate recognition of reverse sensitivity matters is provided in the Definition of Terms. More often than not, reverse sensitivity effects result in unwarranted expectations on existing activities to manage effects over which they had little or no control, e.g., notional boundary effects of odour / noise. It is appropriate to include reverse sensitivity matter into AQ P4. Thereby, giving effect to the inclusion of this definition.

Decision Sought: Retain Reverse Sensitivity definition.

Reasons for Staff Recommendation: Remove reverse sensitivity definition as a definition is already in the RPS

Further Submission No: 10 - 26 **Submission Type:** Oppose **Recommendation:** Accept

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 63 - Silver Fern Farms Management Ltd

Further Submitter: Greg Misson

Summary: There has been a lack of regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. A more straightforward way of addressing the issue would be to make the activity causing these dust problems discretionary. This is on the basis that there is considerable evidence of adverse effects from these activities.

Decision Sought: Reject

Reasons for Staff Recommendation: Decline original submission point

Further Submission No: 15 - 27 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Hangar It

Summary: This amendment will further reduce Councils ability to properly regulate. Most concerning is that the duty of care to provide a safe environment for hangar users will continue to be undermined by a continuation of toxic organic dust crossing the boundary from 101 Aerodrome Road

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Decline original submission point

Further Submission No: 16 - 29 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Solo Wings

Summary: There are a wide range of adverse health effects that can arise from exposure to particulate matter and BOPRC has recognised this in the proposed plan change-13. The requested amendment will further frustrate BOPRC's ability to effectively perform its regulatory role. Tauranga Airport is a public area. General public are subject to breathing contaminated air, as a consequence of 101 Aerodrome road particulate discharges. It would clearly run counter to the public health interest for BOPRC to adopt these amendments.

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Decline original submission point

Further Submission No: 17 - 27 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Tony Christiansen

Summary: There has been a lack of effective regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. Concern with the amendments sought by this enterprise will further degrade Councils ability to respond effectively.

Decision Sought: Reject

Reasons for Staff Recommendation: Decline original submission point

Further Submission No: 30 - 61 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Swap Stockfoods Ltd

Summary: Support the provision of a definition for reverse sensitivity. Swap Stockfoods would like the opportunity to be involved in the discussions regarding the proposed wording of the definition.

Decision Sought: Accept

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 63 - Silver Fern Farms Management Ltd

Reasons for Staff Recommendation: Decline original submission point

Submitter: 64 - TPT Forests Ltd

Submission Point No: 1 **Submission Type:** Neutral **Recommendation:** Reject

Chapter: Rules

Section: AQ R20

Submission Summary: Submission on Section 32 Evaluation Report Topic 5 Methyl bromide and fumigation We understand that OPUS recommended to Council in 2015 "... to require resource consents for methyl bromide (as required by current plan) except where recapture technology is used where it would be a controlled, non-notified activity".

Decision Sought: We ask that where methyl bromide recapture technology is used as required by the EPA the BOPRC accepts that the use of methyl bromide is a controlled, non-notified activity.

Reasons for Staff Recommendation: Staff understand the reasoning behind this request for a controlled non-notified activity where methyl bromide is recaptured, is on the basis that submitters consider that the discharge will be minimal. However, the effectiveness of recapture technology is not sufficiently understood to justify a controlled, non-notified activity. It is staff's understanding that the current consent holder is still testing a range of technologies to recapture methyl bromide. The Regional Council has received no documentation or information of any kind detailing the results of this testing, including the efficiency or effectiveness of these recapture technologies. Without this information, staff cannot determine whether this technology provides sufficient mitigation for a controlled, non-notified activity

Further Submission No: 28 - 24 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Stakeholders in Methyl Bromide Reduction Inc (STIMBR)

Summary: The environmental Protection Authority (then ERMA) completed a reassessment of methyl bromide (MB) in 2010. The EPA determined that recapture technologies are to be used in conjunction with all methyl bromide fumigations from October 2020 onward. Since that time it has become apparent that the aspiration of applying recapture technologies to all fumigations is not possible by 2020. The EPA has determined that there are grounds for a reassessment of methyl bromide. The EPA is mandated to assess and set controls for hazardous substances including methyl bromide. EDN a sustainable alternative to methyl bromide is not yet available for use in New Zealand. Log exports are a significant export earner for the New Zealand economy bringing in \$2.7b in the year ending June 2017. Importing countries such as China and India require the use of phytosanitary treatments including fumigation with methyl bromide. New Zealand's forestry industry contributes significantly to regional economies and rural communities. Methyl bromide is also used as a biosecurity treatment for imported commodities, personal effects and managing potato wart.

Decision Sought: Accept

Reasons for Staff Recommendation: Staff understand the reasoning behind this request for a controlled non-notified activity where methyl bromide is recaptured, is on the basis that submitters consider that the discharge will be minimal. However, the effectiveness of recapture technology is not sufficiently understood to justify a controlled, non-notified activity. It is staff's understanding that the current consent holder is still testing a range of technologies to recapture methyl bromide. The Regional Council has received no documentation or information of any kind detailing the results of this testing, including the efficiency or effectiveness of these recapture technologies. Without this information, staff cannot determine whether this technology provides sufficient mitigation for a controlled, non-notified activity

Further Submission No: 29 - 26 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Genera Ltd

Summary: EPA completed a reassessment of methyl bromide (MB) in 2010. An aspirational MB recapture target of 100% was set. Since that time it has become apparent that 100% recapture of MB is not possible by 2020. Based on learnings gained since 2010, the

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 64 - TPT Forests Ltd

EPA has recently determined that there are grounds for a reassessment of methyl bromide.
 The EPA is the agency mandated to assess and set controls for hazardous substances such as methyl bromide. There are currently no other practicable options for the fumigation of top stow logs to China, logs to India and other imported and exported cargos.
 The value of log exports for the June 2017 year was \$2.7 billion. Currently export requires the use of phytosanitary treatments including fumigation with MB. Without the ability to export logs the impacts would flow down to our local communities and have significant effects on the region's economy.
 Methyl bromide is also used for treating imported cargo and is the main fumigant used to protect New Zealand's border from pest incursions as mandated under the Biosecurity Act 1993. Without MB as a biosecurity tool, MPI's ability to protect local industry from pests (eg. Brown Marmorated Stick Bug) will be put at significant risk.

Decision Sought: Accept

Reasons for Staff Recommendation: Staff understand the reasoning behind this request for a controlled non-notified activity where methyl bromide is recaptured, is on the basis that submitters consider that the discharge will be minimal. However, the effectiveness of recapture technology is not sufficiently understood to justify a controlled, non-notified activity. It is staff's understanding that the current consent holder is still testing a range of technologies to recapture methyl bromide. The Regional Council has received no documentation or information of any kind detailing the results of this testing, including the efficiency or effectiveness of these recapture technologies. Without this information, staff cannot determine whether this technology provides sufficient mitigation for a controlled, non-notified activity

Submission Point No:	2	Submission Type: Neutral	Recommendation: Reject
Chapter:	Rules		
Section:	AQ R20		
Submission Summary:	Submission on Section 32 Evaluation Report Topic 5 Methyl bromide and fumigation The EPA is mandated to consider the impacts of hazardous substances and to make informed decisions regarding the controls needed to manage risk. The agency applies the precautionary principle to all that it does. The imposition of further rules if they are to be made must be able to be supported with robust science.		
Decision Sought:	We believe that recapture / destruction requirements for fumigants should be determined solely by the EPA. Where the EPA considers that recapture / destruction technologies are not required or required with specifications/controls the BOPRC will not impose additional rules and controls requiring the use of recapture technologies.		
Reasons for Staff Recommendation:	<p>The EPA assessment committee approved the continued use of methyl bromide, but imposed further controls, including a requirement that '10 years from the date of this decision, all methyl bromide fumigations are to be subject to recapture.' The due date for this requirement is October 2020.</p> <p>The Regional Council has a clear role set out in section 30 of the Act to control the discharge of contaminants to air. Section 65 then allows Regional Councils to prepare regional plans where necessary to carry out these roles, and provides a rule framework ranging from permitted activity to prohibited activity</p> <p>The plan change is consistent with the 2010 EPA reassessment and requirements for methyl bromide. These EPA requirements only apply to methyl bromide, not to any other fumigants. Therefore, the plan change sets out a corresponding rule framework for methyl bromide, and classifies any other fumigant as discretionary, with no recapture necessarily required.</p> <p>The recommendation is for methyl bromide use without recapture to be non-complying and the policy provides for best practicable options. The use of methyl bromide with recapture or use of any other fumigant is discretionary. This is not a significant shift from the discretionary activity status under the operative Regional Air Plan</p>		

Submission Point No:	3	Submission Type: Neutral	Recommendation: Reject
Chapter:	Rules		
Section:	AQ R20		
Submission Summary:	Submission on Section 32 Evaluation Report Topic 5 Methyl bromide and fumigation		

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 64 - TPT Forests Ltd

The monitoring results for methyl bromide emissions during fumigation and venting are consistently below the thresholds determined by the EPA. We ask that the data is used to inform decisions regarding the buffer distances required by BOPRC. In doing so we note that the distances should be no greater than the buffers set by the EPA.

Decision Sought: Genera, regularly reports the results of its methyl bromide monitoring program to BOPRC. Log exporters are also briefed regularly. We note that the TEL are lower than the EPA determined thresholds

Reasons for Staff Recommendation: The plan change does not include buffer distances nor TELs for methyl bromide use

Submission Point No: 4 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R20

Submission Summary: Submission on Section 32 Evaluation Report Topic 5 Methyl bromide and fumigation
 Our preferred option recognises the expertise of the EPA and the mandate that it has to protect the environment while carefully balancing social, economic, safety, and environmental factors to ensure evidence based decisions. We note Option 3 acknowledges the expertise of the EPA. The agency has the mandate to protect the environment and to consider social, economic, safety, and environmental factors to make balanced evidence based decisions for New Zealand. The EPA processes require a public submission stage when hazardous substances are assessed.
 This democratic process provides for scrutiny of the EPA's assessment, risk evaluation (through the application of robust science assessment) for the views of sector and the community to be heard prior to the EPA making its final decision and setting controls.
 We note the use of the words 'less stringent' with regard to Option 3. The provisions of the proposed option 3 are not 'less stringent' they are fit for purpose positioning the Air plan where it should be in relation to the legislation and regularly implements.

Decision Sought: We seek the adoption of an option, to manage fumigation that is based on;
 1. General rules within the proposed plan,
 2. Regional Policy Statement
 3. Draw where appropriate on those provisions of the RMA and HSNO Act that regional councils are bound to while
 4. Respecting the expertise and decisions of the Environmental Protection Authority and not imposing greater unwarranted 'protections'.

Reasons for Staff Recommendation: The EPA assessment committee approved the continued use of methyl bromide, but imposed further controls, including a requirement that '10 years from the date of this decision, all methyl bromide fumigations are to be subject to recapture.' The due date for this requirement is October 2020.
 The Regional Council has a clear role set out in section 30 of the Act to control the discharge of contaminants to air. Section 65 then allows Regional Councils to prepare regional plans where necessary to carry out these roles, and provides a rule framework ranging from permitted activity to prohibited activity
 The plan change is consistent with the 2010 EPA reassessment and requirements for methyl bromide. These EPA requirements only apply to methyl bromide, not to any other fumigants. Therefore, the plan change sets out a corresponding rule framework for methyl bromide, and classifies any other fumigant as discretionary, with no recapture necessarily required.
 The recommendation is for methyl bromide use without recapture to be non-complying and the policy provides for best practicable options. The use of methyl bromide with recapture or use of any other fumigant is discretionary. This is not a significant shift from the discretionary activity status under the operative Regional Air Plan

Submitter: 65 - New Zealand Agrichemical Education Trust (NZAET)

Submission Point No: 1 **Submission Type:** Support in Part **Recommendation:** Reject

Chapter: Policies

Section: AQ P8

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 65 - New Zealand Agrichemical Education Trust (NZAET)

Submission Summary: In New Zealand the application of agrichemicals (pesticides) is a discharge under the Resource Management Act 1991 (RMA) and is generally provided in Regional Plans as a permitted activity as long as certain practices are followed. A training programme was set up to 28 years ago, based on NZS8409, which provides the knowledge and skills to enable agrichemical users to operate according to the standard. The programme is known as "GROWSAFE®". Many Regional Councils have used NZS8409 and GROWSAFE® certification as mechanisms in plans for managing agrichemical use and ensuring the competency of agrichemical users.

Decision Sought: Addition of new (d)
Agrichemical sprayers will manage adverse effects on human health and the environment by:..
...
(d) ensuring that best practice is used in all agrichemical applications.

Reasons for Staff Recommendation: Best practice for agrichemical applications is a part of hazardous substance use and should be carried out by all users automatically. The plan change is only concerned with discharges of contaminants to air and the policies and rules are designed with this purpose, not for the general use of agrichemicals.

Further Submission No: 13 - 53 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Horticulture New Zealand

Summary: HortNZ seeks that best practice is used in respect of agrichemical use to ensure that significant adverse effects are avoided, remedied or mitigated.

Decision Sought: Accept submission by 65-1.

Reasons for Staff Recommendation: Best practice for agrichemical applications is a part of hazardous substance use and should be carried out by all users automatically. The plan change is only concerned with discharges of contaminants to air and the policies and rules are designed with this purpose, not for the general use of agrichemicals.

Submission Point No: 2 **Submission Type:** Support in Part **Recommendation:** Reject

Chapter: Rules

Section: AQ R15(5)

Submission Summary: AQ R15 (5)
In New Zealand the application of agrichemicals (pesticides) is a discharge under the Resource Management Act 1991 (RMA) and is generally provided in Regional Plans as a permitted activity as long as certain practices are followed. A training programme was set up to 28 years ago, based on NZS8409, which provides the knowledge and skills to enable agrichemical users to operate according to the standard. The programme is known as "GROWSAFE®". Many Regional Councils have used NZS8409 and GROWSAFE® certification as mechanisms in plans for managing agrichemical use and ensuring the competency of agrichemical users.

Decision Sought: Elevate reference to compliance with NZS8409:20014 to new AQ R15 (1)(d)
(1) General use of agrichemicals..
...
(d)The agrichemical is used or applied in accordance with NZS8409:2004 Management of Agrichemicals sections: Storage - Appendix L4, Use - Part 5.3, Disposal - Appendix S and Records - Appendix C9.
The rest of the rule should make reference to BOP specific requirements eg distances and notification

Reasons for Staff Recommendation: All users of agrichemicals, particularly large-scale and/or commercial use, should already be complying with HSNO and WorkSafe requirements and should have any appropriate qualifications. It is not the Regional Council's responsibility to require or monitor this. The Council's principal concern, in this plan change, is to control spray drift, and the rule is designed for this purpose. It does not rely on training, provided by a third party, to manage spray drift. Staff consider that if the conditions of the rule are met, the effects of spray drift are mitigated. A condition requiring training and qualifications will add no further value and staff do not recommend this addition

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 65 - New Zealand Agrichemical Education Trust (NZAET)

Submission Point No:	3	Submission Type:	Support in Part	Recommendation:	Reject
Chapter:	Rules				
Section:	AQ R15 - new condition				
Submission Summary:	<p>AQ R15 (6) - new section</p> <p>The lack of a requirement for training or certification contrasts with the approach of national regulatory authorities managing risk in this space. There is regulatory gap in terms of agrichemical competency/training/ certification that is best filled through the regional plan.</p> <ul style="list-style-type: none">• WorkSafe requires training for all users of products with hazard classifications of 1-8 ie those with physical risks such as flammability and those that are hazardous for human health. WorkSafe requirements do not cover substances with ecotoxic classifications. Specific certification (Certified Handler) is required for those using the most acutely toxic products.• EPA requires certification for those using highly ecotoxic substances (classification 9.1A, 9.2A, 9.3A, 9.4A) with motorised or wide dispersive equipment and/or near sensitive areas such as waterways. They have also set higher thresholds for training and certification of contract sprayers recognising the greater risks faced by operators spraying on different properties with different sensitive areas etc. GROWSAFE certification has been endorsed by the EPA in Hazardous Property Controls Notice.• There is no specific requirement by EPA for training or certification for products with ecotoxic classifications other than the class 9As. <p>If the regional plan requires users of agrichemicals to have undertaken training in the management of the environmental risks of their agrichemical use, such agrichemical training courses are more likely to include spray drift, planning, sensitive areas, notification and signage in their curriculum.</p> <p>Training is required as part of best practice set out in NZS8409 with GROWSAFE certification recommended.</p>				
Decision Sought:	<p>New AQ R15 (6)</p> <p>6. Competency</p> <p>Where specified by condition 2 the following conditions apply</p> <p>a) For ground-based application methods the applicator must hold a minimum of a GROWSAFE Standard Certificate or equivalent; or hold a GROWSAFE Basic certificate and be under the direct supervision of someone with a GROWSAFE Standard certificate or equivalent.</p> <p>b) For contractors undertaking ground-based application a GROWSAFE Registered Chemical Applicators Certificate or equivalent, or hold a GROWSAFE Basic certificate and be under the supervision of someone with a GROWSAFE Registered Chemical Applicators Certificate or equivalent.</p> <p>c) For the application of agrichemicals from aircraft, the applicator must hold a minimum of a Pilot Chemical Rating (Civil Aviation Authority)</p> <p>Amend AQ R15 (2) (c) to read:</p> <p>(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), 5(f), and 6a), b) or c) are complied with.</p>				
Reasons for Staff Recommendation:	<p>All users of agrichemicals, particularly large-scale and/or commercial use, should already be complying with HSNO and WorkSafe requirements and should have any appropriate qualifications. It is not the Regional Council's responsibility to require or monitor this. The Council's principal concern, in this plan change, is to control spray drift, and the rule is designed for this purpose. It does not rely on training, provided by a third party, to manage spray drift. Staff consider that if the conditions of the rule are met, the effects of spray drift are mitigated. A condition requiring training and qualifications will add no further value and staff do not recommend this addition</p>				

Further Submission No:	13 - 69	Submission Type:	Support	Recommendation:	Reject
Further Submitter:	Horticulture New Zealand				
Summary:	HortNZ supports training for agrichemical applicators. Being adequately trained is important in ensuring that the potential for adverse effects of spraying are appropriately managed				
Decision Sought:	Include requirement for training for all agrichemical applicators				

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 65 - New Zealand Agrichemical Education Trust (NZ AET)

Reasons for Staff Recommendation: All users of agrichemicals, particularly large-scale and/or commercial use, should already be complying with HSNO and WorkSafe requirements and should have any appropriate qualifications. It is not the Regional Council's responsibility to require or monitor this. The Council's principal concern, in this plan change, is to control spray drift, and the rule is designed for this purpose. It does not rely on training, provided by a third party, to manage spray drift. Staff consider that if the conditions of the rule are met, the effects of spray drift are mitigated. A condition requiring training and qualifications will add no further value and staff do not recommend this addition

Further Submission No: 18 - 28 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Federated Farmers of New Zealand

Summary: We support requirements for the competency of the applicator of agrichemical for method AQ R15 (2)(c).

Decision Sought: Accept submission point

Reasons for Staff Recommendation: All users of agrichemicals, particularly large-scale and/or commercial use, should already be complying with HSNO and WorkSafe requirements and should have any appropriate qualifications. It is not the Regional Council's responsibility to require or monitor this. The Council's principal concern, in this plan change, is to control spray drift, and the rule is designed for this purpose. It does not rely on training, provided by a third party, to manage spray drift. Staff consider that if the conditions of the rule are met, the effects of spray drift are mitigated. A condition requiring training and qualifications will add no further value and staff do not recommend this addition

Further Submission No: 19 - 5 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Agcarm

Summary: The submitter seeks that training requirements are included in Rule 15 for application of agrichemicals. Being adequately trained is important in ensuring that the potential for adverse effects of spraying are appropriately managed.

Decision Sought: Accept submission point

Reasons for Staff Recommendation: All users of agrichemicals, particularly large-scale and/or commercial use, should already be complying with HSNO and WorkSafe requirements and should have any appropriate qualifications. It is not the Regional Council's responsibility to require or monitor this. The Council's principal concern, in this plan change, is to control spray drift, and the rule is designed for this purpose. It does not rely on training, provided by a third party, to manage spray drift. Staff consider that if the conditions of the rule are met, the effects of spray drift are mitigated. A condition requiring training and qualifications will add no further value and staff do not recommend this addition

Submission Point No: 4 **Submission Type:** Oppose in Part **Recommendation:** Reject

Chapter: Rules

Section: AQ R15(5)

Submission Summary: Preparation and updating of a Spray Risk Management Plan is noted as a key spray drift mitigation process. Most of the detail here is repeated from NZS8409:2004. Note that the GROWSAFE training programme includes a "how to" and templates for a spray plan which incorporate key technical spray drift management aspects (Table G1, page 104 in NZS8409:2004). Enactment of this rule would be better served by referring to this training rather than repetition of the New Zealand Standard on the Management of Agrichemicals.

Decision Sought: Replace 5 a and b with "Refer to Appendices G and M of NZS8409:2004 which outline requirements of a spray plan."

Reasons for Staff Recommendation: Not recommend as the rules are intended to be as self-contained as possible, without excessive reference to another document

Further Submission No: 13 - 103 **Submission Type:** Support in Part **Recommendation:** Accept

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Staff Recommendations on Submissions (By Submitter)

Submitter: 65 - New Zealand Agrichemical Education Trust (NZAET)

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks that 5a) and b) are replaced with references to Appendices G and M of NZS8409:2004 which set out requirements for spray plans. Spray plans are best practice that should be included in the Plan

Decision Sought: Accept submission

Reasons for Staff Recommendation: Not recommend as the rules are intended to be as self-contained as possible, without excessive reference to another document

Further Submission No: 19 - 16 **Submission Type:** Support in Part **Recommendation:** Accept

Further Submitter: Agcarm

Summary: The submitter seeks that 5a) and b) are replaced with references to Appendices G and M of NZS8409:2004 which set out requirements for spray plans. Spray plans are best practice that should be included in the Plan

Decision Sought: Accept in part

Reasons for Staff Recommendation: Not recommend as the rules are intended to be as self-contained as possible, without excessive reference to another document

Submission Point No: 5 **Submission Type:** Support in Part **Recommendation:** Reject

Chapter: Rules

Section: AQ R15 - whole rule

Submission Summary: Clause 46 of EPA Hazardous Substances (Hazardous Property Controls) Notice has general requirement that "A person who applies a class 9 pesticide must take all reasonable steps to ensure that the substance does not cause any significant adverse effects to the environment beyond the application area." Similarly, 13.4(g) of HSW (Hazardous Substances) Regulations 2017 require a record to be kept for organophosphate and carbamates including details of measures taken to ensure "no adverse effects beyond the boundary". Consistency with the wording of these national controls is desirable to avoid conflict between regulatory tools.

Decision Sought: Replace 1(a) with "A person who applies an agrichemical must take all reasonable steps to ensure that the substance does not cause any significant adverse effects to the environment beyond the application area".

Reasons for Staff Recommendation: That the clause has been designed to meet the requirements under the Resource Management Act to control spray drift and is consistent with equivalent conditions in other rules of the plan change.

Further Submission No: 13 - 72 **Submission Type:** Support in Part **Recommendation:** Reject

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks that 1a) is replaced with wording consistent with Clause 46 of the Environmental Protection Agency (EPA) Hazardous Substances Notice. HortNZ has sought changes to 1a) to ensure that provisions are appropriate

Decision Sought: Amend AQ R15 1a) as sought by HortNZ or NZ Agrichemical Education Trust (NZAET).

Reasons for Staff Recommendation: that the clause has been designed to meet the requirements under the Resource Management Act to control spray drift and is consistent with equivalent conditions in other rules of the plan change.

Submitter: 66 - First Gas Ltd

Submission Point No: 1 **Submission Type:** Neutral **Recommendation:** Comment Note

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Staff Recommendations on Submissions (By Submitter)

Submitter: 66 - First Gas Ltd

Chapter: Whole Plan

Section: Whole Plan - Support

Submission Summary: Without limiting the generality of this submission, First Gas seeks decisions as sought in Attachment 1, and any consequential relief required to achieve the relief sought. The submissions pertain to enabling the safe, efficient and effective operation, maintenance, upgrade and development of high pressure natural gas transmission and distribution pipelines through the Bay of Plenty region.

Decision Sought: In summary, First Gas's submission seeks that:
 -The Plan Change 13 recognises that the gas transmission system is regionally (and nationally) significant infrastructure;
 - The gas transmission and distribution system is enabled to be safely, effectively and efficiently operated, maintained, upgraded and developed, including through an enabling activity status where there is a need for resource consent (i.e. discretionary activity status as opposed to noncomplying);
 - Gas venting and flaring are provided as key methods for the safe discharge of gas to atmosphere.
 - The discharge of gas (via venting or flaring) does not result in offensive, noxious nor dangerous effects when appropriately managed.
 - The gas transmission and distribution system is recognised as having functional and operational requirements and constraints, including in respect of its location; and
 - That the adverse effects of third party development or activities in close proximity to the gas transmission and distribution system are managed to the extent that adverse effects on the network are reduced or avoided.

Reasons for Staff Recommendation: This submission point is a general support for the overall intent of the plan change, subject to submission points addressed elsewhere. Comment noted - no change recommended

Submission Point No: 2 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Objectives

Section: AQ 01

Submission Summary: First Gas considers it appropriate and necessary to embed an improving focus to the objective where air quality is degraded but has reservations about seeking a protective focus which could be interpreted as an absolute provision, and use of the word 'degraded'. In First Gas' view, the focus of the objective should be to maintain air quality.
 First Gas consider that if the word 'degraded' is to be used, the way to reduce air quality degradation, is to definition the 'quality' and quantity of discharge using the ambient air quality guidelines

Decision Sought: Amend objective O1;
 [insert - The adverse effects from anthropogenic contaminants discharges to air on the mauri of air and human health are managed so that air quality is maintained or enhanced where degraded.]
 [delete - Protect the mauri of air and human health from adverse effects of anthropogenic contaminant discharges to air, and enhance air quality where degraded.]

Reasons for Staff Recommendation: Remove requirement to 'enhance air quality where degraded' as this is already required by AQ Q2 and AQ O3
 Use of the term 'protect' does not mean activities will be prohibited and is consistent with wording in relevant national air quality documents.

Further Submission No: 13 - 10 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Horticulture New Zealand

Summary: HortNZ recognises that Objective O1 needs to be amended in a similar manner as sought by the submitter.

Decision Sought: Amend AQ O1 as sought by HortNZ.

Reasons for Staff Recommendation: Remove requirement to 'enhance air quality where degraded' as this is already required by AQ Q2 and AQ O3
 Use of the term 'protect' does not mean activities will be prohibited and is consistent

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Staff Recommendations on Submissions (By Submitter)

Submitter: 66 - First Gas Ltd

with wording in relevant national air quality documents.

Submission Point No: 3 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Objectives

Section: AQ 03

Submission Summary: First Gas support Objective 3, in that management will be appropriate to the adverse effects of discharges of specific contaminants to air

Decision Sought: Support objective O3

Reasons for Staff Recommendation: Change wording 'manage' to 'management' as it sets an outcome instead of an action

Further Submission No: 21 - 27 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Port of Tauranga

Summary: This submission seeks for Objective AQ03 to be retained as notified, and broadly reflects the original submission made by PoT.

Decision Sought: Accept

Reasons for Staff Recommendation: Change wording 'manage' to 'management' as it sets an outcome instead of an action

Submission Point No: 4 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Policies

Section: AQ P1

Submission Summary: First Gas support the division of how the discharge of contaminants to air is managed and the willingness to accept that some discharges to air can be suitably managed.

Decision Sought: Support policy P1

Reasons for Staff Recommendation: Some minor changes made as a result of other submission points

Submission Point No: 5 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Policies

Section: AQ P3(d)

Submission Summary: First Gas generally support this policy, however seek a focus on management through (d). The term 'avoid' requires effects to be prevented from happening which is not the apparent intent of P3. First Gas discharges of natural gas (via gas flaring and gas venting) are carefully managed. First Gas question the relationship between considering the best practicable option for discharges in the P3 framework of managing, avoiding and minimising discharges. In terms of discharges that may cause adverse effects on regionally significant infrastructure, First Gas note that the venting to atmosphere presents an opportunity for natural gas to mix with oxygen presenting ignition potential; during large scale venting the Civil Aviation Authority are notified and air traffic is diverted. These risks are avoided via flaring. Where First Gas cannot avoid discharges in proximity to other regionally significant infrastructure due to the fixed location of existing gas infrastructure; accordingly effects are managed. An amendment is sought to P3.

Decision Sought: Amend policy P3:
Activities that discharge contaminants to air must be managed, including by use of the best practicable option, to:
..

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Staff Recommendations on Submissions (By Submitter)

Submitter: 66 - First Gas Ltd

(d) avoid the discharge of contaminants that may cause [insert - significant] adverse effects on regionally significant infrastructure

Reasons for Staff Recommendation:

Use of the term 'avoid' on its own is not appropriate for protecting what is essentially structures, no matter how regionally significant the structure is. It is unlikely that any air discharge will have a short term effect that will cause catastrophic failure of any infrastructure. Therefore allowing for aremedy or mitigation is appropriate, and in line with this request.

Further Submission No: 30 - 14 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Swap Stockfoods Ltd

Summary: Support the intent of the addition to provide a level of effect in terms of the potential effects of discharges on regionally significant infrastructure.

Decision Sought: Accept

Reasons for Staff Recommendation:

Use of the term 'avoid' on its own is not appropriate for protecting what is essentially structures, no matter how regionally significant the structure is. It is unlikely that any air discharge will have a short term effect that will cause catastrophic failure of any infrastructure. Therefore allowing for aremedy or mitigation is appropriate, and in line with this request.

Submission Point No: 6 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Policies

Section: AQ P4(g)

Submission Summary: First Gas generally support this policy, although note the similarities in the outcomes sought by (a) and (g) and suggest (g) is redundant.

Decision Sought: Amend policy P4:
[delete - (g) The effect of new activities discharging contaminants into air near established sensitive activities.]

Reasons for Staff Recommendation:

Clause (a) requires regard given to proximity of sensitive activities for any discharge whether established or not. However, clause (g) is to have regard for new discharge activities near established sensitive activities. Staff acknowledge that confusion is likely and recommend that (g) is merged with (a) into one clause that retains both matters.

Further Submission No: 23 - 41 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter oppose the proposed deletion of clause (g), as recommended in submission 66 - 6. Both AQ P4(a) and (g) have distinct differences which result in different matters for council to consider. Clause (a) requires an assessment to be made of the proximity of sensitive activities from both new and existing discharges. Clause (g) requires the effects of new activities to be fully assessed (not being limited to only proximity).

Decision Sought: Decision sought: Retain policy AQ P4(g) as notified.

Reasons for Staff Recommendation:

Clause (a) requires regard given to proximity of sensitive activities for any discharge whether established or not. However, clause (g) is to have regard for new discharge activities near established sensitive activities. Staff acknowledge that confusion is likely and recommend that (g) is merged with (a) into one clause that retains both matters.

Submission Point No: 7 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R1

Submission Summary: First Gas support rule R1 on the basis of the following test of the discharge of natural gas

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Staff Recommendations on Submissions (By Submitter)

Submitter: 66 - First Gas Ltd

not being categorised as 'noxious or dangerous' as defined by Plan Change 13. First Gas consider the discharges undertaken by the company are not noxious, dangerous, objectionable or offensive.

The process of flaring destroys both the mercaptan odorant (added to detect presence of otherwise odourless natural gas) and natural gas, and therefore mitigates odour concerns. Accordingly, there are no noxious or dangerous effects to humans. Venting is used for smaller discharges and the amount of gas odour is not considered to be offensive or objectionable

Decision Sought: Conditional support of R1 (a) relating to 'noxious or dangerous'

Reasons for Staff Recommendation: Support of rule noted however the definition of offensive and objectionable is addressed in the definitions section.
Staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Submission Point No: 8 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R2

Submission Summary: First Gas support a catch-all discretionary activity status. An enabling consenting framework is critical for infrastructure of regional significance and supports the constant supply of gas to the Bay of Plenty region

Decision Sought: Support R2

Reasons for Staff Recommendation: Minor change made to make wording of rule clearer that does not affect the overall intention of the rule.

Submission Point No: 9 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Rules

Section: New rule

Submission Summary: This new proposed rule is the first preference of First Gas. If this is not adopted by Council, then as a second tier option, First Gas propose amendment to R18 (see submission point 66-10) Gas flaring is the preferred method of disposing of gas because it offers several environmental and safety benefits including;

- The process of flaring destroys the mercaptan odorant removing odour and therefore mitigates odour concerns.
- flaring reduces ignition risk otherwise present through venting
- Flaring has a reduced impact on local populations; venting has risks from local ignition sources e.g. overhead power lines
- Flaring reduces greenhouse gas potential of the emissions released during gas release
- Venting of gas through valves produces significant temporary noise. Flaring significantly reduces the noise emitted from the discharge.

Decision Sought: Add new permitted activity rule
The combustion of natural gas by temporary flaring, to facilitate the safe and effective operation, maintenance, upgrade and development of the transmission and distribution network, is a permitted activity provided the following conditions are complied with:

- (a) The discharge shall not cause noxious, dangerous, offensive or objectionable odour, dust, particulate, smoke, vapours, droplets or ash beyond the boundary of the property;
- (b) Has an average maximum 10MW gross heat energy output from the combustion of natural gas unless under emergency situations;
- (c) The discharge shall be directed vertically into air, and shall not be impeded by any obstruction above the chimney stack or chimney that decreases the vertical efflux velocity, and
- (d) Rain excluders shall not impede the vertical discharge of combustion gases, and
- (e) The fuel burning equipment is maintained by a suitably qualified person at least once per annum, with a copy of the maintenance report held by the operator and presented to the Bay of Plenty Regional Council on request, and

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Staff Recommendations on Submissions (By Submitter)

Submitter: 66 - First Gas Ltd

(f) The fuel burning equipment is designed specifically for flaring purpose.

Reasons for Staff Recommendation:

Staff have considered this activity and the conditions. While this activity will most likely be permitted under the amended AQ R1, however staff agree that this additional rule provides clarity, and some further conditions to manage adverse effects from this activity, beyond general rule AQ R1. Staff recommend including this rule.

Further Submission No: 24 - 1 **Submission Type:** Support in Part **Recommendation:** To Be Advised

Further Submitter: First Gas Ltd

Summary:

First Gas supports the submission it lodged in respect of the new rule for flaring, but in light of further consideration of the activity and its visual effects, seeks that permitted activity condition (b) be deleted to not restrict the average maximum gross heat output from the combustion process.

The removal of this permitted activity conditions will allow flaring to be undertaken in the shortest possible time, thereby reducing effects of the activity which in any case will be managed by the other permitted activity conditions attached to the rule (as well as industry standards).

For example, on average, flaring at 50 MW (depending on bore and length of pipe to depressure) would result in approximately 4.5 days flaring (daylight hours) while at 10 MW, this would result in approximately 24 days (day light hours).

Not restricting the MW heat output will allow the flaring to be undertaken in the most efficient possible time. Adherence to industry standards will also safely manage the flaring activity over and above any requirements of the RMA.

Decision Sought: Accept with modification

Reasons for Staff Recommendation:

Staff have considered this activity and the conditions. While this activity will most likely be permitted under the amended AQ R1, however staff agree that this additional rule provides clarity, and some further conditions to manage adverse effects from this activity, beyond general rule AQ R1. Staff recommend including this rule and have taken the amendment suggested in this further submission point into account.

Submission Point No: 10 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Rules

Section: AQ R18

Submission Summary:

If the new rule proposed by First Gas above is not adopted by Council, then as a second tier option, First Gas propose amendment to R18.

First Gas consider that this permitted activity rule suitably provides for the discharge of natural gas by way of flaring and accordingly seek an amendment to the rule. This corresponds with the amendment sought relating to the definition of fuel burning equipment.

As explained in AQ P3, aircraft safety during gas discharges is of paramount concern to First Gas. Venting of significant quantities of gas require notification to the Civil Aviation Authority to prevent interference with flight routes. Attachment three shows the termination points of the transmission pipeline network in Tauranga; both are in close proximity to the Tauranga Airport. In the highly unlikely event of needing to discharge gas simultaneously from both termination points (via venting), there would be a potential impact on flights. Flaring from these sites would negate possible impacts on flights. First Gas do not consider that the discharge of gas is offensive or objectionable. First Gas support R18 (e) on the condition that the feedback on the definition of 'noxious or dangerous' is accepted that the discharge of natural gas is not noxious or dangerous.

Decision Sought:

Amend R18 as follows:
[insert - (4) Flaring of natural gas
The combustion of natural gas by temporary flaring to facilitate the safe and effective operation, maintenance, upgrade and development of the transmission and distribution network, is a permitted activity provided the following conditions are complied with:
(a) The discharge shall not cause noxious, dangerous, offensive or objectionable odour, dust, particulate, smoke, vapours, droplets or ash beyond the boundary of the property;
(b) Has an average maximum 10MW gross heat energy output from the combustion of natural gas unless under emergency situations;
(c) The discharge shall be directed vertically into air, and shall not be impeded by any obstruction above the chimney stack or chimney that decreases the vertical efflux velocity, and
(d) Rain excluders shall not impede the vertical discharge of combustion gases, and

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Staff Recommendations on Submissions (By Submitter)

Submitter: 66 - First Gas Ltd

- (e) The fuel burning equipment is maintained by a suitably qualified person at least once per annum, with a copy of the maintenance report held by the operator and presented to the Bay of Plenty Regional Council on request, and
 (f) The fuel burning equipment is designed specifically for flaring purpose.]

Reasons for Staff Recommendation: The first option presented in this submission point has been recommended therefore no further analysis is required here

Further Submission No: 24 - 2 **Submission Type:** Support in Part **Recommendation:** Reject

Further Submitter: First Gas Ltd

Summary: First Gas supports the submission it lodged in respect of the new rule for flaring, but in light of further consideration of the activity and its visual effects, seeks that permitted activity condition (b) be deleted to not restrict the average maximum gross heat output from the combustion process.
 The removal of this permitted activity conditions will allow flaring to be undertaken in the shortest possible time, thereby reducing effects of the activity which in any case will be managed by the other permitted activity conditions attached to the rule (as well as industry standards).
 For example, on average, flaring at 50 MW (depending on bore and length of pipe to depressure) would result in approximately 4.5 days flaring (daylight hours) while at 10 MW, this would result in approximately 24 days (day light hours).
 Not restricting the MW heat output will allow the flaring to be undertaken in the most efficient possible time. Adherence to industry standards will also safely manage the flaring activity over and above any requirements of the RMA.

Decision Sought: Accept with modification

Reasons for Staff Recommendation: No longer relevant

Submission Point No: 11 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Chapter: Definitions

Section: Definitions - Noxious or dangerous

Submission Summary: "Noxious or dangerous"
 Gas discharge and flaring are clean discharge/burn activities and First Gas do not consider that natural gas discharges cause noxious or dangerous effects on property and/or the environment in the quantities in which First Gas discharge gas. As per the First Gas submission on Rules R1, R18 and RX, we seek Council confirmation on whether they agree. Support for the wording of this definition is dependent on Council's response.

Decision Sought: Conditional support 'noxious or dangerous' definition

Reasons for Staff Recommendation: Remove this definition from the plan change as it is used in the RMA and case law considers this based on a normal English language definition. Including a definition could result in a conflict between further Court interpretation. However, staff recommend retaining text to clarify how this term will be interpreted by the rules in the plan change and that this text is based on the text in the proposed plan.

Further Submission No: 30 - 43 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Swap Stockfoods Ltd

Summary: Support a definition for 'noxious or dangerous' being retained in the plan change. Swap Stockfoods would like the opportunity to be involved in the discussions regarding the proposed wording of the definition.

Decision Sought: Accept

Reasons for Staff Recommendation: Remove this definition from the plan change as it is used in the RMA and case law considers this based on a normal English language definition. Including a definition could result in a conflict between further Court interpretation. However, staff recommend retaining text to clarify how this term will be interpreted by the rules in the

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 66 - First Gas Ltd

plan change and that this text is based on the text in the proposed plan.

Submission Point No: 12 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Definitions

Section: Definitions - Open burning

Submission Summary: "Open burning"
 First Gas support the excluded equipment/methods and suggest that flaring of natural gas, being the combustion of natural gas in the open air, undertaken to safely dispose of gas, be included in this list to make the interpretation of the Plan straightforward. Provision for open burning to exclude flaring is appropriate given the drafting of the open burning rules.

Decision Sought: Amend 'open burning' definition:
 Open burning means the combustion of any material in the open air, [insert - other than in enclosed burners or] purpose built equipment designed to control the combustion process. Includes bonfires, incinerators and recreational/cultural outdoor burning but excludes, enclosed incinerators, solid fuel burners, and fuel burning equipment, smokers, fireworks, candles, lamps, and outdoor patio gas heaters and the flaring of natural gas.

Reasons for Staff Recommendation: The flaring of natural gas is purpose built equipment designed to control the combustion process, and therefore is not open burning, and should be excluded from the open burning definition.

Submission Point No: 13 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Definitions

Section: Definitions - Fuel burning equipment

Submission Summary: "Fuel burning equipment"
 First Gas seek amendment to the definition of fuel burning equipment, for clarity, to provide for the flaring of gas which provides for the gas network to be efficiently and effectively maintained. Depending on the quantity of gas to be released, different flaring equipment is used. First Gas consider the amendment sought to be sufficiently broad to allow for the range required.

Decision Sought: Amend 'fuel burning equipment' definition:
 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. [insert - Fuel burning equipment also means the purpose built equipment to facilitate the flaring of natural gas]. For clarity this excludes vehicles, ships, aircraft, solid fuel burners, and enclosed incineration.

Reasons for Staff Recommendation: This submission point remedied through an additional rule

Submission Point No: 14 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Definitions

Section: Definitions - Sensitive activity

Submission Summary: "Sensitive activity"
 First Gas support the definition of sensitive activity.

Decision Sought: Support 'sensitive activity' definition.

Reasons for Staff Recommendation: Staff recommend changing wording from 'this includes' to 'this may include' to separate the definition from the examples. Staff do not then recommend amending the list itself, as it is no longer a key part of the definition, but a list of examples to provide guidance. This will relieve many of the concerns in the submission points.

Submission Point No: 15 **Submission Type:** Support **Recommendation:** Accept

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Staff Recommendations on Submissions (By Submitter)

Submitter: 66 - First Gas Ltd

Chapter: Definitions

Section: Definitions - Unimpeded vertical discharge

Submission Summary: "Unimpeded vertical discharge"
First Gas support the definition of unimpeded vertical discharge

Decision Sought: Support 'unimpeded vertical discharge' definition

Reasons for Staff Recommendation: Retain definition as notified

Submission Point No: 16 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Definitions

Section: Definitions - Flaring

Submission Summary: new definition "Flaring"
First Gas seek a new definition for gas flaring. Flaring is an operational component of natural gas transmission and distribution networks which provides for the gas network to be efficiently and effectively maintained. Flaring is the combustion of gas in an open flame. Flaring is the preferred method of disposing of waste gas because it offers environmental and safety benefits.

Decision Sought: Add a new definition for 'flaring':
Combustion method to dispose of gas.

Reasons for Staff Recommendation: Flaring is sufficiently understood without the need to define the term

Submission Point No: 17 **Submission Type:** Support **Recommendation:** Accept

Chapter: Policies

Section: AQ P4(f)

Submission Summary: Addressing cumulative effects (f), which may have implications on the gas system, is important.

Decision Sought: Retain
(f) Cumulative effects.

Reasons for Staff Recommendation: Retain clause (f) as proposed

Submission Point No: 18 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Policies

Section: AQ P4 - new clause

Submission Summary: A matter has been added to provide for benefits created by the discharge. The existing First Gas infrastructure through the Bay of Plenty region is located in proximity to emission discharge points of other sites/operators. First Gas activities such as asset replacement, realignments and emergency repairs could be expected to occur nearby. First Gas is required to ensure the protection and integrity of the pipeline is maintained to ensure the safety of the public, property, and the environment.

Decision Sought: Amend policy P4:
[insert - (g) Benefits created by the discharge.]

Reasons for Staff Recommendation: Social and economic well-being have already considered as part of the Section 32 analysis and during consideration of resource consent applications, s.104(a) specifically requires the decision makers to have regard to any actual and potential effects on the environment of allowing the activity. Staff do not recommend re-listing it here.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 66 - First Gas Ltd

Further Submission No: 18 - 21 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Federated Farmers of New Zealand

Summary: We agree that the economic and social wellbeing (benefits) of the activity should be considered

Decision Sought: Accept submission point

Reasons for Staff Recommendation: Social and economic well-being have already considered as part of the Section 32 analysis and during consideration of resource consent applications, s.104(a) specifically requires the decision makers to have regard to any actual and potential effects on the environment of allowing the activity. Staff do not recommend re-listing it here.

Further Submission No: 30 - 21 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Swap Stockfoods Ltd

Summary: Support including an additional matter to be considered as suggested by the submitter "(g) Benefits created by the discharge".

Decision Sought: Accept

Reasons for Staff Recommendation: Social and economic well-being have already considered as part of the Section 32 analysis and during consideration of resource consent applications, s.104(a) specifically requires the decision makers to have regard to any actual and potential effects on the environment of allowing the activity. Staff do not recommend re-listing it here.

Submission Point No: 19 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Policies

Section: AQ P4 - new clause

Submission Summary: A matter has been added to provide for any technical or locational constraints associated with the discharge. The existing First Gas infrastructure through the Bay of Plenty region is located in proximity to emission discharge points of other sites/operators. First Gas activities such as asset replacement, realignments and emergency repairs could be expected to occur nearby. First Gas is required to ensure the protection and integrity of the pipeline is maintained to ensure the safety of the public, property, and the environment.

Decision Sought: Amend policy P4:
[insert - (h) Any technical or locational constraints associated with the discharge.]

Reasons for Staff Recommendation: Operational requirements and locational constraints should be considered as discharges to air may need to be located in a particular area for various reasons

Further Submission No: 8 - 61 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Mercury NZ Ltd

Summary: Mercury supports consideration of functional requirements for strategically important industry and infrastructure. Consideration of what activities are strategically important to the region need to be guided by the RPS, and national policy, which needs to be given effect to.

Decision Sought: Allow

Reasons for Staff Recommendation: Operational requirements and locational constraints should be considered as discharges to air may need to be located in a particular area for various reasons

Further Submission No: 18 - 19 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Federated Farmers of New Zealand

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 66 - First Gas Ltd

Summary: We agree that operational and location constraints should be considered

Decision Sought: Accept submission point

Reasons for Staff Recommendation: Operational requirements and locational constraints should be considered as discharges to air may need to be located in a particular area for various reasons

Submitter: 67 - Port of Tauranga

Submission Point No: 1 **Submission Type:** Seek **Recommendation:** Comment Note

Chapter: Whole Plan

Section: Whole Plan - Support

Submission Summary: Port of Tauranga generally supports the intention of the objectives, policies, rules and definitions set out in the Proposed Plan Change but considers that increased recognition of the regional significance of Port of Tauranga's assets in Bay of Plenty and the contribution to the regional and national economy should be reflected. Port of Tauranga's assets and operations make a significant contribution to the regional and national economy.

Decision Sought: 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.

Reasons for Staff Recommendation: This submission point is a general support for the overall intent of the plan change, subject to submission points addressed elsewhere. Comment noted - no change recommended

Submission Point No: 2 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Objectives

Section: AQ 01

Submission Summary: Port of Tauranga supports the intent of the objective but considers that "mauri" needs to be clearly defined in the context of this section of the plan or removed if this is not achievable. The Port of Tauranga considers that the current definition of Mauri in the Natural Resources Plan is not sufficient for the purposes of this objective. Port of Tauranga also considers that the Objective should refer to significant adverse effects. The current objective would seek to protect human health from all adverse effects which could only be achieved by having no discharges which is inconsistent with the purpose of the RMA.

Decision Sought: Amend Objective AQ O1 to read:
Protect the [delete - mauri of air and] human health from [insert - significant] adverse effects of anthropogenic contaminant discharges to air, and enhance air quality where degraded.

Reasons for Staff Recommendation: Retain term 'mauri' as concept of 'mauri' is defined in the RPS, consistent with other sections of the Plan, increasingly recognised in national planning. Use of the term 'protect' does not mean activities will be prohibited and is consistent with wording in relevant national air quality documents.

Further Submission No: 5 - 1 **Submission Type:** Support in Part **Recommendation:** Reject

Further Submitter: Timberlands Ltd

Summary: Timberlands supports in part the amendment of Objective AQ O1 to read:
Protect the mauri of air and human health from [insert - significant] adverse effects of anthropogenic contaminant discharges to air, and enhance air quality where degraded for the reasons status in the submission that the Objective should refer to significant adverse effects.
The current objective would seek to protect human health from all adverse effects which could only be achieved by having no discharges, which is inconsistent with the purpose of the RMA.

Decision Sought: Accept the submission point 67-2

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 67 - Port of Tauranga

Reasons for Staff Recommendation: Retain term 'mauri' as concept of 'mauri' is defined in the RPS, consistent with other sections of the Plan, increasingly recognised in national planning. Use of the term 'protect' does not mean activities will be prohibited and is consistent with wording in relevant national air quality documents.

Further Submission No: 10 - 8 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Greg Misson

Summary: There has been a lack of regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. A more straightforward way of addressing the issue would be to make the activity causing these dust problems discretionary. This is on the basis that there is considerable evidence of adverse effects from these activities.

Decision Sought: Reject

Reasons for Staff Recommendation: Retain term 'mauri' as concept of 'mauri' is defined in the RPS, consistent with other sections of the Plan, increasingly recognised in national planning. Use of the term 'protect' does not mean activities will be prohibited and is consistent with wording in relevant national air quality documents.

Further Submission No: 13 - 9 **Submission Type:** Support in Part **Recommendation:** Reject

Further Submitter: Horticulture New Zealand

Summary: HortNZ recognises that Objective O1 needs to be amended and supports the addition of 'significant' adverse effects but is concerned at retaining 'protect'

Decision Sought: Amend AQ O1 as sought by HortNZ.

Reasons for Staff Recommendation: Retain term 'mauri' as concept of 'mauri' is defined in the RPS, consistent with other sections of the Plan, increasingly recognised in national planning. Use of the term 'protect' does not mean activities will be prohibited and is consistent with wording in relevant national air quality documents.

Further Submission No: 15 - 8 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Hangar It

Summary: This amendment will further reduce Councils ability to properly regulate. Most concerning is that the duty of care to provide a safe environment for hangar users will continue to be undermined by a continuation of toxic organic dust crossing the boundary from 101 Aerodrome Road.

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Retain term 'mauri' as concept of 'mauri' is defined in the RPS, consistent with other sections of the Plan, increasingly recognised in national planning. Use of the term 'protect' does not mean activities will be prohibited and is consistent with wording in relevant national air quality documents.

Further Submission No: 16 - 8 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Solo Wings

Summary: There are a wide range of adverse health effects that can arise from exposure to particulate matter and BOPRC has recognised this in the proposed plan change-13. The requested amendment will further frustrate BOPRC's ability to effectively perform its regulatory role. Tauranga Airport is a public area. General public are subject to breathing contaminated air, as a consequence of 101 Aerodrome road particulate discharges. It would clearly run counter to the public health interest for BOPRC to adopt these amendments.

Decision Sought: Reject submission point

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Staff Recommendations on Submissions (By Submitter)

Submitter: 67 - Port of Tauranga

Reasons for Staff Recommendation: Retain term 'mauri' as concept of 'mauri' is defined in the RPS, consistent with other sections of the Plan, increasingly recognised in national planning. Use of the term 'protect' does not mean activities will be prohibited and is consistent with wording in relevant national air quality documents.

Further Submission No: 17 - 8 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Tony Christiansen

Summary: There has been a lack of effective regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. Concern with the amendments sought by this enterprise will further degrade Councils ability to respond effectively.

Decision Sought: Reject

Reasons for Staff Recommendation: Retain term 'mauri' as concept of 'mauri' is defined in the RPS, consistent with other sections of the Plan, increasingly recognised in national planning. Use of the term 'protect' does not mean activities will be prohibited and is consistent with wording in relevant national air quality documents.

Further Submission No: 22 - 2 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Toi Te Ora Public Health

Summary: The part of the submission we oppose relates to the inclusion of the word 'significant'. It is not acceptable to harm to health. Avoiding harm will keep people healthy and improve health. The National Environment Standards for Air Quality set guaranteed minimum levels of health protection for all New Zealand. It is unacceptable for any contaminants to be discharged at levels resulting in downwind concentrations that can cause ill health. Every effort must be made to avoid the production and release of contaminants especially when adverse health effects are well known. It is not acceptable to knowingly harm the health of the public in the same way that it is not acceptable to harm the health of people in a workplace. The effective management of discharges from industrial activities is important in protecting the health of the public.

Decision Sought: Reject in part

Reasons for Staff Recommendation: Retain term 'mauri' as concept of 'mauri' is defined in the RPS, consistent with other sections of the Plan, increasingly recognised in national planning. Use of the term 'protect' does not mean activities will be prohibited and is consistent with wording in relevant national air quality documents.

Submission Point No: 3 **Submission Type:** Oppose **Recommendation:** Accept in Part

Chapter: Objectives

Section: AQ 02

Submission Summary: Port of Tauranga opposes the specific reference to the National Environmental Standards for Air Quality (2004) and Ambient Air Quality Guidelines (2002). Both documents are subject to change over time, and if these documents were updated, the plan would be inconsistent and could be seeking to meet a standard which is no longer appropriate. Port of Tauranga also consider that since the purpose of the NES and Ambient Air Quality Guidelines is to set standards and guidelines to protect human health, that Objective AQ O1 is sufficient to manage the potential effects of discharges to air.

Decision Sought: Amend objective
[delete - The region's ambient air quality meets the National Environmental Standards for Air Quality (2004) and the Ambient Air Quality Guidelines (2002).]

Reasons for Staff Recommendation: Retain reference to NESAQ as Removal of reference means providing alternative, non-specific wording. If the objective is to meet the requirements of the NESAQ then it should say so. Remove reference to AAQGs as they are only guidelines, not developed under RMA process (taking into account costs and benefits) and not appropriate to set thresholds which

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Staff Recommendations on Submissions (By Submitter)

Submitter: 67 - Port of Tauranga

must be met.

Add text to allow for amendments or replacements to ensure that if NESAQ is amended, the objective will still apply

Further Submission No: 5 - 2 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Timberlands Ltd

Summary: Timberlands supports in part the amendment of Objective AQ O2, in order to ensure that successors to the National Environmental Standards for Air Quality (2004) and Ambient Air Quality Guidelines (2002) are also covered by this objective, to ensure that consistency is retained between regional and national instruments.

Decision Sought: Accept submission point 67-3

Reasons for Staff Recommendation: Retain reference to NESAQ as Removal of reference means providing alternative, non-specific wording. If the objective is to meet the requirements of the NESAQ then it should say so.

Remove reference to AAQGs as they are only guidelines, not developed under RMA process (taking into account costs and benefits) and not appropriate to set thresholds which must be met.

Add text to allow for amendments or replacements to ensure that if NESAQ is amended, the objective will still apply

Further Submission No: 8 - 15 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Mercury NZ Ltd

Summary: Mercury supports the intent of the submission, however does not agree with deleting relevant standards and guidelines.

Decision Sought: Oppose in part

Reasons for Staff Recommendation: Retain reference to NESAQ as Removal of reference means providing alternative, non-specific wording. If the objective is to meet the requirements of the NESAQ then it should say so.

Remove reference to AAQGs as they are only guidelines, not developed under RMA process (taking into account costs and benefits) and not appropriate to set thresholds which must be met.

Add text to allow for amendments or replacements to ensure that if NESAQ is amended, the objective will still apply

Further Submission No: 10 - 9 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Greg Misson

Summary: There has been a lack of regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. A more straightforward way of addressing the issue would be to make the activity causing these dust problems discretionary. This is on the basis that there is considerable evidence of adverse effects from these activities.

Decision Sought: Reject

Reasons for Staff Recommendation: Retain reference to NESAQ as Removal of reference means providing alternative, non-specific wording. If the objective is to meet the requirements of the NESAQ then it should say so.

Remove reference to AAQGs as they are only guidelines, not developed under RMA process (taking into account costs and benefits) and not appropriate to set thresholds which must be met.

Add text to allow for amendments or replacements to ensure that if NESAQ is amended, the objective will still apply

Further Submission No: 13 - 13 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Horticulture New Zealand

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Staff Recommendations on Submissions (By Submitter)

Submitter: 67 - Port of Tauranga

Summary: HortNZ recognises that Objective O2 needs to be amended and does not support use of the Ambient Air Quality Guidelines as proposed in PC13.

Decision Sought: Either delete AQ O2 or amend as sought by HortNZ.

Reasons for Staff Recommendation: Retain reference to NESAQ as Removal of reference means providing alternative, non-specific wording. If the objective is to meet the requirements of the NESAQ then it should say so.
Remove reference to AAQGs as they are only guidelines, not developed under RMA process (taking into account costs and benefits) and not appropriate to set thresholds which must be met.
Add text to allow for amendments or replacements to ensure that if NESAQ is amended, the objective will still apply

Further Submission No: 15 - 9 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Hangar It

Summary: This amendment will further reduce Councils ability to properly regulate. Most concerning is that the duty of care to provide a safe environment for hangar users will continue to be undermined by a continuation of toxic organic dust crossing the boundary from 101 Aerodrome Road.

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Retain reference to NESAQ as Removal of reference means providing alternative, non-specific wording. If the objective is to meet the requirements of the NESAQ then it should say so.
Remove reference to AAQGs as they are only guidelines, not developed under RMA process (taking into account costs and benefits) and not appropriate to set thresholds which must be met.
Add text to allow for amendments or replacements to ensure that if NESAQ is amended, the objective will still apply

Further Submission No: 16 - 9 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Solo Wings

Summary: There are a wide range of adverse health effects that can arise from exposure to particulate matter and BOPRC has recognised this in the proposed plan change-13. The requested amendment will further frustrate BOPRC's ability to effectively perform its regulatory role. Tauranga Airport is a public area. General public are subject to breathing contaminated air, as a consequence of 101 Aerodrome road particulate discharges. It would clearly run counter to the public health interest for BOPRC to adopt these amendments.

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Retain reference to NESAQ as Removal of reference means providing alternative, non-specific wording. If the objective is to meet the requirements of the NESAQ then it should say so.
Remove reference to AAQGs as they are only guidelines, not developed under RMA process (taking into account costs and benefits) and not appropriate to set thresholds which must be met.
Add text to allow for amendments or replacements to ensure that if NESAQ is amended, the objective will still apply

Further Submission No: 17 - 9 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Tony Christiansen

Summary: There has been a lack of effective regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. Concern with the amendments sought by this enterprise will further degrade Councils ability to respond effectively.

Decision Sought: Reject

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Staff Recommendations on Submissions (By Submitter)

Submitter: 67 - Port of Tauranga

Reasons for Staff Recommendation: Retain reference to NESAQ as Removal of reference means providing alternative, non-specific wording. If the objective is to meet the requirements of the NESAQ then it should say so.
Remove reference to AAQGs as they are only guidelines, not developed under RMA process (taking into account costs and benefits) and not appropriate to set thresholds which must be met.
Add text to allow for amendments or replacements to ensure that if NESAQ is amended, the objective will still apply

Further Submission No: 23 - 5 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter consider that the proposed deletion (as recommended by submission 67 – 3) removes clear guidance as to what ambient clear quality should be, although notes the concerns made by Port of Tauranga. Lawter consider that an amendment should be made to objective AQ O2 to address Port of Tauranga's concerns.

Decision Sought: Decision sought: Amend objective AQ O2 as follows: 'and ambient air quality guidelines (2002) [insert: or any subsequent national environmental standards for air quality or ambient air quality guidelines].

Reasons for Staff Recommendation: Retain reference to NESAQ as Removal of reference means providing alternative, non-specific wording. If the objective is to meet the requirements of the NESAQ then it should say so.
Remove reference to AAQGs as they are only guidelines, not developed under RMA process (taking into account costs and benefits) and not appropriate to set thresholds which must be met.
Add text to allow for amendments or replacements to ensure that if NESAQ is amended, the objective will still apply

Submission Point No: 4 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Objectives

Section: AQ 03

Submission Summary: Port of Tauranga supports the proposed objective

Decision Sought: Retain as proposed

Reasons for Staff Recommendation: Change wording 'manage' to 'management' as it sets an outcome instead of an action

Submission Point No: 5 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Policies

Section: AQ P1

Submission Summary: Port of Tauranga supports the intent of the policy but considers 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.

Decision Sought: Retain, subject to addressing issues with rule framework

Reasons for Staff Recommendation: Staff do not agree that this policy is misaligned with AQ R1. Emissions from industrial or trade premises are the cause of poor quality air in Ngapuna and in Mount Maunganui. These are clear cases that the approach in the operative Regional Air Plan, to manage these activities with a general permitted activity rule, has not worked, particularly regarding cumulative effects. Therefore it is appropriate that discharges from these premises are classified as discretionary, to allow the Regional Council an opportunity to assess their impact.
Recommended changes to AQ R1 have partially remedied some of this concern

Further Submission No: 1 - 11 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 67 - Port of Tauranga

Further Submitter:	GBC Winstone
Summary:	AQ P1 is supported in its current state if AQ R1 is amended to provide a permitted activity standard for discharges from industrial and trade activities. Alternatively, amendment of AQ P1 is supported, to focus on the desired outcome of the discharge resulting in acceptable adverse effects. The adverse effects of discharges from industrial or trade activities may not in every case be able to be fully avoided, remedied or mitigated, but the residual effects may be acceptable in terms of nature and scale. That should be recognised in this policy, and provide for a rule framework which allows permitted activity status for discharges from industrial or trade activities meeting permitted activity standards.
Decision Sought:	Provide for a rule framework which allows permitted activity status for discharges from industrial or trade activities meeting permitted activity standards.
Reasons for Staff Recommendation:	Staff do not agree that this policy is misaligned with AQ R1. Emissions from industrial or trade premises are the cause of poor quality air in Ngapuna and in Mount Maunganui. These are clear cases that the approach in the operative Regional Air Plan, to manage these activities with a general permitted activity rule, has not worked, particularly regarding cumulative effects. Therefore it is appropriate that discharges from these premises are classified as discretionary, to allow the Regional Council an opportunity to assess their impact. Recommended changes to AQ R1 have partially remedied some of this concern

Further Submission No:	5 - 4	Submission Type:	Support	Recommendation:	Accept in Part
Further Submitter:	Timberlands Ltd				
Summary:	Timberlands supports the submission for the reasons expressed, that 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. Timberlands believes that the rule framework needs to include a restricted discretionary category for activities that don't meet AQ R1, but are not so significant in their effects that a full discretionary status is needed.				
Decision Sought:	Accept submission point 67-5				
Reasons for Staff Recommendation:	Staff do not agree that this policy is misaligned with AQ R1. Emissions from industrial or trade premises are the cause of poor quality air in Ngapuna and in Mount Maunganui. These are clear cases that the approach in the operative Regional Air Plan, to manage these activities with a general permitted activity rule, has not worked, particularly regarding cumulative effects. Therefore it is appropriate that discharges from these premises are classified as discretionary, to allow the Regional Council an opportunity to assess their impact. Recommended changes to AQ R1 have partially remedied some of this concern.				

Further Submission No:	23 - 9	Submission Type:	Oppose	Recommendation:	Accept
Further Submitter:	Lawter New Zealand Ltd				
Summary:	Lawter consider that the purpose of this rule, and of permitted activities in general is to enable activities which Council consider have acceptable levels of adverse effects on the environment. It is acknowledged that there are many industrial and trade activities which may have insignificant adverse effects, however these permitted activities may cumulatively be contributing to the degradation of ambient air quality. On this basis, it is considered that discharges from industrial and trade activities cannot be suitably managed with general conditions, and therefore the current rule framework is consistent with what is drafted in Proposed Plan Change 13.				
Decision Sought:	Decision sought: Reject submission 67 – 5.				
Reasons for Staff Recommendation:	Staff agree that teissions from industrial or trade premises are the cause of poor quality air in Ngapuna and in Mount Maunganui caused by cumulative effects. These are clear cases that the approach in the operative Regional Air Plan, to manage these activities with a general permitted activity rule, has not worked, particularly regarding cumulative effects. Therefore it is appropriate that discharges from these premises are classified as discretionary, to allow the Regional Council an opportunity to assess their impact.				

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Staff Recommendations on Submissions (By Submitter)

Submitter: 67 - Port of Tauranga

Submission Point No: 6 **Submission Type:** Seek **Recommendation:** Accept in Part

Chapter: Policies

Section: AQ P2

Submission Summary: Port of Tauranga 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” and “contaminants”. Hazardous substances are defined under the Hazardous Substances and New Organisms Act and include a range of hazards of specific chemicals and mixtures. The RMA is focused on managing the discharge of contaminants into air which may or may not meet the definition of a hazardous substance under HSNO. The policy as currently drafted sets a bottom line of avoiding all discharges of hazardous substances and case law (Davidson) has made it clear that bottom lines must be achieved. Port of Tauranga 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 means 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.

Decision Sought: Amend Policy AQ P2 to read:
[insert - Seek to] avoid discharges of hazardous [insert - air pollutants] [delete - substances to air] and where avoidance is not possible, remedy or mitigate the discharge using the best practicable option.

Reasons for Staff Recommendation: Staff agree that the inclusion of hazardous air pollutants in the policy is appropriate, but do not recommend removing hazardous substances as where the use of a hazardous substance leads to a discharge to air, the plan change has a regulatory gap to fill. The use of the word 'avoid' does not operate as a prohibition, however staff recommend wording changes to clarify that avoidance is preferable, but not the bottom line

Further Submission No: 7 - 3 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Trustpower Ltd

Summary: It aligns with the relief sought by Trustpower

Decision Sought: Accept submission point

Reasons for Staff Recommendation: Staff agree that the inclusion of hazardous air pollutants in the policy is appropriate, but do not recommend removing hazardous substances as where the use of a hazardous substance leads to a discharge to air, the plan change has a regulatory gap to fill. The use of the word 'avoid' does not operate as a prohibition, however staff recommend wording changes to clarify that avoidance is preferable, but not the bottom line

Further Submission No: 8 - 27 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Mercury NZ Ltd

Summary: If the policy is not going to be deleted, the wording proposed is an improvement from the notified version. Hazardous substance regulation is managed through alternative regulatory mechanisms, such as the Health and Safety Act. Does this policy need to be targeted to specific land uses to which land contamination from air discharges is relevant?

Decision Sought: Allow in part

Reasons for Staff Recommendation: Staff agree that the inclusion of hazardous air pollutants in the policy is appropriate, but do not recommend removing hazardous substances as where the use of a hazardous substance leads to a discharge to air, the plan change has a regulatory gap to fill. The use of the word 'avoid' does not operate as a prohibition, however staff recommend wording changes to clarify that avoidance is preferable, but not the bottom line

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Staff Recommendations on Submissions (By Submitter)

Submitter: 67 - Port of Tauranga

Further Submission No: 10 - 10 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Greg Misson

Summary: There has been a lack of regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. A more straightforward way of addressing the issue would be to make the activity causing these dust problems discretionary. This is on the basis that there is considerable evidence of adverse effects from these activities.

Decision Sought: Reject

Reasons for Staff Recommendation: This further submission point discusses issues with dust and particulate matter. While particulate matter is a contaminant, its harm is caused due to its small size, not due to its intrinsic properties. Dust is not a hazardous substance, nor a hazardous air pollutant.

Further Submission No: 13 - 25 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks that the focus is on hazardous air pollutants, rather than hazardous substances, and that a policy of avoidance is inappropriate. HortNZ has sought changes to provide for managing discharges of hazardous substances and supports the change in focus to hazardous air pollutants.

Decision Sought: Accept submission to hazardous air pollutants and amend as sought by HortNZ

Reasons for Staff Recommendation: Staff agree that the inclusion of hazardous air pollutants in the policy is appropriate, but do not recommend removing hazardous substances as where the use of a hazardous substance leads to a discharge to air, the plan change has a regulatory gap to fill. The use of the word 'avoid' does not operate as a prohibition, however staff recommend wording changes to clarify that avoidance is preferable, but not the bottom line

Further Submission No: 15 - 10 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Hangar It

Summary: This amendment will further reduce Councils ability to properly regulate. Most concerning is that the duty of care to provide a safe environment for hangar users will continue to be undermined by a continuation of toxic organic dust crossing the boundary from 101 Aerodrome Road.

Decision Sought: Reject submission point

Reasons for Staff Recommendation: This further submission point discusses issues with dust and particulate matter. While particulate matter is a contaminant, its harm is caused due to its small size, not due to its intrinsic properties. Dust is not a hazardous substance, nor a hazardous air pollutant.

Further Submission No: 16 - 10 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Solo Wings

Summary: There are a wide range of adverse health effects that can arise from exposure to particulate matter and BOPRC has recognised this in the proposed plan change-13. The requested amendment will further frustrate BOPRC's ability to effectively perform its regulatory role. Tauranga Airport is a public area. General public are subject to breathing contaminated air, as a consequence of 101 Aerodrome road particulate discharges. It would clearly run counter to the public health interest for BOPRC to adopt these amendments.

Decision Sought: Reject submission point

Reasons for Staff Recommendation: This further submission point discusses issues with dust and particulate matter. While particulate matter is a contaminant, its harm is caused due to its small size, not due to

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 67 - Port of Tauranga

its intrinsic properties. Dust is not a hazardous substance, nor a hazardous air pollutant.

Further Submission No: 17 - 10 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Tony Christiansen

Summary: There has been a lack of effective regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. Concern with the amendments sought by this enterprise will further degrade Councils ability to respond effectively.

Decision Sought: Reject

Reasons for Staff Recommendation: This further submission point discusses issues with dust and particulate matter. While particulate matter is a contaminant, its harm is caused due to its small size, not due to its intrinsic properties. Dust is not a hazardous substance, nor a hazardous air pollutant.

Further Submission No: 23 - 12 **Submission Type:** Other **Recommendation:** Comment Note

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter neither support or object the proposed amendments recommended in submission 67 - 6. Lawter wish to be kept informed of any progression of changes, as the term 'hazardous air pollutants' may adversely effect Lawter's operation

Decision Sought: Neutral - none sought

Reasons for Staff Recommendation: The term 'hazardous air pollutants' has been added to this policy, therefore the further submitter will need to consider their position.

Submission Point No: 7 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Policies

Section: AQ P3(a)

Submission Summary: Port of Tauranga supports the intent of the policy but considers that it should be amended. In terms of (a), the current drafting of the policy requires adverse effects to be avoided and this by inference means discharges must not result in any adverse effects. This outcome is not consistent with the intent of other provisions in the Proposed Plan Change or resource management practice in general. Port of Tauranga suggests that the inclusion of "remedy and mitigate" is consistent with the hierarchy of sustainable management measures set out within the RMA.

Decision Sought: Amend (a) to read:
(a) safeguard the life supporting capacity of the air, avoid, [insert - remedy or mitigate significant] adverse effects on human health, and manage adverse effects on cultural values, amenity values, and the environment

Reasons for Staff Recommendation: Only avoiding 'significant' adverse effects on human health and allowing for the 'remedy' or 'mitigation' of these adverse effects implies that the there is a threshold below which human health effects are acceptable, until they become significant.

Further Submission No: 8 - 39 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Mercury NZ Ltd

Summary: Mercury supports this amendment. Mercury seeks Policy 3 implement the correct tests in line with the RMA.

Decision Sought: Allow

Reasons for Staff Recommendation: Only avoiding 'significant' adverse effects on human health and allowing for the 'remedy' or 'mitigation' of these adverse effects implies that the there is a threshold below which human health effects are acceptable, until they become significant.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 67 - Port of Tauranga

Further Submission No: 10 - 11 **Submission Type:** Oppose **Recommendation:** To Be Advised

Further Submitter: Greg Misson

Summary: There has been a lack of regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. A more straightforward way of addressing the issue would be to make the activity causing these dust problems discretionary. This is on the basis that there is considerable evidence of adverse effects from these activities.

Decision Sought: Reject

Reasons for Staff Recommendation: Only avoiding 'significant' adverse effects on human health and allowing for the 'remedy' or 'mitigation' of these adverse effects implies that there is a threshold below which human health effects are acceptable, until they become significant.

Further Submission No: 13 - 30 **Submission Type:** Support in Part **Recommendation:** Reject

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks the focus on 'avoiding remedying or mitigating significant adverse effects on human health. HortNZ seeks a similar approach

Decision Sought: Accept addition and 'significant' adverse effects as sought by the submitter

Reasons for Staff Recommendation: Only avoiding 'significant' adverse effects on human health and allowing for the 'remedy' or 'mitigation' of these adverse effects implies that there is a threshold below which human health effects are acceptable, until they become significant.

Further Submission No: 15 - 11 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Hangar It

Summary: This amendment will further reduce Councils ability to properly regulate. Most concerning is that the duty of care to provide a safe environment for hangar users will continue to be undermined by a continuation of toxic organic dust crossing the boundary from 101 Aerodrome Road.

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Only avoiding 'significant' adverse effects on human health and allowing for the 'remedy' or 'mitigation' of these adverse effects implies that there is a threshold below which human health effects are acceptable, until they become significant.

Further Submission No: 16 - 11 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Solo Wings

Summary: There are a wide range of adverse health effects that can arise from exposure to particulate matter and BOPRC has recognised this in the proposed plan change-13. The requested amendment will further frustrate BOPRC's ability to effectively perform its regulatory role. Tauranga Airport is a public area. General public are subject to breathing contaminated air, as a consequence of 101 Aerodrome road particulate discharges. It would clearly run counter to the public health interest for BOPRC to adopt these amendments.

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Only avoiding 'significant' adverse effects on human health and allowing for the 'remedy' or 'mitigation' of these adverse effects implies that there is a threshold below which human health effects are acceptable, until they become significant.

Further Submission No: 17 - 11 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Tony Christiansen

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 67 - Port of Tauranga

Summary: There has been a lack of effective regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. Concern with the amendments sought by this enterprise will further degrade Councils ability to respond effectively.

Decision Sought: Reject

Reasons for Staff Recommendation: Only avoiding 'significant' adverse effects on human health and allowing for the 'remedy' or 'mitigation' of these adverse effects implies that there is a threshold below which human health effects are acceptable, until they become significant.

Further Submission No: 22 - 8 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Toi Te Ora Public Health

Summary: It is not acceptable to harm to health. Avoiding harm will keep people healthy and improve health. The National Environment Standards for Air Quality set guaranteed minimum level of health protection for all New Zealand. It is unacceptable for any contaminants to be discharged at levels resulting in downwind concentrations that can cause ill health. Every effort to avoid exposure to contaminants must be made when the adverse health effects are well known. It is not acceptable to knowingly harm the health of the public in the same way that it is not acceptable to harm the health of people in a workplace. The effective management of discharges from industrial and trade activities is important in protecting the health of the public.

Decision Sought: Reject

Reasons for Staff Recommendation: Only avoiding 'significant' adverse effects on human health and allowing for the 'remedy' or 'mitigation' of these adverse effects implies that there is a threshold below which human health effects are acceptable, until they become significant.

Further Submission No: 23 - 20 **Submission Type:** Support in Part **Recommendation:** Reject

Further Submitter: Lawter New Zealand Ltd

Summary: Although Lawter supports the inclusion of 'remedy and mitigate' as recommended by submission 67 – 7, it is considered that industries should be aiming to address any adverse effects on human health, not just those which are considered to be 'significant'.

Decision Sought: Decision sought: amend policy AQ P3(a) so that:
 • Significant adverse effects on human health are avoided; and
 • All other adverse effects (including all other effects on human health) are managed (remedied or mitigated) accordingly.

Reasons for Staff Recommendation: Only avoiding 'significant' adverse effects on human health and allowing for the 'remedy' or 'mitigation' of these adverse effects implies that there is a threshold below which human health effects are acceptable, until they become significant.

Further Submission No: 30 - 8 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Swap Stockfoods Ltd

Summary: Support the inclusion of "remedy and mitigate significant" in terms of consistency with the RMA.

Decision Sought: Accept

Reasons for Staff Recommendation: Only avoiding 'significant' adverse effects on human health and allowing for the 'remedy' or 'mitigation' of these adverse effects implies that there is a threshold below which human health effects are acceptable, until they become significant.

Submission Point No: 8 **Submission Type:** Seek **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R1

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 67 - Port of Tauranga

Submission Summary: Port of Tauranga supports the inclusion of a permissive “catch all” provision and so generally supports the proposed rule. However, Port of Tauranga opposes the inclusion of (c). The way the rule is currently drafted, it makes all industrial or trade premises a discretionary activity irrespective of size, scale and effects. Port of Tauranga is concerned that some of its activities may be considered in the future to be “industrial or trade premises”. Port of Tauranga also considers it inappropriate for clause (a) to refer to any water body. As written it could be interpreted as applying to a water body within the property where the discharge is being undertaken which should be managed under the provisions of the Regional Natural Resources Plan. A minor amendment to clause (a) is also proposed to match how it is used within the RMA and to make it clear that it all applies to effects beyond the property boundary.

Decision Sought: Amend Rule AQ R1 to read:
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:
(a) The [insert - effects of the] discharge must not be noxious, or dangerous, offensive or objectionable beyond the boundary of the subject property [delete - or into any water body.]
(b) The discharge of smoke or water vapour must not adversely affect the safety of any vehicle, aircraft, or ship.
[delete - (c) The discharge is not from industrial or trade premise.]

Reasons for Staff Recommendation: The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent. However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule. There is no reason to distinguish between waterbodies on or off the property, as both are to be managed under the RMA. The rule is intended to ensure that discharges of contaminants to air that enter into any waterbody are not permitted. This is not necessarily clearly regulated under the RMRP, which focusses on managing the discharge of contaminants directly to water or to land where it may enter water.

Further Submission No: 1 - 12 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: GBC Winstone

Summary: The deletion or amendment of AQ R1(c) is supported, as the Plan should provide a means of permitting incidental and de minimus discharges from industrial and trade premises, by stating the type and levels of effects as a permitted activity standard.
GBC Winstone has a service centre for bulk storage and handling of cement at Port of Tauranga, Mt Maunganui, operating under an air discharge consent, but contains the cement by means of a baghouse dust removal system. GBC Winstone original submission No. 27 on Plan Change 13 sought permitted activity status for cement storage and handling at Port of Tauranga, subject to meeting permitted activity standards. The permitted activity standards could be specific to bulk storage and handling of cement and associated materials, as detailed in GBC Winstone’s original submission and as used in the Auckland Unitary Plan, or more general in relation to adverse effects on human health, property or the environment beyond the boundary of the premises where the activity takes place. Such permitted activity standards would ensure that a baghouse or similar dust removal system is used to ensure the nature and levels of adverse effects are acceptable.

Decision Sought: The permitted activity standards could be specific to bulk storage and handling of cement and associated materials, as detailed in GBC Winstone’s original submission and as used in the Auckland Unitary Plan, or more general in relation to adverse effects on human health, property or the environment beyond the boundary of the premises where the activity takes place. Such permitted activity standards would ensure that a baghouse or similar dust removal system is used to ensure the nature and levels of adverse effects are acceptable.

Reasons for Staff Recommendation: The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 67 - Port of Tauranga

resource consent.

However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 7 - 19 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Trustpower Ltd

Summary: It aligns with the relief sought by Trustpower (only support amendments to clause (c) not clause (a))

Decision Sought: Accept submission point

Reasons for Staff Recommendation: The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent.
However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 8 - 71 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Mercury NZ Ltd

Summary: Mercury seeks Policy 4 implement the correct tests in line with the RMA. Mercury supports the relief for clauses a) and c)

Decision Sought: Allow

Reasons for Staff Recommendation: The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent.
However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 10 - 12 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Greg Misson

Summary: Support of proposed AQ R1 as currently drafted. This rule is clear in providing that discharges to air should not cause adverse effects beyond the boundary of the site where any activity is being undertaken.
Particularly strong support for Rule AQ R1(c) which provides that any activity on industrial or trade premises that has discharges to air that have adverse effects offsite will require resource consent (i.e. it is no longer a permitted activity). A straightforward application of this rule means that the bulk materials handling facility at 101 Aerodrome Road (which have caused adverse effects at mine and adjacent properties) would no longer be a permitted activity and would require resource consent.
To assist with enforcement of this rule, carry out monitoring for PM10 in accordance with the Resource Management (National Environmental Standards for Air Quality) Regulations 2004.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 67 - Port of Tauranga

Include additional text in the AQ R1 - (d) The discharge does not cause an exceedance of the national environmental standard for PM10.

Decision Sought: Reject in part - with modification
 To assist with enforcement of this rule, carry out monitoring for PM10 in accordance with the Resource Management (National Environmental Standards for Air Quality) Regulations 2004.
 Include additional text in the AQ R1 - (d) The discharge does not cause an exceedance of the national environmental standard for PM10.

Reasons for Staff Recommendation: Agree that adverse effects are being caused by discharges from industrial and trade premises across the region, particularly in industrial areas, that do need to be better managed moving forward. When activities are not managed by any other rule in the plan and are causing adverse effects, the burden of proving such effects when enforcing the plan rules falls to the Regional Council. Where there are several sources of a contaminant of concern it can be difficult to determine the main cause, if any. Even when there is one single source causing adverse effects it can still be a difficult process. The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent. However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 13 - 58 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Horticulture New Zealand

Summary: Inserting 'effects' in a) ensures that the focus is on addressing potential adverse effects

Decision Sought: Accept submission

Reasons for Staff Recommendation: This change would not remedy the original submission point which was that water bodies within the property should not be managed by this rule

Further Submission No: 15 - 12 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Hangar It

Summary: In strong support of proposed AQ R1 as it is currently drafted. AQ R1 requires discharges to air should not cause adverse effects beyond the boundary of a site where any activity is being undertaken. Importantly AQ R1(c) provides that any activity on industrial or trade premises that has discharges to air that have adverse effects offsite, such as 101 Aerodrome Road, will now require resource consent.

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Agree that adverse effects are being caused by discharges from industrial and trade premises across the region, particularly in industrial areas, that do need to be better managed moving forward. When activities are not managed by any other rule in the plan and are causing adverse effects, the burden of proving such effects when enforcing the plan rules falls to the Regional Council. Where there are several sources of a contaminant of concern it can be difficult to determine the main cause, if any. Even when there is one single source causing adverse effects it can still be a difficult process. The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent. However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not

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Staff Recommendations on Submissions (By Submitter)

Submitter: 67 - Port of Tauranga

the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 16 - 12 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Solo Wings

Summary: In support of proposed AQ R1 as currently drafted. This rule requires discharges to air should NOT cause adverse effects beyond the boundary of the site where any activity is being undertaken. In particular, support of Rule AQ R1(c) which provides that any activity on industrial or trade premises that has discharges to air that have adverse effects offsite, such as 101 Aerodrome Road (which has caused serious adverse effects at mine and other properties), will now require resource consent

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Agree that adverse effects are being caused by discharges from industrial and trade premises across the region, particularly in industrial areas, that do need to be better managed moving forward. When activities are not managed by any other rule in the plan and are causing adverse effects, the burden of proving such effects when enforcing the plan rules falls to the Regional Council. Where there are several sources of a contaminant of concern it can be difficult to determine the main cause, if any. Even when there is one single source causing adverse effects it can still be a difficult process. The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent. However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 17 - 12 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Tony Christiansen

Summary: Support of proposed AQ R1 as currently drafted. This rule is clear in providing that discharges to air should not cause adverse effects beyond the boundary of the site where any activity is being undertaken. Support for Rule AQ R1(c) which provides that any activity on industrial or trade premises that has discharges to air that have adverse effects offsite will require resource consent with an amendment to add condition (d) "The discharge does not cause an exceedance of the national environmental standard for PM10." Application of this rule would mean that the bulk materials handling facility at 101 Aerodrome Road would no longer be a permitted activity and would require resource consent. When there are neighbouring properties, such as a public Airport, where people and aircraft with sensitive equipment exist and frequent, the resource consent should be publicly notifiable. To assist with enforcement of this rule, monitoring should be carried out for PM10 in accordance with the Resource Management (National Environmental Standards for Air Quality) Regulations 2004.

Decision Sought: Reject

Reasons for Staff Recommendation: Agree that adverse effects are being caused by discharges from industrial and trade premises across the region, particularly in industrial areas, that do need to be better managed moving forward. When activities are not managed by any other rule in the plan and are causing adverse effects, the burden of proving such effects when enforcing the plan rules falls to the Regional Council. Where there are several sources of a contaminant of concern it can be difficult to determine the main cause, if any. Even when there is one single source causing adverse effects it can still be a difficult process. The presumption under the Act for ITPs restores the principle of polluter pays, and this

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 67 - Port of Tauranga

is considered appropriate. ITPs discharging contaminants to air must apply for resource consent.
However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 22 - 23 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Toi Te Ora Public Health

Summary: The effective management of discharges is important in protecting the health of the public. The proposed plan change enables better management of air discharges through resource consenting and more efficient enforcement.
The Section 32 Report states that 'the National Environmental Standard for Air Quality relies on the policies and rules in a regional plan to be effective'.

Decision Sought: Reject

Reasons for Staff Recommendation: Agree that adverse effects are being caused by discharges from industrial and trade premises across the region, particularly in industrial areas, that do need to be better managed moving forward. When activities are not managed by any other rule in the plan and are causing adverse effects, the burden of proving such effects when enforcing the plan rules falls to the Regional Council. Where there are several sources of a contaminant of concern it can be difficult to determine the main cause, if any. Even when there is one single source causing adverse effects it can still be a difficult process.
The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent.
However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 23 - 50 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter oppose the proposed amendment recommended by submission 67 - 8. Although it is accepted that some industrial and trade premises will discharge contaminants at 'less than minor' or 'de minimis' levels, we note that there is no way in knowing whether cumulative effects are occurring, which may result from several different 'permitted' discharges from industrial and trade premises. These discharges could contribute to the degradation of ambient air quality. For this reason, Lawter support the 'catch-all' approach with regards to industrial and trade facilities, which has been adopted in Proposed Plan Change 13.

Decision Sought: Decision sought: Retain rule AQ R1 as notified.

Reasons for Staff Recommendation: Agree that adverse effects are being caused by discharges from industrial and trade premises across the region, particularly in industrial areas, that do need to be better managed moving forward. When activities are not managed by any other rule in the plan and are causing adverse effects, the burden of proving such effects when enforcing the plan rules falls to the Regional Council. Where there are several sources of a contaminant of concern it can be difficult to determine the main cause, if any. Even when there is one single source causing adverse effects it can still be a difficult process.
The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 67 - Port of Tauranga

However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 25 - 2 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: KiwiRail Holdings Ltd

Summary: While other Plan rules permit many of KiwiRail's activities at its depots and yards, small and contained emissions could be unreasonably prevented by clause (c). The way the rule is currently drafted it makes all other industrial or trade premises a discretionary activity, irrespective of size, scale and effects. KiwiRail therefore supports the PoT submission, as minor discharges meeting criteria (a) and (b) should be permitted on ITP sites under Rule AQ R1.

Decision Sought: Accept

Reasons for Staff Recommendation: The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent.

However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 30 - 33 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Swap Stockfoods Ltd

Summary: Support is provided as the submission is consistent with the intent of Swap Stockfoods original submission

Decision Sought: Accept

Reasons for Staff Recommendation: The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent.

However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Submission Point No: 9 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R3(2)

Submission Summary: Port of Tauranga supports the inclusion of a permitted activity rule for the ventilation and displacement of liquids in storage tanks and tankers.

Decision Sought: Retain Rule AQ R3 as proposed

Reasons for Staff Recommendation: Some changes made to the rule to resolve other submission points however overall policy intent has not changed

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Staff Recommendations on Submissions (By Submitter)

Submitter: 67 - Port of Tauranga

Submission Point No: 10 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R4(b)

Submission Summary: Port of Tauranga considers it would be unreasonable to have to obtain discharge permits for vehicle movements on unsealed roads and generally supports the rule.

Decision Sought: Retain
The discharge of contaminants to air from:
(b) vehicle movements on unsealed roads is a permitted activity

Reasons for Staff Recommendation: Retain clause (b) as notified

Further Submission No: 7 - 22 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Trustpower Ltd

Summary: It aligns with the relief sought by Trustpower

Decision Sought: Accept submission point

Reasons for Staff Recommendation: Retain clause (b) as notified

Submission Point No: 11 **Submission Type:** Seek **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R16

Submission Summary: Port of Tauranga undertakes spray painting of infrastructure components to protect them from corrosion. Due to the location of the infrastructure and topographic conditions surrounding its infrastructure, it may be impracticable for Port of Tauranga to erect spray booths and stacks as required by (a) and (b). Given the locations of Port of Tauranga's operations and activities it considers that (c) is the only permitted activity condition required to ensure the discharge from spray painting results in acceptable adverse effects beyond the subject property boundary. Port of Tauranga considers that the OR (ii) BPO method alternative provided under Rule AQ R 17 would be acceptable for its spray painting operations as would (d) under Rule AQ 17 as all operations would be "mobile". Port of Tauranga notes that blasting and painting are almost always undertaken together (i.e. it would be unusual to blast 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.

Decision Sought: Amend Rule AQ R16 to read:
The discharge of contaminants to air from the spray application of surface coatings containing diisocyanates, organic plasticisers, or spray on antifouling paint (excluding the application of protective coatings to transmission line support structures) is a permitted activity provided the following conditions are complied with:
(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.
(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.
[insert - where (a) and (b) cannot be met due to the mobile nature on an operation then the discharge must be controlled using a current, best practice method such as screening and paint technologies and the owner/occupier/agent must notify the occupier of any properties within 50 metres of the blasting site at least 24 hours prior to commencing work.]
(c) The discharge must not be noxious or dangerous, offensive or objectionable beyond the boundary of the subject property.

Reasons for Staff Recommendation: Recommend amending the rule to allow for the best practicable option but including conditions to ensure that sensitive activities are not affected.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 67 - Port of Tauranga

Further Submission No: 8 - 78 **Submission Type:** Support in Part **Recommendation:** Accept

Further Submitter: Mercury NZ Ltd

Summary: Mercury seeks Policy 4 implement the correct tests in line with the RMA and supports a permissive rule framework for infrastructure related uses. Mercury is reliant on electricity transmission and distribution to ensure electricity can be delivered to end users.

Decision Sought: Allow

Reasons for Staff Recommendation: Recommend amending the rule to allow for the best practicable option but including conditions to ensure that sensitive activities are not affected.

Submission Point No: 12 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R17

Submission Summary: As discussed above in submission point to AQ R16, Port of Tauranga undertakes abrasive blasting of infrastructure components to prepare them for painting. Due to the location of the infrastructure and topographic conditions surrounding its infrastructure, it will invariably be impracticable for Port of Tauranga to erect a sealed blasting booth as required under (a)(i). Therefore the retention of (a)(ii) is critical to Port of Tauranga.

Decision Sought: Retain AQ R17 as proposed.

Reasons for Staff Recommendation: Retain AQ R17 as notified

Further Submission No: 7 - 27 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Trustpower Ltd

Summary: It aligns with the relief sought by Trustpower

Decision Sought: Accept submission point

Reasons for Staff Recommendation: Retain AQ R17 as notified

Submission Point No: 13 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R18

Submission Summary: Port of Tauranga supports the proposed rule, subject to the amendments to the definition of fuel burning equipment to exclude emergency and mobile generators and the new permitted activity rule for emergency or mobile generators.

Decision Sought: Retain AQ R18 subject to proposed changes to definition of fuel burning equipment and new rule for emergency or mobile generators.

Reasons for Staff Recommendation: Retain rule as proposed

Submission Point No: 14 **Submission Type:** Neutral **Recommendation:** Accept

Chapter: Rules

Section: New rule

Submission Summary: Port of Tauranga operate mobile generators as part of port operations both as backup power

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 67 - Port of Tauranga

and to provide power to areas of the port where mains power is unavailable. The generators are typically diesel fired. Rule AQ R18 and the supporting Section 32 analysis are focused on the burning of fuel in boilers and does not address discharges from internal combustion engines just as standby and portable generators. Port of Tauranga considers that is appropriate to include a permitted activity rule for diesel fired generators that are operated to provide emergency electricity or are mobile. A permitted activity limit of 600KVA has been proposed. This is the equivalent of the current limit for the combustion of clean oil in AQ R18 of 500kw. The proposed rule limit has been proposed using the load as the limit as this is typically used in the specification for diesel fired generators and can be readily determined from specification sheets. In addition as mobile generators have the potential to be used in close proximity to sensitive activities, a clause limiting the duration of any discharge where is located within 50m of sensitive activity.

Decision Sought: New Rule:
The discharge of contaminants to air from the internal combustion of diesel in any mobile or emergency generator with a maximum load of 600 KVA is a permitted activity provided the following conditions are met:
(a) The discharge must not be noxious or dangerous, offensive or objectionable beyond the boundary of the subject property; and
(b) The discharge must not occur for more than 48 hours within 50m of a sensitive activity.

Reasons for Staff Recommendation: Staff response is that discharges from these sources will be infrequent and are not contaminants of concern in this area. Amendments to AQ R1 have most likely removed the need to include this rule, however staff agree that this additional rule provides clarity, and some further conditions to manage adverse effects from this activity, beyond general rule AQ R1. Staff recommend including this rule, however recommend expanding it to the whole region

Further Submission No: 7 - 29 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Trustpower Ltd

Summary: It aligns with the relief sought by Trustpower

Decision Sought: Accept submission point

Reasons for Staff Recommendation: Staff response is that discharges from these sources will be infrequent and are not contaminants of concern in this area. Amendments to AQ R1 have most likely removed the need to include this rule, however staff agree that this additional rule provides clarity, and some further conditions to manage adverse effects from this activity, beyond general rule AQ R1. Staff recommend including this rule, however recommend expanding it to the whole region

Further Submission No: 25 - 1 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: KiwiRail Holdings Ltd

Summary: KiwiRail supports the PoT submission that the operation of diesel fired generators to provide emergency electricity or are mobile be anticipated as a permitted activity in the Plan. While infrequent, incidents which require emergency power are slated to increase and by providing for quick restoration of operational activities the Plan will increase the resilience and ability of key infrastructure to maintain operations.

Decision Sought: Accept

Reasons for Staff Recommendation: Staff response is that discharges from these sources will be infrequent and are not contaminants of concern in this area. Amendments to AQ R1 have most likely removed the need to include this rule, however staff agree that this additional rule provides clarity, and some further conditions to manage adverse effects from this activity, beyond general rule AQ R1. Staff recommend including this rule, however recommend expanding it to the whole region

Submission Point No: 15 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R21 - whole rule

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 67 - Port of Tauranga

Submission Summary: Port of Tauranga supports the intention of the rule which seeks to identify the specific Industrial or Trade Activities which discharge contaminants to air where the significant effects could occur. While Port of Tauranga supports the proposed rule, it considers a minor amendment to clarify it only applies to the discharges where not otherwise permitted in the plan.

Decision Sought: The discharge of contaminants into air from any of the following activities is a discretionary activity, [insert - where not otherwise permitted in the plan:]

Reasons for Staff Recommendation: Some changes made to the rule to resolve other submission points however overall policy intent has not changed.

Further Submission No: 10 - 13 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Greg Misson

Summary: There has been a lack of regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. A more straightforward way of addressing the issue would be to make the activity causing these dust problems discretionary. This is on the basis that there is considerable evidence of adverse effects from these activities.

Decision Sought: Reject in part - with modification
Include text below (new Rule AQ 21(y)).
(y) Transfer, storage and transport of bulk cargo in excess of 30,000 tonnes per year

Reasons for Staff Recommendation: This rule would target all such activities throughout the region, not only those in the area of concern to the submitter. It would be inappropriate to include this rule and require every such operation to apply for a resource consent. Staff have recommended addition of AQ R22 which includes operations such as those in Mount Maunganui. Therefore the recommendation is to not include a new clause (y).

Further Submission No: 15 - 13 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Hangar It

Summary: This amendment will further reduce Councils ability to properly regulate. Most concerning is that the duty of care to provide a safe environment for hangar users will continue to be undermined by a continuation of toxic organic dust crossing the boundary from 101 Aerodrome Road

Decision Sought: Reject submission point

Reasons for Staff Recommendation: This rule would target all such activities throughout the region, not only those in the area of concern to the submitter. It would be inappropriate to include this rule and require every such operation to apply for a resource consent. Staff have recommended addition of AQ R22 which includes operations such as those in Mount Maunganui. Therefore the recommendation is to not include a new clause (y).

Further Submission No: 16 - 13 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Solo Wings

Summary: In support of proposed AQ R1 as currently drafted. This rule requires discharges to air should NOT cause adverse effects beyond the boundary of the site where any activity is being undertaken. In particular, support of Rule AQ R1(c) which provides that any activity on industrial or trade premises that has discharges to air that have adverse effects offsite, such as 101 Aerodrome Road (which has caused serious adverse effects at mine and other properties), will now require resource consent

Decision Sought: Reject submission point

Reasons for Staff Recommendation: This rule would target all such activities throughout the region, not only those in the area of concern to the submitter. It would be inappropriate to include this rule and require every such operation to apply for a resource consent. Staff have recommended addition of AQ R22 which includes operations such as those in Mount Maunganui. Therefore the recommendation is to not include a new clause (y).

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Staff Recommendations on Submissions (By Submitter)

Submitter: 67 - Port of Tauranga

Further Submission No: 17 - 13 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Tony Christiansen

Summary: There has been a lack of effective regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. Concern with the amendments sought by this enterprise will further degrade Councils ability to respond effectively.
A practical way of addressing the issue would be to make the activity causing these dust problems discretionary with an amendment to Rule 21 "(y) Transfer, storage and transport of bulk material in excess of 30,000 tonnes per year."

Decision Sought: Reject

Reasons for Staff Recommendation: This rule would target all such activities throughout the region, not only those in the area of concern to the submitter. It would be inappropriate to include this rule and require every such operation to apply for a resource consent. Staff have recommended addition of AQ R22 which includes operations such as those in Mount Maunganui. Therefore the recommendation is to not include a new clause (y).

Submission Point No: 16 **Submission Type:** Oppose **Recommendation:** Accept

Chapter: Definitions

Section: Definitions - Fuel burning equipment

Submission Summary: "Fuel burning equipment"
Port of Tauranga seek clarification to the definition of Fuel burning equipment to make it clear this does not apply to the combustion of diesel within portable or emergency generators.

Decision Sought: 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 vehicles, ships, aircraft, solid fuel burners, [insert - Mobile and emergency generators] and enclosed incineration.

Reasons for Staff Recommendation: Exclude diesel fuelled generators from this definition as the rule was not intended to capture these types of devices

Further Submission No: 7 - 30 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Trustpower Ltd

Summary: It aligns with the relief sought by Trustpower

Decision Sought: Accept submission point

Reasons for Staff Recommendation: Exclude diesel fuelled generators from this definition as the rule was not intended to capture these types of devices

Submission Point No: 17 **Submission Type:** Oppose **Recommendation:** Accept

Chapter: Definitions

Section: Definitions - Noxious or dangerous

Submission Summary: "Noxious or dangerous"
Port of Tauranga considers the definition should be deleted. Noxious or dangerous is used within the RMA and case law has considered this based on a normal English language definition. The inclusion of the definition could result in a conflict between further court interpretation under the Act and the definition in the plan. Further guidance on what is considered noxious or dangerous is also included in the MfE Good Practice guides for odour, dust and industry. No similar definition is provided for offensive or objectionable which are used together with noxious or dangerous within the plan.

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 67 - Port of Tauranga

Decision Sought: Delete definiton in entirety.

Reasons for Staff Recommendation: Remove this definition from the plan change as it is used in the RMA and case law considers this based on a normal English language definition. Including a definition could result in a conflict between further Court interpretation. However, staff recommend retaining text to clarify how this term will be interpreted by the rules in the plan change and that this text is based on the text in the proposed plan.

Further Submission No: 30 - 44 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Swap Stockfoods Ltd

Summary: Swap Stockfoods oppose deleting the definition for noxious or dangerous

Decision Sought: Reject

Reasons for Staff Recommendation: Remove this definition from the plan change as it is used in the RMA and case law considers this based on a normal English language definition. Including a definition could result in a conflict between further Court interpretation. However, staff recommend retaining text to clarify how this term will be interpreted by the rules in the plan change and that this text is based on the text in the proposed plan.

Submission Point No: 18 **Submission Type:** Seek **Recommendation:** Accept in Part

Chapter: Definitions

Section: Definitions - Public amenity area

Submission Summary: "Public amenity area"

Port of Tauranga considers the current definition for public amenity area includes a number of specific areas which are not always areas where people congregate for extended periods of time. People are only present at a specific location on cycleways, parks and reserves (where playgrounds, sports fields and seating are not provided) and walkways for a short period of time.

Decision Sought: Public amenity area means a public area where members of the public are likely to congregate for extended periods of time, including (but not limited to): backcountry huts, barbeques, changing facilities, [delete - cycleways], outdoor sports facilities, [delete - parks and reserves], playgrounds and playground equipment, public toilets, seating and picnic tables, shelters, squares, and walkways.

Reasons for Staff Recommendation: Staff recommend that the wording is changed to 'may include', to separate the definition from the examples. This will relieve the concerns in the submission points

Further Submission No: 10 - 14 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Greg Misson

Summary: There has been a lack of regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. A more straightforward way of addressing the issue would be to make the activity causing these dust problems discretionary. This is on the basis that there is considerable evidence of adverse effects from these activities.

Decision Sought: Reject

Reasons for Staff Recommendation: Staff recommend that the wording is changed to 'may include', to separate the definition from the examples. This will relieve the concerns in the submission points

Further Submission No: 15 - 14 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Hangar It

Summary: This amendment will further reduce Councils ability to properly regulate. Most concerning is that the duty of care to provide a safe environment for hangar users will continue to be undermined by a continuation of toxic organic dust crossing the

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 67 - Port of Tauranga

boundary from 101 Aerodrome Road

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Staff recommend that the wording is changed to 'may include', to separate the definition from the examples. This will relieve the concerns in the submission points

Further Submission No: 16 - 14 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Solo Wings

Summary: There are a wide range of adverse health effects that can arise from exposure to particulate matter and BOPRC has recognised this in the proposed plan change-13. The requested amendment will further frustrate BOPRC's ability to effectively perform its regulatory role. Tauranga Airport is a public area. General public are subject to breathing contaminated air, as a consequence of 101 Aerodrome road particulate discharges. It would clearly run counter to the public health interest for BOPRC to adopt these amendments.

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Staff recommend that the wording is changed to 'may include', to separate the definition from the examples. This will relieve the concerns in the submission points

Further Submission No: 17 - 14 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Tony Christiansen

Summary: There has been a lack of effective regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. Concern with the amendments sought by this enterprise will further degrade Councils ability to respond effectively.

Decision Sought: Reject

Reasons for Staff Recommendation: Staff recommend that the wording is changed to 'may include', to separate the definition from the examples. This will relieve the concerns in the submission points

Submission Point No: 19 **Submission Type:** Seek **Recommendation:** Accept in Part

Chapter: Definitions

Section: Definitions - Sensitive activity

Submission Summary: "Sensitive activity"
Port of Tauranga supports the proposed definition subject to modifications. A number of the activities listed may not be sensitive to all contaminants and in all circumstances. For example, public water supply catchments, wetlands will not be sensitive to discharges of odour, dust or particulate. Further food manufacturing facilities are typically located within industrial areas where other discharges to air will be present and can be sources of discharges to air themselves (for example odour from roasting).

Decision Sought: Sensitive activity means an activity that may be adversely affected by contaminants and includes:
(a).....
...[delete - (h) manufacturing or storage of food or beverages
(i) manufacturing or storage of electronics
(j) public water supply catchments and intakes.
(k) water bodies, watercourses (as listed in Schedule 3) and associated riparian vegetation
(l) incompatible crops or farming systems (e.g. organic farms, greenhouses)
(m) wetlands, indigenous vegetation habitat areas and reserves.
(n) household water supplies (including roofs from which a water supply is obtained).]

Reasons for Staff Recommendation: Staff recommend changing wording from 'this includes' to 'this may include' to separate the definition from the examples. Staff do not then recommend amending the list itself, as it is no longer a key part of the definition, but a list of examples to provide guidance. This will relieve many of the concerns in the submission points.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 67 - Port of Tauranga

Further Submission No: 4 - 4 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Whakatane Mill Ltd

Summary: The PC13 definition of sensitive activity is too broad and could include a number of activities that are not sensitive.

Decision Sought: Accept submission point 67-19 to amend the definition of sensitivity

Reasons for Staff Recommendation: Staff recommend changing wording from 'this includes' to 'this may include' to separate the definition from the examples. Staff do not then recommend amending the list itself, as it is no longer a key part of the definition, but a list of examples to provide guidance. This will relieve many of the concerns in the submission points.

Further Submission No: 11 - 23 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Oji Fibre Solution

Summary: The PC13 definition of sensitive activity is too broad and could include a number of activities that are not sensitive

Decision Sought: Accept submission

Reasons for Staff Recommendation: Staff recommend changing wording from 'this includes' to 'this may include' to separate the definition from the examples. Staff do not then recommend amending the list itself, as it is no longer a key part of the definition, but a list of examples to provide guidance. This will relieve many of the concerns in the submission points.

Further Submission No: 13 - 117 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Horticulture New Zealand

Summary: HortNZ seeks that incompatible crop or farming systems are retained as sensitive activities. The definition would be used as a basis for assessment as to whether the activity has the potential to create adverse effects on sensitive activities.

Decision Sought: Reject submission

Reasons for Staff Recommendation: Staff recommend changing wording from 'this includes' to 'this may include' to separate the definition from the examples. Staff do not then recommend amending the list itself, as it is no longer a key part of the definition, but a list of examples to provide guidance. This will relieve many of the concerns in the submission points.

Submission Point No: 20 **Submission Type:** Seek **Recommendation:** To Be Advised

Chapter: Policies

Section: AQ P3(b)

Submission Summary: Port of Tauranga supports the intent of the policy but considers that it should be amended. Port of Tauranga 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 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.
Port of Tauranga also consider that (b) is appropriate in its entirety 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. In particular we note that the NES for Air Quality has an allowance for both existing discharges and new discharges below a level at which the effects or contribution is significant and where this is significant to allow for offsetting the discharges.

Decision Sought: Amend (b) as follows:
[delete - (b) avoid the discharge of contaminants at a rate or volume that may contribute to, or cause an exceedance or breach of the ambient air quality standards of the NESAQ or exceed the health-based values of the AAQGs]

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Staff Recommendations on Submissions (By Submitter)

Submitter: 67 - Port of Tauranga

Reasons for Staff Recommendation:

In areas where an ambient standard is either already in breach, or is likely to be, there are no insignificant effects and all discharges contribute to the overall effect. Any activity that discharges the contaminant in question, is contributing to the cumulative effect. Where there are sufficient sources and/or where geographic and climatic conditions exacerbate the situation, this leads to breaches of the ambient standard.

The NESAQ regulations only apply when resource consents are required to discharge contaminants. No provision is made for existing discharges, or permitted activities, and these also contribute to cumulative effects. It is appropriate to retain the NESAQ in this policy. However staff agree that the AAQGs are only guidelines, and their inclusion in a policy intended to set a clear direction to achieve specific environmental outcomes is not appropriate. Staff recommend that the AAQGs are removed from this policy.

Further Submission No: 7 - 8 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Trustpower Ltd

Summary: In so far as it does not align with the relief sought by Trustpower

Decision Sought: Reject submission point

Reasons for Staff Recommendation:

In areas where an ambient standard is either already in breach, or is likely to be, there are no insignificant effects and all discharges contribute to the overall effect. Any activity that discharges the contaminant in question, is contributing to the cumulative effect. Where there are sufficient sources and/or where geographic and climatic conditions exacerbate the situation, this leads to breaches of the ambient standard

Further Submission No: 8 - 43 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Mercury NZ Ltd

Summary: Mercury supports the intent of the submission. The text "contribute to" is problematic to this policy, as emissions which have a cumulative effect no matter how minor, could be preclude use and development

Decision Sought: Allow in Part

Reasons for Staff Recommendation:

In areas where an ambient standard is either already in breach, or is likely to be, there are no insignificant effects and all discharges contribute to the overall effect. Any activity that discharges the contaminant in question, is contributing to the cumulative effect. Where there are sufficient sources and/or where geographic and climatic conditions exacerbate the situation, this leads to breaches of the ambient standard

Further Submission No: 10 - 15 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Greg Misson

Summary: There has been a lack of regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. A more straightforward way of addressing the issue would be to make the activity causing these dust problems discretionary. This is on the basis that there is considerable evidence of adverse effects from these activities.

Decision Sought: Reject

Reasons for Staff Recommendation:

In areas where an ambient standard is either already in breach, or is likely to be, there are no insignificant effects and all discharges contribute to the overall effect. Any activity that discharges the contaminant in question, is contributing to the cumulative effect. Where there are sufficient sources and/or where geographic and climatic conditions exacerbate the situation, this leads to breaches of the ambient standard

The NESAQ regulations only apply when resource consents are required to discharge contaminants. No provision is made for existing discharges, or permitted activities, and these also contribute to cumulative effects. It is appropriate to retain the NESAQ in this policy.

However staff agree that the AAQGs are only guidelines, and their inclusion in a policy intended to set a clear direction to achieve specific environmental outcomes is not appropriate. Staff recommend that the AAQGs are removed from this policy

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Staff Recommendations on Submissions (By Submitter)

Submitter: 67 - Port of Tauranga

Further Submission No:	13 - 32	Submission Type:	Support in Part	Recommendation:	Reject
Further Submitter:	Horticulture New Zealand				
Summary:	The submitter seeks that all of P3 b) be deleted because it is inappropriate to have a measure of 'contribute to'. HortNZ seeks that reference to the AAQG's be deleted.				
Decision Sought:	Accept submission to delete references to the NESAQ and AAQG in Policy 3.				
Reasons for Staff Recommendation:	<p>In areas where an ambient standard is either already in breach, or is likely to be, there are no insignificant effects and all discharges contribute to the overall effect. Any activity that discharges the contaminant in question, is contributing to the cumulative effect. Where there are sufficient sources and/or where geographic and climatic conditions exacerbate the situation, this leads to breaches of the ambient standard</p> <p>The NESAQ regulations only apply when resource consents are required to discharge contaminants. No provision is made for existing discharges, or permitted activities, and these also contribute to cumulative effects. It is appropriate to retain the NESAQ in this policy.</p> <p>However, staff agree that the AAQGs are only guidelines, and their inclusion in a policy intended to set a clear direction to achieve specific environmental outcomes is not appropriate. Staff recommend that the AAQGs are removed from this policy</p>				
Further Submission No:	15 - 15	Submission Type:	Oppose	Recommendation:	Accept
Further Submitter:	Hangar It				
Summary:	This amendment will further reduce Councils ability to properly regulate. Most concerning is that the duty of care to provide a safe environment for hangar users will continue to be undermined by a continuation of toxic organic dust crossing the boundary from 101 Aerodrome Road				
Decision Sought:	Reject submission point				
Reasons for Staff Recommendation:	<p>In areas where an ambient standard is either already in breach, or is likely to be, there are no insignificant effects and all discharges contribute to the overall effect. Any activity that discharges the contaminant in question, is contributing to the cumulative effect. Where there are sufficient sources and/or where geographic and climatic conditions exacerbate the situation, this leads to breaches of the ambient standard</p> <p>The NESAQ regulations only apply when resource consents are required to discharge contaminants. No provision is made for existing discharges, or permitted activities, and these also contribute to cumulative effects. It is appropriate to retain the NESAQ in this policy.</p> <p>However staff agree that the AAQGs are only guidelines, and their inclusion in a policy intended to set a clear direction to achieve specific environmental outcomes is not appropriate. Staff recommend that the AAQGs are removed from this policy</p>				
Further Submission No:	16 - 15	Submission Type:	Oppose	Recommendation:	Accept
Further Submitter:	Solo Wings				
Summary:	There are a wide range of adverse health effects that can arise from exposure to particulate matter and BOPRC has recognised this in the proposed plan change-13. The requested amendment will further frustrate BOPRC's ability to effectively perform its regulatory role. Tauranga Airport is a public area. General public are subject to breathing contaminated air, as a consequence of 101 Aerodrome road particulate discharges. It would clearly run counter to the public health interest for BOPRC to adopt these amendments				
Decision Sought:	Reject submission point				
Reasons for Staff Recommendation:	<p>In areas where an ambient standard is either already in breach, or is likely to be, there are no insignificant effects and all discharges contribute to the overall effect. Any activity that discharges the contaminant in question, is contributing to the cumulative effect. Where there are sufficient sources and/or where geographic and climatic conditions exacerbate the situation, this leads to breaches of the ambient standard</p> <p>The NESAQ regulations only apply when resource consents are required to discharge contaminants. No provision is made for existing discharges, or permitted activities, and these also contribute to cumulative effects. It is appropriate to retain the NESAQ in this</p>				

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Staff Recommendations on Submissions (By Submitter)

Submitter: 67 - Port of Tauranga

policy.

However staff agree that the AAQGs are only guidelines, and their inclusion in a policy intended to set a clear direction to achieve specific environmental outcomes is not appropriate. Staff recommend that the AAQGs are removed from this policy

Further Submission No: 17 - 15 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Tony Christiansen

Summary: There has been a lack of effective regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. Concern with the amendments sought by this enterprise will further degrade Councils ability to respond effectively.

Decision Sought: Reject

Reasons for Staff Recommendation: In areas where an ambient standard is either already in breach, or is likely to be, there are no insignificant effects and all discharges contribute to the overall effect. Any activity that discharges the contaminant in question, is contributing to the cumulative effect. Where there are sufficient sources and/or where geographic and climatic conditions exacerbate the situation, this leads to breaches of the ambient standard
The NESAQ regulations only apply when resource consents are required to discharge contaminants. No provision is made for existing discharges, or permitted activities, and these also contribute to cumulative effects. It is appropriate to retain the NESAQ in this policy.
However staff agree that the AAQGs are only guidelines, and their inclusion in a policy intended to set a clear direction to achieve specific environmental outcomes is not appropriate. Staff recommend that the AAQGs are removed from this policy

Further Submission No: 22 - 14 **Submission Type:** Oppose **Recommendation:** To Be Advised

Further Submitter: Toi Te Ora Public Health

Summary: The National Environment Standards for Air Quality set guaranteed minimum levels of health protection for all New Zealand. It is unacceptable for any contaminants to be discharged at levels resulting in downwind concentrations that can cause ill health. Economic prosperity does improve health but this should not be at known detriment of physical health

Decision Sought: Reject

Reasons for Staff Recommendation: In areas where an ambient standard is either already in breach, or is likely to be, there are no insignificant effects and all discharges contribute to the overall effect. Any activity that discharges the contaminant in question, is contributing to the cumulative effect. Where there are sufficient sources and/or where geographic and climatic conditions exacerbate the situation, this leads to breaches of the ambient standard
The NESAQ regulations only apply when resource consents are required to discharge contaminants. No provision is made for existing discharges, or permitted activities, and these also contribute to cumulative effects. It is appropriate to retain the NESAQ in this policy.
However staff agree that the AAQGs are only guidelines, and their inclusion in a policy intended to set a clear direction to achieve specific environmental outcomes is not appropriate. Staff recommend that the AAQGs are removed from this policy

Further Submission No: 23 - 25 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter oppose the amendments proposed in submission 67 – 20. The purpose of AQ P3 (b) is to prevent cumulative effects caused by discharges, which on their own may be insignificant, however together could be contributing to the degradation of ambient air quality below NESAQ and AAQG guidelines. Decision makers should be taking cumulative effects into consideration

Decision Sought: Decision sought: Retain policy AQ P3(a) as notified.

Reasons for Staff Recommendation: In areas where an ambient standard is either already in breach, or is likely to be, there are no insignificant effects and all discharges contribute to the overall effect. Any

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Staff Recommendations on Submissions (By Submitter)

Submitter: 67 - Port of Tauranga

activity that discharges the contaminant in question, is contributing to the cumulative effect. Where there are sufficient sources and/or where geographic and climatic conditions exacerbate the situation, this leads to breaches of the ambient standard

Submission Point No: 21 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Policies

Section: AQ P3(d)

Submission Summary: Port of Tauranga supports the intent of the policy but considers that it should be amended. Port of Tauranga supports (d) but considers the inclusion of "significant" into (d) is necessary.

Decision Sought: Amend (d) as follows:
(d) avoid the discharge of contaminants that may cause [insert - significant] adverse effects on regionally significant infrastructure

Reasons for Staff Recommendation: Use of the term 'avoid' on its own is not appropriate for protecting what is essentially structures, no matter how regionally significant the structure is. It is unlikely that any air discharge will have a short term effect that will cause catastrophic failure of any infrastructure. Therefore allowing for aremedy or mitigation is appropriate, and in line with this request.

Further Submission No: 7 - 10 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Trustpower Ltd

Summary: It aligns with the relief sought by Trustpower

Decision Sought: Accept submission point

Reasons for Staff Recommendation: Use of the term 'avoid' on its own is not appropriate for protecting what is essentially structures, no matter how regionally significant the structure is. It is unlikely that any air discharge will have a short term effect that will cause catastrophic failure of any infrastructure. Therefore allowing for aremedy or mitigation is appropriate, and in line with this request.

Further Submission No: 30 - 15 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Swap Stockfoods Ltd

Summary: Support the intent of the addition to provide a level of effect in terms of the potential effects of discharges on regionally significant infrastructure.

Decision Sought: Accept

Reasons for Staff Recommendation: Use of the term 'avoid' on its own is not appropriate for protecting what is essentially structures, no matter how regionally significant the structure is. It is unlikely that any air discharge will have a short term effect that will cause catastrophic failure of any infrastructure. Therefore allowing for aremedy or mitigation is appropriate, and in line with this request.

Submission Point No: 22 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Policies

Section: AQ P3(e)

Submission Summary: Port of Tauranga supports the intent of the policy but considers that it should be amended. In Port of Tauranga's view (e) is superfluous and to some extent conflicts with the other provisions. Consequently, it is requested that (e) is deleted in its entirety

Decision Sought: Amend (e) as follows:
[delete - (e) minimise the discharge of contaminants into areas beyond the boundary of the subject property where it may cause adverse effects on human health, cultural values, amenity values, or the environment.]

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Staff Recommendations on Submissions (By Submitter)

Submitter: 67 - Port of Tauranga

Reasons for Staff Recommendation: There is an internal inconsistency between clauses (a) to (d) which require the management of the adverse effects of discharges regardless of where the effects occur and clause (e) which introduces the property boundary as a line beyond where assessment of adverse effects begins. It implies that Council will use the property boundary to assess adverse effects in every case, in conflict with clause (a) where adverse effects are assessed regardless of location. Decision makers may then find it difficult to determine which of the requirements apply. To resolve this conflict, staff recommend that the clause is deleted in its entirety

Further Submission No: 7 - 13 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Trustpower Ltd

Summary: It aligns with the relief sought by Trustpower

Decision Sought: Accept submission point

Reasons for Staff Recommendation: There is an internal inconsistency between clauses (a) to (d) which require the management of the adverse effects of discharges regardless of where the effects occur and clause (e) which introduces the property boundary as a line beyond where assessment of adverse effects begins. It implies that Council will use the property boundary to assess adverse effects in every case, in conflict with clause (a) where adverse effects are assessed regardless of location. Decision makers may then find it difficult to determine which of the requirements apply. To resolve this conflict, staff recommend that the clause is deleted in its entirety

Further Submission No: 10 - 16 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Greg Misson

Summary: There has been a lack of regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. A more straightforward way of addressing the issue would be to make the activity causing these dust problems discretionary. This is on the basis that there is considerable evidence of adverse effects from these activities.

Decision Sought: Reject

Reasons for Staff Recommendation: There is an internal inconsistency between clauses (a) to (d) which require the management of the adverse effects of discharges regardless of where the effects occur and clause (e) which introduces the property boundary as a line beyond where assessment of adverse effects begins. It implies that Council will use the property boundary to assess adverse effects in every case, in conflict with clause (a) where adverse effects are assessed regardless of location. Decision makers may then find it difficult to determine which of the requirements apply. To resolve this conflict, staff recommend that the clause is deleted in its entirety

Further Submission No: 15 - 16 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Hangar It

Summary: This amendment will further reduce Councils ability to properly regulate. Most concerning is that the duty of care to provide a safe environment for hangar users will continue to be undermined by a continuation of toxic organic dust crossing the boundary from 101 Aerodrome Road

Decision Sought: Reject submission point

Reasons for Staff Recommendation: There is an internal inconsistency between clauses (a) to (d) which require the management of the adverse effects of discharges regardless of where the effects occur and clause (e) which introduces the property boundary as a line beyond where assessment of adverse effects begins. It implies that Council will use the property boundary to assess adverse effects in every case, in conflict with clause (a) where adverse effects are assessed regardless of location. Decision makers may then find it difficult to determine which of the requirements apply. To resolve this conflict, staff recommend that the clause is deleted in its entirety

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Staff Recommendations on Submissions (By Submitter)

Submitter: 67 - Port of Tauranga

Further Submission No: 16 - 16 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Solo Wings

Summary: There are a wide range of adverse health effects that can arise from exposure to particulate matter and BOPRC has recognised this in the proposed plan change-13. The requested amendment will further frustrate BOPRC's ability to effectively perform its regulatory role. Tauranga Airport is a public area. General public are subject to breathing contaminated air, as a consequence of 101 Aerodrome road particulate discharges. It would clearly run counter to the public health interest for BOPRC to adopt these amendments

Decision Sought: Reject submission point

Reasons for Staff Recommendation: There is an internal inconsistency between clauses (a) to (d) which require the management of the adverse effects of discharges regardless of where the effects occur and clause (e) which introduces the property boundary as a line beyond where assessment of adverse effects begins. It implies that Council will use the property boundary to assess adverse effects in every case, in conflict with clause (a) where adverse effects are assessed regardless of location. Decision makers may then find it difficult to determine which of the requirements apply. To resolve this conflict, staff recommend that the clause is deleted in its entirety

Further Submission No: 17 - 16 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Tony Christiansen

Summary: There has been a lack of effective regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. Concern with the amendments sought by this enterprise will further degrade Councils ability to respond effectively.

Decision Sought: Reject

Reasons for Staff Recommendation: There is an internal inconsistency between clauses (a) to (d) which require the management of the adverse effects of discharges regardless of where the effects occur and clause (e) which introduces the property boundary as a line beyond where assessment of adverse effects begins. It implies that Council will use the property boundary to assess adverse effects in every case, in conflict with clause (a) where adverse effects are assessed regardless of location. Decision makers may then find it difficult to determine which of the requirements apply. To resolve this conflict, staff recommend that the clause is deleted in its entirety

Submission Point No: 23 **Submission Type:** Support **Recommendation:** Reject

Chapter: Rules

Section: AQ R4(a)

Submission Summary: Port of Tauranga considers it is unclear why ships are specifically excluded. While the discharge from ships is managed under other legislation, the specific exclusion of ships rather than staying silent could create confusion over the status of discharges.

Decision Sought: The discharge of contaminants to air from:
(a) any internal combustion engine used to power vehicles and aircraft [delete - (but not ships)] is a permitted activity provided there is no clearly visible smoke for a continuous period of 5 seconds or more when the engine is idling

Reasons for Staff Recommendation: Regulation 16 of the Resource Management (Marine Pollution) Regulations 1998 states that no rule may be included in any regional coastal plan, or proposed regional coastal plan, nor any resource consent granted relating to shipping discharges incidental to or derived from or generated by normal operations of a ship. Therefore the plan change cannot target these emissions

Submitter: 68 - Ngati Ranginui Iwi Society Inc

Submission Point No: 1 **Submission Type:** Support **Recommendation:** Accept in Part

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Staff Recommendations on Submissions (By Submitter)

Submitter: 68 - Ngati Ranginui Iwi Society Inc

Chapter: Objectives
Section: AQ 01
Submission Summary: The objective captures the importance of air quality in response to anthropogenic effects from discharges. The use of the word mauri captures the essence of life giving properties of air. The objective is supported by the Tauranga Moana Iwi Management Plan where the mauri is protected and where possible enhanced
Decision Sought: Retain objective
Reasons for Staff Recommendation: Minor change recommended to change 'protect' to 'protection' - to state an outcome, rather than an action
 Remove requirement to 'enhance air quality where degraded' as this is already required by AQ Q2 and AQ O3

Further Submission No: 21 - 13 **Submission Type:** Oppose **Recommendation:** Reject
Further Submitter: Port of Tauranga
Summary: This submission point refers to retaining Objective AQO1 as notified. PoT request the Objective is amended as per its original submission.
Decision Sought: Reject
Reasons for Staff Recommendation: Minor change recommended to change 'protect' to 'protection' - to state an outcome, rather than an action
 Remove requirement to 'enhance air quality where degraded' as this is already required by AQ Q2 and AQ O3

Further Submission No: 21 - 20 **Submission Type:** Oppose **Recommendation:** Reject
Further Submitter: Port of Tauranga
Summary: This submission point refers to retaining Objective AQO2 as notified. PoT request the Objective is amended as per its original submission
Decision Sought: Reject
Reasons for Staff Recommendation: Minor change recommended to change 'protect' to 'protection' - to state an outcome, rather than an action
 Remove requirement to 'enhance air quality where degraded' as this is already required by AQ Q2 and AQ O3

Submission Point No: 2 **Submission Type:** Support **Recommendation:** Accept in Part
Chapter: Objectives
Section: AQ 02
Submission Summary: Ngati Ranginui support the objective in meeting the NES for Air Quality and Ambient Air Quality Guidelines. The NES sets a good standard for ambient air quality.
Decision Sought: Retain objective
Reasons for Staff Recommendation: Remove reference to AAQGs as they are only guidelines, not developed under RMA process (taking into account costs and benefits) and not appropriate to set thresholds which must be met.
 Add text to allow for amendments or replacements to ensure that if NESAQ is amended, the objective will still apply

Further Submission No: 22 - 3 **Submission Type:** Support **Recommendation:** Accept in Part
Further Submitter: Toi Te Ora Public Health
Summary: Agree that meeting the National Environmental Standard and Ambient Air Quality Guidelines set a sound approach to air quality.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 68 - Ngati Ranginui Iwi Society Inc

Decision Sought: Accept

Reasons for Staff Recommendation: Remove reference to AAQGs as they are only guidelines, not developed under RMA process (taking into account costs and benefits) and not appropriate to set thresholds which must be met.
Add text to allow for amendments or replacements to ensure that if NESAQ is amended, the objective will still apply

Submission Point No: 3 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Objectives

Section: AQ 03

Submission Summary: Understanding and assessing the adverse effects of contaminant discharges to air on human health, cultural values, amenity values and the environment is supported. Adverse effects are not just about effects on health or amenity.

Decision Sought: Retain objective

Reasons for Staff Recommendation: Change wording 'manage' to 'management' as it sets an outcome instead of an action

Further Submission No: 21 - 28 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Port of Tauranga

Summary: This submission seeks for Objective AQ03 to be retained as notified, and broadly reflects the original submission made by PoT.

Decision Sought: Accept

Reasons for Staff Recommendation: Change wording 'manage' to 'management' as it sets an outcome instead of an action

Submission Point No: 4 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Policies

Section: AQ P1

Submission Summary: Contaminants to air must avoid, remedy or mitigate any adverse effects of the discharge on human health, cultural values, amenity values and the environment. Ngati Ranginui are supportive of the policy where applicants need to demonstrate how adverse effects are avoided, remedied or mitigated.

Decision Sought: Retain policy

Reasons for Staff Recommendation: Some minor changes made as a result of other submission points

Submission Point No: 5 **Submission Type:** Neutral **Recommendation:** Accept in Part

Chapter: Policies

Section: AQ P2

Submission Summary: Ngati Ranginui supports policies that avoid the discharge of hazardous substances into air. They are concerned about the potential harmful effects of spray drift from agricultural. The current management regime for hazardous substances leaves it to Regional Plans to manage. Ngati Ranginui support the stronger rule framework identified in this plan.

Decision Sought: Retain policy

Reasons for Staff Recommendation: Staff recommend inclusion of hazardous air pollutants in the policy and some wording changes to clarify that avoidance is preferable, but not the bottom line.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 68 - Ngati Ranginui Iwi Society Inc

Further Submission No: 21 - 39 **Submission Type:** Oppose **Recommendation:** Accept
Further Submitter: Port of Tauranga
Summary: This submission point refers to retaining Policy AQP2 as notified. PoT request the policy is amended as per its original submission.
Decision Sought: Reject
Reasons for Staff Recommendation: Staff recommend inclusion of hazardous air pollutants in the policy and some wording changes to clarify that avoidance is preferable, but not the bottom line.

Submission Point No: 6 **Submission Type:** Oppose **Recommendation:** Reject
Chapter: Policies
Section: AQ P3(e)
Submission Summary: Ngati Ranginui oppose the policy where it minimises discharges beyond property boundaries where it may affect human health, cultural values, amenity values and the environment. Effects on neighbours should be avoided rather than just minimised. It's difficult to provide an objective standard to policy as it's written.
Decision Sought: Amend policy to read:
...(e) [delete - minimise] [insert - avoid] the discharge of
Reasons for Staff Recommendation: 'Avoid' is too high a requirement when addressing adverse effects of discharges on cultural and amenity values. Avoiding all discharges beyond the boundary would mean many discharges could not occur. This is not consistent with sustainable management and the rules do not manage discharges to avoid all discharges

Further Submission No: 8 - 50 **Submission Type:** Oppose **Recommendation:** Accept
Further Submitter: Mercury NZ Ltd
Summary: Mercury seeks to ensure the correct RMA tests are applied to policy for air discharges. Mercury does not support a prohibited approach to the management of air discharges.
Decision Sought: Disallow
Reasons for Staff Recommendation: 'Avoid' is too high a requirement when addressing adverse effects of discharges on cultural and amenity values. Avoiding all discharges beyond the boundary would mean many discharges could not occur. This is not consistent with sustainable management and the rules do not manage discharges to avoid all discharges

Further Submission No: 13 - 39 **Submission Type:** Oppose **Recommendation:** Accept
Further Submitter: Horticulture New Zealand
Summary: The submitter seeks to amend 'minimise' to 'avoid'. The issue is ensuring that potential adverse effects are managed.
Decision Sought: Reject submission
Reasons for Staff Recommendation: 'Avoid' is too high a requirement when addressing adverse effects of discharges on cultural and amenity values. Avoiding all discharges beyond the boundary would mean many discharges could not occur. This is not consistent with sustainable management and the rules do not manage discharges to avoid all discharges

Further Submission No: 18 - 16 **Submission Type:** Oppose **Recommendation:** Accept
Further Submitter: Federated Farmers of New Zealand
Summary: We consider that to avoid all contaminants post King Salmon will be too restrictive
Decision Sought: Reject submission point

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Staff Recommendations on Submissions (By Submitter)

Submitter: 68 - Ngati Ranginui Iwi Society Inc

Reasons for Staff Recommendation: 'Avoid' is too high a requirement when addressing adverse effects of discharges on cultural and amenity values. Avoiding all discharges beyond the boundary would mean many discharges could not occur. This is not consistent with sustainable management and the rules do not manage discharges to avoid all discharges

Further Submission No: 20 - 20 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Fonterra Ltd

Summary: Fonterra supports the intent of this submission point; however Fonterra is concerned with use of "avoid" in provisions as it has significant consequences in a post King Salmon context. There are a number of ways to manage the effects of discharges rather than avoiding them.

Decision Sought: Disallow

Reasons for Staff Recommendation: 'Avoid' is too high a requirement when addressing adverse effects of discharges on cultural and amenity values. Avoiding all discharges beyond the boundary would mean many discharges could not occur. This is not consistent with sustainable management and the rules do not manage discharges to avoid all discharges

Further Submission No: 21 - 59 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Port of Tauranga

Summary: PoT opposes this submission as the suggested replacement word "avoid" is far more restrictive than the current wording of "minimise". It is requested that the relief sought in this submission is rejected. As per PoT's original submission it is requested that AQP3(e) is deleted entirely.

Decision Sought: Reject

Reasons for Staff Recommendation: 'Avoid' is too high a requirement when addressing adverse effects of discharges on cultural and amenity values. Avoiding all discharges beyond the boundary would mean many discharges could not occur. This is not consistent with sustainable management and the rules do not manage discharges to avoid all discharges

Further Submission No: 23 - 30 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter consider that the use of the word 'avoid' is too restrictive in this context, especially where effects outlined in AQ P3(e) can be remedied or mitigated successfully. Although Lawter oppose submission 68 – 6 in part, we consider this matter can be resolved through the inclusion of 'remedy or mitigate', as well as 'avoid'.

Decision Sought: Decision sought: Amend policy P3(e) as follows:
'avoid [insert – remedy or mitigate] the discharge of...'

Reasons for Staff Recommendation: 'Avoid' is too high a requirement when addressing adverse effects of discharges on cultural and amenity values. Avoiding all discharges beyond the boundary would mean many discharges could not occur. This is not consistent with sustainable management and the rules do not manage discharges to avoid all discharges

Submission Point No: 7 **Submission Type:** Support **Recommendation:** Accept

Chapter: Policies

Section: AQ P4 - whole policy

Submission Summary: Ngati Ranginui supports the policy for plan users to have particular regard to sensitive activities, gazetted airsheds, air quality values in Iwi Management Plans, cumulative effects, and new activities discharging into established sensitive activities. Ngati Ranginui is concerned about spray drift in relation to residential housing, schools, marae and sports grounds

Decision Sought: Retain policy

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 68 - Ngati Ranginui Iwi Society Inc

Reasons for Staff Recommendation: Some changes made to the policy as a result of other submissions but overall support is accepted

Submission Point No: 8 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Policies

Section: AQ P5

Submission Summary: Ngati Ranginui supports the policy in order to maintain cultural practices. Cultural activities include hangi for marae or other cultural functions.

Decision Sought: Retain policy

Reasons for Staff Recommendation: Some changes made to the policy to resolve other submission points however overall policy intent has not changed

Submission Point No: 9 **Submission Type:** Neutral **Recommendation:** Accept in Part

Chapter: Policies

Section: AQ P8

Submission Summary: Ngati Ranginui support in principle but is concerned about the adverse effects of agrichemical spraying on human health, particularly around sensitive receptors like educational facilities (schools, kohanga, pre-schools), residential properties (papakainga, elderly and/or kaumatua housing), sports facilities, and marae.

Decision Sought: Retain policy

Reasons for Staff Recommendation: Some changes made to the policy to resolve other submission points however overall policy intent has not changed

Submission Point No: 10 **Submission Type:** Support **Recommendation:** Accept

Chapter: Policies

Section: AQ P9

Submission Summary: Ngati Ranginui support the policy that requires applicants to consider best practicable options for use of fumigants, and to have regard to the health of persons in sensitive activities from fumigant exposure.

Decision Sought: Retain policy

Reasons for Staff Recommendation: Retain policy as notified

Submission Point No: 11 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Section: AQ R1

Submission Summary: Ngati Ranginui seek to ensure that the discharge of contaminants to air have adequate setbacks from sensitive receptors like educational facilities (schools, kohanga, pre-schools), residential properties (papakainga, elderly and/or kaumatua housing), sports facilities, and marae. The suggested amendment is supported by the Tauranga Moana Iwi Management Plan Policy 24.2 c)

Decision Sought: Amend to include:
...(d) The discharge demonstrates adequate setbacks from sensitive receptors

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Staff Recommendations on Submissions (By Submitter)

Submitter: 68 - Ngati Ranginui Iwi Society Inc

Reasons for Staff Recommendation:

Sensitive activities are defined to include marae specifically as well as dwellings (which would include Papakainga) and educational facilities (including kura kaupapa and kohunga reo). However the plan change does not directly refer to setbacks or buffers. These kind of mechanisms may be used as a form of mitigation imposed on activities via consent processes. They are not always the most appropriate mitigation, so a case by case assessment will often be required. A number of provisions focus on limiting effects, particularly where they are offensive, objectionable, noxious or dangerous beyond the boundary of the property from which the discharge is occurring. This includes the permitted activity Rule AQ R1 and it is considered to be more restrictive than a buffer or setback approach. The proposed amendment is not considered certain enough for a permitted activity rule in that it requires a person assessing compliance to have to first determine whether a setback is "adequate". On the basis that condition (a) restricts effects beyond the boundary of the subject property, no amendment to require a setback is considered to be required, and in this case (ie a permitted activity rule) nor would it be appropriate for enforcement reasons.

Further Submission No: 8 - 72 **Submission Type:** Support in Part **Recommendation:** Reject

Further Submitter: Mercury NZ Ltd

Summary: Mercury supports the intent of the submission, but consider setbacks as one form of mitigation. The relief sought should be covered by the requirement to avoid, remedy or mitigate adverse effects in accordance within relevant air quality standards and guidelines. Mercury is happy to engage on this matter and is supportive of the submitters request

Decision Sought: Disallow

Reasons for Staff Recommendation:

Setbacks or buffers may be used as a form of mitigation imposed on activities via consent processes. They are not always the most appropriate mitigation, so a case by case assessment will often be required

Further Submission No: 12 - 14 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Z Energy Ltd, BP Oil NZ Ltd & Mobil Oil NZ Ltd

Summary: The submission is opposed. While the Oil Companies generally support the concept of setbacks where these are appropriate, a permitted activity cannot contain elements of discretion, and therefore the Oil Companies oppose the submission.

Decision Sought: Reject submission

Reasons for Staff Recommendation:

The proposed amendment is not considered certain enough for a permitted activity rule in that it requires a person assessing compliance to have to first determine whether a setback is "adequate". On the basis that condition (a) restricts effects beyond the boundary of the subject property, no amendment to require a setback is considered to be required, and in this case (ie a permitted activity rule) nor would it be appropriate for enforcement reasons.

Further Submission No: 13 - 59 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Horticulture New Zealand

Summary: Setbacks are one method that may be used to achieve the general conditions but it does not need to be specifically prescribed as other methods may be more appropriate.

Decision Sought: Reject submission

Reasons for Staff Recommendation:

Setbacks or buffers may be used as a form of mitigation imposed on activities via consent processes. They are not always the most appropriate mitigation, so a case by case assessment will often be required

Further Submission No: 21 - 72 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Port of Tauranga

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 68 - Ngati Ranginui Iwi Society Inc

Summary: PoT opposes this submission as 'adequate setback' is undefined and may introduce unnecessary uncertainty and / or restrictions to industry.

Decision Sought: Reject

Reasons for Staff Recommendation: The proposed amendment is not considered certain enough for a permitted activity rule in that it requires a person assessing compliance to have to first determine whether a setback is "adequate". On the basis that condition (a) restricts effects beyond the boundary of the subject property, no amendment to require a setback is considered to be required, and in this case (ie a permitted activity rule) nor would it be appropriate for enforcement reasons

Submission Point No: 12 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Section: AQ R15(2)

Submission Summary: AQ R15 (2)
Ngati Ranginui support the prescriptive nature of Rule 15. The Rule will support in managing any adverse effects on human health. However, Ngati Ranginui seek for all agrichemical application by a hand-held, mechanical methods to prepare and apply a spray risk management plan. A spray risk management regime should be a standard practice for the application of hand-held, motorised spraying.

Decision Sought: Strengthen policy
[delete - (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.]

Reasons for Staff Recommendation: The requirements for requiring full notification, signage, and the preparation of a spray management plan for use of these low risk methods is too onerous

Further Submission No: 13 - 77 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks that the provisions for hand held motorised and low pressure boom applications are the same as for other methods of application and be required to prepare a spray management plan.

Decision Sought: Reject submission

Reasons for Staff Recommendation: The requirements for requiring full notification, signage, and the preparation of a spray management plan for use of these low risk methods is too onerous

Submission Point No: 13 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R20

Submission Summary: Ngati Ranginui supports the Rule framework for methyl bromide, as it's a carbon depleting gas. The potential effects on human health also need to be adequately managed. As a discretionary activity or non-complying activity requires applicants to demonstrate how it meets the objectives and policies of the plan in managing effects.

Decision Sought: Retain policy

Reasons for Staff Recommendation: Retain rule as notified

Submission Point No: 14 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R15(3)

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 68 - Ngati Ranginui Iwi Society Inc

Submission Summary: Ngati Ranginui support the prescriptive nature of Rule 15. Signage is supported.

Decision Sought: Retain signage requirements

Reasons for Staff Recommendation: Some changes made to the rule to resolve other submission points however overall policy intent has not changed

Submission Point No: 15 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R15(4)

Submission Summary: Ngati Ranginui support the prescriptive nature of Rule 15. Notification requirements are supported.

Decision Sought: Retain notification requirements

Reasons for Staff Recommendation: Some changes made to the rule to resolve other submission points

Submission Point No: 16 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R15(5)

Submission Summary: Ngati Ranginui support the prescriptive nature of Rule 15. The preparation of a spray risk management plan is supported.

Decision Sought: Retain requirement to prepare a spray risk management plan

Reasons for Staff Recommendation: Some changes made to the rule to resolve other submission points however the requirement to prepare a spray risk management plan has not changed

Submitter: 69 - KiwiRail Holdings Ltd

Submission Point No: 1 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Policies

Section: AQ P1

Submission Summary: Ensuring that water, air and soil quality are not adversely affected through the setting of appropriate standards for permitted activities is supported. Allowing those discharges where any effects can be suitably managed is supported.

Decision Sought: Retain provision

Reasons for Staff Recommendation: Some minor changes made as a result of other submission points

Submission Point No: 2 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Policies

Section: AQ P3 - whole policy

Submission Summary: KiwiRail supports the policy and its references to deploying the 'best practicable option'. Further, in clause (e) the policy recognizes that discharges within property boundaries which do not impact on adjacent activities do not require specific management

Decision Sought: Retain provision

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 69 - KiwiRail Holdings Ltd

Reasons for Staff Recommendation: Staff recommend some changes made to the policy as a result of other submission points, however these do not alter the overall policy intent.

Submission Point No: 3 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Policies

Section: AQ P8

Submission Summary: KiwiRail routinely controls pest plant and maintains its track infrastructure through vegetation management, which at times includes spraying with agrichemicals. KiwiRail supports the provision of the permitted activity status, subject to standards

Decision Sought: Retain provision

Reasons for Staff Recommendation: Some changes made to the policy to resolve other submission points however overall policy intent has not changed

Further Submission No: 21 - 51 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Port of Tauranga

Summary: This submission point refers to retaining Policy AQP3 as notified. PoT request the policy is amended as per the original submission.

Decision Sought: Reject

Reasons for Staff Recommendation: Some changes made to the policy to resolve other submission points however overall policy intent has not changed

Submission Point No: 4 **Submission Type:** Seek **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R1

Submission Summary: KiwiRail's Industrial and Trade Premises (ITP's) can be large sites upon which a variety of activities are carried out. Some of these activities are permitted by other Plan rules i.e. site remediation, boilers/solid fuel burners, agrichemical spraying, within permitted standards. It is noted that the intention of Rule AQ R1 is to provide for complying discharges from an ITP.

Decision Sought: Retain the provision for any discharges from Industrial Trade Premises to continue to be permitted where they comply with 'any other rule' in the regional plan.

Reasons for Staff Recommendation: The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent. However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 8 - 73 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Mercury NZ Ltd

Summary: Mercury interprets that Rule 1 does not provide for any emissions from industrial trade premises as a permitted activity. The RMA provides scope for Regional Plans to provide a more permissive rule framework for emissions from industrial trade premises. Mercury seeks clarification on KiwiRails submission and relief

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 69 - KiwiRail Holdings Ltd

Decision Sought: Oppose

Reasons for Staff Recommendation:

The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent.

However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 10 - 27 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Greg Misson

Summary:

There has been a lack of regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. A more straightforward way of addressing the issue would be to make the activity causing these dust problems discretionary. This is on the basis that there is considerable evidence of adverse effects from these activities.

Decision Sought: Reject

Reasons for Staff Recommendation:

Agree that adverse effects are being caused by discharges from industrial and trade premises across the region, particularly in industrial areas, that do need to be better managed moving forward. When activities are not managed by any other rule in the plan and are causing adverse effects, the burden of proving such effects when enforcing the plan rules falls to the Regional Council. Where there are several sources of a contaminant of concern it can be difficult to determine the main cause, if any. Even when there is one single source causing adverse effects it can still be a difficult process.

The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent.

However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 15 - 28 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Hangar It

Summary:

In strong support of proposed AQ R1 as it is currently drafted. AQ R1 requires discharges to air should not cause adverse effects beyond the boundary of a site where any activity is being undertaken. Importantly AQ R1(c) provides that any activity on industrial or trade premises that has discharges to air that have adverse effects offsite, such as 101 Aerodrome Road, will now require resource consent

Decision Sought: Reject submission point

Reasons for Staff Recommendation:

Agree that adverse effects are being caused by discharges from industrial and trade premises across the region, particularly in industrial areas, that do need to be better managed moving forward. When activities are not managed by any other rule in the plan and are causing adverse effects, the burden of proving such effects when enforcing the plan rules falls to the Regional Council. Where there are several sources of a contaminant of concern it can be difficult to determine the main cause, if any. Even when there is one single source causing adverse effects it can still be a difficult process.

The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 69 - KiwiRail Holdings Ltd

However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 16 - 17 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Solo Wings

Summary: In support of proposed AQ R1 as currently drafted. This rule requires discharges to air should NOT cause adverse effects beyond the boundary of the site where any activity is being undertaken. In particular, support of Rule AQ R1(c) which provides that any activity on industrial or trade premises that has discharges to air that have adverse effects offsite, such as 101 Aerodrome Road (which has caused serious adverse effects at mine and other properties), will now require resource consent.

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Agree that adverse effects are being caused by discharges from industrial and trade premises across the region, particularly in industrial areas, that do need to be better managed moving forward. When activities are not managed by any other rule in the plan and are causing adverse effects, the burden of proving such effects when enforcing the plan rules falls to the Regional Council. Where there are several sources of a contaminant of concern it can be difficult to determine the main cause, if any. Even when there is one single source causing adverse effects it can still be a difficult process. The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent. However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 17 - 28 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Tony Christiansen

Summary: Support of proposed AQ R1 as currently drafted. This rule is clear in providing that discharges to air should not cause adverse effects beyond the boundary of the site where any activity is being undertaken. Support for Rule AQ R1(c) which provides that any activity on industrial or trade premises that has discharges to air that have adverse effects offsite will require resource consent with an amendment to add condition (d) "The discharge does not cause an exceedance of the national environmental standard for PM10." Application of this rule would mean that the bulk materials handling facility at 101 Aerodrome Road would no longer be a permitted activity and would require resource consent. When there are neighbouring properties, such as a public Airport, where people and aircraft with sensitive equipment exist and frequent, the resource consent should be publicly notifiable. To assist with enforcement of this rule, monitoring should be carried out for PM10 in accordance with the Resource Management (National Environmental Standards for Air Quality) Regulations 2004.

Decision Sought: Reject

Reasons for Staff Recommendation: Agree that adverse effects are being caused by discharges from industrial and trade premises across the region, particularly in industrial areas, that do need to be better managed moving forward. When activities are not managed by any other rule in the plan and are causing adverse effects, the burden of proving such effects when enforcing the plan rules falls to the Regional Council. Where there are several sources

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 69 - KiwiRail Holdings Ltd

of a contaminant of concern it can be difficult to determine the main cause, if any. Even when there is one single source causing adverse effects it can still be a difficult process. The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent.

However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Submission Point No: 5 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R3 - whole rule

Submission Summary: Other miscellaneous potential activities which may create air discharges are permitted subject to standards and this is supported.

Decision Sought: Retain provision

Reasons for Staff Recommendation: Some changes made to the rule to resolve other submission points however overall policy intent has not changed

Submission Point No: 6 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Rules

Section: AQ R4(a)

Submission Summary: The Bay of Plenty is part of the economic 'Golden Triangle' and railway traffic plays an important role in this. The region experiences frequent train movements as goods move within it, and inter-regionally. The heading 'Vehicles and Roads - Permitted' may create uncertainty about whether rail vehicles are covered. The word 'vehicles' is not defined in the Plan Change nor in the EBOP Regional Natural Resources Plan but it is italicised and possibly refers to the Land Transport Act 1998. However, in this Act 'rail vehicles' are specifically excluded from the definition of 'vehicle', but are defined as 'rail vehicles'. Other Acts could contain a more inclusive definition of 'vehicle' and clarification is sought on which is used in this context. Provision for rail vehicles should be added to the Rule to remove any ambiguity.

Decision Sought: Retain Rule and alter to read:
The discharge of contaminants to air from:
(a) Any internal combustion engine used to power vehicles [insert - (including rail vehicles)] and aircraft (but not ships) is a permitted activity.....

Reasons for Staff Recommendation: It is unlikely that this rule, if retained will be enforced. In addition, emissions of smoke and vapour from motor vehicles are regulated by Rule 7.5 of the Land Transport (Road User) Rules 2004 and this is an infringement offence under the Land Transport (Offences and Penalties) Regulations 1999. Therefore staff recommended that this clause is deleted. Any discharges from vehicles that need to be assessed, can be assessed under AQ R1. If traffic emissions become an issue they would be addressed as a whole, not vehicle by vehicle according to visible emissions according to this rule

Further Submission No: 26 - 10 **Submission Type:** Support **Recommendation:** To Be Advised

Further Submitter: Western Bay of Plenty District Council

Summary: Clarity around the rule regarding 'rail vehicles' is welcomed

Decision Sought: Accept

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 69 - KiwiRail Holdings Ltd

Reasons for Staff Recommendation: It is unlikely that this rule, if retained will be enforced. In addition, emissions of smoke and vapour from motor vehicles are regulated by Rule 7.5 of the Land Transport (Road User) Rules 2004 and this is an infringement offence under the Land Transport (Offences and Penalties) Regulations 1999.
474 Therefore staff recommended that this clause is deleted. Any discharges from vehicles that need to be assessed, can be assessed under AQ R1. If traffic emissions become an issue they would be addressed as a whole, not vehicle by vehicle according to visible emissions according to this rule

Submission Point No: 7 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R17

Submission Summary: Some rail structures are large and difficult to access and/or encapsulate. The permitted activity rule provides for industry best practice to be deployed to achieve permitted status to carry out maintenance of these structures.

Decision Sought: Retain provision

Reasons for Staff Recommendation: Retain AQ R17 as notified

Further Submission No: 7 - 28 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Trustpower Ltd

Summary: It aligns with the relief sought by Trustpower

Decision Sought: Accept submission point

Reasons for Staff Recommendation: Retain AQ R17 as notified

Submission Point No: 8 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Policies

Section: AQ P3(e)

Submission Summary: In clause (e) the policy recognizes that discharges within property boundaries which do not impact on adjacent activities do not require specific management

Decision Sought: Retain as proposed

Reasons for Staff Recommendation: There is an internal inconsistency between clauses (a) to (d) which require the management of the adverse effects of discharges regardless of where the effects occur and clause (e) which introduces the property boundary as a line beyond where assessment of adverse effects begins. It implies that Council will use the property boundary to assess adverse effects in every case, in conflict with clause (a) where adverse effects are assessed regardless of location. Decision makers may then find it difficult to determine which of the requirements apply. To resolve this conflict, staff recommend that the clause is deleted in its entirety

Further Submission No: 10 - 28 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Greg Misson

Summary: There has been a lack of regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. A more straightforward way of addressing the issue would be to make the activity causing these dust problems discretionary. This is on the basis that there is considerable evidence of adverse effects from these activities.

Decision Sought: Reject

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Staff Recommendations on Submissions (By Submitter)

Submitter: 69 - KiwiRail Holdings Ltd

Reasons for Staff Recommendation: There is an internal inconsistency between clauses (a) to (d) which require the management of the adverse effects of discharges regardless of where the effects occur and clause (e) which introduces the property boundary as a line beyond where assessment of adverse effects begins. It implies that Council will use the property boundary to assess adverse effects in every case, in conflict with clause (a) where adverse effects are assessed regardless of location. Decision makers may then find it difficult to determine which of the requirements apply. To resolve this conflict, staff recommend that the clause is deleted in its entirety

Further Submission No: 15 - 29 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Hangar It

Summary: This amendment will further reduce Councils ability to properly regulate. Most concerning is that the duty of care to provide a safe environment for hangar users will continue to be undermined by a continuation of toxic organic dust crossing the boundary from 101 Aerodrome Road.

Decision Sought: Reject submission point

Reasons for Staff Recommendation: There is an internal inconsistency between clauses (a) to (d) which require the management of the adverse effects of discharges regardless of where the effects occur and clause (e) which introduces the property boundary as a line beyond where assessment of adverse effects begins. It implies that Council will use the property boundary to assess adverse effects in every case, in conflict with clause (a) where adverse effects are assessed regardless of location. Decision makers may then find it difficult to determine which of the requirements apply. To resolve this conflict, staff recommend that the clause is deleted in its entirety

Further Submission No: 16 - 18 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Solo Wings

Summary: There are a wide range of adverse health effects that can arise from exposure to particulate matter and BOPRC has recognised this in the proposed plan change-13. The requested amendment will further frustrate BOPRC's ability to effectively perform its regulatory role. Tauranga Airport is a public area. General public are subject to breathing contaminated air, as a consequence of 101 Aerodrome road particulate discharges. It would clearly run counter to the public health interest for BOPRC to adopt these amendments

Decision Sought: Reject submission point

Reasons for Staff Recommendation: There is an internal inconsistency between clauses (a) to (d) which require the management of the adverse effects of discharges regardless of where the effects occur and clause (e) which introduces the property boundary as a line beyond where assessment of adverse effects begins. It implies that Council will use the property boundary to assess adverse effects in every case, in conflict with clause (a) where adverse effects are assessed regardless of location. Decision makers may then find it difficult to determine which of the requirements apply. To resolve this conflict, staff recommend that the clause is deleted in its entirety

Further Submission No: 17 - 29 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Tony Christiansen

Summary: There has been a lack of effective regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. Concern with the amendments sought by this enterprise will further degrade Councils ability to respond effectively.

Decision Sought: Reject

Reasons for Staff Recommendation: There is an internal inconsistency between clauses (a) to (d) which require the management of the adverse effects of discharges regardless of where the effects occur and clause (e) which introduces the property boundary as a line beyond where assessment of adverse effects begins. It implies that Council will use the property boundary to assess adverse effects in every case, in conflict with clause (a) where

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Staff Recommendations on Submissions (By Submitter)

Submitter: 69 - KiwiRail Holdings Ltd

adverse effects are assessed regardless of location. Decision makers may then find it difficult to determine which of the requirements apply. To resolve this conflict, staff recommend that the clause is deleted in its entirety

Further Submission No: 21 - 52 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Port of Tauranga

Summary: This submission point refers to retaining Policy AQP3 as notified. PoT request the policy is amended as per the original submission.

Decision Sought: Reject

Reasons for Staff Recommendation: There is an internal inconsistency between clauses (a) to (d) which require the management of the adverse effects of discharges regardless of where the effects occur and clause (e) which introduces the property boundary as a line beyond where assessment of adverse effects begins. It implies that Council will use the property boundary to assess adverse effects in every case, in conflict with clause (a) where adverse effects are assessed regardless of location. Decision makers may then find it difficult to determine which of the requirements apply. To resolve this conflict, staff recommend that the clause is deleted in its entirety

Submitter: 70 - Rotorua Heating Solutions

Submission Point No: 1 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Section: AQ R12

Submission Summary: Previously there has been an inclusion of the ultra low emission burners which allow ratepayers some choice in heating their properties especially here the properties are unable to be heated adequately with either heat pumps, gas or pellet. There may be reasons why Bay of Plenty Regional Council no longer support the ultra low emission burners as these have been used by the Bay of Regional Council for the low income schemes. It should be noted that the ultra low emission technology is quite new and a lot of improvements have been made since their inception

Decision Sought: To allow ultra low emission burners along with pellet burners as permitted activities

Reasons for Staff Recommendation: ULEBs are still largely untested in real-life. Council carried out real-life testing of ten ULEBs during Winter 2017. The results were encouraging, indicating an average discharge of 1.0 g/kg (low emissions woodburners discharge 4.5g/kg in real-life). However, the tests were carried out on only one model of ULEB. Staff are not yet confident that all ULEB models will perform in a similar manner. Environment Canterbury is carrying out real-life tests and staff prefer to wait until these results are available before calculating whether ULEBs can be introduced into the Rotorua Airshed as a permitted activity

Submission Point No: 2 **Submission Type:** Oppose **Recommendation:** Accept

Chapter: Definitions

Section: Definitions - Existing

Submission Summary: It is unfair (when a ratepayer has an existing solid fuel burner not shown on the property file) to not allow the ratepayer to replace with a low emission solid fuel burner before 1 February 2020 when they will then be told that they cannot continue to use their appliance. How can one set of rules be used to not allow replacement and then another set of rules to not allow them to use their non-existing appliance? The negative impact this will have on the environment is that in these cases the appliances will continued to be used until 2020

Decision Sought: Existing solid fuel burners not shown on the property files held by Rotorua Lakes Council even though they do exist and are being used. The various reasons are either property files are lost, inaccurate or incomplete. Also prior to 1991 solid fuel burners did not require a consent/permit. Needs to take into account these existing solid fuel burner not shown on the property file

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Staff Recommendations on Submissions (By Submitter)

Submitter: 70 - Rotorua Heating Solutions

Reasons for Staff Recommendation: Amend to ensure that burners that were installed prior to requiring consents or permits are recognised as existing in the plan change

Further Submission No: 14 - 26 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Envirosolve

Summary: One rule for all.

Decision Sought: Support

Reasons for Staff Recommendation: Amend to ensure that burners that were installed prior to requiring consents or permits are recognised as existing in the plan change

Submitter: 71 - Timberlands Ltd

Submission Point No: 1 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Rules

Section: AQ R6

Submission Summary: The rule reflects the current practice in adjacent councils. Fire and emergency legislation has been updated.

Decision Sought: Retain rule with minor amendments: replace "Forest and Rural Fires Act 1977" with "Fire and Emergency New Zealand Act 2017".

Reasons for Staff Recommendation: Staff agree with this amendment

Submission Point No: 2 **Submission Type:** Seek **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R8

Submission Summary: Some forest management companies have signed services agreements with Fire and Emergency New Zealand (FENZ) with respect to their estates. The services agreements provide for the co-ordination of fire suppression resources between the forestry company and FENZ. In order to ensure that TL has and retains fire suppression capability, the training of TL's crews is necessary. TL notes that the amendments sought would apply only to rural environments.

Decision Sought: Delete (or add after) the words "nationally recognised body authorised to undertake firefighting research or training activities" and "recognised body" where they appear in the rule and insert "[or] forest management company or other organisation which holds a services agreement with Fire and Emergency New Zealand to manage rural fire".

Reasons for Staff Recommendation: Amend the rule to require the fire to be under the control of a "Defence Fire Brigade" or "Industry Brigade", with the relevant definitions from the Fire and Emergency New Zealand Act 2017 included in the plan change. If the owner or occupier of any forestry land were to organise and maintain a group of persons in an industry brigade for the purpose of protecting industrial premises in an emergency it would be included as an "industry brigade". This may address the concerns raised by submitter 71, and if not, staff recommend that the submitter provide further details at the hearing

Submission Point No: 3 **Submission Type:** Seek **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R15 - whole rule

Submission Summary: TL considers the provisions reflect prudent management of agrichemicals and their application.

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 71 - Timberlands Ltd

Decision Sought: Retain rule with minor amendments (as set out in submission point 71-4)

Reasons for Staff Recommendation: Some changes made to the rule to resolve other submission points

Submission Point No: 4 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Rules

Section: AQ R15(4)

Submission Summary: AQ R15 (4)
The notification requirement is not feasible or practical for the aerial application of copper for control of Dothistroma pini in plantation forests where up to 2,000 ha per day may be treated dependent on weather conditions. Given the size of TL's forestry estate, and the weather dependent nature and scale of the activity, it would be impossible and impractical to notify occupiers of properties within 200m of estate in a period of 72 – 24 hours prior.

Decision Sought: Make an exception for Dothistroma pini spray application notification by allowing notification by public media (i.e. newspaper) with a maximum of 20 days and minimum of 24 hours notification allowed (as currently provided for in Rule 12(d) of the Operative Regional Air Plan).

Reasons for Staff Recommendation: It is appropriate to extend the notification window for these operations to allow sufficient time for notification. Spraying is carried out infrequently, therefore it would not lead to the constant uncertainty, and sufficient notification is provided

Submission Point No: 5 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Section: AQ R20

Submission Summary: To export logs and timber, many countries require them to be treated (for example, by fumigation or heat treatment) to control quarantine pests. Fumigation with methyl bromide is the main treatment option for above-deck log exports to China and is the only feasible option for log exports to India. From October 2020, all methyl bromide fumigations must use recapture technology. The Ministry for Primary Industries notes that New Zealand exported \$2.2 billion worth of logs in the year to June 2016. A discretionary activity status in AQ R20(b) creates uncertainty and puts at risk significant export receipts. Amending the rule will allow the use of methyl bromide with recapture for existing timber export operations (new activities would need to obtain consent on a discretionary activity basis).

Decision Sought: Using methyl bromide with recapture should be a controlled activity for existing port based timber export operations and activities.

Reasons for Staff Recommendation: Staff understand the reasoning behind this request for a controlled non-notified activity where methyl bromide is recaptured, is on the basis that submitters consider that the discharge will be minimal. However, the effectiveness of recapture technology is not sufficiently understood to justify a controlled, non-notified activity. It is staff's understanding that the current consent holder is still testing a range of technologies to recapture methyl bromide. The Regional Council has received no documentation or information of any kind detailing the results of this testing, including the efficiency or effectiveness of these recapture technologies. Without this information, staff cannot determine whether this technology provides sufficient mitigation for a controlled, non-notified activity

Further Submission No: 28 - 28 **Submission Type:** Support in Part **Recommendation:** Reject

Further Submitter: Stakeholders in Methyl Bromide Reduction Inc (STIMBR)

Summary: The EPA is mandated to assess and set controls for hazardous substances including methyl bromide. EDN a sustainable alternative to methyl bromide is not yet available for use in New Zealand. Methyl bromide is also used as a biosecurity treatment for imported commodities, personal effects and managing potato wart.

Decision Sought: Accept with modification - AQ R20 (c) Using methyl bromide without recapture, is a controlled, non-notified activity.

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 71 - Timberlands Ltd

Reasons for Staff Recommendation: Staff understand the reasoning behind this request for a controlled non-notified activity where methyl bromide is recaptured, is on the basis that submitters consider that the discharge will be minimal. However, the effectiveness of recapture technology is not sufficiently understood to justify a controlled, non-notified activity. It is staff's understanding that the current consent holder is still testing a range of technologies to recapture methyl bromide. The Regional Council has received no documentation or information of any kind detailing the results of this testing, including the efficiency or effectiveness of these recapture technologies. Without this information, staff cannot determine whether this technology provides sufficient mitigation for a controlled, non-notified activity

Further Submission No: 29 - 28 **Submission Type:** Support in Part **Recommendation:** Reject

Further Submitter: Genera Ltd

Summary: The EPA is the agency mandated to assess and set controls for hazardous substances such as methyl bromide. There are currently no other practicable options for the fumigation of top stow logs to China, logs to India and other imported and exported cargos. Methyl bromide is also used for treating imported cargo and is the main fumigant used to protect New Zealand's border from pest incursions as mandated under the Biosecurity Act 1993. Without MB as a biosecurity tool, MPI's ability to protect local industry from pests (eg. Brown Marmorated Stick Bug) will be put at significant risk.

Decision Sought: Accept with modification - AQ R20(c) Using methyl bromide without recapture, is a controlled, non-notified activity.

Reasons for Staff Recommendation: Staff understand the reasoning behind this request for a controlled non-notified activity where methyl bromide is recaptured, is on the basis that submitters consider that the discharge will be minimal. However, the effectiveness of recapture technology is not sufficiently understood to justify a controlled, non-notified activity. It is staff's understanding that the current consent holder is still testing a range of technologies to recapture methyl bromide. The Regional Council has received no documentation or information of any kind detailing the results of this testing, including the efficiency or effectiveness of these recapture technologies. Without this information, staff cannot determine whether this technology provides sufficient mitigation for a controlled, non-notified activity

Submission Point No: 6 **Submission Type:** Seek **Recommendation:** Accept in Part

Chapter: Definitions

Section: Definitions - Public amenity area

Submission Summary: "Public amenity area"
 TL is concerned that the expansive definition of "Public Amenity Area" would capture areas on private land, for example cycleways and walking tracks in Whakarewarewa Forest, access to which is not provided as of right, but rather relies on the goodwill of TL and the Kaingaroa Timberlands Partnership. TL has obligations under the Health and Safety at Work Act 2015 (and has developed management plans in accordance with the Act) regulating and addressing public access to the forest estate in relation to operational requirements (including agrichemical spraying). A further layer of regulatory compliance is not necessary in TL's view and would be an onerous obligation without any corresponding benefit (given that TL is already required to address the risks).

Decision Sought: Amend the opening words to read: "Public amenity area means [delete - a public] [insert - an] area in [insert - public ownership] where members....".

Reasons for Staff Recommendation: It is not the intention of the plan change to impose extensive additional regulations on this submitter. However it is still the Regional Council's role to manage discharges of contaminants to air, regardless of where they occur. If the definition were to be amended to exclude private land, then it would inadvertently exclude areas where the requirements should apply. The recommended amendment to the definition should remedy this concern as areas where public are likely to congregate for extended periods of time would likely not apply to the tracks on site. Amendments to AQ R15 that have less stringent signage and notification requirements for hand held or low pressure boom application methods of agrichemicals will also have remedied some of this submitter's concern

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 71 - Timberlands Ltd

Further Submission No: 26 - 17 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Western Bay of Plenty District Council

Summary: The restriction of public amenity areas to solely areas of public ownership is not supported. There are multiple sites that are not in public ownership, but should still be considered public amenity areas (for example privately owned sports fields). This is of particular importance to ensure they are fully considered through AQ P4(g).

Decision Sought: Reject

Reasons for Staff Recommendation: It is not the intention of the plan change to impose extensive additional regulations on this submitter. However it is still the Regional Council's role to manage discharges of contaminants to air, regardless of where they occur. If the definition were to be amended to exclude private land, then it would inadvertently exclude areas where the requirements should apply.
The recommended amendment to the definition should remedy this concern as areas where public are likely to congregate for extended periods of time would likely not apply to the tracks on site. Amendments to AQ R15 that have less stringent signage and notification requirements for hand held or low pressure boom application methods of agrichemicals will also have remedied some of this submitter's concern

Submitter: 72 - Thermal Brewing Company

Submission Point No: 1 **Submission Type:** Oppose **Recommendation:** Accept

Chapter: Policies

Section: AQ P7

Submission Summary: The submitter owns and operates the Pig & Whistle Historic Pub located on the northeast corner of the intersection of Haupapa and Tutanekai Streets in the Central City. A feature of the venue is its open fireplace located in a covered garden bar, which was installed at the premises in 2016. The submitter is interested in the parts of the plan change relating to the Rotorua Airshed, and the application of provisions to its fireplace (which appears to be classified as a non-complying solid fuel burner under proposed rule AQ R14). While the submitter generally supports the reasons for the plan change as they relate to the Rotorua Airshed, the potential implications for its activities of the new provisions as notified are not considered to be appropriate or justified on the basis that:

- The plan change does not appear to have been developed with reference to the particular circumstances of the kind associated with the submitter's activities;
- The plan change may therefore result in unintended consequences and requires further consideration;
- The submitter has been advised by the Bay of Plenty Regional Council that its activities do not breach the Rotorua Air Quality Control Bylaw 2017. It is unclear why a different outcome is appropriate or necessary under the plan change;
- The fireplace feature contributes significantly to the amenity of the premises (which itself contributes to the vibrancy of the CBD) and should be able to be enjoyed by patrons who, if residents of Rotorua, are no longer able to have an open fire in their homes; and
- The effects of the fireplace are considered acceptable.

Decision Sought: Amend the policy to address the reasons for the submission, including but not limited to:

- Change or introduce policy(s) and rule(s) that better provide for the particular circumstances of the kind associated with the submitter's activities.
- Similar and / or consequential amendments (including to definitions) that would satisfactorily address the matters raised in this submission.

Reasons for Staff Recommendation: The requirement to 'avoid a new increase' is too high, particularly in light of the recent Davidson decision. Providing such a directive policy could mean that applications for non-complying activities under AQ R14 have difficulty passing either of the gateway tests under section 104D of the Act. While the intention is certainly to discourage the types of burners listed in the policy, it was not to prohibit them in every instance. Therefore staff recommend that the policy be amended so that it refers to the need to avoid these burners, except where exceptional circumstances apply

Submission Point No: 2 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 72 - Thermal Brewing Company

Section: AQ R14

Submission Summary: The submitter owns and operates the Pig & Whistle Historic Pub located on the northeast corner of the intersection of Haupapa and Tutanekei Streets in the Central City. A feature of the venue is its open fireplace located in a covered garden bar, which was installed at the premises in 2016. The submitter is interested in the parts of the plan change relating to the Rotorua Airshed, and the application of provisions to its fireplace (which appears to be classified as a non-complying solid fuel burner under proposed rule AQ R14). While the submitter generally supports the reasons for the plan change as they relate to the Rotorua Airshed, the potential implications for its activities of the new provisions as notified are not considered to be appropriate or justified on the basis that:

- The plan change does not appear to have been developed with reference to the particular circumstances of the kind associated with the submitter's activities;
- The plan change may therefore result in unintended consequences and requires further consideration;
- The submitter has been advised by the Bay of Plenty Regional Council that its activities do not breach the Rotorua Air Quality Control Bylaw 2017. It is unclear why a different outcome is appropriate or necessary under the plan change;
- The fireplace feature contributes significantly to the amenity of the premises (which itself contributes to the vibrancy of the CBD) and should be able to be enjoyed by patrons who, if residents of Rotorua, are no longer able to have an open fire in their homes; and
- The effects of the fireplace are considered acceptable.

Decision Sought: Amend the rule to address the reasons for the submission, including but not limited to:

- Change or introduce policy(s) and rule(s) that better provide for the particular circumstances of the kind associated with the submitter's activities.
- Similar and / or consequential amendments (including to definitions) that would satisfactorily address the matters raised in this submission.

Reasons for Staff Recommendation: The fire is installed in this instance is to provide amenity value, not as a space heater. To allow this fire as a permitted activity would be against the policy direction contained in AQ P7, which is to avoid discharges from burners used other than as a space heater. For this reason, any indoor open fire that does not comply with the permitted activity rule is non-complying.

Submitter: 73 - New Zealand Kiwifruit Growers (NZKGI)

Submission Point No: 1 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Rules

Section: AQ R15(1)

Submission Summary: AQ R15(1)
NZKGI support HortNZ's submission that the general use and application of agrichemicals should be in accordance with NZS8409:2004 representing best practice.

Decision Sought: NZKGI requests that this standard NZS 8409:2004 be specifically referenced in the plan

Reasons for Staff Recommendation: Requiring compliance with the standard is not necessary to meet the objectives of the plan change and is impractical to enforce. The standard contains a number of requirements to comply with the requirements of the HSNO Act and only some sections apply to spray drift. It would be unreasonable for regulatory compliance officers to need to refer to the entire standard to ensure compliance with the rule. The conditions have been designed based on the standard, with the purpose of managing spray drift.

Further Submission No: 6 - 8 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: New Zealand Agrichemical Education Trust (NZAET)

Summary: The submitter seeks that NZS8409 be specifically referenced in the plan.

Decision Sought:

Reasons for Staff Recommendation: Requiring compliance with the standard is not necessary to meet the objectives of the plan change and is impractical to enforce. The standard contains a number of

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Staff Recommendations on Submissions (By Submitter)

Submitter: 73 - New Zealand Kiwifruit Growers (NZKGI)

requirements to comply with the requirements of the HSNO Act and only some sections apply to spray drift. It would be unreasonable for regulatory compliance officers to need to refer to the entire standard to ensure compliance with the rule. The conditions have been designed based on the standard, with the purpose of managing spray drift.

Submission Point No: 2 **Submission Type:** Seek **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R15(2)

Submission Summary: AQ R15(2)
NZKGI support HortNZ's amendments to this section including the addition of signage requirements for private land.

Decision Sought: the addition of signage requirements for private land.

Reasons for Staff Recommendation: Some changes made to the rule to resolve other submission points including the submitter's own point on signage for private land

Submission Point No: 3 **Submission Type:** Seek **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R15(3)

Submission Summary: AQ R15(3)
NZKGI supports HortNZ's submission in relation to the provision of signage requirements on private land. NZKGI supports HortNZ's submission on AQR15(3)(e) and agree that this requirement should only apply to public places and that this needs to be updated at AQ R15(2) (b).

Decision Sought: Insert the following wording be specified in the plan at AQ15(3)(f):
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. 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

Reasons for Staff Recommendation: This clause should be included but that it should only apply to the higher risk application methods of condition 2(c). This provides suitable mitigation for higher risk methods, but allows lower risk application methods to take place without unnecessary signage.

Further Submission No: 6 - 12 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: New Zealand Agrichemical Education Trust (NZAET)

Summary: The submitter seeks that the plan require signage at the entrance to private land and seeks specific wording that reflects best practice that growers undertake.

Decision Sought:

Reasons for Staff Recommendation: This clause should be included but that it should only apply to the higher risk application methods of condition 2(c). This provides suitable mitigation for higher risk methods, but allows lower risk application methods to take place without unnecessary signage.

Further Submission No: 13 - 86 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks that the Plan require signage at the entrance to private land and seeks specific wording that reflects best practice that growers undertake. Specification of re-entry time is consistent with NZS8409:2004 Appendix M3.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 73 - New Zealand Kiwifruit Growers (NZKGI)

Decision Sought: Amend AQ R15 3) as sought by the submitter

Reasons for Staff Recommendation: This clause should be included but that it should only apply to the higher risk application methods of condition 2(c). This provides suitable mitigation for higher risk methods, but allows lower risk application methods to take place without unnecessary signage.

Further Submission No: 19 - 10 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Agcarm

Summary: The submitter seeks that the Plan require signage at the entrance to private land and seeks specific wording that reflects best practice that growers undertake. Specification of re-entry time is consistent with NZS8409:2004 Appendix M3

Decision Sought: Accept submission point

Reasons for Staff Recommendation: This clause should be included but that it should only apply to the higher risk application methods of condition 2(c). This provides suitable mitigation for higher risk methods, but allows lower risk application methods to take place without unnecessary signage.

Submission Point No: 4 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Rules

Section: AQ R15(4)

Submission Summary: AQR15(4)
 NZKGI support HortNZ's submission that notification be required no earlier than 72 hours and no later than 12 hours before the agrichemical spraying. NZKGI submits that requiring 24 hours notification prior is too restrictive. The majority of notifications in kiwifruit are made in the evening, when neighbours are home, for spraying the following day. A 24-hour notification period in practice results in growers having to notify their neighbours 36 hours in advance which is unworkable considering the reliance agrichemical spraying has on good weather. The 12-hour notification period provides for a more accurate indication of when spraying will occur and provides for greater certainty for both parties involved. NZKGI are aware there are considerations around the moving of stock and covering of other crops resulting in the 12-hour notification and supports the use of AQR15(4)(a)(ii) for parties to come to an agreement around an appropriate notification period in this instance.

Decision Sought: Notification be required no earlier than 72 hours and no later than 12 hours before the agrichemical spraying.

Reasons for Staff Recommendation: Staff recommend changing the minimum 24 hour notification window to 12 hours. As this the current system is working for most, then retaining the 12 hour notification window is the best way forward..
 Given this recommendation, staff remind the Hearing Panel, submitters and all others involved with agrichemical spraying that policy AQ P8 clearly states that spray drift should be avoided in the first instance. Even when mitigation measures, in the form of notification, are carried out according to the conditions, any spray drift must still comply with condition (1)(a) of the rule and where this cannot be achieved, staff highly recommend that parties enter into a notification agreement to determine what is the best form, timing and format for notification to occur to allow for sufficient preparation

Submission Point No: 5 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Rules

Section: AQ R15 - Advice note

Submission Summary: AQ R15 Advice Note
 NZKGI considers that the importance of the New Zealand Standard Management of Agrichemicals NZS 8409:2004 needs to be elevated in the plan. Specific reference to a registered certification scheme based on demonstrating applicators knowledge of best practice as set out in NZS8409:2004 should be included in the text of the plan to ensure that users are equipped with the appropriate certification and training.

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 73 - New Zealand Kiwifruit Growers (NZKGI)

Decision Sought: The New Zealand Standard Management of Agrichemicals NZS 8409:2004 needs to be elevated in the plan

Reasons for Staff Recommendation: Requiring compliance with the standard is not necessary to meet the objectives of the plan change and is impractical to enforce. The standard contains a number of requirements to comply with the requirements of the HSNO Act and only some sections apply to spray drift. It would be unreasonable for regulatory compliance officers to need to refer to the entire standard to ensure compliance with the rule. The conditions have been designed based on the standard, with the purpose of managing spray drift.
All users of agrichemicals, particularly large-scale and/or commercial use, should already be complying with HSNO and WorkSafe requirements and should have any appropriate qualifications. It is not the Regional Council's responsibility to require or monitor this. The Council's principal concern, in this plan change, is to control spray drift, and the rule is designed for this purpose. It does not rely on training, provided by a third party, to manage spray drift. Staff consider that if the conditions of the rule are met, the effects of spray drift are mitigated. A condition requiring training and qualifications will add no further value and staff do not recommend this addition

Further Submission No: 6 - 2 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: New Zealand Agrichemical Education Trust (NZAET)

Summary: The submitter seeks that NZS8409 be elevated in the plan including a certification scheme for applicators.

Decision Sought:

Reasons for Staff Recommendation: Requiring compliance with the standard is not necessary to meet the objectives of the plan change and is impractical to enforce. The standard contains a number of requirements to comply with the requirements of the HSNO Act and only some sections apply to spray drift. It would be unreasonable for regulatory compliance officers to need to refer to the entire standard to ensure compliance with the rule. The conditions have been designed based on the standard, with the purpose of managing spray drift.
All users of agrichemicals, particularly large-scale and/or commercial use, should already be complying with HSNO and WorkSafe requirements and should have any appropriate qualifications. It is not the Regional Council's responsibility to require or monitor this. The Council's principal concern, in this plan change, is to control spray drift, and the rule is designed for this purpose. It does not rely on training, provided by a third party, to manage spray drift. Staff consider that if the conditions of the rule are met, the effects of spray drift are mitigated. A condition requiring training and qualifications will add no further value and staff do not recommend this addition

Submission Point No: 6 **Submission Type:** Seek **Recommendation:** Accept in Part

Chapter: Rules

Section: New rule

Submission Summary: Restricted Discretionary Agrichemical rule
NZKGI support HortNZ's submission on creating the option for a restricted discretionary activity if the conditions of the permitted activity rule AQR15 cannot be met. NZKGI agrees that 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: Create the option for a restricted discretionary activity if the conditions of the permitted activity rule AQR15 cannot be met

Reasons for Staff Recommendation: Staff agree that an alternative pathway for consents for agrichemical spray is appropriate and suggest a controlled activity. This allows the Regional Council to consider effects through a consent process and for tailored consent conditions, but also gives certainty to the applicant. Staff have amended the matters of discretion provided by the submitter to matters of control. The matters of control have also been amended to control only those matters within the Council's role, and to be consistent with the rule AQ R15

Submission Point No: 7 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Definitions

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 73 - New Zealand Kiwifruit Growers (NZKGI)

Section: Definitions - Fertiliser

Submission Summary: "Fertiliser"
 NZKGI supports HortNZ's submission regarding the inclusion of the ACVM definition for fertiliser in the plan and considers the reliance on the definition of fertiliser used in the Regional Natural Resources Plan from the Code of Practices for Fertiliser Use 1998 insufficient.

Decision Sought: The inclusion of the Agricultural Compounds and Veterinary Medicines definition for fertiliser

Reasons for Staff Recommendation: Retain the definition as proposed as the primary adverse effect of discharging fertiliser is to water and land. The rules in the RNRP were developed alongside the existing definition. If this definition were to be altered, this could have unintended consequences for the provisions that manage discharges to water and land, particularly in catchments of concern

Submitter: 74 - Bay of Plenty Regional Council

Submission Point No: 1 **Submission Type:** Seek **Recommendation:** Accept in Part

Chapter: Policies

Section: AQ P4 - whole policy

Submission Summary: Policy AQ P4 requires "plan users" to have particular regard to a number of matters. These are matters that everyone needs to have regard to in any situation where there is a discharge of contaminant to air. Not everyone may be a "plan user" and in some cases may not be aware of the plan at all. The current wording restricts who the policy applies to, when it was intended to apply to everyone involved with discharges of contaminants to air.

Decision Sought: Amend AQ P4 as follows:
 [delete - When considering the acceptability of any discharge of contaminants to air, regional plan users must h] Have particular regard to the following matters when considering the acceptability of any discharge of contaminants to air

Reasons for Staff Recommendation: Staff agree that a change is necessary and recommend wording to remove reference to 'plan users' or otherwise, but retain the requirement of the policy.

Further Submission No: 8 - 64 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Mercury NZ Ltd

Summary: Mercury seeks Policy 4 implement the correct tests in line with the RMA.

Decision Sought: Allow

Reasons for Staff Recommendation: Staff agree that a change is necessary and recommend wording to remove reference to 'plan users' or otherwise, but retain the requirement of the policy.

Further Submission No: 26 - 4 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Western Bay of Plenty District Council

Summary: The suggested amendment addresses the ambiguity that arose around the use of the term 'plan users'. The amendment is supported.

Decision Sought: Accept

Reasons for Staff Recommendation: Staff agree that a change is necessary and recommend wording to remove reference to 'plan users' or otherwise, but retain the requirement of the policy.

Submission Point No: 2 **Submission Type:** Seek **Recommendation:** Accept in Part

Chapter: Policies

Section: AQ P7

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 74 - Bay of Plenty Regional Council

Submission Summary: The policy as currently written seeks to avoid a net increase in discharges from certain solid fuel burners. This was a change made to the policy to accommodate AQ R13 which allowed for new woodburners to be offset. In making this change, the original intent of the policy, to avoid discharges, was lost. The requested amendment restores the intent of the original policy, while also accommodating the additional rule to allow offsets. The policy also needs to be amended to remove reference to burners installed in dwelling houses and buildings. Some solid fuel burners are not installed in either of these locations, yet still contribute to the overall PM10 emissions and poor air quality. The amendment would remove this reference and the policy would apply to all solid fuel burners in the Rotorua Airshed (but would not target open burning, covered by other policies and rules).

Decision Sought: Amend AQ P7 as follows:
Avoid a [delete - net increase in] discharge of particulates to air from certain solid fuel burners [delete - installed in dwelling houses or buildings] in the Rotorua Airshed, in particular discharges from:
(a) new solid fuel burners, except pellet burners, [delete - and] replacement low emissions woodburners, [insert - and new woodburners where an offset is provided]
(b) indoor open fires, coal burners, multifuel burners, and woodburners installed before September 2005
(c) solid fuel burners that have been refurbished since their installation
(d) solid fuel burners used or designed for use other than as a space heater.

Reasons for Staff Recommendation: The requirement to 'avoid a new increase' is too high, particularly in light of the recent Davidson decision. Providing such a directive policy could mean that applications for non-complying activities under AQ R14 have difficulty passing either of the gateway tests under section 104D of the Act. While the intention is certainly to discourage the types of burners listed in the policy, it was not to prohibit them in every instance. Therefore staff recommend that the policy be amended so that it refers to the need to avoid these burners, except where exceptional circumstances apply.
Staff also recommend a change to the wording of the policy to ensure it maintains its original intent, which was to avoid the discharge of particulates to the Rotorua Airshed from certain burners, while retaining the allowance for offsets where appropriate; and to remove of dwelling houses and buildings as the policy is intended to target all solid fuel burners in the Airshed.

Further Submission No: 14 - 2 **Submission Type:** Oppose **Recommendation:** Reject
Further Submitter: Envirosolve
Summary: All burners from (a -d) could be retrofitted with high sophisticated secondary emission devices which will have an immediate effect on the air quality for the next 10 - 15 years and is independent from the burner underneath. The technology of burners is not as advanced and proofed yet what the industry tells you
Decision Sought: Oppose and amend
Reasons for Staff Recommendation: There is not enough certainty that these devices will reduce the particulates discharged from any burner to the extent necessary for the Rotorua Airshed to meet the NESAQ

Further Submission No: 14 - 5 **Submission Type:** Oppose **Recommendation:** Reject
Further Submitter: Envirosolve
Summary: All burners from (a -d) could be retrofitted with high sophisticated secondary emission devices which will have an immediate effect on the air quality for the next 10 - 15 years and is independent from the burner underneath. The technology of burners is not as advanced and proofed yet what the industry tells you.
Decision Sought: Oppose and amend
Reasons for Staff Recommendation: There is not enough certainty that these devices will reduce the particulates discharged from any burner to the extent necessary for the Rotorua Airshed to meet the NESAQ

Submission Point No: 3 **Submission Type:** Seek **Recommendation:** Accept
Chapter: Rules

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 74 - Bay of Plenty Regional Council

Section: AQ R3 - new activity

Submission Summary: AQ R1 excludes discharges from industrial or trade premises as a permitted activity. This means any industrial or trade premises not specifically permitted by the other permitted activity rules in the Proposed Plan Change automatically requires a consent under AQ R2. According to the definition of "industrial or trade premises" in the RMA, any premises that discharges a contaminant from an industrial or trade process is an industrial or trade premises. Most of the types of industrial or trade processes that can be managed through a permitted activity (such as fuel burning equipment) have been included as permitted activity rules. One activity that has not been included is the roasting of coffee beans. It was not the intention of the rules to capture coffee roasting as a discretionary activity. The potential adverse effects of coffee roasting can be managed by the conditions in AQ R3, therefore an amendment to add coffee roasting to the list of activities in AQ R3 would remedy this issue.

Decision Sought: Amend AQ R3 by adding to the list of permitted activities as follows:
The discharge of contaminants to air from:
. . .[insert - (6) roasting of coffee beans]
are permitted activities provided the discharge is not noxious or dangerous, offensive or objectionable beyond the boundary of the subject property or into any water body. . .

Reasons for Staff Recommendation: Include coffee roasting in the list of permitted activities

Submission Point No: 4 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Rules

Section: AQ R12

Submission Summary: Under these rules, any new burner must have an emission rate of no more than 0.6g/kg and thermal efficiency of no less than 65%. These must be tested using Australian/New Zealand standard methods. Woodburners are tested by the manufacturers to ensure they meet these standards.
An additional authorisation process was introduced by Environment Canterbury and Nelson City Council to check each burner against a number of criteria, including re-testing to ensure that the emission rate and thermal efficiency meets the standard. Burners that pass this second test are entered onto the Authorised Wood Burner list maintained by the Ministry for the Environment. It is national standard practice for purchasers and councils to use the Authorised Wood Burner list when selecting burners for installation and use in polluted airsheds. However, the authorisation process has not been included in legislation, and is only a practice, not a legal requirement. The inclusion of the authorisation process as part of the woodburner rules, gives more certainty to consumers and the Regional Council that any woodburner installed and used in Rotorua has been through this two step process.
The Authorised Wood Burner list contains 382 different burners (at the time of writing), providing a substantial range of options for size, insert or freestanding, and with or without water heaters.

Decision Sought: Include in AQ R12 (b) an additional requirement that any pellet burner, replacement woodburner or new woodburner must also be an Authorised Solid Fuel Burner.
Amend AQ R12 (b)
. . . the discharge is from a pellet burner, provided the pellet burner [insert - is an Authorised solid fuel burner and. . .]
Amend AQ R12(d)(iii)
. . . has a thermal efficiency of no less than 65% and [insert - (iv) is an Authorised solid fuel burner.]

Reasons for Staff Recommendation: Introduces an additional test that allows only authorised woodburners into the Airshed.

Further Submission No: 14 - 20 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Envirosolve

Summary: Canterbury Method 1 is much stringent and real life test despite that is not legally bind in the 4012/4013 but these ULEBs are cleaner. Most of your 382 authorized burners would not pass CM1 test because they are all tuned to the rules (hot phase) in the lab. Real life is total different and on the roof tests for emission is available in NZ

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Staff Recommendations on Submissions (By Submitter)

Submitter: 74 - Bay of Plenty Regional Council

Decision Sought: Oppose

Reasons for Staff Recommendation: Introduces an additional test that allows only authorised woodburners into the Airshed.

Submission Point No: 5 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Rules

Section: AQ R13

Submission Summary: Under these rules, any new burner must have an emission rate of no more than 0.6g/kg and thermal efficiency of no less than 65%. These must be tested using Australian/New Zealand standard methods. Woodburners are tested by the manufacturers to ensure they meet these standards.
An additional authorisation process was introduced by Environment Canterbury and Nelson City Council to check each burner against a number of criteria, including re-testing to ensure that the emission rate and thermal efficiency meets the standard. Burners that pass this second test are entered onto the Authorised Wood Burner list maintained by the Ministry for the Environment. It is national standard practice for purchasers and councils to use the Authorised Wood Burner list when selecting burners for installation and use in polluted airsheds. However, the authorisation process has not been included in legislation, and is only a practice, not a legal requirement. The inclusion of the authorisation process as part of the woodburner rules, gives more certainty to consumers and the Regional Council that any woodburner installed and used in Rotorua has been through this two step process. The Authorised Wood Burner list contains 382 different burners (at the time of writing), providing a substantial range of options for size, insert or freestanding, and with or without water heaters.

Decision Sought: Include in AQ R13 an additional requirement that any pellet burner, replacement woodburner or new woodburner must also be an Authorised Solid Fuel Burner.
Amend AQ R13
(c)has a thermal efficiency of no less than 65% [insert - and
(d) is an Authorised solid fuel burner.]

Reasons for Staff Recommendation: Introduces an additional test that allows only authorised woodburners into the Airshed.

Further Submission No: 14 - 22 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Envirosolve

Summary: Canterbury Method 1 is much stringent and real life test despite that is not legally bind in the 4012/4013 but these ULEBs are cleaner. Most of your 382 authorized burners would not pass CM1 test because they are all tuned to the rules (hot phase) in the lab. Real life is total different and on the roof tests for emission is available in NZ.

Decision Sought: Oppose

Reasons for Staff Recommendation: Introduces an additional test that allows only authorised woodburners into the Airshed.

Submission Point No: 6 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Definitions

Section: Definitions - Authorised solid fuel burner

Submission Summary: "Authorised solid fuel burner"
Under these rules, any new burner must have an emission rate of no more than 0.6g/kg and thermal efficiency of no less than 65%. These must be tested using Australian/New Zealand standard methods. Woodburners are tested by the manufacturers to ensure they meet these standards. An additional authorisation process was introduced by Environment Canterbury and Nelson City Council to check each burner against a number of criteria, including re-testing to ensure that the emission rate and thermal efficiency meets the standard. Burners that pass this second test are entered onto the Authorised Wood Burner list maintained by the Ministry for the Environment. It is national standard practice for purchasers and councils to use the Authorised Wood Burner list when selecting burners for installation and use in

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Staff Recommendations on Submissions (By Submitter)

Submitter: 74 - Bay of Plenty Regional Council

polluted airsheds. However, the authorisation process has not been included in legislation, and is only a practice, not a legal requirement. The inclusion of the authorisation process as part of the woodburner rules, gives more certainty to consumers and the Regional Council that any woodburner installed and used in Rotorua has been through this two step process. The Authorised Wood Burner list contains 382 different burners (at the time of writing), providing a substantial range of options for size, insert or freestanding, and with or without water heaters.

Decision Sought: In the Definition of terms add
 Authorised solid fuel burner means a solid fuel burner that is either:
 (a) on the Ministry for the Environment's Authorised Wood Burner list or
 (b) has been authorised under the New Zealand Domestic Solid Fuel Burner Authorisation Manual (2011)

Reasons for Staff Recommendation: Add this definition and also recommend wording allowing for the amendment or replacement of the Ministry for the Environment Authorisation Manual referenced in the definition

Further Submission No: 14 - 25 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Envirosolve

Summary: Please see 74 -4. It is necessary to take pragmatistical approach and that means common sense is required. Accept ULEBs which are slightly over 0.6 g/kg because they are tested under real life condition and not only under tuned lab condition

Decision Sought: Oppose

Reasons for Staff Recommendation: Further submission point not related to the wording or requirement for this definition

Submission Point No: 7 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Rules

Section: AQ R12

Submission Summary: The emission rate for new or replacement woodburners has been set at 0.6g/kg, or less. However, the test results for solid fuel burners often go to 2 decimal places. This may lead emission rates up to 0.64g/kg to be rounded down to 0.6g/kg. The intention of the rule was to strictly limit emission rates for new woodburners to exactly 0.6g/kg, no more. By amending 0.6 to 0.60g/kg, this leaves no room for misunderstandings.

Decision Sought: in AQ R12(d) change 0.6g/kg to 0.60g/kg.

Reasons for Staff Recommendation: Clearly sets an emission rate for woodburners, and 0.60g/kg is more precise and clear than 0.6g/kg

Further Submission No: 14 - 21 **Submission Type:** Other **Recommendation:** Reject

Further Submitter: Envirosolve

Summary: You are discussion now the second decimal for your limit. Did somebody question the variability of a lab test when you would repeat (10, 20, 30 %??) and we not even talk about in real life where people using all sorts of wood with different moisture as well.

Decision Sought: Neutral

Reasons for Staff Recommendation: Clearly sets an emission rate for woodburners, and 0.60g/kg is more precise and clear than 0.6g/kg

Submission Point No: 8 **Submission Type:** Seek **Recommendation:** To Be Advised

Chapter: Rules

Section: AQ R13

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 74 - Bay of Plenty Regional Council

Submission Summary: The emission rate for new or replacement woodburners has been set at 0.6g/kg, or less. However, the test results for solid fuel burners often go to 2 decimal places. This may lead emission rates up to 0.64g/kg to be rounded down to 0.6g/kg. The intention of the rule was to strictly limit emission rates for new woodburners to exactly 0.6g/kg, no more. By amending 0.6 to 0.60g/kg, this leaves no room for misunderstandings.

Decision Sought: In AQ R13(b) Change 0.6g/kg to 0.60g/kg.

Reasons for Staff Recommendation: Clearly sets an emission rate for woodburners, and 0.60g/kg is more precise and clear than 0.6g/kg

Further Submission No: 14 - 23 **Submission Type:** Oppose **Recommendation:** To Be Advised

Further Submitter: Envirosolve

Summary: Canterbury Method 1 is much stringent and real life test despite that is not legally bind in the 4012/4013 but these ULEBs are cleaner. Most of your 382 authorized burners would not pass CM1 test because they are all tuned to the rules (hot phase) in the lab. Real life is total different and on the roof tests for emission is available in NZ.

Decision Sought: Oppose

Reasons for Staff Recommendation: Clearly sets an emission rate for woodburners, and 0.60g/kg is more precise and clear than 0.6g/kg

Submission Point No: 9 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Rules

Section: AQ R21(f)

Submission Summary: The current rule lists all composting, regardless of scale, as a discretionary activity. This also encompasses domestic composting activities which was not the intention. The requested amendment would make it clear that only commercial scale operations are targeted by this rule

Decision Sought: Amend AQ R21(f) as follows:
(f) Composting (including mushroom based processes) [insert - where the compost is for wholesale or retail sale]

Reasons for Staff Recommendation: Rule was not intended to target domestic composting,

Submission Point No: 10 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Rules

Section: AQ R21(g)

Submission Summary: The list of discretionary activities includes Crematoria installed after 27 February 2018. This was intended to leave any existing crematorium as it is currently managed (some have consents, some don't) but require consents for new crematoria. However, it is unclear whether the rule applies to existing crematoria replacing or upgrading their furnace equipment, or just crematoria that are newly built. The intention was to only require new crematoria to apply for a resource consent and this amendment clarifies the intended application of the rule.

Decision Sought: Amend AQ R21(g) as follows:
(g) Crematoria [insert - where either:
(i) a new facility with a new discharge to air is being established after 27 February 2018 , or
(ii) an existing facility is increasing its discharge to air after 27 February 2018]
[delete - installed after 27 February 2018]

Reasons for Staff Recommendation: Where existing crematoria have resource consents any adverse effects can be managed through the consent process. However where an existing crematorium is permitted under AQ R1 (previously Rule 17) any increase in emissions may have adverse effects that exceed the limits of the general rule. Council prefer to assess these situations using the

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 74 - Bay of Plenty Regional Council

resource consent process, especially in areas where particulates are an issue.

Further Submission No: 2 - 3 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Legacy Funeral Homes Ltd

Summary: Oppose inclusion of (ii). Crematoria that were established as permitted activities and are increasing their discharge but are still within the permitted activity limits under Rule AQ R1 should not have to get a resource consent. Suggest amend so that the rule applies only to new crematoria and to replacement crematoria that do not comply with Rule AQ R1.

Decision Sought: Amend so that the rule applies only to new crematoria and to replacement crematoria that do not comply with Rule AQ R1.

Reasons for Staff Recommendation: Where existing crematoria have resource consents any adverse effects can be managed through the consent process. However where an existing crematorium is permitted under AQ R1 (previously Rule 17) any increase in emissions may have adverse effects that exceed the limits of the general rule. Council prefer to assess these situations using the resource consent process, especially in areas where particulates are an issue.

Further Submission No: 22 - 27 **Submission Type:** Support in Part **Recommendation:** Accept

Further Submitter: Toi Te Ora Public Health

Summary: Discharges to air from existing crematoria can result in adverse effects on health if not managed and controlled property. Therefore we support the inclusion of existing crematoria to be a discretionary activity after a certain date. An extension, replacement or furnace upgrade of an existing crematorium should be a controlled activity.

Decision Sought: Accept in part

Reasons for Staff Recommendation: Where existing crematoria have resource consents any adverse effects can be managed through the consent process. However where an existing crematorium is permitted under AQ R1 (previously Rule 17) any increase in emissions may have adverse effects that exceed the limits of the general rule. Council prefer to assess these situations using the resource consent process, especially in areas where particulates are an issue.

Submission Point No: 11 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Definitions

Section: Definitions - Coal burner

Submission Summary: "Coal burner"
Coal burners are specifically targeted by the Rotorua Airshed burner rules (AQ R12 - AQ R14) therefore a robust definition is essential to ensure these are not confused with any other type of solid fuel burner. The key part of the definition as currently written implies that a coal burner must have all three design features as listed to be defined as a coal burner. The key part of the definition is that it is a solid fuel burner designed to burn coal, and may not have all three design features. The amendment will clarify this and ensure that coal burners that do not have all three design features, even if they quite clearly are designed to burn coal, are still classified correctly.

Decision Sought: Amend definition of term "coal burner" as follows:
Coal burner means a solid fuel burner designed to burn coal, which [insert - may have] [delete - has] the following design features...

Reasons for Staff Recommendation: Amendment to the definition of coal burner to clarify this term

Submission Point No: 12 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Definitions

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 74 - Bay of Plenty Regional Council

Section: Definitions - Emission rate

Submission Summary: "Emission rate"
The term "emission rate" is also used both in relation to solid fuel burners and in AQ P10 for fuel burning equipment. The definition provided is only intended to be used in relation to solid fuel burners and could cause confusion if not amended

Decision Sought: Amend definition of term "emission rate" as follows:
Emission rate [insert - when used in relation to solid fuel burners] means the amount of particles (in grams) discharged from a solid fuel burner for each kilogram of dry wood burnt. The discharge must be measured in accordance with...

Reasons for Staff Recommendation: Amend this definition to ensure it applies only to solid fuel burners, not to fuel burning equipment

Further Submission No: 23 - 58 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter support the amended definition of 'Emission Rate'. Emission rate is a term used by Lawter to describe the rate of emission from their stacks. 'Emission Rate' doesn't also have to refer to particulates (i.e. in Lawter's case, this could refer to sodium dioxide).

Decision Sought: Decision sought: Amend definition of 'Emission Rate' as defined in submission 74 – 12.

Reasons for Staff Recommendation: Amend this definition to ensure it applies only to solid fuel burners, not to fuel burning equipment

Submission Point No: 13 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Definitions

Section: Definitions - Existing

Submission Summary: "Existing"
Existing burners are subject to different rules under the Plan Change, therefore it is important to define what "existing" means in relation to solid fuel burners. "Existing" was defined as a burner with a building permit or building consent and was intended to apply only to burners already installed and in use in buildings or dwelling houses at the time the Plan Change was notified. An additional clause (c) was included to allow for any burner that was in the process of being consented on the notification date. However, this definition does not account for a number of solid fuel burners that were installed legally, but did not require a building permit at the time. As currently defined, these burners would not be able to be replaced according to AQ R12(d). The term "existing" needs to be expanded to include those burners that were lawfully (or not unlawfully) installed and used during a time when building permits were not required. The definition also inadvertently defines any burner as existing if it has a building permit or consent, not whether the burner is actually already installed in the building or dwelling house. The definition should be expanded to clarify that only those burners in situ, are defined as "existing".

Decision Sought: Amend definition of terms "existing" as follows:
(a) [insert - is in situ and] has a building permit issued under the Local Government Act 2002, or
(b) [insert - is in situ and] has a building consent issued under the Building Act 2004, or
(c) is the subject of a building consent . . . [insert - or
(d) has been verified by a delegate of the Rotorua District Council or Regional Council as lawfully installed.]

Reasons for Staff Recommendation: Amend to ensure that burners that were installed prior to requiring consents or permits are recognised as existing in the plan change

Submission Point No: 14 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Definitions

Section: Definitions - Multifuel burners

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 74 - Bay of Plenty Regional Council

Submission Summary: Multifuel burners are specifically targeted by the Rotorua Airshed burner rules (AQ R12 – AQ R14) therefore a robust definition is essential to ensure these are not confused with any other type of solid fuel burner. The key part of the definition as currently written implies that a multifuel burner must have all three design features as listed to be defined as a multifuel burner. The key part of the definition is that it is a solid fuel burner designed to burn wood and/or coal, and may not have all three design features. The amendment will clarify this and ensure that coal burners that do not have all three design features, even if they quite clearly are designed to burn coal, are still classified correctly.

Decision Sought: Amend definition of term "multifuel burner" as follows:
Multifuel burner means a solid fuel burner designed to burn wood and/or coal, which [insert - may have] [delete - has] the following design features...

Reasons for Staff Recommendation: Amend to the definition to clarify this term

Submission Point No: 15 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Definitions

Section: Definitions - Noxious or dangerous

Submission Summary: "Noxious or dangerous"
The definition of "noxious or dangerous" includes allergic reactions as a human health effect, alongside toxic poisoning and exposure to carcinogens. Although an allergic reaction is a human health effect, it is difficult to trace exactly what has caused the allergic reaction. Its inclusion alongside toxic poisoning or exposure to carcinogens is not appropriate. The latter two can be determined by objective testing, while an allergic reaction is subjective and could be caused by a number of things.

Decision Sought: Amend as follows:
(a) human health effects from acute exposure or chronic exposure. These include [delete - allergic reactions], toxic poisoning or exposure to carcinogens

Reasons for Staff Recommendation: Remove this definition from the plan change as it is used in the RMA and case law considers this based on a normal English language definition. Including a definition could result in a conflict between further Court interpretation. However, staff recommend retaining text to clarify how this term will be interpreted by the rules in the plan change and that this text is based on the text in the proposed plan.
Remove all examples of human health effects from this clause. Although 'human health effects' is broad and could include any number of ailments.as this term is recommended to sit outside the definitions of terms, a broad approach is appropriate.as a broad approach is appropriate and includes all matters listed by this submitter

Further Submission No: 8 - 82 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Mercury NZ Ltd

Summary: Mercury supports the logic of the submission. The definition does not need to include allergic reactions, but if someone had an allergic reaction, the definition should not exclude it. The relief sought provides for this outcome

Decision Sought: Allow

Reasons for Staff Recommendation: Remove this definition from the plan change as it is used in the RMA and case law considers this based on a normal English language definition. Including a definition could result in a conflict between further Court interpretation. However, staff recommend retaining text to clarify how this term will be interpreted by the rules in the plan change and that this text is based on the text in the proposed plan.
Remove all examples of human health effects from this clause. Although 'human health effects' is broad and could include any number of ailments.as this term is recommended to sit outside the definitions of terms, a broad approach is appropriate.as a broad approach is appropriate and includes all matters listed by this submitter

Further Submission No: 13 - 112 **Submission Type:** Support **Recommendation:** Accept in Part

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Staff Recommendations on Submissions (By Submitter)

Submitter: 74 - Bay of Plenty Regional Council

Further Submitter: Horticulture New Zealand

Summary: The deletion of allergic reactions is supported as the source of such reactions can be difficult to trace.

Decision Sought: Accept submission

Reasons for Staff Recommendation: Remove this definition from the plan change as it is used in the RMA and case law considers this based on a normal English language definition. Including a definition could result in a conflict between further Court interpretation. However, staff recommend retaining text to clarify how this term will be interpreted by the rules in the plan change and that this text is based on the text in the proposed plan.
Remove all examples of human health effects from this clause. Although 'human health effects' is broad and could include any number of ailments.as this term is recommended to sit outside the definitions of terms, a broad approach is appropriate.as a broad approach is appropriate and includes all matters listed by this submitter

Further Submission No: 30 - 45 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Swap Stockfoods Ltd

Summary: Support a definition for 'noxious or dangerous' being retained in the plan change. Swap Stockfoods would like the opportunity to be involved in the discussions regarding the proposed wording of the definition. Support deleting "allergic reactions" from the definition

Decision Sought: Accept

Reasons for Staff Recommendation: Remove this definition from the plan change as it is used in the RMA and case law considers this based on a normal English language definition. Including a definition could result in a conflict between further Court interpretation. However, staff recommend retaining text to clarify how this term will be interpreted by the rules in the plan change and that this text is based on the text in the proposed plan.
Remove all examples of human health effects from this clause. Although 'human health effects' is broad and could include any number of ailments.as this term is recommended to sit outside the definitions of terms, a broad approach is appropriate.as a broad approach is appropriate and includes all matters listed by this submitter

Submission Point No: 16 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Reverse sensitivity

Section: Reverse Sensitivity

Submission Summary: "Reverse sensitivity"
The term "reverse sensitivity" is not used in the Plan Change and therefore it is not necessary to include a definition of the term

Decision Sought: Remove the definition of the term "reverse sensitivity"

Reasons for Staff Recommendation: Remove the definition of the term "reverse sensitivity"

Further Submission No: 13 - 123 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks that the definition of reverse sensitivity is deleted. This is opposed as provisions are sought for reverse sensitivity in the Plan.

Decision Sought: Reject submission to delete definition of reverse sensitivity

Reasons for Staff Recommendation: Decline as reverse sensivity is already included in the RPS

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 74 - Bay of Plenty Regional Council

Further Submission No: 23 - 59 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Lawter New Zealand Ltd

Summary: Although the definition of 'Reverse sensitivity' has not been used within the plan, it is something that plan users (including decision makers) will be considering when making assessments on new air discharge activities.

Decision Sought: Decision sought: Adopt the definition of 'Reverse sensitivity', either as drafted by council, or as amended by any supported submission in this document.

Reasons for Staff Recommendation: Decline as reverse sensitivity is already included in the RPS

Further Submission No: 30 - 62 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Swap Stockfoods Ltd

Summary: Support the inclusion of reverse sensitivity in the proposed plan change including the provision of policies, methods and a definition

Decision Sought: Reject

Reasons for Staff Recommendation: Decline as reverse sensitivity is already included in the RPS

Submission Point No: 17 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Definitions

Section: Definitions - Sensitive activity

Submission Summary: "Sensitive activity"
The definition of sensitive activity is too broad and could include a number of activities that are not sensitive. Recommended that the opening sentence is expanded to define what a sensitive activity is, before giving examples.

Decision Sought: Amend to
sensitive activity means an activity that [delete - may be adversely affected by contaminants] [insert - is particularly sensitive to adverse effects associated with air contaminant discharges either due to the vulnerability of the population or area exposed to the contaminant, or due to the potential for prolonged exposure] and includes. . .

Reasons for Staff Recommendation: Staff recommend changing wording from 'this includes' to 'this may include' to separate the definition from the examples. Staff do not then recommend amending the list itself, as it is no longer a key part of the definition, but a list of examples to provide guidance. This will relieve many of the concerns in the submission points.

Further Submission No: 4 - 5 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Whakatane Mill Ltd

Summary: The PC13 definition of sensitive activity is too broad and could include a number of activities that are not sensitive

Decision Sought: Accept submission point 74-17 to amend the definition of sensitivity

Reasons for Staff Recommendation: Staff recommend changing wording from 'this includes' to 'this may include' to separate the definition from the examples. Staff do not then recommend amending the list itself, as it is no longer a key part of the definition, but a list of examples to provide guidance. This will relieve many of the concerns in the submission points.

Further Submission No: 8 - 90 **Submission Type:** Support in Part **Recommendation:** Accept

Further Submitter: Mercury NZ Ltd

Summary: Mercury supports more narrow policy test, however questions the need for "or area exposed to the contaminant". Mercury is happy to engage on the matter.

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 74 - Bay of Plenty Regional Council

Decision Sought: Allow in part

Reasons for Staff Recommendation: Staff recommend changing wording from 'this includes' to 'this may include' to separate the definition from the examples. Staff do not then recommend amending the list itself, as it is no longer a key part of the definition, but a list of examples to provide guidance. This will relieve many of the concerns in the submission points.

Further Submission No: 11 - 24 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Oji Fibre Solution

Summary: The PC13 definition of sensitive activity is too broad and could include a number of activities that are not sensitive

Decision Sought: Accept submission

Reasons for Staff Recommendation: Staff recommend changing wording from 'this includes' to 'this may include' to separate the definition from the examples. Staff do not then recommend amending the list itself, as it is no longer a key part of the definition, but a list of examples to provide guidance. This will relieve many of the concerns in the submission points.

Further Submission No: 13 - 118 **Submission Type:** Support in Part **Recommendation:** Accept

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks to clarify the application of the definition by amending the wording. This clarifies how the definition may be applied

Decision Sought: Accept submission

Reasons for Staff Recommendation: Staff recommend changing wording from 'this includes' to 'this may include' to separate the definition from the examples. Staff do not then recommend amending the list itself, as it is no longer a key part of the definition, but a list of examples to provide guidance. This will relieve many of the concerns in the submission points.

Further Submission No: 28 - 27 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Stakeholders in Methyl Bromide Reduction Inc (STIMBR)

Summary: An appropriate amendment

Decision Sought: Accept

Reasons for Staff Recommendation: Staff recommend changing wording from 'this includes' to 'this may include' to separate the definition from the examples. Staff do not then recommend amending the list itself, as it is no longer a key part of the definition, but a list of examples to provide guidance. This will relieve many of the concerns in the submission points.

Further Submission No: 29 - 27 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Genera Ltd

Summary: It is a sensible and constructive amendment

Decision Sought: Accept

Reasons for Staff Recommendation: Staff recommend changing wording from 'this includes' to 'this may include' to separate the definition from the examples. Staff do not then recommend amending the list itself, as it is no longer a key part of the definition, but a list of examples to provide guidance. This will relieve many of the concerns in the submission points.

Submission Point No: 18 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Definitions

Section: Definitions - Subject property

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 74 - Bay of Plenty Regional Council

Submission Summary: 'Subject property'
 The term "subject property" is used throughout the Proposed Plan Change. The rule structure is designed around discharges of contaminants from properties – the location of the activity causing the discharge. However, an interpretation could be attempted that the application is to the boundary of the property experience the impacts of the discharge. To prevent any confusion a clarification is recommended to ensure the intent of the term is maintained.

Decision Sought: Include new Definition of Term for subject property
 [insert - subject property means the property where the discharge of contaminants to air originates.]

Reasons for Staff Recommendation: Add a new definition for the term subject property to clarify if this term refers to the property where the discharge originates or the property where the effects may be experienced.

Further Submission No: 13 - 119 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Horticulture New Zealand

Summary: Clarification of subject property is supported

Decision Sought: Accept submission

Reasons for Staff Recommendation: Add a new definition for the term subject property to clarify if this term refers to the property where the discharge originates or the property where the effects may be experienced.

Submission Point No: 19 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Definitions

Section: Definitions - Solid fuel burner

Submission Summary: "Solid fuel burners"
 The definition of "solid fuel burner" includes the word "domestic". This was included as a reference to the scale of the burner (small) rather than the location where it was used (in a house). It was to ensure that solid fuel burners did not overlap with fuel burning equipment. However, the use of the word domestic implies that the burner is installed and used in a house, but there are several instances where a burner is located within a larger building and/or on business premises (such as a pub). These burners contribute to the air quality issue in Rotorua as much as any burner installed and used in a domestic house and are targeted by the rules. The definition could incorrectly limit the rules to only those burners in domestic houses, which is not the intention of the rule. The definition specifically excludes fuel burning equipment, therefore no further reference to scale is necessary

Decision Sought: Amend definition as follows:
 Solid fuel burner means a [delete - domestic] solid fuel burning appliance. . ."

Reasons for Staff Recommendation: Staff recommend an amendment to the definition of solid fuel burner so that the term applied to any burner of this design, not just those used for domestic purposes.

Submitter: 75 - Swap Stockfoods Ltd

Submission Point No: 1 **Submission Type:** Oppose **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R1

Submission Summary: For the purposes of PPC13, SSL bulk stores are classified as an industrial and trade premise (as defined by the RMA), and given the definition of contaminant in PPC13 any dust generated from stockfeed storage and handling is categorised as a contaminant. As result, SSL stockfeed bulk store activities are captured by the rules of PPC13.
 The 'as notified' wording of Rule AQ R1 sets out three pre-requisites. The effect of this wording is that regardless of whether an industrial or trade premise manages its air discharges to achieve the important pre-requisites of (a) and (b), those discharges will not be permitted (ie will require Discretionary Activity consent under Rule AQ R2) simply due to

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 75 - Swap Stockfoods Ltd

the fact that they are emitted from an industrial or trade premise. This does not reflect an effects based methodology, and will result in the Permitted Activity Rule becoming inefficient and ineffective due to the large number of industrial and trade premises that will likely be captured unnecessarily. The amendment sought will allow air discharges from industrial and trade premises to retain permitted status provided that the pre-requisite standards in (a) and (b) of the permitted activity rule are achieved. Amending the rule as sought will be compliant with section 15(1)(c) of the RMA, as in tandem with Discretionary Activity Rule AQ R2) the rule will expressly allow for the discharge of a controlled and managed amount of contaminants to air from an industrial or trade premise.

Decision Sought: Amend Rule AQ R1 condition (c) to read as follows:
(c) The discharge is not from industrial or trade premises, unless the discharge achieves the requirements of conditions (a) and (b) above, or other relief to the same effect

Reasons for Staff Recommendation: The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent. However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 1 - 13 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: GBC Winstone

Summary: The deletion or amendment of AQ R1(c) is supported, as the Plan should provide a means of permitting incidental and de minimus discharges from industrial and trade premises, by stating the type and levels of effects as a permitted activity standard. GBC Winstone has a service centre for bulk storage and handling of cement at Port of Tauranga, Mt Maunganui, operating under an air discharge consent, but contains the cement by means of a baghouse dust removal system. GBC Winstone original submission No. 27 on Plan Change 13 sought permitted activity status for cement storage and handling at Port of Tauranga, subject to meeting permitted activity standards. The permitted activity standards could be specific to bulk storage and handling of cement and associated materials, as detailed in GBC Winstone's original submission and as used in the Auckland Unitary Plan, or more general in relation to adverse effects on human health, property or the environment beyond the boundary of the premises where the activity takes place. Such permitted activity standards would ensure that a baghouse or similar dust removal system is used to ensure the nature and levels of adverse effects are acceptable.

Decision Sought: The permitted activity standards could be specific to bulk storage and handling of cement and associated materials, as detailed in GBC Winstone's original submission and as used in the Auckland Unitary Plan, or more general in relation to adverse effects on human health, property or the environment beyond the boundary of the premises where the activity takes place. Such permitted activity standards would ensure that a baghouse or similar dust removal system is used to ensure the nature and levels of adverse effects are acceptable.

Reasons for Staff Recommendation: The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent. However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 10 - 29 **Submission Type:** Oppose **Recommendation:** Accept in Part

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 75 - Swap Stockfoods Ltd

Further Submitter: Greg Misson

Summary: There has been a lack of regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. A more straightforward way of addressing the issue would be to make the activity causing these dust problems discretionary. This is on the basis that there is considerable evidence of adverse effects from these activities.

Decision Sought: Reject in part - with modification
Include text below (new Rule AQ 21(y)).
(y) Transfer, storage and transport of bulk cargo in excess of 30,000 tonnes per year

Reasons for Staff Recommendation: Agree that adverse effects are being caused by discharges from industrial and trade premises across the region, particularly in industrial areas, that do need to be better managed moving forward. When activities are not managed by any other rule in the plan and are causing adverse effects, the burden of proving such effects when enforcing the plan rules falls to the Regional Council. Where there are several sources of a contaminant of concern it can be difficult to determine the main cause, if any. Even when there is one single source causing adverse effects it can still be a difficult process. The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent. However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 15 - 30 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Hangar It

Summary: In strong support of proposed AQ R1 as it is currently drafted. AQ R1 requires discharges to air should not cause adverse effects beyond the boundary of a site where any activity is being undertaken. Importantly AQ R1(c) provides that any activity on industrial or trade premises that has discharges to air that have adverse effects offsite, such as 101 Aerodrome Road, will now require resource consent.

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Agree that adverse effects are being caused by discharges from industrial and trade premises across the region, particularly in industrial areas, that do need to be better managed moving forward. When activities are not managed by any other rule in the plan and are causing adverse effects, the burden of proving such effects when enforcing the plan rules falls to the Regional Council. Where there are several sources of a contaminant of concern it can be difficult to determine the main cause, if any. Even when there is one single source causing adverse effects it can still be a difficult process. The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent. However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 16 - 30 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Solo Wings

Summary: In support of proposed AQ R1 as currently drafted. This rule requires discharges to air

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 75 - Swap Stockfoods Ltd

should NOT cause adverse effects beyond the boundary of the site where any activity is being undertaken. In particular, support of Rule AQ R1(c) which provides that any activity on industrial or trade premises that has discharges to air that have adverse effects offsite, such as 101 Aerodrome Road (which has caused serious adverse effects at mine and other properties), will now require resource consent.

Decision Sought: Reject submission point

Reasons for Staff Recommendation:

Agree that adverse effects are being caused by discharges from industrial and trade premises across the region, particularly in industrial areas, that do need to be better managed moving forward. When activities are not managed by any other rule in the plan and are causing adverse effects, the burden of proving such effects when enforcing the plan rules falls to the Regional Council. Where there are several sources of a contaminant of concern it can be difficult to determine the main cause, if any. Even when there is one single source causing adverse effects it can still be a difficult process. The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent. However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 17 - 30 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Tony Christiansen

Summary:

Support of proposed AQ R1 as currently drafted. This rule is clear in providing that discharges to air should not cause adverse effects beyond the boundary of the site where any activity is being undertaken. Support for Rule AQ R1(c) which provides that any activity on industrial or trade premises that has discharges to air that have adverse effects offsite will require resource consent with an amendment to add condition (d) "The discharge does not cause an exceedance of the national environmental standard for PM10." Application of this rule would mean that the bulk materials handling facility at 101 Aerodrome Road would no longer be a permitted activity and would require resource consent. When there are neighbouring properties, such as a public Airport, where people and aircraft with sensitive equipment exist and frequent, the resource consent should be publicly notifiable. To assist with enforcement of this rule, monitoring should be carried out for PM10 in accordance with the Resource Management (National Environmental Standards for Air Quality) Regulations 2004.

Decision Sought: Reject

Reasons for Staff Recommendation:

Agree that adverse effects are being caused by discharges from industrial and trade premises across the region, particularly in industrial areas, that do need to be better managed moving forward. When activities are not managed by any other rule in the plan and are causing adverse effects, the burden of proving such effects when enforcing the plan rules falls to the Regional Council. Where there are several sources of a contaminant of concern it can be difficult to determine the main cause, if any. Even when there is one single source causing adverse effects it can still be a difficult process. The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent. However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

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Staff Recommendations on Submissions (By Submitter)

Submitter: 75 - Swap Stockfoods Ltd

Further Submission No: 22 - 24 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Toi Te Ora Public Health

Summary: The effective management of discharges is important in protecting the health of the public. The proposed plan change enables better management of air discharges through resource consenting and more efficient enforcement. The Section 32 Report states that 'the National Environmental Standard for Air Quality relies on the policies and rules in a regional plan to be effective'.

Decision Sought: Reject

Reasons for Staff Recommendation: Agree that adverse effects are being caused by discharges from industrial and trade premises across the region, particularly in industrial areas, that do need to be better managed moving forward. When activities are not managed by any other rule in the plan and are causing adverse effects, the burden of proving such effects when enforcing the plan rules falls to the Regional Council. Where there are several sources of a contaminant of concern it can be difficult to determine the main cause, if any. Even when there is one single source causing adverse effects it can still be a difficult process. The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent. However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 23 - 51 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter oppose the proposed amendment recommended by submission 75 - 1. Although it is accepted that some industrial and trade premises will discharge contaminants at 'less than minor' or 'de minimis' levels, we note that there is no way in knowing whether cumulative effects are occurring, which may result from several different 'permitted' discharges from industrial and trade premises. These discharges could contribute to the degradation of ambient air quality. For this reason, Lawter support the 'catch-all' approach with regards to industrial and trade facilities, which has been adopted in Proposed Plan Change 13.

Decision Sought: Decision sought: Retain rule AQ R1 as notified.

Reasons for Staff Recommendation: Agree that adverse effects are being caused by discharges from industrial and trade premises across the region, particularly in industrial areas, that do need to be better managed moving forward. When activities are not managed by any other rule in the plan and are causing adverse effects, the burden of proving such effects when enforcing the plan rules falls to the Regional Council. Where there are several sources of a contaminant of concern it can be difficult to determine the main cause, if any. Even when there is one single source causing adverse effects it can still be a difficult process. The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent. However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 75 - Swap Stockfoods Ltd

Submission Point No: 3 **Submission Type:** Oppose **Recommendation:** Accept in Part

Chapter: Definitions

Section: Definitions - Offensive or objectionable

Submission Summary: "offensive or objectionable"
 The 'as notified' rule framework in PPC13 relies on the terms "noxious or dangerous" and "offensive or objectionable" when setting parameters for consent activity classifications. Without guidance being provided in the Plan, these relatively subjective terms are open to interpretation which creates uncertainty for both Council as regulator and those carrying out activities that generate discharges to air. There is no guidance in PPC 13 as notified as to how the terms "offensive or objectionable" will be interpreted by Council and how Council will determine whether or not an activity is complying with the criteria in relevant rules where it is used (eg Rule AQ R1). The information provided in Section 5.6.5 of the Operative Bay of Plenty Regional Air Plan provides valuable guidance to users of that plan on exactly this issue. SSL submits that it would be appropriate to avoid uncertainty in PPC13, and for the information in Section 5.6.5 of the Operative Bay of Plenty Regional Air Plan to be imported into PPC13, either by way of new or amended policy provisions, advice notes, or amendments to/new definitions.

Decision Sought: Insert an additional Policy or Policies, or an Advice Note, or amend the Definitions to include the information provided by Section 5.6.5 (Interpretation of the terms Offensive and Objectionable) of the Operative Bay of Plenty Regional Air Plan, or other relief to the same effect.

Reasons for Staff Recommendation: Some clarity around how the term will be applied during implementation of the plan change would be helpful. Staff recommend that brief advice text is provided, but that the terms not be specifically defined in order to ensure consistency with current and future case law

Further Submission No: 8 - 84 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Mercury NZ Ltd

Summary: Mercury considers a definition for 'Offensive or Objectionable' is not required. This term is used within the RMA and case law has considered this based on a normal English language definition. The inclusion of the definition could result in a conflict between further court interpretation under the Act and the definition in the Plan. Further guidance on what is considered offensive or objectionable is also included in the MfE Good Practice Guide for Assessing and Managing Odour.

Decision Sought: Disallow

Reasons for Staff Recommendation: Some clarity around how the term will be applied during implementation of the plan change would be helpful. Staff recommend that brief advice text is provided, but that the terms not be specifically defined in order to ensure consistency with current and future case law

Further Submission No: 10 - 30 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Greg Misson

Summary: There has been a lack of regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. A more straightforward way of addressing the issue would be to make the activity causing these dust problems discretionary. This is on the basis that there is considerable evidence of adverse effects from these activities.

Decision Sought: Reject

Reasons for Staff Recommendation: Some clarity around how the term will be applied during implementation of the plan change would be helpful. Staff recommend that brief advice text is provided, but that the terms not be specifically defined in order to ensure consistency with current and future case law

Further Submission No: 11 - 17 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Oji Fibre Solution

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Staff Recommendations on Submissions (By Submitter)

Submitter: 75 - Swap Stockfoods Ltd

Summary: Oji FS does not consider a definition of offensive or objectionable is needed in PC13. Oji FS notes that despite this term being used extensively in regional air plans under the RMA, it is not aware of any regional air plan which has included a definition of the term

Decision Sought: Reject submission

Reasons for Staff Recommendation: Some clarity around how the term will be applied during implementation of the plan change would be helpful. Staff recommend that brief advice text is provided, but that the terms not be specifically defined in order to ensure consistency with current and future case law

Further Submission No: 15 - 31 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Hangar It

Summary: This amendment will further reduce Councils ability to properly regulate. Most concerning is that the duty of care to provide a safe environment for hangar users will continue to be undermined by a continuation of toxic organic dust crossing the boundary from 101 Aerodrome Road.

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Some clarity around how the term will be applied during implementation of the plan change would be helpful. Staff recommend that brief advice text is provided, but that the terms not be specifically defined in order to ensure consistency with current and future case law

Further Submission No: 16 - 31 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Solo Wings

Summary: There are a wide range of adverse health effects that can arise from exposure to particulate matter and BOPRC has recognised this in the proposed plan change-13. The requested amendment will further frustrate BOPRC's ability to effectively perform its regulatory role. Tauranga Airport is a public area. General public are subject to breathing contaminated air, as a consequence of 101 Aerodrome road particulate discharges. It would clearly run counter to the public health interest for BOPRC to adopt these amendments.

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Some clarity around how the term will be applied during implementation of the plan change would be helpful. Staff recommend that brief advice text is provided, but that the terms not be specifically defined in order to ensure consistency with current and future case law

Further Submission No: 17 - 31 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Tony Christiansen

Summary: There has been a lack of effective regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. Concern with the amendments sought by this enterprise will further degrade Councils ability to respond effectively.

Decision Sought: Reject

Reasons for Staff Recommendation: Some clarity around how the term will be applied during implementation of the plan change would be helpful. Staff recommend that brief advice text is provided, but that the terms not be specifically defined in order to ensure consistency with current and future case law

Submitter: 76 - Federated Farmers of New Zealand

Submission Point No: 1

Submission Type: Support in Part

Recommendation: Accept

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 76 - Federated Farmers of New Zealand

Chapter: Objectives

Section: AQ 01

Submission Summary: This objective is to give effect to the RPS objective 1 which states:
 "The adverse effects of odours, chemical emissions and particulates are avoided, remedied or mitigated so as to protect people and the environment"
 We note the RPS objective does not have the extra requirement to "enhance ...where degraded" and we have concern whether the consequences of this extra duty have been properly considered

Decision Sought: Amend as follows:
 ...Protect the mauri of air and human health from adverse effects of anthropogenic contaminant discharges to air, [delete - and enhance air quality where degraded.]
 Or alternatively adopt a new objective to be more specific on protection and restoration of the mauri of air and consequently removing such references from this objective.

Reasons for Staff Recommendation: Remove requirement to 'enhance air quality where degraded' as this is already required by AQ Q2 and AQ O3

Further Submission No: 8 - 13 **Submission Type:** Support in Part **Recommendation:** Accept

Further Submitter: Mercury NZ Ltd

Summary: Mercury supports the relief sought. Mercury does not support a new objective specific to the protection and restoration of the mauri of air.

Decision Sought: Support in Part

Reasons for Staff Recommendation: Remove requirement to 'enhance air quality where degraded' as this is already required by AQ Q2 and AQ O3

Further Submission No: 10 - 31 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Greg Misson

Summary: There has been a lack of regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. A more straightforward way of addressing the issue would be to make the activity causing these dust problems discretionary. This is on the basis that there is considerable evidence of adverse effects from these activities.

Decision Sought: Reject

Reasons for Staff Recommendation: Remove requirement to 'enhance air quality where degraded' as this is already required by AQ Q2 and AQ O3

Further Submission No: 15 - 32 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Hangar It

Summary: This amendment will further reduce Councils ability to properly regulate. Most concerning is that the duty of care to provide a safe environment for hangar users will continue to be undermined by a continuation of toxic organic dust crossing the boundary from 101 Aerodrome Road.

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Remove requirement to 'enhance air quality where degraded' as this is already required by AQ Q2 and AQ O3

Further Submission No: 16 - 32 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Solo Wings

Summary: There are a wide range of adverse health effects that can arise from exposure to particulate matter and BOPRC has recognised this in the proposed plan change-13.

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 76 - Federated Farmers of New Zealand

The requested amendment will further frustrate BOPRC's ability to effectively perform its regulatory role. Tauranga Airport is a public area. General public are subject to breathing contaminated air, as a consequence of 101 Aerodrome road particulate discharges. It would clearly run counter to the public health interest for BOPRC to adopt these amendments.

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Remove requirement to 'enhance air quality where degraded' as this is already required by AQ Q2 and AQ O3

Further Submission No: 17 - 32 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Tony Christiansen

Summary: There has been a lack of effective regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. Concern with the amendments sought by this enterprise will further degrade Councils ability to respond effectively.

Decision Sought: Reject

Reasons for Staff Recommendation: Remove requirement to 'enhance air quality where degraded' as this is already required by AQ Q2 and AQ O3

Further Submission No: 23 - 3 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Lawter New Zealand Ltd

Summary: Lawter support the amendment of AQ O1 as recommended by submission 76 - 1. The term 'degraded air quality' needs to be either clearly defined, or removed as it can be interpreted in different ways.

Decision Sought: Decision sought: Either: • amend the proposed objective as follows; '...and enhance air quality where degraded [insert: (where it does not meet national air quality standards)], or • amend the proposed objective as recommended by submission 50 - 5 and 76 - 1.

Reasons for Staff Recommendation: Remove requirement to 'enhance air quality where degraded' as this is already required by AQ Q2 and AQ O3

Submission Point No: 2 **Submission Type:** Support in Part **Recommendation:** Reject

Chapter: Objectives

Section: AQ O3

Submission Summary: While we acknowledge the need to manage discharges this objective raises several concerns. The term "amenity values." The rural environment is a working one where everyday farming activities create dust, odour, smoke and other discharges. Amenity values in a rural setting are a product of agricultural practices that are not always clean and fresh smelling, but necessary to enable landowners to economically and sustainably farm the land. As a working environment, a farm needs to be kept clean and tidy. This requires storage or disposal of waste and in turn this results in the generation of odour and smoke. Any restrictions on rural discharges to air need to be considered in balance with the significant benefits accruing from agricultural production. Our concern is that the inclusion of amenity effects in the objectives prioritises the importance of preventing momentary nuisance emissions over farmers' abilities to manage their land in accordance with good management practice.

Decision Sought: Amend as follows:
 ..Manage discharges of contaminants to air according to their adverse effects on human health, cultural values, [delete - amenity values] and the environment.
 In the alternative, include a definition for "amenity values" where the working rural environment is considered as part of the assessment of the "amenity values."

Reasons for Staff Recommendation: Retain term 'amenity values' as this term is embedded in the definition of 'environment' in the Act

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 76 - Federated Farmers of New Zealand

Further Submission No: 8 - 21 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Mercury NZ Ltd

Summary: Mercury supports the intent of the submission to ensure reverse sensitivity effects from sensitive activities establishing with the rural zone are minimised. There are also different levels of expected amenity, which is indicative of proximity to sensitive uses. However, Mercury considers deleting amenity from the objective would not be appropriate as effects from air discharges such as odour and dust are a relevant matters to be considered in an air discharge assessment.

Decision Sought: Disallow

Reasons for Staff Recommendation: Retain term 'amenity values' as this term is embedded in the definition of 'environment' in the Act

Submission Point No: 3 **Submission Type:** Neutral **Recommendation:** Accept in Part

Chapter: Objectives

Section: New objective

Submission Summary: Our concern is that there is no enabling objective. All three of the objectives focus on restricting discharges while there is no objective that allows it. This is an enabling objective which also is the objective for discouraging reverse sensitivity. (See our earlier submissions). We consider that it is important that appropriate discharges in appropriate zones are enabled to provide for economic and social well-being. This objective (and accompanying policies and methods) is needed to give effect to reverse sensitivity provisions in the RPS.

Decision Sought: Adopt a new Objective to enable discharges or effects on air quality that are appropriate. [Insert - Enable appropriate activities Provide for discharges of contaminants to air from activities that are appropriate in the particular zone in which they are located.] Or an objective that gives relief to our concerns.

Reasons for Staff Recommendation: Staff disagree that there is no provision for air discharges. The plan change provides for appropriately managed air discharges from industry, infrastructure and rural activities through the proposed policies and rules. The inclusion of an objective to enable discharges to air would elevate this requirement too high in the hierarchy of aims set out in the purpose of the RNRP. It may also create an internal tension within the plan change where for example the goal of providing for a discharge is at odds with meeting the NESAQ. Recommend a wording change to AQ P1 to better reflect that the policy provides for appropriately managed discharges to air.

Further Submission No: 3 - 6 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Ballance Agri-Nutrients Ltd

Summary: Ballance agrees that the current structure of the Plan Change gives limited recognition of the social and economic wellbeing that is enabled by the operation of appropriate activities, and their associated discharges, being located within appropriate zones. In order to ensure that the proposed Plan Change provides a balanced approach to the management of air quality, the Company considers that such an enabling objective should be advanced.

Decision Sought: That submission 76-3 be accepted

Reasons for Staff Recommendation: Staff disagree that there is no provision for air discharges. The plan change provides for appropriately managed air discharges from industry, infrastructure and rural activities through the proposed policies and rules. The inclusion of an objective to enable discharges to air would elevate this requirement too high in the hierarchy of aims set out in the purpose of the RNRP. It may also create an internal tension within the plan change where for example the goal of providing for a discharge is at odds with meeting the NESAQ. Recommend a wording change to AQ P1 to better reflect that the policy provides for

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Staff Recommendations on Submissions (By Submitter)

Submitter: 76 - Federated Farmers of New Zealand

appropriately managed discharges to air.

Further Submission No: 8 - 9 **Submission Type:** Support in Part **Recommendation:** Accept in Part
Further Submitter: Mercury NZ Ltd
Summary: Mercury supports the intent of the submission, but clarification is required as to how zoning is a relevant matter for an effects based assessment or environmental bottom line for an air discharge. Mercury generally considers the reverse sensitivity issue is valid and would support a general objective relating to reverse sensitivity. Zoning is a district plan matter and it is unclear how it relates to a regional plan
Decision Sought: Support in Part
Reasons for Staff Recommendation: Staff disagree that there is no provision for air discharges. The plan change provides for appropriately managed air discharges from industry, infrastructure and rural activities through the proposed policies and rules. The inclusion of an objective to enable discharges to air would elevate this requirement too high in the hierarchy of aims set out in the purpose of the RNRP. It may also create an internal tension within the plan change where for example the goal of providing for a discharge is at odds with meeting the NESAQ. Recommend a wording change to AQ P1 to better reflect that the policy provides for appropriately managed discharges to air.

Further Submission No: 10 - 32 **Submission Type:** Oppose **Recommendation:** Accept in Part
Further Submitter: Greg Misson
Summary: There has been a lack of regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. A more straightforward way of addressing the issue would be to make the activity causing these dust problems discretionary. This is on the basis that there is considerable evidence of adverse effects from these activities.
Decision Sought: Reject
Reasons for Staff Recommendation: Staff disagree that there is no provision for air discharges. The plan change provides for appropriately managed air discharges from industry, infrastructure and rural activities through the proposed policies and rules. The inclusion of an objective to enable discharges to air would elevate this requirement too high in the hierarchy of aims set out in the purpose of the RNRP. It may also create an internal tension within the plan change where for example the goal of providing for a discharge is at odds with meeting the NESAQ. Recommend a wording change to AQ P1 to better reflect that the policy provides for appropriately managed discharges to air.

Further Submission No: 11 - 3 **Submission Type:** Support **Recommendation:** Accept in Part
Further Submitter: Oji Fibre Solution
Summary: The PC13 objectives do not adequately recognise the need to provide for activities to discharge contaminants to air in the region.
Decision Sought: Accept submission
Reasons for Staff Recommendation: Staff disagree that there is no provision for air discharges. The plan change provides for appropriately managed air discharges from industry, infrastructure and rural activities through the proposed policies and rules. The inclusion of an objective to enable discharges to air would elevate this requirement too high in the hierarchy of aims set out in the purpose of the RNRP. It may also create an internal tension within the plan change where for example the goal of providing for a discharge is at odds with meeting the NESAQ. Recommend a wording change to AQ P1 to better reflect that the policy provides for appropriately managed discharges to air.

Further Submission No: 13 - 7 **Submission Type:** Support in Part **Recommendation:** Accept in Part
Further Submitter: Horticulture New Zealand

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Staff Recommendations on Submissions (By Submitter)

Submitter: 76 - Federated Farmers of New Zealand

Summary: It is appropriate that the Plan recognises and enables activities, including rural activities, to discharge to air, provided effects are appropriately managed. This is necessary to give effect to the RPS.

Decision Sought: Accept submission to include new objective as sought by 76-3 and other submitters

Reasons for Staff Recommendation: Staff disagree that there is no provision for air discharges. The plan change provides for appropriately managed air discharges from industry, infrastructure and rural activities through the proposed policies and rules. The inclusion of an objective to enable discharges to air would elevate this requirement too high in the hierarchy of aims set out in the purpose of the RNRP. It may also create an internal tension within the plan change where for example the goal of providing for a discharge is at odds with meeting the NESAQ. Recommend a wording change to AQ P1 to better reflect that the policy provides for appropriately managed discharges to air.

Further Submission No: 15 - 33 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Hangar It

Summary: This amendment will further reduce Councils ability to properly regulate. Most concerning is that the duty of care to provide a safe environment for hangar users will continue to be undermined by a continuation of toxic organic dust crossing the boundary from 101 Aerodrome Road.

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Staff disagree that there is no provision for air discharges. The plan change provides for appropriately managed air discharges from industry, infrastructure and rural activities through the proposed policies and rules. The inclusion of an objective to enable discharges to air would elevate this requirement too high in the hierarchy of aims set out in the purpose of the RNRP. It may also create an internal tension within the plan change where for example the goal of providing for a discharge is at odds with meeting the NESAQ. Recommend a wording change to AQ P1 to better reflect that the policy provides for appropriately managed discharges to air.

Further Submission No: 16 - 33 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Solo Wings

Summary: There are a wide range of adverse health effects that can arise from exposure to particulate matter and BOPRC has recognised this in the proposed plan change-13. The requested amendment will further frustrate BOPRC's ability to effectively perform its regulatory role. Tauranga Airport is a public area. General public are subject to breathing contaminated air, as a consequence of 101 Aerodrome road particulate discharges. It would clearly run counter to the public health interest for BOPRC to adopt these amendments.

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Staff disagree that there is no provision for air discharges. The plan change provides for appropriately managed air discharges from industry, infrastructure and rural activities through the proposed policies and rules. The inclusion of an objective to enable discharges to air would elevate this requirement too high in the hierarchy of aims set out in the purpose of the RNRP. It may also create an internal tension within the plan change where for example the goal of providing for a discharge is at odds with meeting the NESAQ. Recommend a wording change to AQ P1 to better reflect that the policy provides for appropriately managed discharges to air.

Further Submission No: 17 - 33 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Tony Christiansen

Summary: There has been a lack of effective regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. Concern with the amendments sought by this enterprise will further degrade Councils

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Staff Recommendations on Submissions (By Submitter)

Submitter: 76 - Federated Farmers of New Zealand

ability to respond effectively.

Decision Sought: Reject

Reasons for Staff Recommendation:

Staff disagree that there is no provision for air discharges. The plan change provides for appropriately managed air discharges from industry, infrastructure and rural activities through the proposed policies and rules.
The inclusion of an objective to enable discharges to air would elevate this requirement too high in the hierarchy of aims set out in the purpose of the RNRP. It may also create an internal tension within the plan change where for example the goal of providing for a discharge is at odds with meeting the NESAQ.
Recommend a wording change to AQ P1 to better reflect that the policy provides for appropriately managed discharges to air.

Further Submission No: 20 - 11 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Fonterra Ltd

Summary:

For the reasons also outlined in Fonterra's original submission, it is considered appropriate to have an enabling objective. Further discussion regarding the wording of any new objective is required.

Decision Sought: Accept

Reasons for Staff Recommendation:

Staff disagree that there is no provision for air discharges. The plan change provides for appropriately managed air discharges from industry, infrastructure and rural activities through the proposed policies and rules.
The inclusion of an objective to enable discharges to air would elevate this requirement too high in the hierarchy of aims set out in the purpose of the RNRP. It may also create an internal tension within the plan change where for example the goal of providing for a discharge is at odds with meeting the NESAQ.
Recommend a wording change to AQ P1 to better reflect that the policy provides for appropriately managed discharges to air.

Further Submission No: 21 - 7 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Port of Tauranga

Summary:

The submissions identified all recognise that PC13, as notified, does not provide for any enabling provisions. PoT support the inclusion of such an enabling provision.

Decision Sought: Accept

Reasons for Staff Recommendation:

Staff disagree that there is no provision for air discharges. The plan change provides for appropriately managed air discharges from industry, infrastructure and rural activities through the proposed policies and rules.
The inclusion of an objective to enable discharges to air would elevate this requirement too high in the hierarchy of aims set out in the purpose of the RNRP. It may also create an internal tension within the plan change where for example the goal of providing for a discharge is at odds with meeting the NESAQ.
Recommend a wording change to AQ P1 to better reflect that the policy provides for appropriately managed discharges to air.

Further Submission No: 23 - 67 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Lawter New Zealand Ltd

Summary:

Lawter support the inclusion of a new objective which enables discharges to air that are appropriate for their zone. Discharges to air from industries should be retained within industrial zones

Decision Sought: Decision sought: Adopt new objective as recommended by submission 76 – 3.

Reasons for Staff Recommendation:

Staff disagree that there is no provision for air discharges. The plan change provides for appropriately managed air discharges from industry, infrastructure and rural activities through the proposed policies and rules.
The inclusion of an objective to enable discharges to air would elevate this requirement too high in the hierarchy of aims set out in the purpose of the RNRP. It

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Submitter: 76 - Federated Farmers of New Zealand

may also create an internal tension within the plan change where for example the goal of providing for a discharge is at odds with meeting the NESAQ.

Recommend a wording change to AQ P1 to better reflect that the policy provides for appropriately managed discharges to air.

Further Submission No: 30 - 5 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Swap Stockfoods Ltd

Summary: Agree that an enabling objective should be provided

Decision Sought: Accept

Reasons for Staff Recommendation: Staff disagree that there is no provision for air discharges. The plan change provides for appropriately managed air discharges from industry, infrastructure and rural activities through the proposed policies and rules.
The inclusion of an objective to enable discharges to air would elevate this requirement too high in the hierarchy of aims set out in the purpose of the RNRP. It may also create an internal tension within the plan change where for example the goal of providing for a discharge is at odds with meeting the NESAQ.
Recommend a wording change to AQ P1 to better reflect that the policy provides for appropriately managed discharges to air.

Submission Point No: 4 **Submission Type:** Neutral **Recommendation:** Reject

Chapter: Reverse sensitivity

Section: Reverse Sensitivity

Submission Summary: Adopt a new objective to expressly recognise the importance of primary production. There is a current trend to move to live in the countryside as a lifestyle change. It is often accompanied with romantic visions of pastoral landscapes that do not take into account the reality of a working rural environment. Expectations of blissful idylls in the countryside is unrealistic. Dust, odour and other discharges to air on a farm is incidental to getting the job done and mostly impossible to avoid without day-to-day farming activities coming to a halt. It will often be economically disproportionate to remedy or mitigate. It is therefore important for farmers that the effects of reverse sensitivity are recognised and considered by the consenting authority. The operative. FFNZ has not seen any provisions in the proposed plan that gives effect to this policy of the higher order document or that addresses our members' concerns about reverse sensitivity. Accordingly, FFNZ seeks as relief new objectives, policies and methods to discourage reverse sensitivity and recognise the importance of agriculture to the region.

Decision Sought: Insert the following new objective
[Decision-making on the discharge of contaminants to air in the Bay of Plenty recognised the social, economic and culture benefits of farming and primary industry.]
Or an objective that addresses our concerns.

Reasons for Staff Recommendation: Do not include provisions to manage reverse sensitivity in the plan change

Further Submission No: 20 - 12 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Fonterra Ltd

Summary: For the reasons outlined in the Federated Farmers submission. Further discussion is required regarding the most appropriate provisions to manage reverse sensitivity

Decision Sought: Accept in part

Reasons for Staff Recommendation: Decline original submission point

Submission Point No: 5 **Submission Type:** Neutral **Recommendation:** Reject

Chapter: Reverse sensitivity

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Staff Recommendations on Submissions (By Submitter)

Submitter: 76 - Federated Farmers of New Zealand

Section: Reverse Sensitivity

Submission Summary: Dust, odour and other discharges to air on a farm is incidental to getting the job done and mostly impossible to avoid without day-to-day farming activities coming to a halt. It will often be economically disproportionate to remedy or mitigate. FFNZ has heard from our members about complaints from "lifestylers" regarding their normal production activities. It is therefore important for farmers that the effects of reverse sensitivity are recognised and considered by the consenting authority. The operative Bay of Plenty Policy Statement (RPS) specifically addresses reverse sensitivity. The RPS only has three policies relating to air quality and one addresses reverse sensitivity. Policy AQ 1A is an air quality policy that instructs the discouraging of reverse sensitivity associated with odours, chemicals and particulars. FFNZ has not seen any provisions in the proposed plan that gives effect to this policy of the higher order document or that addresses our members' concerns about reverse sensitivity. It is important for our members that the consenting authority when exercising its discretion in a resource consent application considers the importance of agriculture and the impact of reverse sensitivity. This can be done by recognition in objectives and policies in the regional plan. Accordingly, FFNZ seeks as relief new objectives, policies and methods to discourage reverse sensitivity and recognise the importance of agriculture to the region.

Decision Sought: Add the following new policies or policies that address our concerns:
 1. Prevent or mitigate reverse sensitivity on lawfully established farming and horticulture activities in rural areas.
 2. Recognise and address the impact of reverse sensitivity on primary production.
 3. Recognise the contribution of fertilizer and agrichemical spray to pest and disease controls and the health of fruit, crop and pasture.

Reasons for Staff Recommendation: Do not include provisions to manage reverse sensitivity in the plan change

Further Submission No: 30 - 63 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Swap Stockfoods Ltd

Summary: Support the provision of policies to manage reverse sensitivity. Swap Stockfoods would like the opportunity to be involved in the discussions regarding the proposed wording of the policies.

Decision Sought: Accept

Reasons for Staff Recommendation: Decline the original submission point

Submission Point No: 6 **Submission Type:** Support **Recommendation:** Accept

Chapter: Policies

Section: AQ P1

Submission Summary: We consider that restricted discretionary activity status should also be able to be used as a tool if circumstances are appropriate

Decision Sought: Amend as follows
 ...(b) Classify all other discharges where (a) does not apply, as controlled, [insert - restricted discretionary,] discretionary, or non-complying activities.

Reasons for Staff Recommendation: Staff recommend a minor change to clause (b) to include restricted discretionary activities, if restricted discretionary activities are included in the plan change.

Submission Point No: 7 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Policies

Section: AQ P2

Submission Summary: The s32 report states that hazardous substances are administered by the Environmental Protection Authority (EPA) pursuant to Hazardous Substances and New Organisms Act 1996 (HSNO). It then continues to provide reasons why hazardous substances should not be included in this policy. We agree. The proposed policy will:

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Submitter: 76 - Federated Farmers of New Zealand

1. duplicate the HSNO,
 2. is worded to control each and every hazardous substance discharged into air which will enhance the perception that council must always place controls on hazardous substances and
 3. is not worded to control effects under the RMA.
- The policy is also unnecessary as proposed Policy AQ P8 is to control the adverse effects of spray drift so there is no necessity for this policy.

Decision Sought: Delete AQ P2

Reasons for Staff Recommendation: Staff acknowledge that there is some overlap between Policies AQ P2 and AQ P3. However, hazardous substances, and hazardous air pollutants are, due to their intrinsic natures, a class of contaminant on their own. Inclusion of this policy adds robustness to the policy framework by ensuring these contaminants are managed appropriately now, and into the future, through a separate policy.

Further Submission No: 8 - 28 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Mercury NZ Ltd

Summary: Mercury supports the relief sought to delete the policy and the rational for the submission.

Decision Sought: Allow

Reasons for Staff Recommendation: Staff acknowledge that there is some overlap between Policies AQ P2 and AQ P3. However, hazardous substances, and hazardous air pollutants are, due to their intrinsic natures, a class of contaminant on their own. Inclusion of this policy adds robustness to the policy framework by ensuring these contaminants are managed appropriately now, and into the future, through a separate policy.

Further Submission No: 10 - 33 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Greg Misson

Summary: There has been a lack of regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. A more straightforward way of addressing the issue would be to make the activity causing these dust problems discretionary. This is on the basis that there is considerable evidence of adverse effects from these activities.

Decision Sought: Reject

Reasons for Staff Recommendation: This further submission point discusses issues with dust and particulate matter. While particulate matter is a contaminant, its harm is caused due to its small size, not due to its intrinsic properties. Dust is not a hazardous substance, nor a hazardous air pollutant.

Further Submission No: 15 - 34 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Hangar It

Summary: This amendment will further reduce Councils ability to properly regulate. Most concerning is that the duty of care to provide a safe environment for hangar users will continue to be undermined by a continuation of toxic organic dust crossing the boundary from 101 Aerodrome Road.

Decision Sought: Reject submission point

Reasons for Staff Recommendation: This further submission point discusses issues with dust and particulate matter. While particulate matter is a contaminant, its harm is caused due to its small size, not due to its intrinsic properties. Dust is not a hazardous substance, nor a hazardous air pollutant.

Further Submission No: 16 - 34 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Solo Wings

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Staff Recommendations on Submissions (By Submitter)

Submitter: 76 - Federated Farmers of New Zealand

Summary: There are a wide range of adverse health effects that can arise from exposure to particulate matter and BOPRC has recognised this in the proposed plan change-13. The requested amendment will further frustrate BOPRC's ability to effectively perform its regulatory role. Tauranga Airport is a public area. General public are subject to breathing contaminated air, as a consequence of 101 Aerodrome road particulate discharges. It would clearly run counter to the public health interest for BOPRC to adopt these amendments.

Decision Sought: Reject submission point

Reasons for Staff Recommendation: This further submission point discusses issues with dust and particulate matter. While particulate matter is a contaminant, its harm is caused due to its small size, not due to its intrinsic properties. Dust is not a hazardous substance, nor a hazardous air pollutant.

Further Submission No: 17 - 34 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Tony Christiansen

Summary: There has been a lack of effective regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. Concern with the amendments sought by this enterprise will further degrade Councils ability to respond effectively.

Decision Sought: Reject

Reasons for Staff Recommendation: This further submission point discusses issues with dust and particulate matter. While particulate matter is a contaminant, its harm is caused due to its small size, not due to its intrinsic properties. Dust is not a hazardous substance, nor a hazardous air pollutant.

Further Submission No: 20 - 27 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Fonterra Ltd

Summary: For the reasons outlined in Federated Farmers submission and discussed in the original Fonterra submission. There needs to be recognition in PC 13 that the effects on existing and consented activities from reverse sensitivity need to be avoided. Further discussion is required regarding the most appropriate provisions to manage reverse sensitivity.

Decision Sought: Accept in part

Reasons for Staff Recommendation: This further submission point discussed reverse sensitivity which is addressed in other sections and submission points.

Submission Point No: 8 **Submission Type:** Support in Part **Recommendation:** Reject

Chapter: Policies

Section: AQ P3 - whole policy

Submission Summary: FFNZ supports the policy in part but has some concerns. FFNZ does not agree that all activities that discharge contaminants to air must be managed. We note that the RMA s15 only requires contaminants from industrial or trade premises into air to be managed and then only when there may be adverse effects. We are concerned with the use of the word "avoid" as it has a threshold that prevents the occurrence of the effect. Accordingly, any activity that may result in the effect becomes prohibited. We do not consider that the plan wants to prohibit activities rather it wants the persons doing the activities to take practical steps to avoid adverse effects and where it accidentally occurs despite reasonable efforts then to minimise the effects. We recommend the term 'where practicable' to temper the unintended consequence of using the word 'avoid'. The above is supported by RPS Objective 1 which states that adverse effects from discharges to air should be avoided, remedied or mitigated so as to protect people and the environment. We consider this is a signal that a blanket prohibition is not intended.

Decision Sought: Amend AQ P3 as follows:
[delete - Activities that discharge contaminants to air must be managed, including by] use of

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Submitter: 76 - Federated Farmers of New Zealand

the best practicable option, to...

Reasons for Staff Recommendation:

This amendment would broaden what this policy manages to the whole RNRP. It is not the intent that this policy applies to all matters in the plan, only what will be in the air quality chapter. This could be remedied by including the deleted words in each clause, but this would be unnecessary duplication and is not recommended.

Further Submission No: 7 - 4 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Trustpower Ltd

Summary: In so far as it does not align with the relief sought by Trustpower

Decision Sought: Reject submission point

Reasons for Staff Recommendation:

This amendment would broaden what this policy manages to the whole RNRP. It is not the intent that this policy applies to all matters in the plan, only what will be in the air quality chapter. This could be remedied by including the deleted words in each clause, but this would be unnecessary duplication and is not recommended.

Further Submission No: 10 - 34 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Greg Misson

Summary: There has been a lack of regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. A more straightforward way of addressing the issue would be to make the activity causing these dust problems discretionary. This is on the basis that there is considerable evidence of adverse effects from these activities.

Decision Sought: Reject

Reasons for Staff Recommendation:

The requested amendment would not have the effect claimed by the further submitter.

Further Submission No: 15 - 35 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Hangar It

Summary: This amendment will further reduce Councils ability to properly regulate. Most concerning is that the duty of care to provide a safe environment for hangar users will continue to be undermined by a continuation of toxic organic dust crossing the boundary from 101 Aerodrome Road

Decision Sought: Reject submission point

Reasons for Staff Recommendation:

The requested amendment would not have the effect claimed by the further submitter.

Further Submission No: 16 - 35 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Solo Wings

Summary: There are a wide range of adverse health effects that can arise from exposure to particulate matter and BOPRC has recognised this in the proposed plan change-13. The requested amendment will further frustrate BOPRC's ability to effectively perform its regulatory role. Tauranga Airport is a public area. General public are subject to breathing contaminated air, as a consequence of 101 Aerodrome road particulate discharges. It would clearly run counter to the public health interest for BOPRC to adopt these amendments.

Decision Sought: Reject submission point

Reasons for Staff Recommendation:

The requested amendment would not have the effect claimed by the further submitter.

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Submitter: 76 - Federated Farmers of New Zealand

Further Submission No: 17 - 35 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Tony Christiansen

Summary: There has been a lack of effective regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. Concern with the amendments sought by this enterprise will further degrade Councils ability to respond effectively.

Decision Sought: Reject

Reasons for Staff Recommendation: The requested amendment would not have the effect claimed by the further submitter.

Further Submission No: 22 - 12 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Toi Te Ora Public Health

Summary: The effective management of all discharges is important in protecting the health of the public. Activities that discharge contaminants that may harm health need to be effectively managed.

Decision Sought: Reject

Reasons for Staff Recommendation: The remedy sought by the submitter would still effectively manage discharges of contaminants to air

Submission Point No: 9 **Submission Type:** Support in Part **Recommendation:** Reject

Chapter: Policies

Section: AQ P4(a)

Submission Summary: FFNZ supports that the matters to be considered should be transparent for all users. (a) The nature of the sensitive activities is an important element that should be considered. The acceptable discharges in a rural zone will be different from acceptable discharges in an urban zone.

Decision Sought: We seek the amendments as indicated below or amendments that will address our concerns. ... (a) The proximity [insert - and nature] of sensitive activities to the discharge.

Reasons for Staff Recommendation: The nature of sensitive activities is implicit in the term itself, however the intention of the request is understood. Staff recommend the addition of new clauses to take into account the FIDOL factors and the locational constraints of some activities therefore no change is recommended to this clause.

Submission Point No: 10 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Policies

Section: AQ P5

Submission Summary: We consider that the term "offensive or objectionable" should be defined in the plan. We note that the S32 report and explanation states whether a discharge is "offensive or objectionable" in condition (a) is a subjective test. This is problematic because if this statement is correct then the rule will be ultra vires. It is well settled law that a consenting authority may not reserve itself a discretion to approve a permitted activity. Although some element of judgment or degree of evaluation is permissible (and normal with factual situations) a consenting authority cannot retain itself the right to subjectively decide whether or not an activity is permitted. If the Council reserves itself some subjective formula or test to accept or reject an otherwise permitted activity (as stated in the S32 report) then it will be acting ultra vires. We do not ask that the term be deleted because we consider it is not a subjective test and the S32 report is wrong in this regard. Case law on the term "offensive or objectionable" has stated that it is an objective test as it can be measured against an external standard ("ordinary reasonable person"). It is not a subjective test as alleged in the S32 report. This substantiates our concern that the term should be clarified for plan users (and Council) or some guidance provided.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 76 - Federated Farmers of New Zealand

Decision Sought: Amend as follows:
 ...(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 [insert - to the extent that it causes an adverse effect]...

Reasons for Staff Recommendation: No definition of offensive or objectionable provided however staff recommend including explanatory text will outline how the term is to be applied. This is discussed in definitions.

Submission Point No: 11 **Submission Type:** Not Applicable **Recommendation:** Accept in Part

Chapter: Policies

Section: AQ P8

Submission Summary: FFNZ agrees with the intent of the policy but have some concerns. Our concern under AQ P8 (a) is with the requirement to "avoid" spray drift "where possible". Anything is possible. The RMA is not a risk avoidance regime but a risk management one. We consider the intent with the phrase "where possible" was to recognise that even with the best intent spray drift may occur. We consider that changing the word 'possible' to 'reasonable practicable' better captures that idea. We suggest amending the wording for AQ P8 (b) because
 - Subclause (a) refers to the activity (rather than the effect) in the phrase "avoid spray drift". For consistency the next phrase should also refer to the activity (spray drift) not the effects.
 - NZS8409 requires the minimisation of spray drift not the mitigation of effects

Decision Sought: Amend as follows:
 ...(a) avoiding spray drift beyond the boundary of the subject property and into water bodies where [insert - reasonable practicable] [delete - possible.]
 (b) [delete - mitigating] [insert - minimising spray drift] [delete - effects particularly [delete - on] [insert - near] sensitive activities where avoidance of spray drift is not [delete - possible] [insert - reasonably practicable]...

Reasons for Staff Recommendation: Submission point 76-11 requests a change to the term 'possible' to 'reasonably practicable.' Staff agree that amending 'possible' to 'reasonably practicable' as this captures the intent of the term. However staff do not recommend changing 'mitigating' to 'minimising' as the former was deliberately kept consistent with the Part 2 wording of the Act.

Further Submission No: 13 - 54 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Horticulture New Zealand

Summary: The submitter raises similar issues with Policy 8 as HortNZ to ensure that best practice is used.

Decision Sought: Accept submission 76-11 and changes sought by HortNZ

Reasons for Staff Recommendation: Submission point 76-11 requests a change to the term 'possible' to 'reasonably practicable.' Staff agree that amending 'possible' to 'reasonably practicable' as this captures the intent of the term. However staff do not recommend changing 'mitigating' to 'minimising' as the former was deliberately kept consistent with the Part 2 wording of the Act.
 Changes sought by this submitter are addressed under the relevant submission points

Submission Point No: 12 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Reverse sensitivity

Section: Reverse Sensitivity

Submission Summary: There is a current trend to move to live in the countryside as a lifestyle change. It is often accompanied with romantic (but unrealistic) visions of pastoral landscapes that do not take into account the reality of a working rural environment. Dust, odour and other discharges to air on a farm is incidental to getting the job done and mostly impossible to avoid without day-to-day farming activities coming to a halt. It will often be economic disproportionate to remedy or mitigate. FFNZ has heard from our members about complaints from "lifestylers" regarding their normal production activities.
 It is therefore important for farmers that the effects of reverse sensitivity are recognised and

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Submitter: 76 - Federated Farmers of New Zealand

considered by the consenting authority. The operative Bay of Plenty Policy Statement (RPS) specifically addresses reverse sensitivity. The RPS only has three policies relating to air quality and one addresses reverse sensitivity. Policy AQ 1A is an air quality policy that instructs the discouraging of reverse sensitivity associated with odours, chemicals and particulates. FFNZ has not seen any provisions in the proposed plan that gives effect to this policy of the higher order document or that addresses our members' concerns about reverse sensitivity. It is important for our members that the consenting authority when exercising its discretion in a resource consent application considers the importance of agriculture and the impact of reverse sensitivity. This can be done by recognition in objectives and policies in the regional plan. Accordingly, FFNZ seeks as relief new objectives, policies and methods to discourage reverse sensitivity and recognise the importance of agriculture to the region.

Decision Sought: Insert new method or similar method to address our concerns:
The Bay of Plenty Regional Council will advocate for buffer zones and zone planning mechanisms around odorous and potentially odorous rural areas to reduce reverse sensitivity.

Reasons for Staff Recommendation: Do not include provisions to manage reverse sensitivity in the plan change

Further Submission No: 20 - 40 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Fonterra Ltd

Summary: For the reasons outlined in the Federated Farmers submission. Further discussion is required regarding the most appropriate methods for recognising reverse sensitivity.

Decision Sought: Accept

Reasons for Staff Recommendation: Decline original submission point

Further Submission No: 30 - 64 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Swap Stockfoods Ltd

Summary: Support the provision of a method to manage reverse sensitivity. Swap Stockfoods would like the opportunity to be involved in the discussions regarding the proposed wording of the method.

Decision Sought: Accept

Reasons for Staff Recommendation: Decline original submission point

Submission Point No: 13 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Reverse sensitivity

Section: Reverse Sensitivity

Submission Summary: There is a current trend to move to live in the countryside as a lifestyle change. It is often accompanied with romantic (but unrealistic) visions of pastoral landscapes that do not take into account the reality of a working rural environment. Dust, odour and other discharges to air on a farm is incidental to getting the job done and mostly impossible to avoid without day-to-day farming activities coming to a halt. It will often be economic disproportionate to remedy or mitigate. FFNZ has heard from our members about complaints from "lifestylers" regarding their normal production activities.

It is therefore important for farmers that the effects of reverse sensitivity are recognised and considered by the consenting authority. The operative Bay of Plenty Policy Statement (RPS) specifically addresses reverse sensitivity. The RPS only has three policies relating to air quality and one addresses reverse sensitivity. Policy AQ 1A is an air quality policy that instructs the discouraging of reverse sensitivity associated with odours, chemicals and particulates. FFNZ has not seen any provisions in the proposed plan that gives effect to this policy of the higher order document or that addresses our members' concerns about reverse sensitivity. It is important for our members that the consenting authority when exercising its discretion in a resource consent application considers the importance of agriculture and the impact of reverse sensitivity. This can be done by recognition in objectives and policies in

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the regional plan. Accordingly, FFNZ seeks as relief new objectives, policies and methods to discourage reverse sensitivity and recognise the importance of agriculture to the region.

Decision Sought: Insert new method or similar method to address our concerns:
In resource consent applications recognise and consider the effects of reverse sensitivity.

Reasons for Staff Recommendation: Do not include provisions to manage reverse sensitivity in the plan change

Further Submission No: 20 - 41 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Fonterra Ltd

Summary: For the reasons outlined in the Federated Farmers submission. Further discussion is required regarding the most appropriate methods for recognising reverse sensitivity.

Decision Sought: Accept

Reasons for Staff Recommendation: Decline original submission point

Further Submission No: 30 - 65 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Swap Stockfoods Ltd

Summary: Support the provision of a method to manage reverse sensitivity. Swap Stockfoods would like the opportunity to be involved in the discussions regarding the proposed wording of the method

Decision Sought: Accept

Reasons for Staff Recommendation: Decline original submission point

Submission Point No: 14 **Submission Type:** Neutral **Recommendation:** Reject

Chapter: Reverse sensitivity

Section: Reverse Sensitivity

Submission Summary: There is a current trend to move to live in the countryside as a lifestyle change. It is often accompanied with romantic (but unrealistic) visions of pastoral landscapes that do not take into account the reality of a working rural environment. Dust, odour and other discharges to air on a farm is incidental to getting the job done and mostly impossible to avoid without day-to-day farming activities coming to a halt. It will often be economic disproportionate to remedy or mitigate. FFNZ has heard from our members about complaints from "lifestylers" regarding their normal production activities.

It is therefore important for farmers that the effects of reverse sensitivity are recognised and considered by the consenting authority. The operative Bay of Plenty Policy Statement (RPS) specifically addresses reverse sensitivity. The RPS only has three policies relating to air quality and one addresses reverse sensitivity. Policy AQ 1A is an air quality policy that instructs the discouraging of reverse sensitivity associated with odours, chemicals and particulars. FFNZ has not seen any provisions in the proposed plan that gives effect to this policy of the higher order document or that addresses our members' concerns about reverse sensitivity. It is important for our members that the consenting authority when exercising its discretion in a resource consent application considers the importance of agriculture and the impact of reverse sensitivity. This can be done by recognition in objectives and policies in the regional plan. Accordingly, FFNZ seeks as relief new objectives, policies and methods to discourage reverse sensitivity and recognise the importance of agriculture to the region.

Decision Sought: Insert new method or similar method to address our concerns:
In resource consent applications recognise and consider the benefits of fertilisers and agrichemical spray for primary production.

Reasons for Staff Recommendation: Do not include provisions to manage reverse sensitivity in the plan change

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Staff Recommendations on Submissions (By Submitter)

Submitter: 76 - Federated Farmers of New Zealand

Further Submission No: 20 - 42 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Fonterra Ltd

Summary: For the reasons outlined in the Federated Farmers submission. Further discussion is required regarding the most appropriate methods for recognising reverse sensitivity.

Decision Sought: Accept

Reasons for Staff Recommendation: Decline original submission point

Submission Point No: 15 **Submission Type:** Neutral **Recommendation:** Reject

Chapter: Methods

Section: New method

Submission Summary: There are currently no viable alternatives to burning of agriculture wrapping. Agricultural packaging is a significant by-product of farming and the availability of sensible disposal options will help to reduce the associated environmental effects. FFNZ strongly supports convenient, cost effective and environmentally friendly waste disposal options. Burning and burying waste on farms is a last resort that farmers are sometimes driven to by a lack of other practical options and a desire (and need) to keep the farm looking tidy. Part of the issue is a lack of education or awareness but a more significant part of the issue is that there are very limited recycling or ag recovery options available and those options are expensive. In respect of plastic containers, not all containers are recyclable. It is mostly agrichemical containers that are part of the Ag Recovery programme (provided they are triple rinsed and from participating brands). Many containers, such as oil containers, cannot be recycled and need to be disposed of some other way. This creates difficulties in rural environments where there is no rubbish collection and the only available option may be to burn the containers. A potential disposal alternative that could be investigated is the disposal of agricultural wrap and containers by incineration in specialised high temperature boilers and incinerators and working with industry or stakeholder groups to develop a collection scheme for this purpose.

Decision Sought: Insert New Method or similar provisions to address our concerns. The Bay of Plenty Regional Council will adopt a collaborative approach with primary industry stakeholders, district councils and farmers to develop alternatives to open burning of plastic especially agriculture wrapping in rural areas. The approach will include research of alternatives, development of alternatives with territorial authorities and agriculture stakeholders and education of farmers.

Reasons for Staff Recommendation: Methods are no longer encouraged for regional plans. The reason for this is that to be included in a regional plan, a method needs to be established as most effective and efficient way to achieve the objectives. There is no consideration of costs, resources required or its priority against all other regional council projects. This process is carried out in the Long Term Plans and Annual Plan processes. The Regional Council's role in managing waste is outlined in the Waste and Resource Efficiency Strategy. Collaboration with other key agencies and stakeholders already occurs and so it would be unnecessary to include the type of methods being proposed

Submission Point No: 16 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R1

Submission Summary: Proposed AQ R1's overarching purpose is to generally permit activities that discharge contaminants into air. We agree with this purpose. FFNZ also does not have an issue with making the activities permitted subject to relevant standards. However, the permitted activity standards should not be set too high or be subjective or uncertain. For this reason, we consider that it is imperative that the standards are reasonable, practical and certain. We consider the terms "offensive or objectionable" and "beyond the boundary" problematic, as discussed in submission point 76-23. (c) We support condition (c). S15 RMA presumption excludes contamination to air from industrial and trade premises while generally permitting other activities.

Decision Sought: Retain as proposed, subject to submission point 76-23

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Staff Recommendations on Submissions (By Submitter)

Submitter: 76 - Federated Farmers of New Zealand

Reasons for Staff Recommendation: Staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 1 - 14 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: GBC Winstone

Summary: The FFNZ submission supports the retention of AQ R1(c). This GBC Winstone further submission opposes that part of the FFNZ submission, and supports deletion or amendment of AQ R1(c). The Plan should provide a means of permitting incidental and de minimus discharges from industrial and trade premises, by stating the type and levels of effects as a permitted activity standard.

GBC Winstone has a service centre for bulk storage and handling of cement at Port of Tauranga, Mt Maunganui, operating under an air discharge consent, but contains the cement by means of a baghouse dust removal system. GBC Winstone original submission No. 27 on Plan Change 13 sought permitted activity status for cement storage and handling at Port of Tauranga, subject to meeting permitted activity standards. The permitted activity standards could be specific to bulk storage and handling of cement and associated materials, as detailed in GBC Winstone's original submission and as used in the Auckland Unitary Plan, or more general in relation to adverse effects on human health, property or the environment beyond the boundary of the premises where the activity takes place. Such permitted activity standards would ensure that a baghouse or similar dust removal system is used to ensure the nature and levels of adverse effects are acceptable.

RMA section 15 does not have a presumption that any contamination to air from industrial and trade premises must be excluded, but rather section 15(1)(c) of the RMA allows a rule in a regional plan to authorise such discharges.

Decision Sought: The permitted activity standards could be specific to bulk storage and handling of cement and associated materials, as detailed in GBC Winstone's original submission and as used in the Auckland Unitary Plan, or more general in relation to adverse effects on human health, property or the environment beyond the boundary of the premises where the activity takes place. Such permitted activity standards would ensure that a baghouse or similar dust removal system is used to ensure the nature and levels of adverse effects are acceptable.

Reasons for Staff Recommendation: Staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 10 - 35 **Submission Type:** Oppose **Recommendation:** To Be Advised

Further Submitter: Greg Misson

Summary: Support of proposed AQ R1 as currently drafted. This rule is clear in providing that discharges to air should not cause adverse effects beyond the boundary of the site where any activity is being undertaken.

Particularly strong support for Rule AQ R1(c) which provides that any activity on industrial or trade premises that has discharges to air that have adverse effects offsite will require resource consent (i.e. it is no longer a permitted activity). A straightforward application of this rule means that the bulk materials handling facility at 101 Aerodrome Road (which have caused adverse effects at mine and adjacent properties) would no longer be a permitted activity and would require resource consent.

Decision Sought: Reject in part - with modification

To assist with enforcement of this rule, carry out monitoring for PM10 in accordance with the Resource Management (National Environmental Standards for Air Quality) Regulations 2004.

Include additional text in the AQ R1 - (d) The discharge does not cause an exceedance of the national environmental standard for PM10.

Reasons for Staff Recommendation:

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Staff Recommendations on Submissions (By Submitter)

Submitter: 76 - Federated Farmers of New Zealand

Further Submission No: 15 - 36 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Hangar It

Summary: In strong support of proposed AQ R1 as it is currently drafted. AQ R1 requires discharges to air should not cause adverse effects beyond the boundary of a site where any activity is being undertaken. Importantly AQ R1(c) provides that any activity on industrial or trade premises that has discharges to air that have adverse effects offsite, such as 101 Aerodrome Road, will now require resource consent.

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 16 - 36 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Solo Wings

Summary: In support of proposed AQ R1 as currently drafted. This rule requires discharges to air should NOT cause adverse effects beyond the boundary of the site where any activity is being undertaken. In particular, support of Rule AQ R1(c) which provides that any activity on industrial or trade premises that has discharges to air that have adverse effects offsite, such as 101 Aerodrome Road (which has caused serious adverse effects at mine and other properties), will now require resource consent

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 17 - 36 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Tony Christiansen

Summary: Support of proposed AQ R1 as currently drafted. This rule is clear in providing that discharges to air should not cause adverse effects beyond the boundary of the site where any activity is being undertaken.
Support for Rule AQ R1(c) which provides that any activity on industrial or trade premises that has discharges to air that have adverse effects offsite will require resource consent with an amendment to add condition (d) "The discharge does not cause an exceedance of the national environmental standard for PM10." Application of this rule would mean that the bulk materials handling facility at 101 Aerodrome Road would no longer be a permitted activity and would require resource consent. When there are neighbouring properties, such as a public Airport, where people and aircraft with sensitive equipment exist and frequent, the resource consent should be publicly notifiable.
To assist with enforcement of this rule, monitoring should be carried out for PM10 in accordance with the Resource Management (National Environmental Standards for Air Quality) Regulations 2004

Decision Sought: Reject

Reasons for Staff Recommendation: Staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Further Submission No: 30 - 34 **Submission Type:** Oppose **Recommendation:** Accept in Part

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 76 - Federated Farmers of New Zealand

Further Submitter: Swap Stockfoods Ltd

Summary: Swap Stockfoods do not support the retention of clause (c) as outlined in our submission.

Decision Sought: Reject

Reasons for Staff Recommendation: The presumption under the Act for ITPs restores the principle of polluter pays, and this is considered appropriate. ITPs discharging contaminants to air must apply for resource consent. However staff acknowledge that this rule represents a significant shift from the previous rule framework and that this has created considerable concern in the industrial and trade community. Accept submission points that the condition is too broad in that it captures discharges of all contaminants to air from ITPs and this is not the intention. Not all contaminant discharges to air are of concern therefore staff recommend a change to clause (c) to only capture discharges of odorous compounds, particulates, and hazardous air pollutants. Staff also recommend that the amended clause is removed from this rule and included as an additional discretionary rule

Submission Point No: 17 **Submission Type:** Support **Recommendation:** Reject

Chapter: Rules

Section: AQ R2

Submission Summary: FFNZ appreciates that there needs to be a rule providing for activity status of a discharge to air if the permitted standards in AQ R1 is not met. While we accept a discretionary activity status is better than a non-complying activity status it is still onerous and difficult to obtain a resource consent and is more expensive and time consuming for both the applicant and the council. To temper the onerous and restrictive nature of discretionary activity we expected the Plan to provide provisions which would default to controlled or restricted discretionary status as it is inappropriate that all activities that cannot comply with the permitted standards should default to discretionary activity status. This is not the case in the proposed plan. We are concerned that an over restrictive default activity status will increase the cost and uncertainty for those that need to apply for resource consent and increase the time and cost for Council in processing consent applications. There appears to be no benefit from this approach because the only relevant matter for discretion is likely to be the particular standard or threshold the activity does not meet.

Decision Sought: We recommend two alternatives, -either:
a. specify activities that default to controlled or restricted discretionary status if the permitted status is not met. The matters for control or discretion can be limited to those of the permitted rule standard.
- Or -
b. Change the default to restrictive discretionary activity status with discretion restricted to the following matters:
(i) the reasons for and any likely effects of the departure from the permitted activity standards, terms and clauses.
(ii) whether the discharge is to be undertaken in accordance with current good practice (such as the Good Practice Agrichemical spray Management Guidelines).
(iii) potential or actual adverse effects on the surrounding environment.
(iv) the proximity and nature of nearby activities
(v) Frequency, duration and intensity of the discharge.

Reasons for Staff Recommendation: Staff consider a discretionary status to be appropriate in light of the fact that the nature of the discharges that will need to be considered is unknown. No new rules are proposed in response to these submission points.

Further Submission No: 5 - 9 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Timberlands Ltd

Summary: Timberlands supports the submitters proposed solution to deal with the problem of activities that may not meet the threshold test for a permitted activity, but their size, scale or effect would not normally cause them to require a discretionary consent. Timberlands appreciates that there needs to be a rule providing for activity status of a discharge to air if the permitted standards in AQ R1 is not met, however a full discretionary activity status is onerous, expensive and time consuming for both the applicant and the council. It would seem reasonable that the Plan would contain a

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Staff Recommendations on Submissions (By Submitter)

Submitter: 76 - Federated Farmers of New Zealand

consent cascade that would include controlled or restricted discretionary status. This is not the case in the proposed plan. The overly restrictive default activity status will increase the cost and uncertainty for those that need to apply for resource consent and increase the time and cost for Council. There appears to be no benefit from this approach, particularly in cases where the relevant matter for discretion is likely to be a particular standard or threshold the activity does not meet.

Timberlands supports changing the default to restricted discretionary activity status, with discretion restricted to:

- (i) the reasons for and any likely effects of the departure from the permitted activity standards, terms and clauses.
- (ii) whether the discharge is to be undertaken in accordance with current good practice (such as the Good Practice Agrichemical spray Management Guidelines).
- (iii) potential or actual adverse effects on the surrounding environment.
- (iv) the proximity and nature of nearby activities
- (v) Frequency, duration and intensity of the discharge.

The Section 32 report description explains why and how there needs to be a clear threshold test in AQ R1, but it does not explain why the threshold test then must default to full discretionary, rather than having an intermediate step of restricted discretionary that could deal with the known assessment parameters relevant to the type of discharge for which consent is being sought.

Decision Sought: Accept submission point 76-17

Reasons for Staff Recommendation: Staff consider a discretionary status to be appropriate in light of the fact that the nature of the discharges that will need to be considered is unknown. No new rules are proposed in response to these submission points

Further Submission No: 23 - 53 **Submission Type:** Other **Recommendation:** Comment Note

Further Submitter: Lawter New Zealand Ltd

Summary: Although Lawter would generally like to retain rule AQ R2 as notified, we consider that a restricted discretionary rule may be appropriate. Lawter reserve the right to participate in further discussions regarding the development of rule AQ R2.

Decision Sought: Neutral - none sought

Reasons for Staff Recommendation: Staff consider a discretionary status to be appropriate in light of the fact that the nature of the discharges that will need to be considered is unknown. No new rules are proposed in response to these submission points

Submission Point No: 18 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R3(1)

Submission Summary: We support AQ R3 in general. We strongly support: AQR3 (1), (3) and (4) FFNZ supports AQ R3 (1) and the advice note which allows discharge of contaminants to air from spray irrigation, soil injection, or land soakage of liquid waste if certain standards are met. We consider the permitted activity status is a good integrated management practise, promotes re-cycling and enables better use of resources. Firstly, it supports the concept of integrated management because it considers other provisions already controlling the activity. The discharge into air from the use of liquid waste is a secondary effect when the primary effects are already evaluated and controlled by provisions for discharge to land, discharge to water, the allocation of water and the treatment of effluent. Accordingly, the activity is well scrutinised and managed and only when the permitted standards for discharge to air are not met should the activity be reconsidered. Secondly it promotes recycling. Liquid waste on a farm is generally stock faeces and urine mixed with water and captured for re-use. Not only is it more environmental friendly but it also re-uses water and effluent. Thirdly effluent spreading can have less odour and other adverse effects than storing effluent (which can have higher methane emissions and typically has a worse odour). It is a more efficient and effective option to manage the issue and should be encouraged. For all these reasons we support that AQ R3 (1).

Decision Sought: Retain as proposed.

Reasons for Staff Recommendation: Some changes made to the rule to resolve other submission points however overall policy intent has not changed

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Staff Recommendations on Submissions (By Submitter)

Submitter: 76 - Federated Farmers of New Zealand

Submission Point No: 19 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R6

Submission Summary: We support the general aim of AQ R6 that open burning in rural areas should generally be a permitted activity. We note that the greatest issue or complaints about open burning is in urban areas. However, permitted activity standards should not be set too high or be subjective or uncertain. For this reason, we consider that it is imperative that the standards are reasonable, practical and certain.
We consider the terms "offensive or objectionable" and "beyond the boundary" problematic, as discussed in submission points 76-23 and 76-38

Decision Sought: Retain as proposed subject to submission points 76-23 and 76-38

Reasons for Staff Recommendation: No definition of term 'offensive and objectionable', but text added to explain how it will be applied.
Staff have amended the rule in accordance with a submitter's request for a more effects based approach. This will result in some rural properties being captured by this rule. However the purpose of the policy and corresponding rule is to manage open burning according to its effects. Non-recreational/cultural open burning (ie, of green waste or rubbish) carried out within a certain distance of any dwelling house has the same adverse effects regardless of where this occurs and whether it is in an urban area or not.

Submission Point No: 20 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Rules

Section: AQ R7

Submission Summary: We consider that it is important to provide for the burning of diseased carcasses and vegetation in an emergency. An emergency means "a situation that poses an immediate risk to health, life, property, or environment and require urgent intervention to prevent a worsening of the situation". AQ R7 only applies in an emergency situation as stated in the rule. Accordingly if AQ R7 only applies in an emergency and the person is instructed by the responsible authority to burn a dead diseased carcass for disposal then requirements (b) will impede the purpose of this rule (ie. prevent the worsening of an adverse effect). We suggest an amendment to the wording of (b).

Decision Sought: Amend as follows:
...(b) Regional Council's Pollution Hotline (or its equivalent) must be notified [delete - a minimum of one hour before burning begins] [insert - as soon as is reasonably practicable before the burning and if not practicable as soon as practicable during or after the burning.]...

Reasons for Staff Recommendation: Change of wording to address practical issues in complying

Further Submission No: 13 - 64 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Horticulture New Zealand

Summary: The biosecurity provisions should apply in all situations where there has been a declaration of incursion of unwanted organisms by MPI, even if it is not an 'emergency' under the Biosecurity Act.

Decision Sought: Accept and amend to ensure that 'emergency' is not limited by the use in the Biosecurity Act.

Reasons for Staff Recommendation: Change of wording to address practical issues in complying

Submission Point No: 21 **Submission Type:** Support **Recommendation:** Accept

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Staff Recommendations on Submissions (By Submitter)

Submitter: 76 - Federated Farmers of New Zealand

Chapter: Rules
Section: AQ R9
Submission Summary: We support AQ R9. In particular, that the rule is limited to open burning on an urban property. We also support a clear definition of urban property.
Decision Sought: Retain
Reasons for Staff Recommendation: Retain rule as proposed

Submission Point No: 22 **Submission Type:** Oppose in Part **Recommendation:** Reject

Chapter: Rules

Section: AQ R10

Submission Summary: We recognise that the burning of many of these items is unlikely to be inappropriate and adversely affect air quality. However, we oppose AQ R10 in part because we have concerns about the prohibition of the burning of non-organic material in rural areas. Complaints about open burning largely relate to urban areas (not rural). For those complaints relating to rural areas the main problems are damp vegetation and poor fire management (not the burning of treated timber or plastics). We submit that the open burning of plastics and treated or painted timber on farms are not a significant problem that require strict regulations. Alternative options
Inorganic materials such as agricultural wrap, plastic containers, feed and mineral bags/sacks, and treated or painted timber/posts need to be disposed of. We support recycling and the prevention of burning of harmful substances. All reasonable attempts should be made to recycle. Many farmers will re-use or re-purpose items or use Ag Recovery or Plasback recycling options. However, it needs to be recognised that some plastics cannot be recycled or the recycling process is not cost effective. We support an approach that aims to minimise rather than prohibit the outdoor burning of non-organic material in rural areas. Any prohibition on burning should focus on those materials which are highly dangerous and unable to be burned relatively cleanly and safely, such as materials containing asbestos and halogenated plastic. In regards to plastic, most farmers want to be environmentally responsible and burning plastic is not necessarily a desirable outcome but more often than not there is simply no cost effective and time efficient alternative.
In respect of treated or painted timber, burning small quantities of this in a rural environment (i.e. where properties are spread out) is unlikely to have adverse environmental effects. We consider that such activity should be permitted.
All of this has been recognised in other regions with Councils providing for the burning of plastic and other specified inorganic waste in certain circumstances and only prohibiting the burning of that waste which has the worst environmental effects e.g. halogenated plastics and timber treated with CCA or organochlorine substances.

Decision Sought: We recommend three alternatives or amendments to address our concerns.
Option 1: Our favoured alternative is to seek amendments to AQ R10 to exclude the burning of plastic and treated or painted timber in rural areas so that it continues to be a permitted activity.
Option 2: The other alternative restrict the volume of the material that are permitted to be burnt in the rural zone.
Option 3: The last alternative permits the burning of the material if there are no recycling options. The suggested wording for options are shown as option 1 / option 2 / option 3.

Burning of specified material – Non-complying — Te tahutahu i nga papanga kua tautuhia – Tautuku-kore
Except as provided for in AQ R8 and AQ 21(i) the discharge of contaminants to air from the combustion of any of the following materials is a noncomplying activity:
(a) treated or painted timber, except:
(i) for approved fuel for pellet burners as specified in AS/NZS 4014.6:2007 Domestic solid fuel burning appliances – Test fuels – Wood pellets, or the functional equivalent
[insert - (ii) in rural zones / in rural zones and the materials are less than 50m2 / in rural zones and at properties where no large scale collection of the material by territorial authorities exists.]
(b) any [delete - plastics (including wrapping),] foam, nappies, or polystyrene, [insert - or plastics (except in rural zones / in rural zones less than 50m2 in total / in rural zones and at properties where no large scale collection of the material by territorial authorities exists).]

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Staff Recommendations on Submissions (By Submitter)

Submitter: 76 - Federated Farmers of New Zealand

(c) . .

Reasons for Staff Recommendation:

On feedback to the draft plan this rule changed burning of material specified from prohibited to non-complying, which allows the consideration of applications under appropriate circumstances. The materials listed in this rule produce discharges known to harm human health when burned, such as dioxins from plastic, and harmful toxins from treated timber. On this basis staff recommend no change to the rule.

Further Submission No: 22 - 28 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Toi Te Ora Public Health

Summary:

Burning of non-organic material will discharge contaminants that may harm health. Everyone deserves the same level of protection from harm no matter where they live, play or work.
Good waste management practices safeguard the health of existing and future populations.

Decision Sought: Reject

Reasons for Staff Recommendation:

Submission Point No: 23 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Rules

Section: AQ R5

Submission Summary:

We consider that the term “offensive or objectionable” should be defined in the plan. We note that the S32 report and explanation states whether a discharge is “offensive or objectionable” in condition (a) is a subjective test. This is problematic because if this statement is correct then the rule will be ultra vires. It is well settled law that a consenting authority may not reserve itself a discretion to approve a permitted activity. Although some element of judgment or degree of evaluation is permissible (and normal with factual situations) a consenting authority cannot retain itself the right to subjectively decide whether or not an activity is permitted. We do not ask that the term be deleted because we consider it is not a subjective test and this substantiates our concern that the term should be clarified for plan users (and Council) or some guidance provided.

The use of the term offensive or objectionable is particularly problematic regarding the discharge of fertiliser and agrichemicals (AQ R3, AQ R15). Fertiliser and agrichemicals are often specifically made with an added unpleasant odour to inform passers-by that a fertiliser and agrichemical is being applied nearby. Accordingly, it will most likely be objectionable because of the odour - as that is precisely the purpose as objectionable smells are easily recognised. From time to time conditions may arise that cause the odour of fertilisers or agrichemicals to drift beyond the property or some of the material to drift over the boundary.

While we agree that operators should take all reasonable actions to prevent this from occurring, there will always be the possibility that the applied compounds drift beyond the property. However the fertiliser or agrichemical or odour that drifts beyond the boundary may not cause any adverse effect although the smell may be deemed objectionable. This could be because of a number of reasons including because only the odour drifted past the boundary, or the volume is negligible or that the fertiliser is not harmful. We consider a better and reasonable approach is to add the provision that offensive or objectionable should at least be to an extent that it causes adverse effects. We consider this is the right balance as any slightly offensive and objectionable odour will not be caught by the provision but any objectionable discharge (including odour) that has an actual adverse effect will be captured. Similar considerations apply to dust spray that is so diluted or slight that it has no effect.

The requirement of “no discharge...beyond the boundary” is problematic. In many activities there may well be some (however slight) odour, smoke or spray drift beyond the boundary. Then the question immediately arises whether or not this is a permitted activity or whether there is a breach of the plan. Secondly it is not targeting any adverse effects. For example, if the spray was applied on an area of land within the property boundary, but a sudden gust takes odour or spray onto other land owned by the same person, there would be no adverse effects. There may be positive effects as a result of spray drift onto neighbouring land. Our members are concerned as spray drift may occur because the applicator cannot control (or guarantee) wind direction or speed. They can act as reasonable as they want but there is no controlling nature. FFNZ recommends the text as recommended by the Ministry of Environment “offensive or objectionable to the extent that it causes an adverse effect beyond the boundary..”. FFNZ

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Staff Recommendations on Submissions (By Submitter)

Submitter: 76 - Federated Farmers of New Zealand

suggested that this wording aligns with RPS Objective 1, AQ 2A and AQ 3A which stresses the management of adverse effects from discharges to air.

Decision Sought: wherever the term "offensive or objectionable" is used, to make the following amendment: ...noxious or dangerous, offensive or objectionable [insert - to the extent that it causes an adverse effect] beyond the boundary of the subject property...
in AQ R1, R3, R5, R6, R11, R12, R15, R16, R17, R18.

Reasons for Staff Recommendation: Offensive or objectionable is discussed in the definitions section

Further Submission No: 8 - 74 **Submission Type:** Support in Part **Recommendation:** Reject

Further Submitter: Mercury NZ Ltd

Summary: Mercury supports the intent of the submission, and that a bespoke approach needs to be taken to individual contaminants within rules. Mercury seeks to be included in discussions where we have submissions on rules 1, 5 and 16.

Decision Sought: Allow in part

Reasons for Staff Recommendation: Offensive or objectionable is discussed in the definitions section

Further Submission No: 10 - 36 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Greg Misson

Summary: There has been a lack of regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. A more straightforward way of addressing the issue would be to make the activity causing these dust problems discretionary. This is on the basis that there is considerable evidence of adverse effects from these activities

Decision Sought: Reject

Reasons for Staff Recommendation: The further submission point is concerned with particulates, however the rule is managing the odour associated with geothermal water and geothermal energy

Further Submission No: 13 - 62 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks clarification regarding the term offensive or objectionable. It is unclear why the submission is listed under AQ R5 because it applies on a broader level than that specific rule.

Decision Sought: Provide clarification of offensive or objectionable as sought.

Reasons for Staff Recommendation: Offensive or objectionable is discussed in the definitions section

Further Submission No: 15 - 37 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Hangar It

Summary: This amendment will further reduce Councils ability to properly regulate. Most concerning is that the duty of care to provide a safe environment for hangar users will continue to be undermined by a continuation of toxic organic dust crossing the boundary from 101 Aerodrome Road.

Decision Sought: Reject submission point

Reasons for Staff Recommendation: The further submission point is concerned with particulates, however the rule is managing the odour associated with geothermal water and geothermal energy

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Staff Recommendations on Submissions (By Submitter)

Submitter: 76 - Federated Farmers of New Zealand

Further Submission No: 16 - 37 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Solo Wings

Summary: There are a wide range of adverse health effects that can arise from exposure to particulate matter and BOPRC has recognised this in the proposed plan change-13. The requested amendment will further frustrate BOPRC's ability to effectively perform its regulatory role. Tauranga Airport is a public area. General public are subject to breathing contaminated air, as a consequence of 101 Aerodrome road particulate discharges. It would clearly run counter to the public health interest for BOPRC to adopt these amendments.

Decision Sought: Reject submission point

Reasons for Staff Recommendation: The further submission point is concerned with particulates, however the rule is managing the odour associated with geothermal water and geothermal energy

Further Submission No: 17 - 37 **Submission Type:** Oppose **Recommendation:** To Be Advised

Further Submitter: Tony Christiansen

Summary: There has been a lack of effective regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. Concern with the amendments sought by this enterprise will further degrade Councils ability to respond effectively.

Decision Sought: Reject

Reasons for Staff Recommendation: The further submission point is concerned with particulates, however the rule is managing the odour associated with geothermal water and geothermal energy

Submission Point No: 30 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Rules

Section: AQ R15(1)

Submission Summary: AQ R15 (1)
 1(b) We are concerned that 1(b) have too many qualifiers and will have the unintended consequence of undermining biosecurity and pest management abilities.
 The proposed condition 1(b) requires:
 - that the organism go through the process of being registered as an unwanted organism pursuant to the Biosecurity Act,
 - but also that on the recommendation of a Minister, the Governor-General, by Proclamation, declare a biosecurity emergency,
 - And further that the agrichemicals must be used under the direction of the responsible authority under the Biosecurity Act 1993.
 Condition 1(b) will therefore (unintentionally) exclude:
 - any emergency situation that has not been formally declared a biosecurity emergency.
 - any person instructed by MPI to apply the agrichemical to prevent an unwanted organism but the situation does not have the necessary immediacy to be an emergency.
 - Management of pests as instructed by the Regional Council or MPI in an emergency but the pest is not registered as an unwanted organism.
 We consider the qualifier that the agrichemicals must be used under the direction of the responsible authority under the Biosecurity Act 1993 is the only necessary qualifier.

Decision Sought: (b) Where the use of the agrichemical is for the prevention, eradication or management of unwanted organisms [insert - or pests] [delete - 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.

Reasons for Staff Recommendation: Remove qualifiers that could lead to difficultly carrying out emergency pest management

Further Submission No: 13 - 78 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Horticulture New Zealand

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Staff Recommendations on Submissions (By Submitter)

Submitter: 76 - Federated Farmers of New Zealand

Summary: The submitter seeks that the provisions for hand held motorised and low pressure boom applications are the same as for hand held non-motorised as they are considered to be low risk of spray drift.

Decision Sought: Reject submission

Reasons for Staff Recommendation: Further submission point not related to original submission issue

Further Submission No: 13 - 76 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks changes to the provisions relating to biosecurity 1b). Not all responses to an incursion of an unwanted organism are declared an 'emergency' under the Biosecurity Act so the wording should be amended.

Decision Sought: Accept submission to amend AQ R15 (1) b)

Reasons for Staff Recommendation: Remove qualifiers that could lead to difficulty carrying out emergency pest management

Submission Point No: 31 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Rules

Section: AQ R15(2)

Submission Summary: Hand-held, non-motorised application – We support less stringent conditions for handheld application. FFNZ also support the distinction between public amenity areas and private areas. We consider these are sensible and practical distinction that recognises that there is very little risk of an adverse effect due to the amount of direct control over hand held application method and in private areas.
Accordingly, we support that conditions 3(b), 3(e), 4(a) – (d) and 5(a) to (d) do not apply to this method of application.
Hand-held, motorised application and low pressure boom application – We consider that the same conditions for all hand-held applications is reasonable given the amount of control over the application method and the low risk of spray drift. We recommend that only conditions 3(a), 3(c), 3(d) and 4 (e) are required for all hand-held applications and low pressure boom applications.

Decision Sought: Amend as follows:
...(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), [delete - 3(e), 4(c), 4(d),] 4(e) are complied with.
(c) . . .

Reasons for Staff Recommendation: Appropriate due to the low risk of spray drift from using these application methods

Submission Point No: 32 **Submission Type:** Not Applicable **Recommendation:** Reject

Chapter: Rules

Section: AQ R15(3)

Submission Summary: AQ R15(3)
3(b) and 4(a) and 5 (b) We consider distance chosen is too restrictive. We note Taranaki has chosen 30m and 100m.
We have concerns about the notification and signage requirements and whether they are practical. In principle, we appreciate that notification and signage is a way of reducing complaints and getting along with your neighbours. However, we are concerned that these rules could impose a significant compliance cost on agrichemical contractors.
In respect of signage, we do not see the need to provide signage where agrichemicals are being applied to private land. We agree that signage is necessary where the spraying is on public land but we do not see the need where the land is private. We also do not see the need to display signs at every entrance way. For example, this may not be practicable (or necessary) on a 1,200 ha sheep station. We consider that consideration of the nature of the

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Submitter: 76 - Federated Farmers of New Zealand

property and the area (such as the consideration of sensitive areas in NZS8409:2004) ought to be applied.

We are concerned that the combined effect of all of the above requirements will be to significantly increase the cost of applying agrichemicals without addressing actual adverse effects. This could significantly increase farm operating costs, with potential effects being less spraying (which will reduce productivity and potentially have implications for the local economy).

Decision Sought:

(3) Signage

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

...(b) Where agrichemicals are sprayed within [delete - 50] [insert - 30] metres of any public amenity area (ground-based application or drone application complying with condition 1(c)) or [delete - 200] [insert - 100] 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.

[delete - (e) Any vehicles associated with agrichemical spraying must display prominent signs front and back that clearly state "CAUTION –SPRAYING IN PROGRESS" or similar wording.]

Reasons for Staff Recommendation:

The radius for notification of potentially affected private property owners is set at 50 metres and 200 metres, therefore it is appropriate that the signage requirements for public amenity areas is the same distance. These distances have been developed based on feedback on the draft plan and on distances in the operative Regional Air Plan

Further Submission No: 6 - 13 **Submission Type:** Support in Part **Recommendation:** Reject

Further Submitter: New Zealand Agrichemical Education Trust (NZAET)

Summary: The submitter seeks changes to the distances from public amenity areas where signage would be required. There needs to be a clear rationale for the required distance.

Decision Sought:

Reasons for Staff Recommendation:

The radius for notification of potentially affected private property owners is set at 50 metres and 200 metres, therefore it is appropriate that the signage requirements for public amenity areas is the same distance. These distances have been developed based on feedback on the draft plan and on distances in the operative Regional Air Plan

Further Submission No: 13 - 87 **Submission Type:** Support in Part **Recommendation:** Reject

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks changes to the distances from public amenity areas where signage would be required. There needs to be a clear rationale for the required distance. The submitter also seeks that clause e) relating to signage on vehicles is deleted

Decision Sought: Amend AQ R 15 3) by deleting clause e) or amending to only vehicles in public places.

Reasons for Staff Recommendation:

Further Submission No: 19 - 11 **Submission Type:** Support in Part **Recommendation:** Reject

Further Submitter: Agcarm

Summary: The submitter seeks changes to the distances from public amenity areas where signage would be required. There needs to be a clear rationale for the required distance

Decision Sought: Accept submission point in part

Reasons for Staff Recommendation:

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Submitter: 76 - Federated Farmers of New Zealand

Submission Point No:	33	Submission Type:	Seek	Recommendation:	Accept in Part
Chapter:	Rules				
Section:	AQ R15(4)				
Submission Summary:	<p>AQ R15(4)</p> <p>We have concerns about the notification and signage requirements and whether they are practical. In principle, we appreciate that notification and signage is a way of reducing complaints and getting along with your neighbours. However, we are concerned that these rules could impose a significant compliance cost on agrichemical contractors.</p> <p>In respect of notification, we support the different levels of notification depending on the type of application of agrichemicals. However, the extent of notification may not be practical or even necessary, depending on the type of agrichemical, the type of property and the location. We are concerned that the combined effect of all of the above requirements will be to significantly increase the cost of applying agrichemicals without addressing actual adverse effects. This could significantly increase farm operating costs, with potential effects being less spraying (which will reduce productivity and potentially have implications for the local economy).</p>				
Decision Sought:	<p>Where specified by condition (2), the following conditions apply:</p> <p>(a) The owner/occupier or agent must notify the occupier of any properties within [delete - 50] [insert - 30] metres (ground-based application or drone application complying with condition 1(c)) and [delete - 200] [insert - 100] metres (aerial application) of where the agrichemical is being sprayed...</p> <p>OR</p> <p>(ii) according to a notification agreement with the occupier. [delete - The notification agreement must:</p> <ul style="list-style-type: none"> · 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.] <p>[delete - (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.]</p>				
Reasons for Staff Recommendation:	<p>There is a wide range of agrichemical types, application methods, locations, operations and many other variables involved in the agrichemical spraying activities carried out in the region each day. It would be impractical to write or enforce a permitted activity with conditions that cover all of these situations.</p> <p>The requested changes are more like what would be considered in a consent application. Staff, on the request of submitters, have recommended a controlled activity rule for when agrichemical spraying that cannot meet the requirements of rule AQ R15. This provides a pathway for other matters to be considered and conditions provided that are more appropriate to the specific situation</p>				

Further Submission No:	13 - 97	Submission Type:	Oppose	Recommendation:	Accept in Part
Further Submitter:	Horticulture New Zealand				
Summary:	<p>The submitter seeks that the notification required is linked to the risk of the operation. However the actual changes sought are not necessarily linked to the risk of the operation. NZS8409:2004 has a basic principle that people who are likely to be affected have a right to be informed and HortNZ supports that principle. As notified PC13 seeks to implement that principle</p>				
Decision Sought:	Amend notification provisions as sought by HortNZ and changes supported in this further submission				
Reasons for Staff Recommendation:	<p>There is a wide range of agrichemical types, application methods, locations, operations and many other variables involved in the agrichemical spraying activities carried out in the region each day. It would be impractical to write or enforce a permitted activity with conditions that cover all of these situations.</p> <p>The requested changes are more like what would be considered in a consent application. Staff, on the request of submitters, have recommended a controlled activity rule for when agrichemical spraying that cannot meet the requirements of rule AQ R15. This provides a pathway for other matters to be considered and conditions</p>				

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provided that are more appropriate to the specific situation

Submission Point No:	34	Submission Type:	Seek	Recommendation:	Reject
Chapter:	Rules				
Section:	AQ R15(5)				
Submission Summary:	We consider distance chosen is too restrictive. We note Taranaki has chosen 30m and 100m. We are concerned that the combined effect of all of the above requirements will be to significantly increase the cost of applying agrichemicals without addressing actual adverse effects. This could significantly increase farm operating costs, with potential effects being less spraying (which will reduce productivity and potentially have implications for the local economy).				
Decision Sought:	(5) Spray Risk Management Plan ...(b) The spray risk management plan must contain the following information: (i) A plan or map identifying the location of any sensitive activities within [delete - 50] [insert - 30] metres of the land being sprayed by ground based application or drone application (complying with condition 1(c)), or within [delete - 200] [insert - 100] metres of the land being sprayed by aerial application.				
Reasons for Staff Recommendation:	These distances are the same as those required in the other conditions of the rule. If the Hearing Panel recommend amending the distances, these distances will also be amended through a consequential change				

Further Submission No:	13 - 104	Submission Type:	Oppose	Recommendation:	Accept
Further Submitter:	Horticulture New Zealand				
Summary:	The purpose of the Spray Risk Management Plan is to identify sensitive activities near where spraying is to occur so appropriate actions can be taken to mitigate potential effects				
Decision Sought:	Reject submission				
Reasons for Staff Recommendation:	These distances are the same as those required in the other conditions of the rule. If the Hearing Panel recommend amending the distances, these distances will also be amended through a consequential change				

Submission Point No:	35	Submission Type:	Oppose	Recommendation:	Accept
Chapter:	Rules				
Section:	AQ R19				
Submission Summary:	Rule 18 of the operative regional air plan allowed (as a controlled activity) discharge of contaminants to air from intensive farming if the intensive far existed prior to 1 Jan 2001. Accordingly any intensive farming activity established after 2000 is a discretionary activity according to AQ R20. Those existing and permanent intensive farms established before 2001 can obtain resource consent as a controlled activity. AQ R19 merely continues the application of Rule18. The s32 report did not evaluate the impact if the status quo was to change (ie pre 2001 intensive farms are not a controlled activity anymore) . FFNZ does not know the extent of permanent intensive farming pre 2001 or what the impacted on these farms will be if the rule is changed or removed. The s32 report states that some farms will not be able to continue as a business if the status quo is changed. We support keeping the status quo. There has been no significant issue raised with intensive farms established pre 2001 while the farms will suffer significant economic detriment (according to the s32 report) if the status quo is changed.				
Decision Sought:	Retain as proposed.				
Reasons for Staff Recommendation:	Retain rule as notified				

Submission Point No:	36	Submission Type:	Support in Part	Recommendation:	Reject
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Staff Recommendations on Submissions (By Submitter)

Submitter: 76 - Federated Farmers of New Zealand

Chapter: Rules

Section: AQ R21(a)

Submission Summary: Proposed AQ R21 is based on Rule 19 in the operative Regional Air Plan. The purpose is to name specific activities as discretionary activities (requiring a resource consent) which may otherwise be considered as a permitted activity under AQ R1 (Rule 17 in the operative plan). FFNZ supports the intent of ensuring that specific activities with significant risk of adverse effects be named as discretionary activities. However, FFNZ does not agree that such activities can be arbitrarily named without any basis for inclusion. Numerous new activities have been added to those in Rule 19 without any explanation or assessment in the S32 Report. As an example, "Composting" and "Glassmaking" have been added in proposed AQ R21. There is no explanation for this. Is there a significant risk of an adverse effect from these activities? and how was this identified? What other options were considered? We also note there is no S32 analysis of the benefit and costs anticipated from making these activities discretionary activities. FFNZ also has a concern that the activities have not been properly defined which may capture unintended activities. For instance composting include your hobby gardener's compost. Accordingly we seek the removal of the activities newly included in the list. We consider that intensive farming should be clearly defined to ensure that it does not unintentionally capture other farms.

Decision Sought: Specific activities – Discretionary
The discharge of contaminants into air from any of the following activities is a discretionary activity:
[delete- (a) Agrichemical manufacture.]..

Reasons for Staff Recommendation: There are no known agrichemical manufacturers in the region, however such activities have the potential to generate odour that is best assessed through an appropriate consenting process. This list of discretionary activities is intended to provide a comprehensive list of all activities that are known to discharge contaminants to air with effects that are potentially more than minor. The inclusion of activities that are not currently operating in the region ensures that there is no confusion regarding their activity status should an operator decide to set up. It is consistent with the approach recommended under AQ R1 for those that are potentially causing adverse effects to provide evidence that this is not the case, rather than the Council needing to prove that the effects are more than minor and that AQ R1 does not apply

Further Submission No: 10 - 37 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Greg Misson

Summary: There has been a lack of regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. A more straightforward way of addressing the issue would be to make the activity causing these dust problems discretionary. This is on the basis that there is considerable evidence of adverse effects from these activities

Decision Sought: Reject in part with modification
Include text below (new Rule AQ 21(y)).
(y) Transfer, storage and transport of bulk cargo in excess of 30,000 tonnes per year

Reasons for Staff Recommendation: The further submission point is highly specific to particulates in the Mount Maunganui area from handling of bulk materials. This rule does not manage this type of activity.

Further Submission No: 15 - 38 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Hangar It

Summary: This amendment will further reduce Councils ability to properly regulate. Most concerning is that the duty of care to provide a safe environment for hangar users will continue to be undermined by a continuation of toxic organic dust crossing the boundary from 101 Aerodrome Road

Decision Sought: Reject submission point

Reasons for Staff Recommendation: The further submission point is highly specific to particulates in the Mount Maunganui area from handling of bulk materials. This rule does not manage this type of activity.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 76 - Federated Farmers of New Zealand

Further Submission No: 16 - 38 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Solo Wings

Summary: There are a wide range of adverse health effects that can arise from exposure to particulate matter and BOPRC has recognised this in the proposed plan change-13. The requested amendment will further frustrate BOPRC's ability to effectively perform its regulatory role. Tauranga Airport is a public area. General public are subject to breathing contaminated air, as a consequence of 101 Aerodrome road particulate discharges. It would clearly run counter to the public health interest for BOPRC to adopt these amendments.

Decision Sought: Reject submission point

Reasons for Staff Recommendation: The further submission point is highly specific to particulates in the Mount Maunganui area from handling of bulk materials. This rule does not manage this type of activity.

Further Submission No: 17 - 38 **Submission Type:** Oppose **Recommendation:** Reject

Further Submitter: Tony Christiansen

Summary: There has been a lack of effective regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. Concern with the amendments sought by this enterprise will further degrade Councils ability to respond effectively.
A practical way of addressing the issue would be to make the activity causing these dust problems discretionary with an amendment to Rule 21 "(y) Transfer, storage and transport of bulk material in excess of 30,000 tonnes per year."

Decision Sought: Reject

Reasons for Staff Recommendation: The further submission point is highly specific to particulates in the Mount Maunganui area from handling of bulk materials. This rule does not manage this type of activity.

Submission Point No: 37 **Submission Type:** Neutral **Recommendation:** Accept in Part

Chapter: Definitions

Section: Definitions - Offensive or objectionable

Submission Summary: "Offensive or objectionable"
We consider there should be some guidance given on what offensive or objectionable means. As stated before the S32 report stated it is a subjective test which is incorrect. The Court of Appeal held "The first point to make is that it is clear the assessment whether something is noxious, dangerous, offensive or objectionable is an objective one."¹⁵ It is what the ordinary person, representative of the community at large, would consider to be objectionable.

Decision Sought: Insert new definition:
Offensive or objectionable
"Offensive" is defined as "...giving or meant or likely to give offence...disgusting, foul smelling, nauseous, repulsive..." and "Objectionable" is defined as "open to objection, unpleasant, offensive."
The determination of whether an effect is offensive or objectionable will depend on the specific circumstances of each situation and therefore can only be prescribed in general terms. It is an objective assessment on what the reasonable person as a representative of the community at large would consider to be offensive or objectionable. The Council intends to use the FIDOL factors as external guide to assess whether a discharge is offensive or objectionable.
Frequency – how often an individual is exposed to the odour;
Intensity – the strength of the odour;
Duration – the length of exposure;
Offensiveness/character – the hedonic tone of the odour (pleasant, neutral, unpleasant)
Location – the type of land use and nature of human activities in the vicinity of an odour source.

Reasons for Staff Recommendation: Some clarity around how the term will be applied during implementation of the plan change would be helpful. Staff recommend that brief advice text is provided, but that the terms not

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Staff Recommendations on Submissions (By Submitter)

Submitter: 76 - Federated Farmers of New Zealand

be specifically defined in order to ensure consistency with current and future case law

Further Submission No: 8 - 85 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Mercury NZ Ltd

Summary: Mercury considers a definition for 'Offensive or Objectionable' is not required. This term is used within the RMA and case law has considered this based on a normal English language definition. The inclusion of the definition could result in a conflict between further court interpretation under the Act and the definition in the Plan. Further guidance on what is considered offensive or objectionable is also included in the MfE Good Practice Guide for Assessing and Managing Odour.

Decision Sought: Disallow

Reasons for Staff Recommendation: Some clarity around how the term will be applied during implementation of the plan change would be helpful. Staff recommend that brief advice text is provided, but that the terms not be specifically defined in order to ensure consistency with current and future case law

Further Submission No: 10 - 38 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Greg Misson

Summary: There has been a lack of regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. A more straightforward way of addressing the issue would be to make the activity causing these dust problems discretionary. This is on the basis that there is considerable evidence of adverse effects from these activities

Decision Sought: Reject

Reasons for Staff Recommendation: Some clarity around how the term will be applied during implementation of the plan change would be helpful. Staff recommend that brief advice text is provided, but that the terms not be specifically defined in order to ensure consistency with current and future case law

Further Submission No: 11 - 18 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Oji Fibre Solution

Summary: Oji FS does not consider a definition of offensive or objectionable is needed in PC13. Oji FS notes that despite this term being used extensively in regional air plans under the RMA, it is not aware of any regional air plan which has included a definition of the term

Decision Sought: Reject submission

Reasons for Staff Recommendation: Some clarity around how the term will be applied during implementation of the plan change would be helpful. Staff recommend that brief advice text is provided, but that the terms not be specifically defined in order to ensure consistency with current and future case law

Further Submission No: 13 - 113 **Submission Type:** Support in Part **Recommendation:** Accept in Part

Further Submitter: Horticulture New Zealand

Summary: HortNZ has sought that a definition be included for offensive or objectionable. The submitter seeks a similar definition to clarify what is intended

Decision Sought: Include definition or description of offensive or objectionable in PC13.

Reasons for Staff Recommendation: Some clarity around how the term will be applied during implementation of the plan change would be helpful. Staff recommend that brief advice text is provided, but that the terms not be specifically defined in order to ensure consistency with current and future case law

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Staff Recommendations on Submissions (By Submitter)

Submitter: 76 - Federated Farmers of New Zealand

Further Submission No: 15 - 39 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Hangar It

Summary: This amendment will further reduce Councils ability to properly regulate. Most concerning is that the duty of care to provide a safe environment for hangar users will continue to be undermined by a continuation of toxic organic dust crossing the boundary from 101 Aerodrome Road

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Some clarity around how the term will be applied during implementation of the plan change would be helpful. Staff recommend that brief advice text is provided, but that the terms not be specifically defined in order to ensure consistency with current and future case law

Further Submission No: 16 - 39 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Solo Wings

Summary: There are a wide range of adverse health effects that can arise from exposure to particulate matter and BOPRC has recognised this in the proposed plan change-13. The requested amendment will further frustrate BOPRC's ability to effectively perform its regulatory role. Tauranga Airport is a public area. General public are subject to breathing contaminated air, as a consequence of 101 Aerodrome road particulate discharges. It would clearly run counter to the public health interest for BOPRC to adopt these amendments.

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Some clarity around how the term will be applied during implementation of the plan change would be helpful. Staff recommend that brief advice text is provided, but that the terms not be specifically defined in order to ensure consistency with current and future case law

Further Submission No: 17 - 39 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Tony Christiansen

Summary: There has been a lack of effective regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. Concern with the amendments sought by this enterprise will further degrade Councils ability to respond effectively

Decision Sought: Reject

Reasons for Staff Recommendation: Some clarity around how the term will be applied during implementation of the plan change would be helpful. Staff recommend that brief advice text is provided, but that the terms not be specifically defined in order to ensure consistency with current and future case law

Further Submission No: 20 - 31 **Submission Type:** Support **Recommendation:** Accept in Part

Further Submitter: Fonterra Ltd

Summary: For the reasons outlined in the Federated Farmers submission there should be a definition for "Offensive or Objectionable" in the Plan. Further discussion is required around the appropriate wording of any definition.

Decision Sought: Accept in part

Reasons for Staff Recommendation: Some clarity around how the term will be applied during implementation of the plan change would be helpful. Staff recommend that brief advice text is provided, but that the terms not be specifically defined in order to ensure consistency with current and future case law

Further Submission No: 30 - 49 **Submission Type:** Support **Recommendation:** Accept in Part

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Staff Recommendations on Submissions (By Submitter)

Submitter: 76 - Federated Farmers of New Zealand

Further Submitter: Swap Stockfoods Ltd

Summary: Support for the provision of a definition for offensive or objectionable. Swap Stockfoods would like the opportunity to be involved in the discussions regarding the proposed wording of the definition.

Decision Sought: Accept

Reasons for Staff Recommendation: Some clarity around how the term will be applied during implementation of the plan change would be helpful. Staff recommend that brief advice text is provided, but that the terms not be specifically defined in order to ensure consistency with current and future case law

Submission Point No: 38 **Submission Type:** Neutral **Recommendation:** Reject

Chapter: Definitions

Section: Definitions - Fertiliser

Submission Summary: "Fertiliser"
 The term is defined in the Regional Natural Resources Plan and no amendments are sought in the proposed plan change. The term is relevant to the interpretation and application of Rule 3. We are concerned that the definition of fertiliser may exclude certain fertiliser substances or compounds that are applied as part of a normal farming practice. For example, the definition does not include lime, additives or soil conditioners and we consider it unlikely that these substances fall within the definition of "essential nutrients." We consider that it is very important to adopt a definition of fertiliser that encompasses all products likely to be applied to land as part of normal fertiliser practices to ensure that these activities are permitted in Rule 3. This is important to ensure the continuation of normal farming activities in rural zones. We also consider that any definition needs to be "durable" to ensure that as technology evolves farmers do not find themselves in five years time applying a product or substance that is accepted as fertiliser but is not within the scope of the definition of fertiliser. This is particularly important as fertiliser methodologies or mixes change, such as a movement towards the use or incorporation of products such as mulch and compost.

Decision Sought: amend as follows:
 Fertiliser – any substance or biological compound or mix of substances or biological compounds which 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 of the [insert - following essential nutrients to plants or soils: nitrogen, phosphorus, potassium, sulphur, magnesium, calcium, chloride, sodium, as major nutrients or manganese, iron, zinc, copper, boron, cobalt, molybdenum, selenium, as minor nutrients or additives,] [insert - substance to plants or soil in which they grow or will grow,] and any other product which is considered to meet identified soil or plant nutrient deficiencies and is applied with this as the principle objective. Products discharged or applied as part of a waste treatment process require resource consents and are not covered by this code. [delete - This definition is from The Code of Practices For Fertiliser Use 1998]

Reasons for Staff Recommendation: Retain the definition as proposed as the primary adverse effect of discharging fertiliser is to water and land. The rules in the RNRP were developed alongside the existing definition. If this definition were to be altered, this could have unintended consequences for the provisions that manage discharges to water and land, particularly in catchments of concern

Further Submission No: 20 - 33 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Fonterra Ltd

Summary: For the reasons outlined in the Federated Farmers submission.

Decision Sought: Accept

Reasons for Staff Recommendation: Retain the definition as proposed as the primary adverse effect of discharging fertiliser is to water and land. The rules in the RNRP were developed alongside the existing definition. If this definition were to be altered, this could have unintended consequences for the provisions that manage discharges to water and land, particularly in catchments of concern

Submission Point No: 39 **Submission Type:** Seek **Recommendation:** Accept in Part

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Staff Recommendations on Submissions (By Submitter)

Submitter: 76 - Federated Farmers of New Zealand

Chapter:	Definitions
Section:	Definitions - Intensive farming
Submission Summary:	<p>The term is relevant to the interpretation and application of Rule 20 and 21. It is not clear from Rule 21 what types of “intensive farming” activities the rule is intended to capture. We support a definition for intensive farming.</p> <p>We have concerns that this term could potentially capture a wide range of farming activities (many of which may be unintended). Our view is that pastoral farming activities are not intensive farming and an appropriate definition ought to exclude such activities. In particular, pastoral farming may include the use of supplementary feed and irrigation, rearing calves in sheds for 8-12 weeks, having animals confined temporarily due to seasonal conditions or adverse weather, keeping stock on feed pads and there is a growing interest in herd homes (where cows are kept in sheds over winter). We consider that a definition of “intensive farming” needs to be carefully worded to avoid capturing these activities. In our experience, definitions of “intensive farming” in other regions are typically based on the permanent housing of stock in buildings that is not dependent on the soil resource.</p> <p>We consider that any definition should attempt to be consistent with the relevant District Plans to avoid conflicts in the District and Regional rules and to provide certainty for plan users. We note that Western Bay of Plenty District Council and Whakatane District Council have definitions of “intensive farming” that relate to the quality of soils and specifically exclude temporary housing of stock (such as wintering of stock and calf rearing) that are ancillary to a principal farming activity.</p>
Decision Sought:	<p>Intensive Farming</p> <p>Means agriculture production [insert - of plants and/or livestock] where the [insert - planting or] stocking density limits or prevents dependence on natural soil quality on the site, and[delete - /or] [insert - require high input of] food [delete - required] to be brought to the site. Includes poultry farming, piggeries, mushroom production but excludes free-range farming, [insert - the rearing of calves for the primary purpose of herd replacement for the subject property, the wintering of farm animals in sheds, the stabling of horses] and greenhouses</p>
Reasons for Staff Recommendation:	Amend the definition to ensure submitters' concerns are relieved and the rule targets the correct activity.

Submission Point No:	40	Submission Type:	Support	Recommendation:	Accept
Chapter:	Definitions				
Section:	Definitions - Public amenity area				
Submission Summary:	Our understanding is that the definition would not capture unformed roads and reserves due to the qualifier “where members of the public are likely to congregate for extended periods of time”. We support the definition on that basis.				
Decision Sought:	Retain definition of public amenity areas				
Reasons for Staff Recommendation:	Staff recommend changes to clarify this intention.				

Submission Point No:	41	Submission Type:	Seek	Recommendation:	Accept in Part
Chapter:	Consequential Changes				
Section:	Consequential Changes - Definition of Agrichemical				
Submission Summary:	<p>There is no new definition suggested for ‘agrchemicals’ but rather just an amendment to the definition in the Regional Natural Resources Plan. There has been no evaluation of this new definition. The new definition removes the word “undesirable” without any evaluation of the impact. FPNZ considers that the meaning of agrichemicals should include the word “undesirable”.</p> <p>We also consider the term ‘agriculture compounds’ are confusing. Material relating to agriculture pastoral and horticulture is already included in the definition so it is difficult to know what the intention is. It seems that the intent is to capture fertiliser but then fertiliser is specifically excluded.</p> <p>We support the exclusion of vertebrate pest control products and oral nutrition compounds. We are not aware of any good reason to depart from NZS8409:2004 which states that vertebrate pest control products and oral nutrition compounds should not be subject to the</p>				

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Staff Recommendations on Submissions (By Submitter)

Submitter: 76 - Federated Farmers of New Zealand

controls applied to agrichemicals.

Decision Sought: Agrichemical
any substance, whether organic or inorganic, manufactured or naturally occurring, modified or in its original state, that is used in any agriculture, pastoral, horticulture or related activity, to eradicate, modify or control undesirable flora and fauna. For the purposes of this regional plan, this definition includes agriculture compounds but excludes any fertiliser, vertebrate pest control products and oral nutrition compounds.

Reasons for Staff Recommendation: No change to definition of agrichemicals as proposed however the definition of "agricultural compound" from the Agricultural Compounds and Veterinary Medicines Act 1997 can be included to resolve the submitters issue.

Further Submission No: 13 - 121 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Horticulture New Zealand

Summary: The word 'undesirable' is not in the definition of agrichemical in NZS8409:2004 so should not be included in the definition in PC13

Decision Sought: Reject submission to add 'undesirable' flora and fauna

Reasons for Staff Recommendation: Accept

Submission Point No: 42 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Policies

Section: AQ P3(a)

Submission Summary: FFNZ supports the policy in part but has some concerns. FFNZ does not agree that all activities that discharge contaminants to air must be managed. We note that the RMA s15 only requires contaminants from industrial or trade premises into air to be managed and then only when there may be adverse effects. We are concerned with the use of the word "avoid" as it has a threshold that prevents the occurrence of the effect. Accordingly, any activity that may result in the effect becomes prohibited. We do not consider that the plan wants to prohibit activities rather it wants the persons doing the activities to take practical steps to avoid adverse effects and where it accidentally occurs despite reasonable efforts then to minimise the effects. We recommend the term 'where practicable' to temper the unintended consequence of using the word 'avoid'. The above is supported by RPS Objective 1 which states that adverse effects from discharges to air should be avoided, remedied or mitigated so as to protect people and the environment. We consider this is a signal that a blanket prohibition is not intended.

Decision Sought: Amend (a) as follows:
(a) safeguard the life supporting capacity of the air, avoid [insert - where practicable] adverse effects on human health, and manage adverse effects on cultural values, amenity values, and the environment

Reasons for Staff Recommendation: Only avoiding 'significant' adverse effects on human health implies that there is a threshold below which human health effects are acceptable, until they become significant. Further, by only requiring effects to be avoided 'where practicable' allows considerable room for interpretation and it is unclear where avoiding adverse effects on human health is to occur.

Further Submission No: 8 - 40 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Mercury NZ Ltd

Summary: Mercury supports this amendment. Mercury seeks Policy 3 implement the correct tests in line with the RMA.

Decision Sought: Allow

Reasons for Staff Recommendation: Only avoiding 'significant' adverse effects on human health implies that there is a threshold below which human health effects are acceptable, until they become

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Submitter: 76 - Federated Farmers of New Zealand

significant. Further, by only requiring effects to be avoided 'where practicable' allows considerable room for interpretation and it is unclear where avoiding adverse effects on human health is to occur

Further Submission No: 10 - 39 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Greg Misson

Summary: There has been a lack of regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. A more straightforward way of addressing the issue would be to make the activity causing these dust problems discretionary. This is on the basis that there is considerable evidence of adverse effects from these activities

Decision Sought: Reject

Reasons for Staff Recommendation: Only avoiding 'significant' adverse effects on human health implies that there is a threshold below which human health effects are acceptable, until they become significant. Further, by only requiring effects to be avoided 'where practicable' allows considerable room for interpretation and it is unclear where avoiding adverse effects on human health is to occur

Further Submission No: 15 - 40 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Hangar It

Summary: This amendment will further reduce Councils ability to properly regulate. Most concerning is that the duty of care to provide a safe environment for hangar users will continue to be undermined by a continuation of toxic organic dust crossing the boundary from 101 Aerodrome Road

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Only avoiding 'significant' adverse effects on human health implies that there is a threshold below which human health effects are acceptable, until they become significant. Further, by only requiring effects to be avoided 'where practicable' allows considerable room for interpretation and it is unclear where avoiding adverse effects on human health is to occur

Further Submission No: 16 - 40 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Solo Wings

Summary: There are a wide range of adverse health effects that can arise from exposure to particulate matter and BOPRC has recognised this in the proposed plan change-13. The requested amendment will further frustrate BOPRC's ability to effectively perform its regulatory role. Tauranga Airport is a public area. General public are subject to breathing contaminated air, as a consequence of 101 Aerodrome road particulate discharges. It would clearly run counter to the public health interest for BOPRC to adopt these amendments.

Decision Sought: Reject submission point

Reasons for Staff Recommendation: Only avoiding 'significant' adverse effects on human health implies that there is a threshold below which human health effects are acceptable, until they become significant. Further, by only requiring effects to be avoided 'where practicable' allows considerable room for interpretation and it is unclear where avoiding adverse effects on human health is to occur

Further Submission No: 17 - 40 **Submission Type:** Oppose **Recommendation:** To Be Advised

Further Submitter: Tony Christiansen

Summary: There has been a lack of effective regulatory action by BOPRC to date in dealing with the adverse effects caused by bulk materials handling at 101 Aerodrome Road. Concern with the amendments sought by this enterprise will further degrade Councils ability to respond effectively

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Submitter: 76 - Federated Farmers of New Zealand

Decision Sought: Reject

Reasons for Staff Recommendation: Only avoiding 'significant' adverse effects on human health implies that there is a threshold below which human health effects are acceptable, until they become significant. Further, by only requiring effects to be avoided 'where practicable' allows considerable room for interpretation and it is unclear where avoiding adverse effects on human health is to occur

Further Submission No: 22 - 10 **Submission Type:** Oppose **Recommendation:** Accept

Further Submitter: Toi Te Ora Public Health

Summary: It is not acceptable to harm to health. Avoiding harm will keep people healthy and improve health. The National Environment Standards for Air Quality set guaranteed minimum level of health protection for all New Zealand. It is unacceptable for any contaminants to be discharged at levels resulting in downwind concentrations that can cause ill health. Every effort to avoid exposure to contaminants must be made when the adverse health effects are well known. It is not acceptable to knowingly harm the health of the public in the same way that it is not acceptable to harm the health of people in a workplace. The effective management of discharges from industrial and trade activities is important in protecting the health of the public.

Decision Sought: Reject

Reasons for Staff Recommendation: Only avoiding 'significant' adverse effects on human health implies that there is a threshold below which human health effects are acceptable, until they become significant. Further, by only requiring effects to be avoided 'where practicable' allows considerable room for interpretation and it is unclear where avoiding adverse effects on human health is to occur

Submission Point No: 43 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Policies

Section: AQ P4(b)

Submission Summary: FFNZ supports that the matters to be considered should be transparent for all users. (b) Normal farming activities (such as raising stock, burning rubbish and spreading fertiliser) involve or generate odour, smoke and dust. These types of effects are part of any rural environment. Accordingly, the acceptable discharges in a rural zone will be different from acceptable discharges in an urban zone. Hence the need for consideration of the location and sensitivity of the receiving environment.

Decision Sought: We seek the amendments as indicated below or amendments that will address our concerns. ... (b) The [insert - particular zone and the appropriateness of the activity in the zone, the] location of any Gazetted airsheds, or areas where the discharge may cause an exceedance or breach of the ambient air quality standards of the NESAQ or exceed the health-based values of the AAQGs.

Reasons for Staff Recommendation: This request is not consistent with this matter as breaches of the NESAQ must be addressed regardless of the zone it occurs in. However, staff have recommend the addition of new clauses to take into account the FIDOL factors and the locational constraints of some activities, as a result of other submission points.

Further Submission No: 13 - 45 **Submission Type:** Support in Part **Recommendation:** Reject

Further Submitter: Horticulture New Zealand

Summary: Including the appropriateness of the activity in the zone should form part of a consideration as to effects of an activity.

Decision Sought: Accept submission

Reasons for Staff Recommendation: This request is not consistent with this matter as breaches of the NESAQ must be addressed regardless of the zone it occurs in. However, staff have recommend the addition of new clauses to take into account the FIDOL factors and the locational

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Submitter: 76 - Federated Farmers of New Zealand

constraints of some activities, as a result of other submission points.

Further Submission No: 26 - 5 **Submission Type:** Support in Part **Recommendation:** Reject

Further Submitter: Western Bay of Plenty District Council

Summary: The intent of the amendment sought is supported in part. Recognition that particular zones have different acceptable discharges is beneficial. However, introducing different requirements for rural and urban zones may be confusing and difficult to implement. The Air Plan would need to define rural and urban zones (WBOPDC have already raised concerns with the Air Plan trying to define urban property) or specify which city or district plan zones would be considered rural or urban zones (for example, how would WBOPDC's ruralresidential zone be considered). The request also doesn't take into account that acceptable discharges of odour, smoke or dust in a rural zone may affect nearby urban zones.

Decision Sought: Accept in part

Reasons for Staff Recommendation: This request is not consistent with this matter as breaches of the NESAQ must be addressed regardless of the zone it occurs in. However, staff have recommend the addition of new clauses to take into account the FIDOL factors and the locational constraints of some activities, as a result of other submission points.

Submission Point No: 44 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Policies

Section: AQ P4 - new clause

Submission Summary: FFNZ supports that the matters to be considered should be transparent for all users. There is a clear distinction in reasonableness between a once a decade discharge of low intensity and duration and a daily discharge of high intensity and long duration. The frequency, intensity and duration impact on whether or not the discharge is acceptable and should be included as matters to be considered

Decision Sought: We seek the amendments as indicated below or amendments that will address our concerns. ...[insert - (h) The frequency, intensity and duration of the discharge.]

Reasons for Staff Recommendation: Particular regard should be given to the FIDOL factors when assessing acceptability of dust and odour to air.

Further Submission No: 8 - 62 **Submission Type:** Support in Part **Recommendation:** Accept

Further Submitter: Mercury NZ Ltd

Summary: Mercury supports the intent of this submission and welcomes engagement on this matter. Should the FIDOL factors be included within clause (e)?

Decision Sought: Allow

Reasons for Staff Recommendation: Particular regard should be given to the FIDOL factors when assessing acceptability of dust and odour to air.

Further Submission No: 13 - 43 **Submission Type:** Support **Recommendation:** Accept

Further Submitter: Horticulture New Zealand

Summary: The nature, frequency, intensity and duration of the discharge are matters that should form part of a consideration as to effects

Decision Sought: Accept submission

Reasons for Staff Recommendation: Particular regard should be given to the FIDOL factors when assessing acceptability of dust and odour to air.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 76 - Federated Farmers of New Zealand

Submission Point No: 45 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R3(3)

Submission Summary: We support AQ R3 in general. We strongly support: AQR3 (1), (3) and (4) AQ R3 (3) We support the use and application of fertiliser as a permitted activity. We consider that fertiliser should be appropriately defined (see submission point 76-38). We consider the terms "offensive or objectionable" and "beyond the boundary" problematic, particularly regarding discharge of fertiliser, as discussed in submission point 76-23.

Decision Sought: Retain (3) as proposed subject to submission points 76-38 and 76-23

Reasons for Staff Recommendation: The primary adverse effect of discharging fertiliser is to water and land. The rules in the RNRP were developed alongside the existing definition. If this definition were to be altered, this could have unintended consequences for the provisions that manage discharges to water and land, particularly in catchments of concern. Therefore staff do not recommend that the definition of 'fertiliser' is amended. Any substances that are not included in the current definition in the RNRP can be assessed using AQ R1. Submitter issues with the definition of 'fertiliser' and 'offensive and objectionable' are addressed in the definitions section.

Further Submission No: 13 - 124 **Submission Type:** Support **Recommendation:** Reject

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks a new policy for reverse sensitivity with a similar intent to that sought by HortNZ. It is considered important that there is recognition of reverse sensitivity in the Plan.

Decision Sought: Include provisions for reverse sensitivity in the Plan.

Reasons for Staff Recommendation: Reverse sensitivity is assessed elsewhere

Submission Point No: 46 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Rules

Section: AQ R3(4)

Submission Summary: We support AQ R3 in general. We strongly support: AQR3 (1), (3) and (4) AQ R3 (4) Similar to (1) the primary effect (disturbance of land and soil) is already been considered and controlled by provisions in the plan (LM R1, LM R2 and LM R3). Accordingly, only when the permitted standards for discharge to air are not met should the activity be reconsidered.

Decision Sought: Retain (4) as proposed subject to submission points 76-38 and 76-23

Reasons for Staff Recommendation: Retain clause (4) as notified

Submission Point No: 47 **Submission Type:** Seek **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R21(f)

Submission Summary: Proposed AQ R21 is based on Rule 19 in the operative Regional Air Plan. The purpose is to name specific activities as discretionary activities (requiring a resource consent) which may otherwise be considered as a permitted activity under AQ R1 (Rule 17 in the operative plan). FFNZ supports the intent of ensuring that specific activities with significant risk of adverse effects be named as discretionary activities. However, FFNZ does not agree that such activities can be arbitrarily named without any basis for inclusion. Numerous new activities have been added to those in Rule 19 without any explanation or assessment in the S32 Report. As an example, "Composting" and "Glassmaking" have been added in proposed AQ R21. There is no explanation for this. Is there a significant risk of an adverse effect from

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Staff Recommendations on Submissions (By Submitter)

Submitter: 76 - Federated Farmers of New Zealand

these activities? and how was this identified? What other options were considered? We also note there is no S32 analysis of the benefit and costs anticipated from making these activities discretionary activities.
FFNZ also has a concern that the activities have not been properly defined which may capture unintended activities. For instance composting include your hobby gardener's compost. Accordingly we seek the removal of the activities newly included in the list. We consider that intensive farming should be clearly defined to ensure that it does not unintentionally capture other farms.

Decision Sought: Specific activities – Discretionary
The discharge of contaminants into air from any of the following activities is a discretionary activity:
...[delete - (f) Composting (including mushroom based processes)]....

Reasons for Staff Recommendation: The rule was not intended to target domestic compostin and staff recommend an amendment to reflect this.
This list of discretionary activities is intended to provide a comprehensive list of all activities that are known to discharge contaminants to air with effects that are potentially more than minor. The inclusion of activities that are not currently operating in the region ensures that there is no confusion regarding their activity status should an operator decide to set up. It is consistent with the approach recommended under AQ R1 for those that are potentially causing adverse effects to provide evidence that this is not the case, rather than the Council needing to prove that the effects are more than minor and AQ R1 does not apply. Composting operations that can cause considerable odour issues and therefore these activities should be properly assessed through the resource consent process.

Submission Point No: 48 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Rules

Section: AQ R21(j)

Submission Summary: Proposed AQ R21 is based on Rule 19 in the operative Regional Air Plan. The purpose is to name specific activities as discretionary activities (requiring a resource consent) which may otherwise be considered as a permitted activity under AQ R1 (Rule 17 in the operative plan). FFNZ supports the intent of ensuring that specific activities with significant risk of adverse effects be named as discretionary activities. However, FFNZ does not agree that such activities can be arbitrarily named without any basis for inclusion. Numerous new activities have been added to those in Rule 19 without any explanation or assessment in the S32 Report. As an example, "Composting" and "Glassmaking" have been added in proposed AQ R21. There is no explanation for this. Is there is a significant risk of an adverse effect from these activities? and how was this identified? What other options were considered? We also note there is no S32 analysis of the benefit and costs anticipated from making these activities discretionary activities. FFNZ also has a concern that the activities have not been properly defined which may capture unintended activities. For instance composting include your hobby gardener's compost. Accordingly we seek the removal of the activities newly included in the list. We consider that intensive farming should be clearly defined to ensure that it does not unintentionally capture other farms.

Decision Sought: Specific activities – Discretionary
The discharge of contaminants into air from any of the following activities is a discretionary activity:
...(j) [delete - Free-range farming and] intensive farming not controlled by AQ R10.

Reasons for Staff Recommendation: This list of discretionary activities is intended to provide a comprehensive list of all activities that are known to discharge contaminants to air with effects that are potentially more than minor. The inclusion of activities that are not currently operating in the region ensures that there is no confusion regarding their activity status should an operator decide to set up. It is consistent with the approach recommended under AQ R1 for those that are potentially causing adverse effects to provide evidence that this is not the case, rather than the Council needing to prove that the effects are more than minor and AQ R1 does not apply. Free range farms have the potential to generate odour that is best assessed through an appropriate consenting process.

Submission Point No: 49 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Rules

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Staff Recommendations on Submissions (By Submitter)

Submitter: 76 - Federated Farmers of New Zealand

Section: AQ R21(k)

Submission Summary:

Decision Sought: Specific activities – Discretionary
The discharge of contaminants into air from any of the following activities is a discretionary activity:
...[delete - (k) Glass making.]...

Reasons for Staff Recommendation: This activity was included in the current Regional Air Plan as a discretionary activity therefore it is not a new addition to the activities listed as discretionary in the plan change. Glass making uses furnaces and processes that produce a number of contaminants, mainly particulates, nitrogen oxides and sulphur oxides. Depending on the scale of the operation, these discharges most likely require mitigation through various methods such as scrubbers or baghouses. Such activities, with their potential to generate discharges that may be more than minor are best assessed through an appropriate consenting process

Submitter: 77 - Doug Wheeler

Submission Point No: 1 **Submission Type:** Neutral **Recommendation:** Reject

Chapter: Rules

Section: AQ R1

Submission Summary: While R1 covers other discharges, a listing of those areas otherwise exempt in the other rules would assist in clarity when reading those rules.

Decision Sought: Create a listing of those areas otherwise exempt in the other rules

Reasons for Staff Recommendation: Not considered necessary as this is a 'catch-all' rule

Submission Point No: 2 **Submission Type:** Neutral **Recommendation:** Reject

Chapter: Rules

Section: AQ R4(a)

Submission Summary: Currently covers vehicles, with reference to internal combustion engines. Does not cover other uses of internal combustion engines. This could include items of industrial plant, stand by generators, stand by pumps, forestry equipment, farming equipment, etc

Decision Sought: As R1 (c) does not cover emissions from industrial or trade premises R4 needs amending to cover stand-by generators and pumps and similar equipment as used by Councils, airports and other large complexes. The section relating to discharge allow for vintage vehicles that by design show a discharge at idle. Care must be taken that the rules do not over ride the international agreement relating to historic vehicles namely The Turin Charter.

Reasons for Staff Recommendation: It is unlikely that this rule, if retained will be enforced. In addition, emissions of smoke and vapour from motor vehicles are regulated by Rule 7.5 of the Land Transport (Road User) Rules 2004 and this is an infringement offence under the Land Transport (Offences and Penalties) Regulations 1999. Therefore staff recommended that this clause is deleted. Any discharges from vehicles that need to be assessed, can be assessed under AQ R1. If traffic emissions become an issue they would be addressed as a whole, not vehicle by vehicle according to visible emissions according to this rule

Submission Point No: 3 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Rules

Section: AQ R9

Submission Summary: R9 Covering the situation aside from declared Civil emergency periods, an exemption should apply for the ability to heat and cook during disruption from a local or national grid electricity or gas supply.

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Staff Recommendations on Submissions (By Submitter)

Submitter: 77 - Doug Wheeler

Decision Sought: add Open burning in urban areas is permitted while a period of Civil Emergency is declared.

Reasons for Staff Recommendation: No change required. Any open burning for the purposes of cooking is included in the definition of recreational/cultural

Submission Point No: 4 **Submission Type:** Seek **Recommendation:** Accept

Chapter: Rules

Section: AQ R6

Submission Summary: Covering the situation aside from declared Civil emergency periods, an exemption should apply for the ability to heat and cook during disruption from a local or national grid electricity or gas supply.

Decision Sought: Open burning in urban areas is permitted while a period of Civil Emergency is declared

Reasons for Staff Recommendation: No amendment required. Any open burning for the purposes of cooking is included in the definition of recreational/cultural. Policy AQ P5 makes it clear that this is to be permitted at all times provided it complies with Rule AQ R1 (and it is also clearly excluded from Rule AQ R9) as it is included in the definition of "recreational/cultural". Therefore no exemption for emergencies is required

Submission Point No: 5 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Rules

Section: AQ R12

Submission Summary: Covering the situation aside from declared Civil emergency periods, an exemption should apply for the ability to heat and cook during disruption from a local or national grid electricity or gas supply

Decision Sought: Open burning in urban areas is permitted while a period of Civil Emergency is declared

Reasons for Staff Recommendation: This would essentially mean the retention of appliances that are otherwise illegal, and only using them in rare situations. This unlikely to be the case, more likely the appliance will continue to be used as usual. This makes enforcement difficult and therefore is not recommended.

Submission Point No: 6 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Rules

Section: AQ R13

Submission Summary: Covering the situation aside from declared Civil emergency periods, an exemption should apply for the ability to heat and cook during disruption from a local or national grid electricity or gas supply.

Decision Sought: Open burning in urban areas is permitted while a period of Civil Emergency is declared

Reasons for Staff Recommendation: This would essentially mean the retention of appliances that are otherwise illegal, and only using them in rare situations. This unlikely to be the case, more likely the appliance will continue to be used as usual. This makes enforcement difficult and therefore is not recommended.

Submission Point No: 7 **Submission Type:** Seek **Recommendation:** To Be Advised

Chapter: Rules

Section: AQ R14

Submission Summary: Covering the situation aside from declared Civil emergency periods, an exemption should apply for the ability to heat and cook during disruption from a local or national grid electricity or gas supply

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Staff Recommendations on Submissions (By Submitter)

Submitter: 77 - Doug Wheeler

Decision Sought: Open burning in urban areas is permitted while a period of Civil Emergency is declared.

Reasons for Staff Recommendation: This would essentially mean the retention of appliances that are otherwise illegal, and only using them in rare situations. This unlikely to be the case, more likely the appliance will continue to be used as usual. This makes enforcement difficult and therefore is not recommended

Submission Point No: 8 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Rules

Section: AQ R12

Submission Summary: The use of an open type fire with forced air induction for specialist hardening treatments, or the bending and shaping of steel should be excepted.

Decision Sought: (iii) The use of an open type fire with forced air induction, as a forge for the heating of steel for specialist hardening treatments, or the bending and shaping of steel.

Reasons for Staff Recommendation: This type of unique situation is better addressed with a resource consent application, rather than a blanket requirement in the plan change.

Submission Point No: 9 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Rules

Section: AQ R12

Submission Summary: Allow for fires in other historic buildings.

Decision Sought: Include; other historic buildings not currently listed by Heritage New Zealand, but of their interest.

Reasons for Staff Recommendation: This option is not enforceable. It is much easier to enforce using an established list of Historic buildings, as proposed in the rule

Submission Point No: 10 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Definitions

Section: Definitions - Unimpeded vertical discharge

Submission Summary: "Unimpeded vertical discharge"
The wording "Unimpeded vertical Discharge" requires changing to allow for filters and other particle removal devices so installed.

Decision Sought: Change wording of "Unimpeded vertical Discharge" to allow for filters and other particle removal devices so installed.

Reasons for Staff Recommendation: This definition applies to the final stack discharge, after any cyclones, scrubbers or other mitigation measures are in place therefore no change necessary

Submission Point No: 11 **Submission Type:** Seek **Recommendation:** Accept in Part

Chapter: Rules

Section: AQ R18

Submission Summary: To allow for boilers of an historic type (vintage locomotives, traction engines, etc.). Nor does it apply to boilers operated solely for educational or display purposes.

Decision Sought: add; 1(f) This code does not apply to boilers of an historic type (vintage locomotives, traction engines, etc.). Nor does it apply to boilers operated solely for educational or display purposes.
add 1 (g) the requirement as set for chimney heights does not apply to boilers under 1(f).

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Staff Recommendations on Submissions (By Submitter)

Submitter: 77 - Doug Wheeler

Reasons for Staff Recommendation: Staff do not recommend making an exception for boilers used for educational purposes as it is unclear how long these boilers will be operated and under what conditions. However, it is reasonable to make an exception for boilers on historic vehicles including rail vehicles and staff recommend a change to the definition. The submitter should note that these discharges will still be assessed under AQ R1

Submitter: 78 - Bioenergy Association

Submission Point No: 1 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Policies

Section: AQ P10

Submission Summary: A complete ban is inappropriate if the applicant can install equipment which will allow combustion to be within the appropriate environmental conditions. This should be supported by a condition setting out monitoring so that it can be proven that the consent conditions are being met.

Decision Sought: The combustion of contaminated material should allowed provided the emissions discharge to air are within the consent conditions for discharge to air.

Reasons for Staff Recommendation: The original submission included this submission point against AQ P10. However, it is clear from the content that the submission point relates to AQ R10. The submission and relief sought have been duplicated as submission point 78-4 and will therefore be considered as part of AQ R10.

Submission Point No: 2 **Submission Type:** Oppose **Recommendation:** Accept

Chapter: Rules

Section: AQ R10

Submission Summary: The standard referenced is a testing and not a production standard

Decision Sought: The standard for wood pellets is not appropriate and the international standard as adopted by the sector ISO 17225-2 should be used

Reasons for Staff Recommendation: The correction requested is no longer required because it was addressed when resolving submission points 34-3 and 34-7.

Submission Point No: 3 **Submission Type:** Oppose **Recommendation:** Reject

Chapter: Rules

Section: AQ R18

Submission Summary: Bioenergy Association is undertaking a study of the regional rules relating to combustion plant and while the rule appears to be ok it is inconsistent with other regional rules and effort should be made to make all regional air discharge rules similar.

Decision Sought: The wording of the rule should be made consistent with other regional rules. There is no provision for boilers above 10 MW to be at least discretionary uses

Reasons for Staff Recommendation: Staff agree that the wording and structure differs, however this is due to its adaptation from an existing rule and the tiered structure to distinguish between existing and new equipment. Provided the meaning is clear and the rule can be interpreted and implemented effectively, staff recommend retaining the wording as proposed. Any activity not otherwise permitted in the plan change is discretionary under AQ R2.

Submission Point No: 4 **Submission Type:** Not Applicable **Recommendation:** To Be Advised

Chapter: Rules

Section: AQ R10

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Staff Recommendations on Submissions (By Submitter)

Submitter: 78 - Bioenergy Association

Submission Summary: A complete ban is inappropriate if the applicant can install equipment which will allow combustion to be within the appropriate environmental conditions. This should be supported by a condition setting out monitoring so that it can be proven that the consent conditions are being met.

Decision Sought: The combustion of contaminated material should allowed provided the emissions discharge to air are within the consent conditions for discharge to air.

Reasons for Staff Recommendation:

Submitter: 79 - Te Rereatukahia Marae

Submission Point No: 1 **Submission Type:** Seek **Recommendation:** Reject

Chapter: Rules

Section: AQ R15(4)

Submission Summary: AQ R15(4)
Neighbours
We would like the sprayers/orchardist's to inform neighbours in writing when they intend to spray at least a month in advance.
Reasons being:
1. There are orchards right around our community, we have over 100 children living in our small community, approximately 90% who suffer from mild to sever forms of eczema.
2. Our children, we have approximately 90% who suffer with respiratory/asthmatic problems.
3. Our elderly who also suffer from respiratory/asthmatic problems.
If we were told in advance we could at least prepare or be away the day/s while spraying occurred.

Decision Sought: We would like the sprayers/orchardist's to inform neighbours in writing when they intend to spray at least a month in advance.

Reasons for Staff Recommendation: Staff recommend changing the minimum 24 hour notification window to 12 hours. As this the current system is working for most, then retaining the 12 hour notification window is the best way forward..
Given this recommendation and the submitter's concerns, staff remind the Hearing Panel, submitters and all others involved with agrichemical spraying that policy AQ P8 clearly states that spray drift should be avoided in the first instance. Even when mitigation measures, in the form of notification, are carried out according to the conditions, any spray drift must still comply with condition (1)(a) of the rule and where this cannot be achieved, staff highly recommend that parties enter into a notification agreement to determine what is the best form, timing and format for notification to occur to allow for sufficient preparation

Further Submission No: 13 - 98 **Submission Type:** Oppose **Recommendation:** Accept in Part

Further Submitter: Horticulture New Zealand

Summary: The submitter seeks notification in writing at least one month in advance of spraying. Such a provision would be unworkable and impractical for horticultural operations.

Decision Sought: Reject submission

Reasons for Staff Recommendation: Staff recommend changing the minimum 24 hour notification window to 12 hours. As this the current system is working for most, then retaining the 12 hour notification window is the best way forward..
Given this recommendation and the submitter's concerns, staff remind the Hearing Panel, submitters and all others involved with agrichemical spraying that policy AQ P8 clearly states that spray drift should be avoided in the first instance. Even when mitigation measures, in the form of notification, are carried out according to the conditions, any spray drift must still comply with condition (1)(a) of the rule and where this cannot be achieved, staff highly recommend that parties enter into a notification agreement to determine what is the best form, timing and format for notification to occur to allow for sufficient preparation

Submitter: 80 - Susanne Moore

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Staff Recommendations on Submissions (By Submitter)

Submission Point No: 1 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R15(1)

Submission Summary: AQ R15(1)
Agrichemicals discharge should not be dangerous or noxious, offensive or objectionable beyond the boundary of the subject property as we collect our drinking water from our roof 10m from the boundary and garden organically.

Decision Sought: No change to rule

Reasons for Staff Recommendation: Some changes made to the rule to resolve other submission points however this requirement is unchanged.

Submission Point No: 2 **Submission Type:** Support **Recommendation:** Reject

Chapter: Rules

Section: AQ R15(4)

Submission Summary: AQ R15(4)
Notification no later than 24 hours because we need daylight hours to prepare watertank and cover gardens before spraying and we leave house for work before sunrise.

Decision Sought: No change to rule

Reasons for Staff Recommendation: Staff recommend changing the minimum 24 hour notification window to 12 hours. As this the current system is working for most, then retaining the 12 hour notification window is the best way forward..
Given this recommendation and the submitter's concerns, staff remind the Hearing Panel, submitters and all others involved with agrichemical spraying that policy AQ P8 clearly states that spray drift should be avoided in the first instance. Even when mitigation measures, in the form of notification, are carried out according to the conditions, any spray drift must still comply with condition (1)(a) of the rule and where this cannot be achieved, staff highly recommend that parties enter into a notification agreement to determine what is the best form, timing and format for notification to occur to allow for sufficient preparation

Submission Point No: 3 **Submission Type:** Support **Recommendation:** Accept

Chapter: Rules

Section: AQ R15(5)

Submission Summary: AQ R15(5)
Spray risk management plan being prepared by the owner/occupier so that risks to sensitive sites are identified and strategies to avoid contamination realised. Support it being made available to affected parties.

Decision Sought: No change to rule

Reasons for Staff Recommendation: Some changes made to the rule to resolve other submission points however the requirement to prepare a spray risk management plan has not changed

Submission Point No: 4 **Submission Type:** Support **Recommendation:** Accept in Part

Chapter: Definitions

Section: Definitions - Sensitive activity

Submission Summary: "Sensitive activities"
Sensitive areas should include organic farms and household water supplies (including roofs from which water supply is obtained) as we collect drinking water from our roof 10m from boundary from orchard with no shelter belt.

Decision Sought: No change to definition

Plan Change 13

Staff Recommendations on Submissions (By Submitter)

Submitter: 80 - Susanne Moore

**Reasons for Staff
Recommendation:**

Staff recommend changing wording from 'this includes' to 'this may include' to separate the definition from the examples. Staff do not then recommend amending the list itself, as it is no longer a key part of the definition, but a list of examples to provide guidance. This will relieve many of the concerns in the submission points.
