

**HORIZONS REGIONAL COUNCIL - PROPOSED ONE PLAN GENERAL HEARING:
CHAPTER 8 AND 14 - AIR**

Preliminary Questions from Hearing Panel to be addressed during the Officer Report Presentations

Panels reference	Question	Answer
1. Questions regarding Ms Barton's report		
(i) Page 20	In Policy 8-3(b) does the insertion of the word "overall" lead to possible ambiguity? Is this an established word in policies?	<p>The wording of Policy 8-3 (b) without the inclusion of the word overall is:</p> <p><i>The discharge is consistent with the regional standards for ambient air quality set out in Policy 8-2.</i></p> <p>The Regional Standards for ambient air quality are worded in a way that they are absolutes e.g. <i>A discharge shall not cause any objectionable or offensive smoke...</i></p> <p>The intention of the word overall is to provide a degree of flexibility in the policy to allow a judgement to be made at the time of writing a decision on a resource consent application. My concern with the current wording is that if the application is not to be contrary to the policy then any discharge would need to be consistent with the standards which are absolutes. Policies need to be certain but also reasonable and I did not consider the wording of the current policy to be reasonable. I consider the addition of the word "overall" allows for consideration to be given as otherwise there would be no ability to meet the intention of the Policy.</p> <p>I have undertaken a quick check of Greater</p>

		<p>Wellington’s Proposed Regional Policy Statement and could not find the use of the word “overall” within any objective or policy. I have also checked Auckland’s Proposed Regional Plan and within the Beds of Lakes and Rivers Chapter there is the inclusion of the word “overall” in a policy as follows:</p> <p><i>The permanent diversion of an existing permanent river or stream shall be considered inappropriate unless there is no practicable alternative method to the diversion, or the diversion will result in an <u>overall</u> net benefit to the environment, or it is consistent with the Urban River and Stream Management Framework.</i></p> <p>I am not advocating the above wording as a good example (e.g. I do not like the use of the word practicable) but I merely record it as an example of the inclusion of the word “overall” within a policy.</p> <p>The inclusion of the word “Overall” is not unheard of but I would not go so far as to say it is an established word within policies.</p>
(ii) Page 43	<p>Table 8.3, Smoke and Water Vapour. Does the removal of "on public land" meet with the concern of Transit New Zealand (336/24) - see p.27? Please also explain why "on public land" is suggested to be removed from Table 8.3, but remains in a number of rules including Rules 14-4(e) (f), 14-5(b) (c)</p>	<p>The removal of the phrase “on public land” from Table 8.3 does not effect the ability to still control any smoke from burning vegetation that goes over a property boundary and has an adverse effect on a road.</p> <p>I acknowledge the inconsistency between Table 8.3, where I recommend the removal of the phrase “on</p>

		public land” and the Rules which include “on public land”. I recommended the removal of the phrase from the Table as the Territorial Authorities did not want the standards applied to solid waste and roading activities on public land which is understandable given the fact that e.g. dust from roadworks will be created. If the Panel accepts the change to Table 8.3 then as a consequential change and for consistency the changes should also be reflected in the rules.
(iii) Page 62	357/167 - Is the recommendation "Reject"?	The recommendation should be <u>accept in part</u> . This is outlined on page 10 of the Supplementary Report.
(iv) Page 64	Please expand on the "element of subjectivity, uncertainty, ambiguity or discretion" in the phrase "to the extent that causes an adverse effect".	<p>Where the phrase “<i>to the extent that causes an adverse effect</i>” appears in a Permitted Activity rule e.g. 14-4 there is no certainty as it requires an interpretation as to what constitutes an adverse effect. This might fall to a Compliance Officer to interpret if there is a complaint and it would be difficult for that Officer to make a judgement as to whether there is an adverse effect or not.</p> <p>I accept having looked at this again that the removal of the phrase from the standards in Table 8.3 is perhaps not necessary. The Policies would be assessed when considering a resource consent application in which case adverse effects are considered anyway and in particular the adverse effects beyond the boundary. If the Panel is of a mind not to include the term “overall” in Policy 8-3 then the inclusion of the phrase back in the standards does provide for some “flexibility”.</p>
(v) Page 82	153/13 has "Accept", but page 86 only has mention of	In this instance discussion of the two submission

	153/14 and there are no suggested changes to the rule guide for Rule 14-13. Is this an oversight, or an error on page 82?	<p>points from Higgins group have been discussed together in paragraphs 4-6 on page 86, and both accepted under paragraph 4.21.3 on page 87.</p> <p>To address the matters raised in this submission a new rule has been inserted (14-13b) which allows for discharges from mobile asphalt plants while rule 14-12 allows for discharges from fixed asphalt plants.</p> <p>It appears that there has been an oversight and the rule guide for 14-13, sub clause (ii) should be struck out as follows</p> <p>(ii) asphalt plants</p>
(vi) Page 86	I would be interested to learn more about the reasons for rejection of the vertical velocity and combustion rates conditions requested by the Airways Corporation.	I have addressed this matter in the Supplementary Report at pages 2 and 3. I now recommend changes to cover vertical velocity.
(vii) Page 95 357/125	Given the increased interest in walking is it valid to exclude public roads (see pp.96/7) from the sensitive areas list in Policy 14-1(e)? Please comment on the degree of relevance of NZS8409 to One Plan.	<p>Public roads are not included in the list of sensitive areas. I consider that to include public roads within this list could result in difficulties for the NZ Transport Agency and Territorial Authorities who undertake spraying along roads. Although I do note that they should be able to comply with the Permitted Activity rule and not get tripped into needing to consider the policy.</p> <p>The wording of the policy is such that it states that the list of sensitive areas is not exclusive to just those that are listed. I consider there is the ability in the policy to consider public roads or walking tracks</p>

		<p>where this might be a particular issue when considering a resource consent. Therefore, I do not consider it necessary to add public roads to the list.</p> <p><i>NZS 8409:2004 Management of Agrichemicals</i> is referred to in various places within the Air Chapter including as a code that must be complied with in some rules. The code of practice includes requirements for the use, storage and disposal of agrichemicals including in sensitive areas. This is particularly relevant for the sensitive areas that are identified in the Proposed One Plan.</p>
(viii) Page 109 4.27.2	Final paragraph. Should "Chapter 4" read "Chapter 8"?	Yes that is correct.
(ix) Page 111 and 113	Please expand on the issue of off-target spray drift (submissions 357/128 and 426/177), to "the premise that Permitted Activity standards need to be certain and enforceable" and to possible adverse effects on neighbours.	<p>I have had discussions with Horticulture NZ and I understand they are in general terms seeking to ensure spray drift is managed in a way that is consistent with NZS 8409:2004. This is a matter they will be addressing in evidence and as I note in my Supplementary Report (page 8) it is matter I wish to return to after seeing their evidence.</p> <p>The wording sought by Hort NZ is that the Permitted Activity standard (Rule 14-1) state <i>there shall be no adverse effect from off target spray drift</i> rather than the current wording which is <i>there shall be no discharge beyond the boundary of the subject property</i>. The current wording is certain in that it sets a control which is at the property boundary and that there be no discharge beyond that boundary. The wording sought by Hort NZ requires an interpretation</p>

		<p>as to what constitutes an adverse effect. This might fall to a Compliance Officer to interpret if there is a complaint and it would be difficult for that Officer to make a judgement as to whether there is an adverse effect or not.</p>
(x) pp 119-124	<p>426/178, 426/179, 426/180, 426/181, 426/182. Your evaluation doesn't seem to mention these submissions and although your recommendation (k) is to reject, p.120 suggests "Accept in part".</p>	<p>It is correct that an oversight has occurred when evaluating submission points made by Federated Farmers.</p> <p>Essentially these five submission points can be broken down into the following four topics – each of which I will address:</p> <ol style="list-style-type: none"> 1. Reference to GROWSAFE deleted from the rule and instead the rule should reference an industry accepted program. Response – Reject. The GROWSAFE program is an industry accepted program. In my discussions with Horticulture NZ (page 7 of my Supplementary Report) they outline that there are different levels of certification and that the rules should refer to the appropriate GROWSAFE certification. This is a matter I have asked Hort NZ to address in evidence so I can return to this issue. 2. Reference to at-risk habitats deleted. Response – Accept in part to the extent that the changes discussed in point 3 below will assist in overcoming some of the submitters concerns. It is not recommended to delete the references to at risk habitats as there are potential adverse effects from

		<p>the widespread application of agrichemicals that need to be avoided.</p> <p>3. Amend setback distances for aerial discharges Response – Accept. Changes are now recommended (refer page 7 of my Supplementary Report) to reduce the setback distances from rare or threatened habitats to 15 metres rather than 50 metres.</p> <p>4. Allowance of pest control within rare and threatened habitats. Response – Accept in part to the extent that the recommended changes included in my Supplementary Report (page 4) allow for pest control as defined in a Regional Pest Management Strategy. Old Mans Beard would be a pest plant that could be controlled.</p>
(xi) Page 123	With regard to the paragraph commencing "Ngati Kahungunu seeks...", please specify the "other standards" referred to in the final sentence.	I agree that the wording within this paragraph is not clear and does not adequately reflect what I had intended to say. The last sentence should read "... <i>then I consider there is appropriate guidance within the policies that where there are adverse effects beyond the boundary then these matters need to be considered including potentially notifying these adversely affected parties.</i>
(xii)	Please comment on the "Significance Test" and the most appropriate place(s) for this to be included.	In our meeting with Fonterra on 10 February 2009 (Report 32) they accepted that if the changes to Policy 8-3 referring to consideration of the NES 1 September 2013 date for PM10 concentrations were added that this would address there concerns

		regarding the significance test. (Page 46 and 47 of my report refer).
2. Rules		
(i) Rule 14-4 condition (a)(i)	Is it intended that untreated wood should also have a combustion rate not exceeding 500kW?	Yes. All of the materials that can be burnt as small scale fuel burning activities that are listed in the activity column have a corresponding standard within the standard column.
(ii) Rule 14-4 condition (a)(ii)	Condition (a)(ii). Is it intended that biofuels should be included here?	Yes you are correct I have not included biofuels within the standards list and it should be. I think it would be most appropriate under 14-4 (a) (iii) i.e. the last point under (a) which is currently shown as (i) not (iii).
(iii) Rule 14-7(a)	Is the guidance adequate between Rules 14-5(a)(v) and 14-7(a) to ensure pathological waste is not burnt in the open?	<p>Pathological waste is expressly prohibited under rule 14-7(a) and in my opinion there is no need to highlight this in rule 14-5.</p> <p>You question has however has raised an inconsistency regarding the burning of animal carcasses and animal waste. Essentially the open burning of pathological waste should be allowed on production land (i.e. farm land) but is undesirable in urban areas for obvious reasons.</p> <p>At the moment the changes to Rule 14-5 essentially permit the open burning of an animal carcass or waste in urban areas; however it is unlikely that this would ever occur and if it did it would contravene condition (b) of Rule 14-5 regarding offensive odour.</p> <p>If there is still concern regarding this rule it is suggested that a new clause is placed into Rule 14-5 as follows</p>

		<p><u>(d) the <i>open burning</i>* of the animal carcass or animal waste on <i>production land</i>^</u></p> <p>And that Rule 14-5 condition (a)(v) is subsequently deleted</p> <p>The words '<i>on production land</i>^' would also need to be reinstated in rule 14-7 condition (a)</p>
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