BEFORE THE HEARING PANEL

IN THE MATTER	**of Hearings on submissions concerning the Proposed One Plan notified by the Manawatu-Wanganui Regional Council**

END OF HEARING STATEMENT OF CLARE BARTON AND NATASHA JAMES WITH TECHNICAL AIR SPECIALIST COMMENT FROM ANDREW CURTIS FOR THE GENERAL HEARING – AIR

1.0 INTRODUCTION

1. The purpose of this report is to answer questions raised by the Hearing Panel during the Hearing. In this report I also respond to some matters raised by experts appearing for submitters at the hearing, which have prompted me to re-visit my recommendations.

2. Where I have not changed my recommendation, it can be inferred that I do not agree with the evidence raised by other experts. This report does not generally detail the reasons for my disagreement and my original reasoning in my previous reports stands in those cases.

3. I am more than happy to elaborate on any of these matters if the Hearing Panel has any questions.

2.0 QUESTIONS RAISED BY THE HEARING PANEL AT THE AIR HEARING – 11 JUNE 2009

4. A number of questions were raised by the Hearing Panel during the presentation by the Reporting Officers for Air on 11 June 2009. The following table (Table 1: Questions asked by the Hearing Panel of the Reporting Officers at the Air Hearing – 11 June 2009) sets out each of these questions and the Officer's response. A set of track changes has also been provided to the panel showing the recommended changes to Chapters 8 and 14 and the glossary:

TABLE 1: QUESTIONS ASKED BY THE HEARING PANEL OF THE REPORTING OFFICERS AT THE AIR HEARING – 11 JUNE 2009

Questions asked by the hearing panel	Answers from the reporting officers
(i) Can we please have a copy of the NZS 8409:2004 Management of Agrichemicals.	Miss James responds - Yes, a copy of this standard was supplied to the Panel through the Hearings Administrator on the 14th of July 2009.
(ii) How many agrichemical spray drift complaints has the Regional Council received? Can you please break these statistics down with the aim of finding out how many relate to spray drift onto public roads.	Miss James responds – I have discussed this matter with the Compliance Team. The database (incidents) held by Compliance detailing complaints received only holds data back to 1998. The Compliance Manager (Ms Russell) ran a report which showed that between January 12th 1998 and June 2009 there were a total of 124 complaints as a result of spray drift. Of these complaints only one is as a result of/ mentions direct spray drift onto the road. With regard to the rest of the complaints - the majority are regarding either dying crops, effects of spray drift onto roofs which collect water for residential use or drifts into sensitive areas such as schools.
(iii) Please confirm there is a submission that gives scope for Rule 14-7(n) burning of bitumen.	Ms Barton responds - I had recommended the inclusion of the "Burning of Bitumen" as (n) in Rule 14-7. On reflection, I don't think it is necessary to include it here as it is already prohibited by Rule 14-6 (c). I also note that there are no submissions which provide scope for this change. It is therefore recommended that 14-7(n), as recommended, be deleted.
(iv) Please confirm there is a submission that gives scope for Rule 14-12 (f), (g) and (h) and explain where the recommended additional conditions were sourced from.	Ms Barton responds – in my opinion submission '153/13 – Higgins Group' gives scope for these changes. This submission point states [in relation to Chapter 14 – General] "*Less restrictive air quality rules. More specifically all of Higgins air discharge operations should be tested against the permitted activity standards of the Proposed One Plan rather than defaulting straight to a Discretionary Activity requiring resource consent.*

Questions asked by the hearing panel	Answers from the reporting officers
	Remove asphalt plants from the rule guide to Rule 14-13." The additional conditions within the Rule were based on Regional Air Plan RAP Rule 13 which covers discharges from specified mobile sources and written by the reporting officer in consultation with Andrew Curtis (Air consultant with URS Limited working for the Regional Council) and Nathan Baker (Planning consultant with Tonkin and Taylor acting on behalf of Higgins Group). Further caucusing has taken place between Clare Barton, Andrew Curtis and Nathan Baker and the results of this discussion and the changes being proposed to Rule 14-12(f), (g) and (g) are outlined in Table 2, Question 8 below.
(v) Please consider the following wording for Rule 14-2(e) and (f) in any further caucusing with Horticulture New Zealand: Every person undertaking the ground based application of *agrichemicals** shall hold, as a minimum, a current GROWSAFE® Introductory Certificate or be under the supervision of a person holding a GROWSAFE® Registered Chemical Applicator's Certificate. Every pilot undertaking the aerial application of *agrichemicals** shall hold ~~the National Certificate in Agrichemical Application (Aerial), and hold or be under training for a Pilot's Chemical Rating issued by the Civil Aviation Authority or an equivalent qualification~~ as a minimum a GROWSAFE® Pilot's Agrichemical Rating Certificate or equivalent qualification.	Ms Barton responds - Subsequent to the Air Hearing I have undertaken further caucusing with Lynette Wharfe, representing Horticulture New Zealand. Those discussions resulted in Ms Wharfe proposing amended wording to replace Rule 14-2(e) and (f) as follows: (e) ~~Every person undertaking the application of agrichemicals* shall hold a current GROWSAFE® Certificate.~~ Any ground based applicator applying agrichemicals (other than contractors i.e. Ground Chemical Applicators) shall hold, as a minimum, a current GROWSAFE Introductory Certificate or be under the direct supervision of a person holding a current GROWSAFE Applied Certificate. (f) ~~Every pilot undertaking the aerial application of agrichemicals* shall hold the National Certificate in Agrichemical Application (Aerial), and hold or be under training for a Pilot's Chemical Rating issued by the Civil Aviation Authority or an equivalent qualification.~~ Any contractor applying agrichemicals from the ground shall hold a GROWSAFE Registered Chemical Applicators Certificate, or a GROWSAFE Introductory Certificate and be under the direct supervision of a person holding a GROWSAFE Registered Chemical Applicators Certificate. (fa) Any pilot undertaking aerial application of agrichemicals shall hold a Pilots Agrichemical Rating

Questions asked by the hearing panel	Answers from the reporting officers
	Certificate issued by the Civil Aviation Authority. I consider that this wording is appropriate and should be inserted into Rule 14-2 as above.
(vi) Please indicate to the Panel the section of the Resource Management (National Environmental Standards Relating to Certain Air Pollutants, Dioxins, and Other Toxics) Regulations 2004 Including Amendments 2005 which makes the entire Region an air shed by default.	Mr Curtis – Air Consultant to the Regional Council has responded to this question as follows: The relevant section of the Air NES is Section 14 which states: *"14 Application of standards* *(1) The ambient air quality standard for a contaminant applies at any place –* *(a) that is in an air shed; and* *(b) that is in the open air; and* *(c) where people are likely to be exposed to the contaminant.* *(2) However, if the discharge of a contaminant is permitted by a resource consent, the ambient air quality standard for the contaminant does not apply to the area that the resource consent applies to."* In Section 3 the Air NES defines an air shed as follows: *"Air shed means* *(a) the region of a regional council excluding any area specified in a notice under paragraph (b):* *(b) a part of the region of a regional council specified by the Minister by notice in the Gazette to be a separate air shed."* Consequently when considering the applicability of Section 14, it is necessary to consider the entire Horizons region, other than the gazetted air sheds, as a single air shed which must meet the ambient air quality

Questions asked by the hearing panel	Answers from the reporting officers
	standards, as well as the two specific air sheds (Taumarunui and Taihape) that have been gazetted within the region. In effect the purpose of the gazetted air sheds is to isolate areas where there are significant air quality issues so that "clean" areas of the region are not considered to be in breach of the Air NES. The gazetted air sheds are also important when it comes to the application of Sections 17 to 21, where the regulatory authority is required to undertake certain actions (including declining resource consents) if the standards are or are likely to be exceeded.
(vii) Rules 14-1 and 14-2 – Please align the wording of 14-1(d) and 14-2(b) with wording in the Provisional Determination for Chapter 17 (Rule 17-33(a))	Miss James responds – I have taken the opportunity to review the Provisional Determination for Chapter 17 – Rule 17-33(a) As a result of the review the following changes are recommended for rules 14-1(d) and 14-2(b) There shall be no *discharge*^ within any *rare* habitat* ~~and~~, *threatened habitat** or *at-risk habitat**, except for the purposes of pest control. ~~except for the purposes of pest control as defined in a Regional Pest Management Strategy prepared under the Biosecurity Act 1993~~ The target species shall be identified as a plant pest or animal pest in the Horizons Regional Council's Regional Pest Plant Management Strategy (May 2007) or the Horizons Council's Regional Pest Animal Management Strategy (January 2002).
(viii) Can Officers please decide which is the correct wording – unacceptable air shed vs. air shed with an unacceptable level – will the NES give any guidance?	Mr Curtis responds - The term unacceptable appears to be related to earlier guidance provided by the Ministry for the Environment when it developed a set of Environmental Performance Indicators for air quality. This divided air quality into five categories: Excellent (less than 10 % of a guideline), Good (between 10 and 33% of a guideline), Acceptable (between 33 and 66% of a guideline), Alert (66 to 100% of a guideline) and Action (greater than 100% of a guideline). By its definition any air shed where a particular ambient air

Questions asked by the hearing panel	Answers from the reporting officers
	parameter was greater than 66% of its guideline could be considered unacceptable. Of the two options presented my preferred wording is the second, that is, an air shed with an unacceptable level of air pollution. However I am not sure that either of those is really appropriate. The terminology used in the Air NES talks about air sheds where standards are "breached". Consequently I consider that it is probably better to talk about air sheds where the standards are breached or that either comply or do not comply with the standards. In this context it would be possible to talk about Taumarunui and Taihape as non-complying air sheds with respect to PM_{10} but complying with respect to the other pollutants regulated by the Air NES. If a change were contemplated it would need to be made in a number of locations throughout the document. I have provided some thoughts below : *8.4.2 Policy 8-5: Fine Particulate in Taihape, Taumarunui and other air sheds that breach the National Environmental Standards.* *(a) The Regional Council has established air sheds for Taihape and Taumarunui, as shown in Schedule G, on the basis that the fine particle (PM10*) levels at these centres ~~are~~ breach the National Environmental Standards ~~unacceptable~~ under Policy 8-1. The Regional Council will establish additional air sheds where monitoring shows fine particle levels that are in breach of the National Environmental Standards ~~unacceptable~~.* *(b) Strategies to reduce fine particle (PM10*) levels shall be established by 2008 for Taumarunui and*

Questions asked by the hearing panel	Answers from the reporting officers
	Taihape, and after this date for any other air sheds with concentrations of ~~unacceptable~~ fine particle that breach the National Environmental Standard ~~levels~~. The strategies will primarily focus on existing wood burners and home heating appliances, and will identify ways of facilitating and supporting the changes necessary to comply with the fine particle standard. *(c) Applications to discharge fine particles (PM10*) in the Taihape and Taumarunui air sheds, and in any other air sheds that breach the National Environmental Standards ~~with unacceptable fine particle levels~~, shall be managed in accordance with regulations 17A and 17C of the Resource Management (National Environmental Standards Relating to Certain Air Pollutants, Dioxins, and Other Toxics) Regulations 2004", including the Significant Test in Clause 17 of the Regulations.* Section 8.5 Methods Method 8-1 Change Title to: Improving Air Quality (PM_{10}) – Long-Term Strategies: Taumarunui and Taihape and other non-complying air sheds Description Long-term strategies will be developed to improve air quality in Taumarunui and Taihape, and other ~~unacceptable~~ air sheds *that breach the National Environmental Standard*, such that they ~~to~~ meet the national ambient air* quality standard for fine particles (PM10*). Policy 14-2: Consent decision-making for other discharges into air When making decisions on resource consent applications and setting consent conditions for discharges of contaminants into air, the Regional Council will have particular regard to:

Questions asked by the hearing panel	Answers from the reporting officers
	(a) the objectives and policies of Chapter 8 including: (i) the degree of consistency with the approach set out in Policy 8-1 for implementing the National Environmental Standards for ambient air quality (ii) the degree of compliance with the regional standards for ambient air quality set out in Policy 8-2 (iii) for discharges of fine particles, the approaches for managing fine particles (PM10) in Policies 8-5 and 8-6, and the likely contribution of the proposed discharge to cumulative adverse effects in an air shed that breaches the National Environmental Standards ~~unacceptable air shed~~ or degraded area as identified under these policies. Ms Barton responds – If the Hearings Panel is of the view that the above wording is appropriate I consider there is potential scope for the changes to be made as a result of submissions 433/47 from the Manawatu Branch of the Green Party, 237/12 Bruce and Marilyn Bulloch, and 398/40 Fonterra Co-Operative Group Limited. The above changes have been incorporated into the attached track changes documents but if the recommendation is not accepted then the track changes will need to be removed.
(ix) Rule 14-12 in activity description – please change the description to 'industrial or trade premises' to be consistent with the rule title.	Miss James responds – I recommend that the wording under the activity column be changed as follows: "The discharge of contaminants into air…from the following activities on industrial ~~and~~ or trade premises."
(x) Would it be useful to redraft rule guide 14-13 (iv) to have milk products on a separate line?	Miss James responds - It is recommended that the Rule Guide for Rule 14-13 be altered as follows: Rule Guide:

Questions asked by the hearing panel	Answers from the reporting officers
	(a) Activities covered by Rule 14-13 – *Discharges*^ into air that…… (i) manufacture of: (a) cement, (b) *fertiliser**, ~~and~~ (c) milk powder that is produced with dryers with a water evaporation capacity greater than 300kg/h, (d) ~~or~~ other milk derived products, or (e) rubber goods
(xi) Rule 14-5 –please clarify if rule 14-5 currently allows for hāngi and BBQ's which use material not sourced from the property?	Ms Barton responds – The way that Rule 14-5 and the definition of open burning are currently worded means hāngi, barbeques and umu would be caught. Where a barbeque used gas as a means of cooking the activity list under 14-5 (a) does not list gas and therefore BBQ's would fall for consideration under the Discretionary Rule 14-8. This is not what was intended by the Rule. I did in an earlier version of my s42A report include a guidance note that would specifically exclude hāngi, barbeques and umu. I refer you to Recommendation AIR46 which notes: *"Accept in part the submission of Horticulture NZ to the extent that a guidance note is proposed to be added to Rule 14-5 to qualify that the rule does not control barbeques, hāngi and the like."* I am not certain why this recommendation did not end up in the final version of my report. On reflection I consider that it is perhaps simpler to place exclusions within the definition for open burning to refer to hāngi, barbeque and umu. I therefore recommend the following changes be added to the definition of open burning: "Open burning means the burning of materials other than in purpose-built fuel-burning equipment designed to control the combustion process. Open burning includes burning in drums and backyard rubbish

Questions asked by the hearing panel	Answers from the reporting officers
	incinerators. Open burning excludes barbeques, hāngi, umu and outdoor fireplaces. " These changes are within the scope of submission 357/24 from Horticulture NZ.
(xii) Should recommended Rules 14-13a and 14-13b also contain a condition in relation to vertical velocity as is recommended for inclusion in Rule 14-12(e).	Ms Barton responds - Yes recommended rules 14-13a and 14-13b should contain the following condition for consistency: (x) The vertical velocity of the discharge^ does not exceed 4.3 metres per second, at 60 metres above ground level and/or does not penetrate the obstacle limitation surface of an aerodrome.
(xiii) Rule 14-4 – was it intended that the words recommended for deletion, "as far as practicable", were to relate only to the opacity of the discharge. If so, is it appropriate to delete those words because if they are deleted to what level is it intended that the opacity of the discharge is minimised to? If the words are retained should they be amended to "as far as reasonably practicable".	Ms Barton responds – Yes the words "as far as practicable" only relate to opacity given the preceding comma which separates opacity from the earlier part of the condition. The use of the words "as far as practicable" are in my opinion, uncertain and add little in terms of guiding how much opacity has to be minimised by. Either opacity is minimised or it is not. I still consider the words "as far as practicable" should be deleted. If the Hearings Panel want to provide more certainty around the term opacity then standard (h) within Rule 14-4 could be altered as follows: (h) The discharge of particulates shall be no greater than 250 mg/m^3 of non-toxic particulates corrected to 0°C, 12% CO_2, 1 atmosphere, and a dry gas basis, and shall not exceed R1 on Ringlemann Chart New Zealand Standard 5201C:1975 except that these limits may be exceeded for a maximum of 30 minutes when starting the fuel-burning equipment from cold and for soot blowing, ~~providing the opacity of the discharge is minimised as far as practicable.~~ These changes have not been incorporated into the attached track changes document.
(xiv) Rule 14-12(h). Does NTP mean "corrected to 0 degrees C, 1	Mr Curtis responds - NTP is often used in engineering when discussing gas flows or concentrations and

Questions asked by the hearing panel	Answers from the reporting officers
atmosphere pressure and a dry gas basis". If so should 14-12(h) be amended to make it more consistent with the wording in 14-4(h)?	refers to normalised conditions at zero degrees Celsius, and normal atmospheric pressure. It is not necessarily on a dry gas basis. Therefore in this case it is probably more correct to make Rule 14-12(h) consistent with 14-4(h) as the discharge from an asphalt plant will be wet. Ms Barton responds- Yes 14-12(h) should be amended to make it consistent with the wording in 14-4(h). I recommend that 14-12(h) is amended as follows: (h) ~~Air pollution control equipment for fixed asphalt plants is designed to achieve a particulate matter concentration of not more than 250 milligrams per cubic metre (NTP).~~ Air pollution control equipment for fixed asphalt plants is designed so that the *discharge*^ of particulates shall be no greater than ~~2~~50 mg/m^3 of non-toxic particulates corrected to 0°C, 12% CO_2, 1 atmosphere, and a dry gas basis, except that this limit may be exceeded for a maximum of 30 minutes when starting the fuel-burning equipment from cold and for soot blowing, providing the opacity of the *discharge*^ is minimised. Note: The recommendation in relation to Table 2, Question 8 amends the 250mg/m^3 figure to 50mg/m^3.

3.0 QUESTIONS RAISED BY THE HEARING PANEL AND EXPERTS AT THE HEARING

5. The following table (Table 2: Table 2: Questions raised by the Hearing Panel and Experts regarding the air chapters during the General Hearings – June/ July 2009) sets out the questions raised by the Hearing Panel and asked of submitters during the Hearing, and any relevant matters raised by other Experts at the hearing that I consider it necessary to respond to. A set of track changes has also been provided to the panel showing the recommended changes to Chapters 8 and 14 and the glossary.

6. There were a number of questions of clarification asked by the Hearing Panel of Horticulture NZ. At the time of writing this report I have not seen the wording changes being sought by Horticulture NZ and consequently I have not addressed these matters in this report.

TABLE 2: QUESTIONS RAISED BY THE HEARING PANEL AND EXPERTS REGARDING THE AIR CHAPTERS DURING THE GENERAL HEARINGS – JUNE/ JULY 2009

Question	Issue	Raised by	Officer response
1	A question was raised by the Hearing Panel regarding bio fuels and their inclusion within Rule 14-4.	The Hearing Panel	Ms Barton responds – I have recommended that bio fuels be included within Rule 14-4. Having sought advice from Mr Curtis I recommend that Rule 14-4 standards (a)(i), (a)(ii) and (a)(iii) are changed as follows to provide for both liquid bio fuels and gaseous bio fuels: *(i) A rate not exceeding 500kw for coal~~,~~ and untreated wood;* *(ii) A rate not exceeding 2.5 mw for diesel, kerosene, light fuel oil, oil and liquid biofuels;* *(iii) A rate not exceeding 5 mw for methane, gaseous biofuels and natural or liquefied petroleum gas.*
2	Silver Fern Farms considered that if bio fuels were to be included within the Rules then there should be a definition for the term bio fuel. The definition proposed is: *"Bio fuel may consist of a range of biological material derived from plant or animal sources such as: fats, oils and their derivatives, animal manure, waste plant material and wood waste and waste treatment plant solids."*	Silver Fern Farms	Ms Barton responds – I recommend that the following definition is inserted into the glossary to define Bio fuels: "Bio Fuels Bio fuel consists of a range of biological material derived from plant or animal sources including: fats, oils and their derivatives, animal manure, waste plant material, wood waste and waste treatment plant solids."
3	Ravensdown – seeks to have Rule 14-12 amended so that fertiliser manufacture excludes fertiliser mixing, or coating of existing fertiliser product.	Ravensdown Fertiliser Co-Operative Limited	Ms Barton responds – Rule 14-12 is a Permitted Activity Rule covering Miscellaneous Discharges into Air from Industrial or Trade Premises. Listed within the Activity column is the following:

Question	Issue	Raised by	Officer response
			(n) The storage, blending and distribution of bulk products including fertiliser, animal feeds, roading materials, gardening materials and concrete processing materials. Fertiliser is defined in the plans glossary. Currently fertiliser mixing and coating would be included within the Permitted Activity rule and be subject to the conditions and standards. Fertiliser mixing and coating have the potential to have effects including the creation of dust. The mixing and coating of fertiliser should be subject to the same standards that apply to other activities that create similar potential effects e.g. animal feeds. No change is recommended.
4	Policy 8-5 - Need an alternative date as 2008 has been and gone.	Ruapehu District Council	Ms Barton responds – Ruapehu District Council is correct, the reference to 2008 within Policy 8-5 needs to be updated. I recommend that the date 2011 be set as an achievable target.
5	With regards to Rules 14-1 and 14-2 – These rules are too restrictive [in relation to the removal of pest plants from sensitive areas] and farmers must retain the ability to manage production pests in protected habitats on their property. Federated Farmers seek to have the rule specify pest plants in general.	Federated Farmers	Federated Farmers submitted supplementary evidence on 20th of July. Within this evidence they note that the Panel's provisional determination for Chapter 12 (Land Use Activities and Land based biodiversity) now lists a number of pest plants in the Vegetation Clearance definition. They say however, that they are nervous to specify plants which should be excluded from Rules 14-1 and 14-2 as some plants will be 'undoubtedly missed' and therefore suggest general wording along the lines of 'all pest plants' be included in the rules.

Question	Issue	Raised by	Officer response
			Miss James responds – In my opinion using the words 'pest plants' (with no definition of what this is) would be a very uncertain and a somewhat ambiguous approach for a Permitted Activity rule, especially when dealing with a sensitive environment such as rare habitats and threatened or at risk habitats - therefore I do not recommend that this approach be adopted and the wording as recommended should remain.
6	New Zealand Defence Force (NZDF) has requested a change to the Plan which allows them to discharge agrichemicals within NZDF land to both control vegetation on their land and also within habitats classed as rare and threatened or at risk habitats. Specifically they seek to have the definition of agrichemical include the words "or for vegetation clearance" so there is a link to the definition of vegetation clearance which provides an exception for NZDF.	New Zealand Defence Force	Ms Barton responds – I stand by the recommendation I made in my supplementary report regarding agrichemical use by NZDF in relation to at risk habitats. I consider that it would not be difficult for NZDF to apply for a "global" consent if necessary which would enable specific conditions to be included. No change is recommended.
7	NZ Defence request that rules 14-4 (i) and 14-5 (d) are reworded as follows: "The discharge does not ~~cause any reduction in visibility on~~ <u>obstruct any</u> designated commercial or military flight path."	New Zealand Defence Force	Ms Barton responds - I consider the proposed re-wording provides less certainty as a Permitted Activity standard. In my opinion obstruction could mean physically obstruct rather than the effects of visibility from smoke and could be result in a breach even from a slight wisp of smoke. No change is recommended.
8	Higgins Group Limited stated at the Hearing that they had concerns	Higgins Group	Ms Barton responds - Attached as Appendix 1 is a memorandum from Andrew

Question	Issue	Raised by	Officer response
	regarding the permitted activity standards for fixed and mobile asphalt plants under Rules 14-12 and 14-13(b). It was noted at the Hearing that the reporting officers and Higgins consultant – Nathan Baker – were continuing to work together to endeavour to achieve an agreed outcome for the standards within the rules.	Limited	Curtis on the issue of fixed and mobile asphalt plants. In general we have been able to reach agreement with Higgins over the framework of rules and standards that would apply to both fixed and mobile asphalt plants. Please refer to the letter from Tonkin and Taylor Ltd dated 31 July 2009 which outlines where agreement has been reached. The main issue that has not been agreed is that Council Officers are recommending a limit of 50mg/m^3 for new mobile asphalt plants and Higgins wants to see 150mg/m^3 as the limit. The existing Air Plan (as outlined in point iv in Table 1) has a limit of 250 milligrams for mobile plants (both existing and new). The letter from Tonkin and Taylor states that whilst 50mg/m^3 is a design standard to aspire to and may be seen as best practice, 150mg/m^3 is acceptable in terms of actual environmental effects. Further Tonkin and Taylor state that if 150mg/m^3 is acceptable for existing plant it must be acceptable for new plant. Mr Curtis outlines that other Regional Councils generally list these activities as Discretionary Activities and that if the activities are to be Permitted then high environmental standards need to apply. I agree with the opinion of Mr Curtis. On that basis the following changes are recommended: The standards proposed for alteration within Rule 14-13b Discharges from Specified Mobile Sources are:

Question	Issue	Raised by	Officer response
			(e) ~~Air pollution control equipment for mobile asphalt plants is designed to achieve a particulate matter concentration of not more than 250 milligrams…~~ Air pollution control equipment for existing mobile asphalt plants (existing as at [insert date Plan becomes operative]) is designed so that the *discharge*^ of particulates shall be no greater than ~~2~~150 mg/m^3 of non-toxic particulates corrected to 0°C, 12% CO_2, 1 atmosphere, and a dry gas basis, except that this limit may be exceeded for a maximum of 30 minutes when starting the fuel-burning equipment from cold and for soot blowing, providing the opacity of the *discharge*^ is minimised. (ea) Air pollution control equipment for new mobile asphalt plants (new as at [insert date Plan becomes operative]) is designed so that the *discharge*^ of particulates shall be no greater than 50 mg/m^3 of non-toxic particulates corrected to 0°C, 12% CO_2, 1 atmosphere, and a dry gas basis, except that this limit may be exceeded for a maximum of 30 minutes when starting the fuel-burning equipment from cold and for soot blowing, providing the opacity of the *discharge*^ is minimised. The following are the standards proposed for alteration within Rule 14-12 Miscellaneous Discharges into Air from Industrial or Trade Premises: (h) ~~Air pollution control equipment for fixed asphalt plants is designed to achieve a particulate matter concentration of not more than 50 milligrams…~~ Air pollution control equipment for fixed asphalt plants is designed so that the *discharge*^ of

Question	Issue	Raised by	Officer response
			particulates shall be no greater than ~~2~~50 mg/m^3 of non-toxic particulates corrected to 0^{o}C, 12% CO_2, 1 atmosphere, and a dry gas basis, except that this limit may be exceeded for a maximum of 30 minutes when starting the fuel-burning equipment from cold and for soot blowing, providing the opacity of the *discharge*^ is minimised. The letter from Tonkin and Taylor also addresses the need for a standard to deal with odour in relation to Rule 14-12. This was in response to the comments made by Mr Curtis regarding the need for a 300 metre setback standard to minimise the effects of odour on sensitive activities. I consider that the existing standard (b) within Rule 14-13b deals with the effects associated with odour and is adequate. I do note that this standard does not include a reference to "public land" as is included in Rule 14-12 (b). The letter from Tonkin and Taylor addresses the issue of defining (time bound) what would constitute a mobile plant and how long it can remain in situ. 24 months is the agreed time period. A suggested performance condition for inclusion in Rule 14-13b is: *(eb) A mobile asphalt plant shall not remain at any one site for more than 24 consecutive months.* Note: If the changes to Rule 14-4 are accepted then the wording regarding

Question	Issue	Raised by	Officer response
			opacity in the above standards will also need to be changed (Refer to Table 1 Point (xiii)).
9	Horticulture New Zealand has requested that vertebrate toxic agents are excluded from the definition of agrichemicals.	Horticulture New Zealand	Ms Barton responds - Vertebrate toxic agents (vta's) include 1080. Horticulture New Zealand state that the use and management of vta's is not included in NZS 8409 and therefore it is not appropriate to apply the NZS to their use. Horticulture NZ states that vta's are managed through the HSNO Controlled Substances License. Horticulture NZ seek that vta's be listed as an exclusion within the definition of agrichemicals. By listing vta's as an exclusion they will not be controlled by any of the rules. I consider this to be inappropriate as the potential effects of for example the aerial application of 1080 are the same as for the application of other agrichemicals. I accept that NZS 8409 does not address these substances and therefore I consider that the following changes to the standards within Rule 14-2 (conditions e and f) are appropriate: *(e) Any ground based applicator applying agrichemicals (other than contractors i.e. Ground Chemical Applicators) shall hold, as a minimum, a current GROWSAFE Introductory Certificate or be under the direct supervision of a person holding a current GROWSAFE Applied Certificate, <u>except this condition shall not apply when Vertebrate toxic agents are</u>*

Question	Issue	Raised by	Officer response
			applied. *(f) Any contractor applying agrichemicals from the ground shall hold a GROWSAFE Registered Chemical Applicators Certificate, or a GROWSAFE Introductory Certificate and be under the direct supervision of a person holding a GROWSAFE Registered Chemical Applicators Certificate, except this condition shall not apply when Vertebrate toxic agents are applied.*
10	Horticulture New Zealand has suggested that the sensitive areas listed in Policies 14-1 and 14-2 should be aligned with the wording for sensitive areas included within the New Zealand Standard for the Management of Agrichemicals (NZS 8409:2004)	Horticulture New Zealand	11. Ms Barton responds - I accept that an alignment with the definition for sensitive areas within NZS 8409 is in general terms appropriate. There are some exceptions and I note these below: (a) Education facilities is a broader term than school buildings and should therefore be retained. (b) Domestic, municipal and commercial water supplies is broader than public water supply catchment and intakes and should therefore be retained. (c) Riparian vegetation is captured within rare habitats and threatened habitats and at risk habitats. (d) Sensitive crops or farming systems is difficult to define and certified organically farmed properties is much more certain. (f) Wahi tapu is appropriate to retain. (g) Public roads are included in the NZS but not in the Plan.

Question	Issue	Raised by	Officer response
			Outlined above in Table 1 Point (ii) are the number of complaints that have been lodged in relation to the effect of spray drift on roads, namely there has been one complaint. Identifying public roads as sensitive activities may hinder the operations of roading authorities in managing weeds along roads. I consider that if public roads were to be added to the list then it should be by way of Plan Change to enable those roading authorities to comment. I recommend the following alterations to Policy 14-1 (e) and Policy 14-2 (d): ~~*(i) dwelling houses*~~ *residential buildings* *(ii) places of public assembly and public amenity areas* *(iii) education facilities* (iv) water bodies^ *(v)* ~~waahi~~ wāhi tapu*, *marae and other places of significance to* tangata whenua^ *(vi) domestic, municipal and commercial* water^ *supplies* *(vii) rare habitat** ~~and~~, threatened habitats* *and* at-risk habitats* *(viii) certified organically farmed properties* *(ix) horticultural crops*
11	Horticulture NZ – seek an amendment to the definition of spray drift. They seek the references to target areas to be deleted and replaced with non target areas.	Horticulture New Zealand	Ms Barton responds – The definition of spray drift in the Plan is: *"Means the airborne movement of any sprayed agrichemical away from the target area."*

Question	Issue	Raised by	Officer response
			Horticulture NZ seeks the following definition: *"The airborne movement of any agrichemical as vapour, aerosol or droplets onto non target areas."* I accept that there are aspects of the Horticulture NZ definition that can create a more certain definition and other aspects of the Plan definition that are helpful when reaching an understanding as to what spray drift means. Therefore I recommend the definitions be amalgamated as follows: "Spray drift means the airborne movement of any sprayed agrichemical as vapour, aerosol or droplets away from target areas and onto non target areas."
12	Horticulture NZ questions why there is a definition for buffer zone when there is no reference to buffer zone within the agrichemical rules and the definition states that buffer zone refers to the use of agrichemicals and potentially odorous discharges.	Horticulture New Zealand	Ms Barton responds - A search of sections 8 and 14 of the Plan show that the term buffer zone is not used. Therefore it is recommended that the definition for Buffer Zone be deleted.
13	Horticulture NZ seeks to allow for material to be burned on a property other than where the vegetative matter is cut.	Horticulture New Zealand	Ms Barton responds – I understand the concern of Horticulture NZ to be that they want farmers to be able to move vegetative material onto other properties they own and burn it at one time. Rule 14-5 Open Burning states that material to be burned shall only be sourced from the property on which the burning occurs except for vegetative matter. I consider this exception allows for a farmer owning a number of properties to

Question	Issue	Raised by	Officer response
			have vegetative matter brought onto one site and burnt. I consider that providing for other materials such as waste paper and the like to be brought to one site has the potential for material to be accumulated on one property and be unsightly and cause a nuisance. No change is recommended.
14	The Forestry Companies note that the Hearing Panel Provisional Determinations excludes Schedule E habitats within forestry areas. The submitters want to understand how this impacts on Rule 14-2(b).	Forestry Companies	Ms Barton responds – if Schedule E excludes forestry areas then Rule 14-2 standard (b) would be met by Forestry Companies and the spraying within the forest would be a Permitted Activity. No change is recommended.
15	Horticulture NZ seeks amendments to the definition of handheld appliance to define that the appliance is non-motorised and defining the rate of application through classifying spray nozzle size.	Horticulture New Zealand	Ms Barton responds - At the time of writing this report I have not seen the final definition being proposed by Horticulture NZ. I am however, sceptical that a definition can contain the level of detail being mooted by the submitter without resulting in an unwieldy and uncertain definition.

Appendix 1: Memo from Andrew Curtis – Air consultant to the Regional Council

Date: 10 July 2009

To: Claire Barton

From: Andrew Curtis

Subject: Asphalt Plant Limits

Hi Claire

I have thought further in the issue of appropriate limits for Asphalt plants. I have set out below my thoughts on what it is appropriate for both Fixed and Mobile Plants

1. Fixed Plants

I have reviewed what is in some of the other plans and set that out below.

Region	Status
Auckland	Restricted Discretionary as long as fitted with bag filter otherwise discretionary
Northland	Discretionary, as it is not a permitted or controlled activity
Waikato	Discretionary for both Mobile and Fixed Plants
Bay of Plenty	Discretionary
Hawkes Bay	Discretionary in Proposed Plan
Wellington	Discretionary for both mobile and Fixed plants

Given that in virtually every case both fixed and mobile plants are discretionary, I consider that if Horizons are to allow asphalt plants to be permitted activities, they need to comply with a high environmental standard. Consequently I consider that it is appropriate to retain 50 mg/m^3 limit as the threshold for being able to be considered as a permitted activity.

I am uncomfortable with allowing existing asphalt plants with discharge limits significantly greater than this as permitted activities.

2. Mobile Plant

As indicated in the table above most regions require mobile plants to be considered as discretionary activities, and therefore there is a good argument that the 50 mg/m^3 discharge limit should also be applied to new mobile plants.
However, as I have indicated I think that there is the potential to accommodate Higgins concerns with respect to existing plants, and to do this by requiring tighter conditions on them. After some consideration I think that the following could be

used as an appropriate set of controls or standards around the use of existing mobile plants.

1. Discharge limit is no greater than 150 mg/m^3
2. That the plant is not located within 300 m of a residential property or other site that could be considered sensitive
3. That the plant not be continuously present on the site for more than xxx months
4. The discharge of dust from the source at any site where minerals or aggregates are dried or heated or prepared for the manufacture of hot mix asphalt does not exceed 5kg/hr.

Some regional councils have granted permits to mobile plants that allow them to operate at any location within a region, rather than being tied to a specific location. I am comfortable that this could be used in this instance, but would expect the above standards to be applied.

Finally I have not reached a firm conclusion on what time limit should be applied to differentiate between mobile and fixed plants. I am aware that some companies have mobile plants that are kept at one location for a number of years. Because they can still be "driven away" they are probably still considered mobile. I do not know whether there is any other Horizons guidance on this.