

**From:** [David Le Marquand](#)  
**To:** [Mailroom Mailbox](#)  
**Subject:** Proposed Canterbury Air Regional Plan  
**Date:** Friday, 1 May 2015 5:05:48 p.m.  
**Attachments:** [97j103 - FINAL Oil Companies submission CARP 010515.pdf](#)

---

Please find attached a copy of the submission on the CARP on behalf of our clients the Oil Companies (Z Energy Limited, BP Oil NZ Limited, Mobil Oil NZ Ltd). Should you wish to obtain a word version of the submission please advise.

Please confirm receipt.

Cheers Dave

---



**David le Marquand** | Director  
PO Box 33-817 | Level 1, 2-8 Northcroft Street | Takapuna |  
Auckland 0740  
DDI: 09 917 4303 | tel: 09 917 4300 | fax: 09 917 4311  
Web: [www.burtonconsultants.co.nz](http://www.burtonconsultants.co.nz) Email:  
[dlemarquand@burtonconsultants.co.nz](mailto:dlemarquand@burtonconsultants.co.nz)

*The information contained in this message (and any accompanying documents) is CONFIDENTIAL and may also be LEGALLY PRIVILEGED, intended only for the recipient(s) named above. If the reader of this message is not the intended recipient, you are notified that any use, copying, disclosure, retention or distribution by any means of the information is strictly prohibited. If you have received this message in error, please notify the writer immediately and destroy the original(s). There is no warranty that this email is error or virus free. Any views expressed in this email may be those of the individual sender and may not necessarily reflect the views of Burton Consultants.*

**NOTICE OF SUBMISSION TO THE PROPOSED CANTERBURY AIR REGIONAL  
PLAN PURSUANT TO CLAUSE 6 OF THE FIRST SCHEDULE OF THE RESOURCE  
MANAGEMENT ACT 1991**

**To:** Environment Canterbury  
The Proposed Canterbury Air Regional Plan  
P O Box 345  
**Christchurch 8140**

By email: [mailroom@ecan.govt.nz](mailto:mailroom@ecan.govt.nz)

<b>Submitter:</b>	Z Energy Ltd PO Box 2091 <b>WELLINGTON</b>	BP Oil NZ Ltd PO Box 1859 <b>WELLINGTON</b>
	Mobil Oil NZ Ltd PO Box 1709 <b>AUCKLAND</b>	

Hereafter referred to as the "Oil Companies".

**Address for Service:** BURTON PLANNING CONSULTANTS LIMITED  
Level 1, 2-8 Northcroft Street  
PO Box 33-817, Takapuna,  
**AUCKLAND 0740**

Attention: David le Marquand

Phone: (09) 917-4303  
Fax: (09) 917-4311  
E-Mail: [dlemarquand@burtonconsultants.co.nz](mailto:dlemarquand@burtonconsultants.co.nz)

**THIS IS A SUBMISSION BY THE OIL COMPANIES TO ENVIRONMENT  
CANTERBURY'S PROPOSED CANTERBURY AIR REGIONAL PLAN (CARP)**

**A. INTRODUCTION**

The Oil Companies receive, store and distribute refined petroleum products.

The Oil Companies have commercial, shore and marine based and aviation and bulk storage facilities and are owners of retail outlets and suppliers of petroleum products to individually owned retail outlets. In the Christchurch region this includes the bulk storage tanks at the Port of Lyttelton and at the Airport, and the bulk storage terminal at Woolston. It also includes the strategically important Woolston pipeline that connects the Port bulk fuel storage facilities with the Woolston terminal. Maintaining the fuel supply into the Canterbury Region is a significant issue for the region, and is one which involves a number of cross boundary considerations.

Under the Resource Management Act 1991 (*RMA*), the Oil Companies bulk storage facilities and pipeline infrastructure are a significant physical resource that must be sustainably managed, and any adverse effects on that infrastructure must be avoided, remedied or mitigated.

The principal air issue for service stations is the way the Plan proposes to manage petroleum vapours.

**B. THE SPECIFIC PROVISIONS OF THE PROPOSED PLAN THAT THE OIL COMPANIES SUBMISSION RELATES TO ARE SUMMARISED AS FOLLOWS:**

This submission relates specifically to the following general provisions of the Proposed Canterbury Air Regional Plan for matters relating to Air:

1. Definitions in Chapters (Definitions and Interpretation),
2. Objectives 5.1-5.9,
3. Policies 6.1 to 6.14 and 6.19 – 6.24.
4. Rules 7.3, 7.28, 7.34, 7.47, 7.48, 7.49, 7.59
5. Schedule 2

The Oil Companies submission points on each of these matters, the rationale for the submission points and the specific relief sought is addressed in the following schedules. In addition, in giving effect to the general and specific relief set out in the following schedules the Oil Companies seek to ensure that the provisions of the CARP raised by this submission:

- (a) Address the relevant provisions in sections 5-8 RMA;
- (b) Implement the statutory tests in section 32 and the requirements in the First Schedule RMA;
- (c) Address relevant statutory functions of the consent authority and the related statutory requirements for the Plan;
- (d) Address the considerations identified by the Environment Court for planning instruments in decisions and subsequent case law; and
- (e) Avoid, remedy or mitigate the relevant and identified environmental effects.

- 1. THE OIL COMPANIES WISH TO BE HEARD IN SUPPORT OF THIS SUBMISSION**
  
- 2. IF OTHERS MAKE A SIMILAR SUBMISSION, THE OIL COMPANIES WOULD BE PREPARED TO CONSIDER PRESENTING A JOINT CASE AT ANY HEARING.**
  
- 3. THE OIL COMPANIES COULD NOT GAIN AN ADVANTAGE IN TRADE COMPETITION THROUGH THIS SUBMISSION.**
  
- 4. THE OIL COMPANIES ARE DIRECTLY AFFECTED BY AN EFFECT OF THE SUBJECT MATTER OF THE SUBMISSION THAT—**
  - (A) ADVERSELY AFFECTS THE ENVIRONMENT; AND**
  - (B) DOES NOT RELATE TO TRADE COMPETITION OR THE EFFECTS OF TRADE COMPETITION.**

Signed on and behalf of Z Energy Limited, BP Oil NZ Limited, Mobil Oil NZ Ltd.



.....  
D.W. le Marquand

1<sup>st</sup> May 2015

## SCHEDULE ONE: DEFINITIONS

**The specific part of the CARP that is subject of this submission is:**

- Definition of Hazardous substances
- Petroleum product
- Sensitive Activity

**Reason for Submission:**

### **Hazardous Substances**

The definition of hazardous substances in the CARP is effectively based on the definition in the HSNO Act 1996 as follows:

*Means any substance with one or more of the following intrinsic properties:*

1. *Explosiveness; or*
2. *Flammability; or*
3. *A capacity to oxidise; or*
4. *Corrosiveness; or*
5. *Toxicity (including chronic toxicity); or*
6. *Ecotoxicity, with or without bioaccumulation; or*
7. *Which on contact with air or water (other than air or water where the temperature or pressure has been artificially increased or decreased) generates a substance with any one or more of the properties specified in 1. to 6. above; or*

The definition ends in an “or” which suggests that something is missing. The full definition from the HSNO Act includes the following:

*which on contact with air or water (other than air or water where the temperature or pressure has been artificially increased or decreased) generates a substance with any 1 or more of the properties specified in paragraph (a).*

It is suggested that the definition from the HSNO Act be adopted in full.

## **Petroleum Product**

Petroleum product is defined as: *means a chemical that is produced as a result of refining or physical treatment of petroleum, or as a result of a chemical process in which petroleum is a reagent.*

The Oil Companies consider this definition of petroleum product is sufficient to describe the products that are supplied and produced by the Company and addressed through Rule 7.34.

## **Sensitive activity**

Sensitive activity is defined as: *Means an activity undertaken in: (a) the area within the notional boundary of an occupied dwelling; or (b) a residential area or zone; or (c) a public amenity area, including those parts of any building and associated outdoor areas normally available for use by the general public, excluding any areas used for services or access areas; or (d) a place of public assembly for recreation, education, worship, culture or deliberation purposes.*

The definition purports to relate to activities yet also refers to areas – which are not activities per se. as a result this will cause some difficulties in interpretation and application. For example the inclusion of ‘zones’ in part (b) of this definition suggests that any activity within a residential zone 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. Nearly half of service stations in the Christchurch area are located within residential areas. On the other hand, activities sensitive to air discharges can occur in the likes of industrial zones (e.g. through consent process or in some cases may even be permitted activities) and thereby become sensitive receptors (d). This in turn, potentially results in reverse sensitively effects on industrial activities.

It is considered the definition needs to be more appropriately focused on those activities sensitive to discharges not areas. An example would be the approach taken by the Proposed Auckland Unitary Plan – the definition states: *activities sensitive to reduced air quality. Includes: dwellings, care centres, hospitals, healthcare facilities with an overnight stay facility, educational facilities, marae complex, community facilities, entertainment facilities visitor accommodation.*

It is noted that reference to sensitive activity only occurs in relation to the rules and not the policies. However, reference to sensitive activities is included in Schedule 2. This in turn may cause some drafting difficulties for any odour management plan, if the activity generating potential odour is a sensitive activity. It is also noted that the Schedule also refers to sensitive receptors and lists a number of these. This seems to suggest that a more activity focused definition would be beneficial.

**Relief Sought:** (where specific changes are suggested, these are shown in strikethrough and underline):

- A. **Retain** the definition of hazardous substances but include the full definition from the HSNO legislation by adding the following at the end of the definition:

*Which on contact with air or water (other than air or water where the temperature or pressure has been artificially increased or decreased) generates a substance with any 1 or more of the properties specified in paragraph (a)*

- B. **Ensure that the definition of activities sensitive to air discharges focuses on activities and not areas. This can be achieved by replacing the current definition of sensitive activities with a definition that identifies explicitly those activities considered sensitive to air discharge. The definition could be drafted along the following lines:**

*Activities sensitive to air discharges:*

*Activities sensitive to a reduction in ambient air quality.*

*Includes:*

- *Dwellings*
- *Accommodation facilities*
- *Facilities for education, community, worship, entertainment and healthcare and other care purposes*
- *Marae Complex*

- C. **Retain** the definition of *petroleum products* without any modification.

- D. **Make** any additions, deletions or consequential amendments necessary as a result of the matters raised in this submission.

- E. **Adopt** any other such relief as to give effect to this submission

## SCHEDULE TWO: OBJECTIVES

**The specific part of the CARP that is subject of this submission is:**

**Objectives:**

- 5.1 Where air quality provides for people's health and wellbeing, it is maintained
- 5.2 Where air quality does not provide for people's health and wellbeing, it is improved over time.
- 5.3 Air quality protects the mauri/life supporting capacity of the environment.
- 5.4 Discharges to air are managed to maintain the amenity values of the receiving environment.
- 5.5 Discharge to air do not adversely effect the relationship of Ngai Tahu with their culture and traditions
- 5.6 Developments and innovation in technology are enabled to provide solutions to air quality issues.
- 5.7 Nationally and regionally significant infrastructure is enabled and is resilient and positively contributes to economic, cultural and social wellbeing through its efficient and effective operation, on-going maintenance, repair, development and upgrading.
- 5.8 It is recognised that air quality expectations throughout the Region differ depending on location and the characteristics of the receiving environment.
- 5.9 Activities are spatially located so that they result in appropriate air quality outcomes being achieved both at present and in the future.

**Reason for Submission:**

**Objectives 5.3, 5.5, 5.6 and 5.8** are supported and should be retained without further modification.

**Objective 5.1 and 5.2** seek to identify areas of air that provide for people's health and wellbeing and areas that do not. Air, as a fundamental life support for humans, always provides for 'people's health and wellbeing' even when it is of poor quality, the issue is around the quality of that health and well-being that is derived from that. Therefore, it is unrealistic to envisage boundaries or zones of air that provide or do not provide for



these. Instead a holistic approach to air quality should be executed by way of identifying areas of good and bad or poor air quality. In these areas, (activities sensitive to air discharges) air quality should be maintained if it is of good quality or measures should be taken to improve the quality of air where it does not meet the relevant guideline values and/or is otherwise of poor quality.

**Objective 5.4** recognises the effects discharges have on the wider environment. However, what may be considered acceptable or anticipated amenity values in a residential zone are very different from that of an industrial zone. Objective 5.4 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 discharge. 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.

**Objective 5.7** relates to significant infrastructure, while the positive intent for nationally and regionally significant infrastructure is supported it is not clear and difficult to ascertain how the current wording relates to air discharges. An amendment should be made to make this clear and so that it addresses potential adverse effects on infrastructure from other dischargers and how the discharge from such infrastructure is intended to be managed.

**Objective 5.9** raises concern and is ambiguous. It is understood the intent is to ensure that sensitive and discharging activities are protected from each other. However as drafted it would appear to potentially undermine both Objective 5.8 and District Council Land Use zoning. Requiring activities to be spatially located could be interpreted as a requirement to average out land use activities throughout the region, as opposed to grouping activities where appropriate so as to protect them from each other and in doing so recognising that results in different levels of expected air amenity. Essentially the wording could result in pressure for industrial activities to be required to have separation distances from other industrial activities that cannot readily be achieved within the zoning framework, thereby causing other locational issues thereby impacting on air quality expectations in other areas. If the intent is to ensure that air quality expectations for different areas are to be appropriately managed and sensitive activities and discharges protected from each other then the objective needs to be reworded.

**Relief Sought:** (where specific changes are suggested, these are shown in strikethrough and underline):

F. **Amend** Objective 5.1 and 5.2 by combining the two objectives to provide a clearer, more succinct provision, as follows:

*Objective 5.1/5.2*

*~~Where~~ Ambient air quality that provides for people's health and wellbeing # is maintained where it is of good quality, and enhanced where it is of poor quality.*

- G. **Retain** objective 5.3, 5.5, 5.6 and 5.8 without modification.
- H. **Amend** Objective 5.4 - to recognise that amenity values and expectation vary between different zones, and to ensure expectations are realistic and achievable for the respective discharge activity in those zones, as follows:

*Objective 5.4*

*Discharges to air are managed ~~to maintain~~ in accordance with the amenity values of the relevant receiving environment.*

- I. **Amend** Objective 5.7 needs to be amended so that it clearly focuses on matters relating to air discharges and significant infrastructure. In particular enabling such discharges from that infrastructure while protecting that infrastructure from the effects of other air dischargers. This could be achieved by making the following amendments as follows:

**Delete** existing Objective 5.7 and replace with wording along the following lines:

*Air discharges on nationally and regionally significant infrastructure should not result in adverse effects. Air discharge from nationally and regionally significant infrastructure arising from the operation, maintenance, repair, development and upgrading is enabled where that infrastructure is resilient and positively contributes to economic, cultural and social wellbeing.*

- J. **Delete** Objective 5.9 and replace with an objective that provides for reasonable protection for industrial activities / zones against reverse sensitivity, and sensitive activities are reasonably protected from air dischargers. This could be achieved by the following wording:

*Objective 5.9*

*Sensitive and discharging activities are protected from each other.*

- K. **Make** any additions, deletions or consequential amendments necessary as a result of the matters raised in this submission.

- L. **Adopt** any other such relief as to give effect to this submission

## SCHEDULE THREE: POLICIES

**The specific part of the CARP that is subject of this submission is:**

- **Policies** 6.1, 6.4, 6.6, 6.8, 6.12, 6.14, 6.19, 6.20, 6.22, 6.23 and 6.24, and
- 6.2 Minimise adverse effects on air quality where concentration of contaminants are between 66% and 100% of the guideline values set out in the Ambient Air Quality Guidelines 2002 Update, so that concentrations do not exceed 100% of those guideline values.
- 6.3 Where concentrations of contaminants exceed 100% of guideline values set out in the Ambient Air Quality Guidelines 2002 Update, action is taken to improve air quality.
- 6.5 Offensive and objectionable effects are unacceptable and the frequency, intensity, duration, offensiveness and location of discharges into air must be identified and managed.
- 6.7 Where, as a result of authorised land use change, land use activities within the neighbourhood of a discharge into air are significantly adversely affected by that discharge, it is anticipated that within a defined time frame the activity giving rise to the discharge will reduce effects or relocate.
- 6.10 All activities that discharge into air apply, at least, the best practicable option so that cumulative effects are minimised.
- 6.11 Recognise the contribution of nationally and regionally significant infrastructure to the regional and national economy and provide for the operation and development of that infrastructure.
- 6.21 Avoid the discharge of contaminants into air from any large scale burning device or industry or trade premise, where the discharge will result in the exceedance, or exacerbation of an existing exceedance, of the guideline values set out in the Ambient Air Quality Guidelines 2002 Update.

**Reason for Submission:**

**Policies: 6.1, 6.4, 6.6, 6.8, 6.12, 6.14, 6.19, 6.20, 6.22, 6.23 and 6.24.** The Companies support the retention of these policies without further modification.

**Policies 6.2 and 6.3.** The concern with these policies, as written, is that they may become to be applied and seen as de facto point discharge standards as opposed to ambient air quality provisions. It should be sufficient for the policy to indicate that ambient air quality is managed to comply with the guideline values, whether the ambient levels are above or below those values.

**Policy 6.5.** needs to be reworded to more appropriately reflect the anticipated pathway that offensive and objectionable odours if emitted will be expected to take. At present there is a rule for any objectionable and offensive odours identified after applying the Schedule 2 process to require non-complying consent. It is anticipated that the consent process will require management to be put in place and reduce those effects. The current wording of the policy potentially imposes a block in terms of the gateway test. It needs to be reworded so there is a clear pathway to enable a discharger to move back from that threshold.

**Policy 6.7** raises concerns. It is not clear what “authorised land use change” is intended to mean. If that could be a consent as opposed to a rezoning there is a potential issue. The policy appears to enable sensitive activities to locate in industrial zones and thereby give rise to reverse sensitivity effects and force an otherwise appropriately located industry to relocate. This does not seem appropriate. There are a number of legacy issues and situations where the regulatory authorities may have issued consent for a sensitive activity without fully understanding the receiving environment of an area. Without more robust countervailing policy to protect established industrial dischargers there is a risk that the policy will be used to facilitate or encourage sensitive activities to locate in such areas. The policy should be deleted.

**Policy 10.** It is not considered necessary to limit the application of BPO only to the situation where there are cumulative effects.

**Policy 11.** The policy as currently drafted does not clearly link to air discharges. This needs to be amended accordingly.

**Policy 21.** The concern with the policy is that it requires avoidance of discharges from any industrial and trade premise where the ambient guideline levels are exceeded. This is considered too absolute, especially if there is a risk that the ambient guideline values are being used as point source discharge standards. It is considered more flexible policy where such discharges can be managed to ensure they won't increase any exceedance.

**Relief Sought:** (where specific changes are suggested, these are shown in strikethrough and underline):

M. **Retain** Policies 6.1, 6.4, 6.6, 6.8, 6.12, 6.14, 6.19, 6.20, 6.22, 6.23 and 6.24 without modification, as follows:

- N. **Amend** Policy 6.2 and 6.3 in a way that recognises the National Environmental Standards already ensure thresholds in air quality, however still advocate an effort to ensure the Ambient Air Quality Guidelines can be met, as follows:

*Policy 6.2/6.3*

~~Minimise adverse effects on air quality where concentrations of contaminants are between 66% and 100% of the guideline values set out in the Ambient Air Quality Guidelines 2002 Update, so that concentrations do not exceed 100% of those Guidelines values.~~

~~Where concentrations of contaminants exceed 100% of guideline values set out in the Ambient Air Quality Guidelines 2002 Update, action is taken to improve air quality.~~

Manage discharges to air to ensure the Ambient Air Qualities Guidelines 2002 are complied with.

- O. **Amend** Policy 6.5 to ensure offensive and objectionable discharges to air are managed in accordance with their respective issue (i.e. frequency, intensity, duration, offensiveness and location) and not a blanket management approach, as follows:

*Policy 6.5*

Offensive and objectionable effects from discharges to air that are identified as unacceptable and through assessment of the frequency, intensity, duration, offensiveness and location of discharges into air must be identified and managed. are reduced and managed to acceptable levels.

- P. **Ensure that the intent of policy 6.7 does not result in increasing the risk of reverse sensitivity effects. Delete** Policy 6.7.

- Q. **Amend** Policy 6.10 to recognise that the 'cumulative effects' are already addressed in Policy 6.2, as follows:

*Policy 6.10*

~~All activities that discharge into air apply, at least, the best practicable option so that cumulative effects are minimised.~~

- R. **Amend** Policy 6.11 to recognise the requirement for industrial activities to discharge to air in order to function as nationally and / or regionally significant infrastructure, as follows:

*Policy 6.11*

*Recognise the contribution of nationally and regionally significant infrastructure to the regional and national economy and provide for the air discharges from the operation and development of that infrastructure.*

- S. **Delete** Policy 6.21. If retained, amend as follows:

*Policy 6.21*

*Ensure ~~Avoid~~, the discharge of contaminants into air from any large scale burning device or industry or trade premise, ~~where the discharge will~~ not result in the exceedance, or exacerbation of an existing exceedance, of the guideline values set out in the Ambient Air Quality Guidelines 2002 Update.*

- T. **Make** any additions, deletions or consequential amendments necessary as a result of the matters raised in this submission.

- U. **Adopt** any other such relief as to give effect to this submission.

## SCHEDULE FOUR: RULES

### The specific part of the CARP that is subject of this submission is:

- 7.3 The discharge of odour, dust or smoke into air that is offensive or objectionable beyond the boundary of the property of origin when assessed in accordance with Schedule 2 is a non-complying activity.
  
- 7.28 The discharge of odour, beyond the boundary of the property of origin, from an industrial or trade premise is a restricted discretionary activity, except where otherwise permitted or prohibited by rules 7.29 to 7.59 below.  
The exercise of discretion is restricted to the following matters:
  1. The contents of the odour management plan to be implemented; and
  2. The frequency of the discharge; and
  3. The intensity of the discharge; and
  4. The duration of the discharge; and
  5. The offensiveness of the discharge; and
  6. The location of the discharge; and
  7. The matters set out in Rule 7.2
  
- 7.34 The discharge of contaminants into air from the storage or transfer of petroleum products, including vapour ventilation and displacement, is a permitted activity provided the following conditions are met:
  1. The discharge does not cause a noxious or dangerous effect; and
  2. If there is a discharge of odour or dust beyond the boundary of the property of origin, an odour and/or dust management plan prepared in accordance with Schedule 2 must be held and implemented by the persons responsible for the discharge into air; and
  3. The odour and/or dust management plan is supplied to the CRC on request
  
- 7.47 The discharge of contaminants into air from temporary dry or wet abrasive blasting is a permitted activity provided the following conditions are met:
  1. The discharges to air are only from the operation of a mobile abrasive blasting unit used at any one property for no more than 10 days in any 12 month period; and

2. Abrasive blasting is only undertaken when it is impracticable or unreasonable to remove or dismantle or transport a fixed object or structure to be cleaned in an abrasive blasting booth; and
  3. The maximum quantity of dry abrasive blast media used does not exceed 60kg per hour; and
  4. The free silica content of a representative sample of the blast material is less than 5% by weight; and
  5. There is no blasting of lead-based paints; and
  6. The discharge of particulate matter is contained within the immediate area of the abrasive blasting so that particulate does not escape into the environment; and
  7. The discharge does not cause a noxious or dangerous effect and
  8. If there is a discharge of odour or dust beyond the boundary of the property of origin, an odour and/or dust management plan prepared in accordance with Schedule 2 must be held and implemented by the persons responsible for the discharge into air; and
  9. The odour and/or dust management plan is supplied to the CRC on request; and
  10. The abrasive blasting unit discharge will be only from:
    - a) Dry abrasive blasting using: garnet; sodium bicarbonate; crushed glass; or agricultural sourced media such as crushed corn cobs, walnuts; or
    - b) Wet abrasive blasting using only water
- 7.48 The discharge of contaminants into air from spray application or paint. Dye or adhesive coating, materials outside of a spray booth is a permitted activity provided the following conditions are met:
    1. Where the discharge occurs within 100m of a sensitive activity, the rate of spray application does not exceed:
      - (a) 0.5l per hour and 5l per month of solvent based coating material; or
      - (b) 2.5l per hour and 25l per month of water based coating material containing less than 5% organic solvents by weight; and
    2. Where the discharge occurs greater than 100m from a sensitive activity, the rate of spray application does not exceed:
      - (a) 2l per hour and 20l per month of solvent based coating material; or
      - (b) 10l per hour and 100l per month of water based coating material containing less than 5% organic solvents by weight; and



3. The coating material does not contain di-isocyanates or organic plasticisers; and
  4. The discharge occurs greater than 10m from any sensitive activity beyond the boundary of the property of origin; and
  5. The discharge does not cause a noxious or dangerous effect.
- 7.49 The discharge of contaminants into air from spray application of paint, dye or adhesive coating materials to surfaces of fixed structures that cannot practicably be dismantled and transported to a spray booth is a permitted activity provided the following conditions are met:
    1. The coating material does not contain di-isocyanates or organic plasticisers; and
    2. The discharge occurs at least 10m from any sensitive activity beyond the boundary of the property of origin; and
    3. The discharge does not cause a noxious or dangerous effect.
  - 7.59 Any discharge of contaminants into air from an industrial or trade premise or process that does not comply with the appropriate permitted activity rule and conditions, and is not prohibited, and is not otherwise provided for by rules 7.3, 7.4 or 7.28 - 7.58 is a discretionary activity.

**Reason for Submission:**

**Rule 7.3** The Oil Companies support the intent of Rule 7.3 to require consent in the event that following a proper investigative process (in terms of Schedule 2) to ascertain when offensive or objectionable odour exists beyond a property boundary. However it is considered that this should only be a discretionary activity. If the discharge remains offensive and objectionable it is assumed it will not be approved, therefore any consent issued as a result of the Schedule 2 process should require the effects to become acceptable.

**Rule 7.28** The Oil Companies have concerns about this rule, notwithstanding that their activities will not be subject to it. The rule is a defacto rule for anything that has not been otherwise listed. It effectively sets a zero tolerance threshold for any odour beyond a property boundary i.e. it applies on the basis of any detectable odour. Such a rule is likely to trigger unnecessary costs for many small businesses such as fish and chip shops, restaurants, cafes and bakeries – or any business not listed where an odour can be detected. There are many non-listed trade activities will that emit odour over their property boundary but with no acceptable threshold defined it means they will potentially require consent. While the s32 indicates that the intent of 7.28 and the other provisions requiring management plans is to address those discharges that are less than offensive and objectionable but otherwise significant, the rules do not make this clear. For example it is not clear for a specific trade and industrial activity not otherwise listed how

it would trigger 7.28. While it may not be the intent of Council to seek consent from such trade activities where there are de minimus or non-offensive odours, it will create an obligation and a level of business uncertainty.

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. The plan therefore should be enabling minor and de-minimus discharge activities. Currently, this plan retains a zero tolerance on odour that is arguably contrary to the Canterbury Regional Policy Statement 2013 (RPS) - Objective 14.2.2 that states:

*'Enable the discharges of contaminants into air provided there are no significant localised adverse effect on social, cultural and amenity values, flora and fauna, and other natural and physical resources'*

The structure of the rules results in this anomaly. It is not appropriate to have such a rule and then adopt an approach that it will only be enforced when there is an issue. Such an approach creates business uncertainty for those businesses that are seeking to be compliant. There is no trigger for what may be a "significant" discharge. If this is the intent then the rule along with a suitable trigger needs to be included.

In a number of other air plans there are general permitted activity provisions that are relied upon, with the balance of the rules targeting the key type of activities that are recognised as generating discharges. A solution would be to include a permitted activity standard approach in this Plan – at least for odour. Upon failing this standard an activity would cascade to rule 7.3 (non-complying discharge of offensive and objectionable odour). For example, Rule 3.H.4.3.1.1 'General Controls' in the Proposed Auckland Unitary Plan enables permitted activities to discharge over their boundary so long as it does not cause adverse effects to human health, property and environment and the discharge of odour is not noxious, dangerous, offensive or objectionable.

A similar approach should be considered for this Plan. This would mean that a an industrial and trade activity not otherwise listed in 7.29 to 7.59 would only need a consent after a Schedule 2 assessment has been undertaken and it remains an offensive and objectionable matter and Rule 7.28 could be deleted.

**Rule 7.34.** The Oil Companies support Rule 7.34. However there is some ambiguity with the provision, in that it is not clear if the discharge of contaminants is intended to include odour. This should be clarified for the avoidance of doubt.

The Oil Companies question the purpose, intent and need for all service stations and bulk fuel facilities to produce an odour management plan in order to remain a permitted activity. Odour will be an ongoing operational discharge. Dust should not be an issue in relation to service stations as they are sealed areas. The discharge of odour will be associated with ongoing use of the pumps by customers and when the underground tanks are replenished. It is accepted that if there is a complaint or an emerging sensitivity issue arising from odour it may be appropriate to develop such a plan as part of the Schedule 2 process, however it should not be required or necessary as a

prerequisite for a permitted activity in all circumstances. The Companies would rather see the management plan approach for odour/dust as the first step in a Schedule 2 assessment.

**Rule 7.47.** The Companies support rule 7.47. The 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.

**Rules 7.48 and 7.49.** The Oil Companies need to paint their bulk fuel tanks and associated pipework from time to time. This involves outdoor spraying. Some paint systems also involve diisocyanate paints.

The Companies support the intent of rule 7.49 to provide for those structures that cannot be readily dismantled or put into a spray booth. However they retain a concern with the application of Rule 7.48 in the light of the general Rule 7.1, which requires compliance with all rules unless explicitly stated otherwise. As drafted, and in light of 7.1, any activity meeting the permitted conditions of 7.49 will be captured by 7.48 in any event, unless there is an explicit exception. The Companies seek such an exception.

The Companies question the need for a zero tolerance for diisocyanate paint applications. Other parties do use such systems e.g. NZTA for graffiti removal. While it is understood that there are potentially significant issues with their use it is considered that, especially for significant infrastructure, there should be able to be a level of permitted use with appropriate conditions.

In the Proposed Auckland Unitary Plan process agreement was reached through mediation of the parties to include provisions with the following effect:

*Spray application of surface coatings containing diisocyanates or organic plasticisers for maintenance of significant infrastructure:*

- 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 diisocyanates or organic plasticisers applied in a continuous application at a single location must not exceed 18 litres per day.*

Such a provision would be considered to be consistent with Objective 5.7 of this Plan and Policy 5.3.9 of the RPS – providing for the operation and maintenance of regionally significant infrastructure.

**Relief Sought:** (where specific changes are suggested, these are shown in strikethrough and underline):

- V. **Retain** Rules 7.3, 7.47 and 7.59 without further modification except make Rule 7.3 a discretionary rather than non-complying activity.

- W. **Ensure that a consent for odour is only triggered if a discharge from an industrial and trade activity not otherwise listed in 7.29-7.59 is assessed in terms of Schedule 2 and deemed to be offensive and objectionable. If the intent is that 7.28 it is to apply only to a significant discharges then this should be defined and made explicit in the rule and associated consequential amendment made in Schedule 2 to capture that intent. However it is considered this is best achieved by deleting Rule 7.28 and by inserting some permitted activity conditions along the following lines:**

Include a new permitted activity rule and conditions along the following lines:

**XXX** The following controls apply to all permitted activities that discharge contaminants to air except from mobile sources. No permitted activity controls apply to mobile sources.

1. 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.

2. The discharge must not cause noxious, dangerous, offensive or objectionable odour, dust, particulate, smoke or ash beyond the boundary of the premises where the activity takes place.

3. There must be no, dangerous, offensive or objectionable visible emissions.

4. There must be no spray drift or overspray beyond the boundary of the premises where the activity takes place.

Permitted activity controls do not apply to the following activities:

a. mobile sources

b. fire fighting and other emergency response activities

Include a general default rule for activities not meeting the permitted activity conditions, preferably as a discretionary activity.

- X. **Retain the intent of** Rule 7.34 to permit discharges from premises involving storage and transfer of petroleum products. Clarify the scope of the rule so that it explicitly refers to the discharge of odour. Delete the requirement for odour and dust management plans as a prerequisite for a permitted activity. Make any consequential amendment to Schedule 2 so that an odour/dust management plan is the first step in any assessment relating to offensive and objectionable discharges. The changes to the rule should be as follows:

*The discharge of contaminants, including odour into air from the storage or transfer of petroleum products, including vapour ventilation and displacement, is a permitted activity provided the following conditions are met:*

~~1. The discharge does not cause a noxious or dangerous effect; and~~

~~2. If there is a discharge of odour or dust beyond the boundary of the property of origin, an odour and/or dust management plan prepared in accordance with Schedule 2 must be held and implemented by the persons responsible for the discharge into air; and~~

~~3. The odour and/or dust management plan is supplied to the CRC on request~~

Y. **Amend** Rule 7.48 to prevent the capture of fixed structures, as follows:

*Except as provided for in Rule 7.49, ~~the~~ discharge of contaminants into air from spray application or paint, dye or adhesive coating materials outside of a spray booth is a permitted activity provided the following conditions are met:*

1. *Where the discharge occurs within 100m of a sensitive activity, the rate of spray application does not exceed:*
  - (a) *0.5l per hour and 5l per month of solvent based coating material; or*
  - (b) *2.5l per hour and 25l per month of water based coating material containing less than 5% organic solvents by weight; and*
2. *Where the discharge occurs greater than 100m from a sensitive activity, the rate of spray application does not exceed:*
  - (a) *2l per hour and 20l per month of solvent based coating material; or*
  - (b) *10l per hour and 100l per month of water based coating material containing less than 5% organic solvents by weight; and*
3. *The coating material does not contain di-isocyanates or organic plasticisers; and*
4. *The discharge occurs greater than 10m from any sensitive activity beyond the boundary of the property of origin; and*
5. *The discharge does not cause a noxious or dangerous effect.*

Z. **Amend** Rule 7.49 to provide for maintenance activities for nationally and regionally significant infrastructure as provided for in Objective 5.7 of this Plan, as follows:

*The discharge of contaminants into air from spray application of paint, dye or adhesive coating materials to surfaces of fixed structures that cannot practicably be dismantled and transported to a spray booth is a permitted activity provided the following conditions are met:*

1. *The coating material does not contain di-isocyanates or organic plasticisers unless it is for the maintenance of nationally and regionally significant infrastructure:*
  - i. there must be no activities sensitive to air discharges within 30m of the activity*
  - ii. there must be an exclusion zone that prevents public access within 15m of the activity*
  - iii. the quantity of paint containing diisocyanates or organic plasticisers applied in a continuous application at a single location must not exceed 18 litres per day.*

2. *The discharge occurs at least 10m from any sensitive activity beyond the boundary of the property of origin; and*
3. *The discharge does not cause a noxious or dangerous effect.*

- AA. **Make** any additions, deletions or consequential amendments necessary as a result of the matters raised in this submission.
- BB. **Adopt** any other such relief as to give effect to this submission.

<b>SCHEDULE FIVE: SCHEDULE 2</b>
----------------------------------

**The specific part of the CARP that is subject of this submission is:**

- Schedule 2 – Assessment of offensive and objectionable effects

**Reason for Submission:**

The Oil Companies support the intent of Rule 7.3 to require a proper investigative process (via Schedule 2) to go through when offensive or objectionable odour extends beyond a property boundary.

**Relief Sought:**

- CC. **Retain** Schedule 2 without modification except for any any additions, deletions or consequential amendments necessary as a result of the matters raised in this submission.
- DD. **Adopt** any other such relief as to give effect to this submission.