PROPOSED CANTERBURY AIR REGIONAL PLAN

Hearing Submission on behalf of the Waimakariri District Council

1 Introduction

My name is Mary Sparrow, and at the time of preparing this submission on behalf of the Waimakariri District Council I held the position of Principal Policy Analyst. I hold an MA Hons (First Class) from Canterbury University, and have been a member of the Council's staff since 2001.

The Waimakariri District Council welcomes the opportunity to present hearing submissions on a number of the matters that it addressed in its primary submissions. These matters are:

- The definition of stock holding areas and the rules relating to the housing of cattle;
- The definition of *"urban"*;
- Policy 1 with respect to the use of *"significant"*;
- The inclusion of reference to local infrastructure alongside nationally and regionally significant infrastructure in Objective 5.7 and Policies 6.11 and 6.19;
- Policy 6.7 relating to the expectations for emitting activities to relocate if sensitive land uses develop in the vicinity as the result of rezoning;
- Rules 7.10 and 7.30; and
- The boundaries of the Clean Air Zones for Rangiora and Kaiapoi.

2 Definition of Stock Holding area and Rules 66 and 67 (p.2.5 and p.7.21, OR p.6.6 and p14.4)

The Council's primary submission questioned the need for the definitions section of the plan to include a definition of *stock holding area,* and suggested that it was not required in view of the limited use made of the term in the proposed Plan. The alternative proposed was for the details concerning the time that livestock are confined to be deleted from the definition.

The definition provides two separate time thresholds that determine if the area concerned qualifies as a *stock holding area.* These are:

- 30 days in any 12 months; or
- 10 consecutive 24 hour days at any time.

The definition is only used in Rules 66 and 67, and both are based on a threshold of *"accommodating cattle for more than 12 hours at a time."* Given that the threshold in the Rules drives the regulation, it is difficult to understand why the time-lines in the definition are required.

The Section 42A report argues that it is easier to understand the rules if the definition is retained, and discusses submitters' concerns about Rules 66 and 67, but does not address the issue of whether the time-lines in the definition are necessary nor the possible tension between having one set of time-lines that defines a *stock holding area* and another that triggers the Rule.

With respect to Rules 66 and 67, the Section 42A report provides the rationale for using 12 hours at a time as the trigger. This raises the issue of whether it is necessary to have a threshold of 12 hours at a time, because whether any offensive odours eventuate may have more to do with climatic conditions than the time specified, despite the arguments advanced in the Officer's report.

It is for this reason that the Council suggested an alternative that does not rely on times-lines as thresholds but simply on setbacks to manage the possible effects of housing cattle, or cattle held on milking platforms, feed pads or wintering pads and proposes the addition of an additional criteria widely used in definitions of intensive farming which is where stock are held *"at a density where there is no pasture cover."*

The Council's submission also includes a request to reduce the setbacks in Rule 66 to 200 metres from the property boundary and 1000 metres from areas zoned urban in a district plan. As it is important that setbacks are not so great that they trigger unnecessary consenting and/or the inefficient use of the land resource. In this context, it is also suggested that if the setbacks required for intensive farming in the relevant district plan are less than those in Rule 66 of the pCARP, these should prevail. The Council is mindful that while it is the Regional Council's role to control emissions, territorial authorities have the role under the *RMA* to control *reverse sensitivity effects.*

Further, the Council's submission questions the use of a 10% threshold for the permitted increase in the cattle involved from 28 February 2015. The use of 10% as a threshold has been shown to result in significant inequities in the context of other recent regional planning documents, and could also do so in this instance. If someone has a relatively small operation then the number of additional animals permitted before the housing of stock became a *discretionary activity (restricted)* would be minimal compared with the ability to expand the operation without triggering consent requirements available to a large scale operator. The alternative suggested is to "freeze" the scale of the operation as at 28 February 2015, and to provide as part of the permitted activity status that if the scale of the operation increases an odour management plan is required to be prepared, and also a record of this increase is to be maintained and available for inspection by the Regional Council.

In the Council's view, this suggested approach to the management of intensive cattle farming which revolves around setbacks will provide certainty for the owner/operator of the facility as to whether the status of the activity if *"permitted"* or not. The requirement for an odour management plan as part of the permitted activity if the number of cattle involved increases beyond the level at 28 February 2015 places the onus on the owner/operator to manage the effects, and at the same time maintaining equity between larger and smaller operators.

3 Definition of *"urban"* (p2.6) and OR (6.7)

The Council notes that the Section 42A report recommends amending the definition of *"urban"* in the pCARP as suggested by the Selwyn District Council. The Waimakariri submission requested reference within this definition to areas zoned in a district plan, and added a caveat regarding the possibility that there could be other zonings such as *special purpose zones,* or a separate zoning for parks and reserves. In their discussion the officers would appear to have carried the interpretation of concept to *"within"* further than might reasonably be expected. The report asks, for example, whether *"rural land that lies between two small settlements would be "within" the urban zoned land". Or "how the land located in the greater urban area of a town such as Marshlands" be regarded.*

In a district plan an areas zoned for urban (residential, commercial or business) is mapped, and if the zone line is continuous and there is another zoning within that area identified on the map it would be regarded as included as urban. While the Christchurch *"greater urban area"* is defined, and under the Land Use Recovery Plan areas are identified within infrastructure boundaries or limits, changes to district plans are required to facilitate the change of use of land from rural to residential and/or business/commercial.

The officers go on to indicate that the pCARP is designed to accommodate rural zoned land that is located within urban areas. Situations where land has been rezoned for urban activity but development has not commenced can be accommodated within a planning framework by defaulting to the rating system. For example, under the Rangiora and Kaiapoi variations to the previous Air Plan this device was used as there were significant areas that had been rezoned but not developed. So long as an area zoned *"urban"* is not being rated as urban land, it is reasonable to provide exemptions.

If the problem is the suggestion to include *"other such zoned areas within an area zoned for these activities"* is the impediment from the officer's perspective, the Council would not object to this reference being omitted. It is also noted that the officers have accepted a submission that refers to *"zoning"* in the amendment proposed to objective 5.8. Council's main reason for stressing the importance of incorporating reference to district plan zoning in the definition of urban for regional planning purposes is to give greater certainty than that provided in the proposed change which focuses on whether the area is predominantly non-agricultural or non-rural.

4 Policy 6.1 (p.6.1) OR (p10.2)

The Council requested that *"significant"* be added to Policy 6.1 (a) and (d). The concern is with the breadth of the definition of effects as set out in the *Resource Management Act 1991 (RMA) Section 3,* and the interpretation of the term adverse effects. The officers argue that *"significant"* as a threshold in the context of the *RMA* is too high a threshold to apply to the effects on human health or life supporting capacity. The dilemma here revolves around the assessments of risk and how this is interpreted, which is something that is likely to create some difficulty for those using this plan, as without an *"explanations"* accompanying policies there is no additional guidance.

In this context, it is the S42A Report which would appear to be providing the guidance for Policy 6.1 when stating *"Contaminant concentration thresholds are set in ambient air quality guidelines value, and discharges are to be assessed in the context of the receiving environment."* This suggests that the officers regard the guidelines that are not in the plan, set the parameters for interpreting this Policy, rather than the Policy providing the basis for establishing the thresholds for interpreting what represents an *"adverse effect"*. If this is the case then consideration could be given to incorporating reference to these guidelines in Policy 6.1.

In its submission to Policy 21 the Council requested that Air Quality Guidelines as presented in Table AQL1 and Figure 2 of the NRRP Chapter 3 p.3-29/3 to be included in the pCARP, which means that there is a submission on the table that would allow the changes suggested above, which would provide important context to aid the interpretation of Policy 6.1.

5 Objective 5.7 and Policies 6.11 and (p5.1 and 6.1) and OR (p9.2, p9.5 and 10.10)

The Council's submission requested recognition of local infrastructure in Objective 5.7 or an additional objective that would read:

"The economic, social and cultural wellbeing and health of communities is enabled by the efficient and effective operation, on-going maintenance, repair and upgrading of local infrastructure."

The officers consider that an addition to Objective 5.7 or an additional objective unnecessary, and that the issue of the recognition of local infrastructure is adequately addressed in a proposed new Policy 6.11A which will state *"Locational constraints of*

discharge activities, including heavy industry and infrastructure, are recognised so that operational discharges to are enabled where the best practicable option is applied."

The Council does not agree with the officers that the proposed Policy 6.11A provides adequate recognition of the value to the community of the contribution that local infrastructure makes, or make adequate provision for these activities. In the context of emissions to air, local infrastructure such as sewer and waste management systems play a very important part in ensure the health and wellbeing of the community. While Policy 6.11 *"Recognises the contribution…"* and *"… provides for the operation and development…"* of the nationally and regionally significant infrastructure, the tone of proposed Policy 6.11A while recognising the activity does not have the enabling tenor of Policy 6.11.

The Council urges the hearing panel to reconsider its submissions to Objective 5.7and Policy 11, as it sees activities related to local infrastructure as warranting recognition at both Objective and Policy level, and apart from other activities that may be seen as being "*location constrained"* including heavy industry.

6 Policy 6.7 (p.5.1) and OR (p10.7)

The Council's submission requested that Policy 6.7 be revised to reflect the Canterbury Regional Policy Statement (CRPS) provision with respect to managing reverse sensitivity. It is noted that the officers' report indicated that the CRPS and district plans are expected to manage reverse sensitivity effects. The pCARP is seen as limited to managing discharges and not ensuring protection to discharging activities from sensitive activities. Policy 6.7 as proposed would seem to go further than this, and provide a directive that favours the relocation of an established activity if the receiving environment changes to include sensitive activities.

In view of the officers' comment that the CRPS and district plans have responsibility for managing reverse sensitivity effects, there would appear to be no need for Policy 6.7. As other parties have requested deletion of Policy 6.7, the Council would be supportive of this as it would be quite reasonable for the pCARP to be silent on the matter of the relocation of activities that were lawful when established, if they come under pressure from subsequent developments.

7 Rule 7.10 (p7.3) and OR (12.9)

Re: condition 3. Material to be burnt to be left to dry for 6 weeks

The officers contend requiring material to be left for 6 week before burning rather than having a requirement that it simply be "dry", is advisable because it provides certainty and enforceability. Any enforcement associated with this rule will be after the event, and it is very clear in terms of the way a fire performed as to whether the material being burnt was dry.

In some instances, 6 weeks is excessive and can impede reasonable farming activities, in situations where it would be unreasonable for a resource consent to be obtained. In other instances, material will be sufficiently dry to burn fast, without having to be held for 6 weeks. It is also possible that it would be better to burn the residue from a major job such as the removal of an old shelter belt prior to a "closed fire season" than leave substantial amounts of combustible material which could become caught up in a wild fire at the height of summer.

The Council urges reconsideration of the requirement for material to be held by 6 weeks prior to burning, and replace this with the requirement that it be dry.

Re: condition 4. Outdoor burning within 5km from an urban area regulated

This provision is considered excessive, and the Council's submission requests that constraints on outdoor burning in the vicinity of urban areas should be confined to 1km. In view of the officers' failure to recommend the changes the Council requests that the proscribed distance be reconsidered. Also, instead of specifying wind speed and requiring the say-so of a reputable forecaster, consideration should be given to simplifying condition 4 by requiring that the wind be in a direction away from the urban area. This would achieve the required "dispersal" which the officers argue is the purpose of this condition.

Re: condition 8. Dispensation for outdoor burning during winter months within clean air zones

This submission sought the reinstatement of a rule with tightly specified conditions to allow some outdoor burning in clean air zones, outside of urban areas, which was the result of the resolution of an appeal to the Rangiora Variation to the Natural Resources Regional Plan: Chapter 3 – Air Quality. The wording of this Rule is set out in the Councils' primary submission and specifies the hours when burning is permitted, that the wind must take smoke away from the urban zone protected by the clean air zone, and that burning does not occur during a period within which a temperature inversion layer has formed. The conditions under which a temperature inversion layer is likely to be formed are also specified in the Rule.

In view of the fact that this rule was negotiated with a submitter relatively recently, and there have been no difficulties with the operation of this rule to our knowledge, the Council requests that it be added to the Plan. Also, this rule has the support of the Council's Rural Fire Officer as he would prefer to have minimal amounts of combustible material on the ground, particularly close to urban areas, at the end of winter because of the risks associated with burning it during the spring or early summer when conditions can become dry very quickly. The Council requests that consideration be given to the inclusion of this rule given the relative risks associated with the possibility of a gazetted airshed failing to meet the National Environmental Standard for Air Quality, and the possibility of the burning of garden prunings or similar getting out of control under dry conditions outside of the months when controls are applied.

Re: additional conditions requested

The Council also requested the additions of two additional conditions. It is noted that the first of these relating to the use of accelerants to ensure that when burning outdoors that fires ignite quickly, which helps to facilitate a satisfactorily rapid burn. The officers' recommendation to include provision for the use of an accelerant in the preamble to Rule 10 is obviously supported by the Council.

In addition, the Council sought to legitimize the burning of *"minor and incidental"* amounts of the materials specifically excluded under Rule 7.4 of the pCARP. This is in fact a request to bring through from the Chapter 3 or the NRRP a provision negotiated by the Council as a reference and signed-off by the Environment Court. The dilemma here is whether it is better for a plan to include prohibitions that the authorities are very unlikely to enforce or to set a slightly higher threshold where enforcement is more likely to be practical. As in the case of the work on the earlier Air Plan, the Council would favour a Rule which recognised the practicalities or a situation and was more likely to be enforced.

8 Policy 19 (p6.2) and OR (p13.6)

The Council sought to have reference to *"local"* added to nationally and regionally significant infrastructure, and to include a caveat in relation to compatibility with the surrounding land use pattern. In some respects the changes sought by the Council for this policy are captured in the proposed new Policy 11A, and consideration could be given as to whether it is more appropriate to position this new Policy after Policy 19 with an *"enabling"* tone rather than simply providing *"recognition".*

9 Rule 7.30 (p6.11) and OR (p13.13-16)

The Council's submission to Rule 7.30 along with others is dismissed by the officers who argue that these additional activities that submitters sought to have added to the *"permitted activity"* Rule were not of the temporary nature envisage for development activities covered by Rule 7.30, and that these *"other activities that discharge dust are likely to cause ongoing adverse effects that may need to be avoided, remedied or mitigated".*

The Councils concern was that it wanted certainty that any small scale activity associated with the installation of pipes, irrespective of whether it was related to development was a permitted activity so long as any dust nuisance was appropriately managed. It did not want to be faced with the need to seek consents to cover dust management from small scale earthworks to install pipes that would be carry the same or a lower risk than the range of activities permitted under Rule 7.30.

It should also be noted that the situations that the Council faces when installing pipes is not going to provide *"ongoing adverse effects"* in a given location which would appear to be the types of activities envisaged by the officers, when suggesting that these may need to be *"avoided, remedied, or mitigated."* The Council requests reconsideration of its submission to add reference to *"the installation of pipes whether or not related to development."* If it is considered that such a change does not fit the overall structure of the pCARP, as an alternative with similar effect would be to introduce a new rule to cover work of the scale and type envisaged by the Council, to address work regularly undertaken by local authorities as the main provider of local infrastructure.

10 Section 9 Kaiapoi and Rangiora Clean Air Zones (p9.5/5) and OR (p15.25)

The Council submitted to have the issue of the adoption of the Clean Air Zone 2 lines used to define the single Clean Air Zones for Kaiapoi and Rangiora, because the extent of the areas is excessive. This assessment is based on the relationship between the new single zone and the official airsheds, and also the approach that was adopted when developing the Variation to the NRRP Chapter 3. Maps showing the airsheds for Kaiapoi and Rangiora are set out below.

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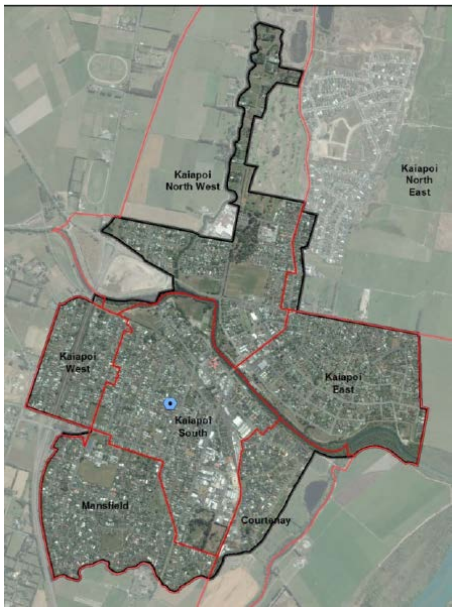
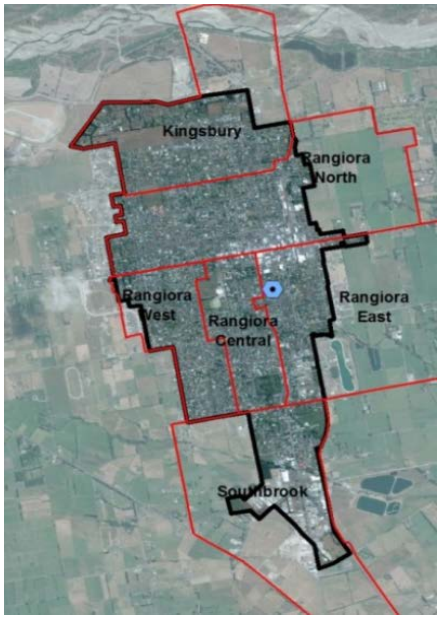
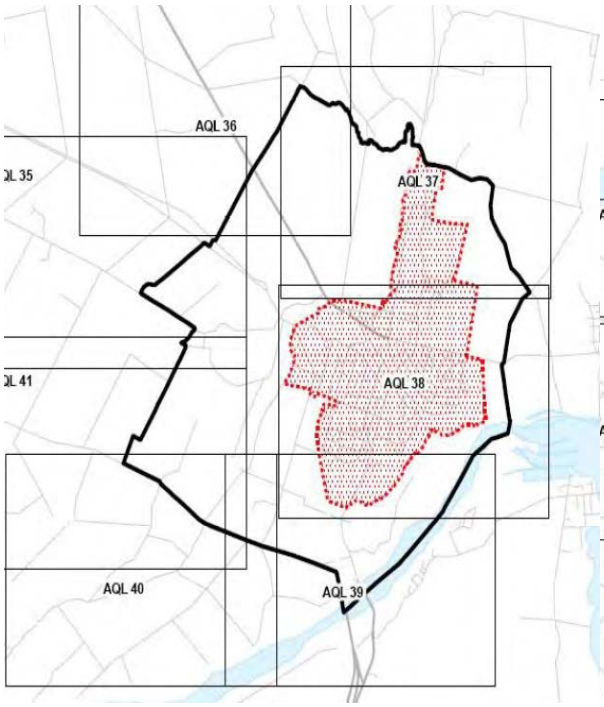


Kaiapoi airshed

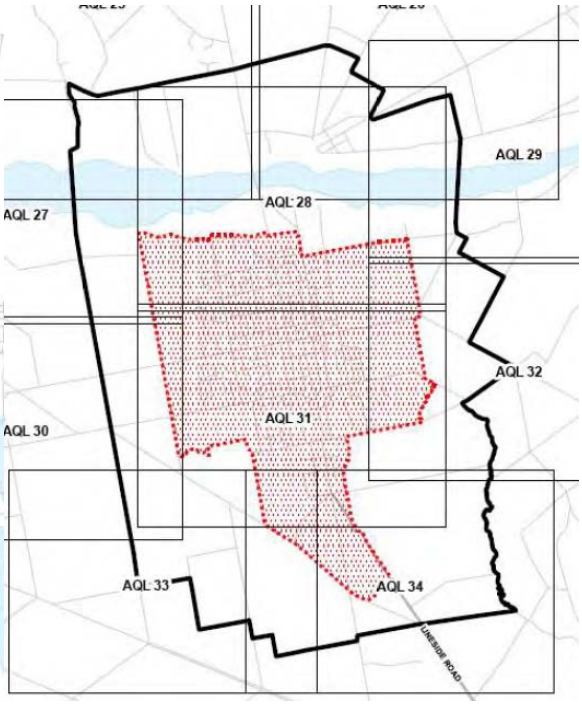


Rangiora airshed

The following maps show the Zones 1 and 2 for Kaiapoi and Rangiora as agreed with the community during consultation undertaken prior to the introduction of the variations which introduced controls on emissions to air for the two towns.



Kaiapoi Zones 1 and 2



Rangiora Zones 1 and 2

The main features of the Zone 1 and 2 boundaries for both the Waimakariri towns is that the Zone 1 boundaries extend beyond the airshed boundaries, with the Rangiora boundary being more generous than the Kaiapoi boundary. The officers' report notes that changes were made to the Kaiapoi Clean Air Zone 1 boundary by the Ministry for Earthquake Recovery under *Section 27* of the *Canterbury Earthquake Recovery Act.* This change involved extending the Kaiapoi Clean Air Zone 1 to the west, to include the Silverstream subdivision, an area where development was anticipated when the Variations were introduced.

The Rangiora boundary for Zone 1 was set to match the areas where development was anticipated in the longer term and out beyond areas zoned for residential development at the time that the Variation processes were launched. In fact, part of the area within the Rangiora Zone 1, although within the Land Use Recovery Plan (LURP) infrastructure boundary, is not currently zoned for residential development and under the LURP development is not anticipated until after 2028.

The Clean Air 2 Zones for both Rangiora and Kaiapoi were seen as being relatively generous when established, as a precautionary approach to the protection of the airsheds was adopted. In both case the distance between the gazetted airsheds and the Clean Air 2 Zone boundaries are between 2 and 3 km. When determining these boundaries, outdoor burning to the north-west of the two towns was seen as being the main risk that needed to be addressed when establishing the Zone 2 boundaries, because of the late night drift of air down the plain which would bring the smoke from any fire not completely extinguished across the gazetted airshed areas. The other risk perceived at the time, but does not appear to have materialized, was the possibility that enterprises with the potential for substantial emissions from fuel burning plant attempting to establish in the rural zone. Otherwise the status quo was considered reasonable, but in order to ensure that there was not a substantial increase in emissions from domestic solid fuel burning, the introduction of new open fires in these zones was controlled.

The situation with the respective airsheds is influenced by the “red zoning” in Kaiapoi of a substantial number of homes in north-east Kaiapoi that had solid fuel burners. The Rangiora Clean Air Zone 1 has seen considerable development over the last 5 or 6 years, and particularly since the Canterbury earthquakes, outside of the gazetted airshed but controlled by the Rules in NRRP Chapter 3. While some of these new dwellings have installed pellet fires, none have other types of burners.

In addition, the Variations for Kaiapoi and Rangiora included a requirement for the replacement of non-complying solid fuel burners when properties were sold, and this has been conscientiously followed up by real estate agents working in the District. This means that as there has been a relatively rapid turnover of older properties since the earthquakes, the replacement of older solid fuel burners has taken place more quickly than might otherwise have been anticipated.

The reason given by Regional Council when discussing the decision to use only one Clean Air Zone for each protected airshed was that having two Clean Air Zones was confusing. From the Council’s officers there would not appear to be a significant resource management reason for making the change for the towns in the Waimakariri District especially if the experience of the last two winters is taken into account. From a local perspective, it would appear that the planning framework developed for the Kaiapoi and Rangiora Variations to NRRP Chapter 3 are working and should be given a chance to deliver without changing to a single Clean Air Zone for each town.

When developing the arrangements for the Variations a good deal of background work was done with the community, to develop the framework. This included pre and post-winter surveys of perceptions of local air quality during winter months, and the establishment of a working party comprised of Councillors and members of the Kaiapoi Community Board and the Rangiora Ward Advisory Board, which went through the modelling behind the options for achieving compliance with the National Environmental Standard for Air Quality. Recognising that it was going to be more difficult to achieve the required standard in Kaiapoi, a heating shop was established in the town centre in which alternative options for heating and insulation were displayed, and members of the community were encouraged to go in and talk to those looking after the displays.

In many respects the approach adopted by the Regional Council in collaboration with the Waimakariri District Council was similar to the joint approach that is being used for the Canterbury Water Management Strategy, with its zone committees. As with the sub-regional chapters that are being developed for the Regional Land and Water Plan, the Variations for the District were fashioned to suit the particular characteristics of the area concerned accompanied by community consultation. The Council is not aware of whether the people affected by the decision to change to a single Clean Air Zone were contacted prior to the release of the pCARP.

The implications of the change to having only one Clean Air Zone for each airshed, compared with the previous two zone approach is lessened by the application of the 2 hectare threshold, as there is no significant change for people with properties of 2 hectares or more. The Section 32 Report (p4.90) states that there are 210 properties of less than 2 hectares, and most of these will be in the Ashley settlement to the north-east of Rangiora and on the other side of the Ashley River/Rakahuri. The extent to which introducing controls on the solid heating devices used in these homes will improve the air quality in the Rangiora airshed is questionable, as the major threat comes from the drift down the plain from the north-west which means that any emissions from the Ashley settlement would be expected go to the east of Rangiora.

While not strictly a matter for consideration under the *RMA*, the Regional Council has introduced a further complication associated with the decision to have only one Clean Air Zone for each town which matches the Clean Air 2 Zones. It has used these zones as the basis for a new targeted rate for air quality management. It is seen as reasonable to impose a modest rate on urban properties with air quality controls which average in the vicinity of $12.00 to $15.00 depending on the value of the property. The combined effect of using the pCARP Clean Air as the area to be the subject of a new targeted rate based on capital value has resulted in larger rural properties paying sums significantly higher than those levied on urban properties within the original Clean Air 1 Zones which would appear inequitable in view of the nuisance being addressed. For example, a Dairy farm to the south of Rangiora and over 2 kilometres from the airshed is being required to pay in the vicinity of $90.00 for the targeted rate. The Council raised this issue with the Regional Council when submitting on its 2015-25 Long Term Plan, and it was indicated that its approach to rating was unlikely to change, but the rated area would follow any change that may be made to a Clean Air Zone boundary.

Despite raising this issue, which may be seen as inappropriate as it is not strictly a resource management issue it is a consequence of the decision to have a single clean air zone for each airshed. The Council therefore urges a reconsideration of the extent of the Clean Air Zone boundaries for both Rangiora and Kaiapoi. The situation to the west of Kaiapoi is similar to that for Rangiora as relatively large rural properties are captured, and are being required to pay unreasonable sums in the targeted rate as a consequence of the resource management decision to establish a single outer boundary. While the Council's submission requests that either the two zone approach be retained for Rangiora and Kaiapoi with the same suite of controls for the respective zones as in the current Air Plan, or adopt the Zone 1 boundaries it would be willing to work with the Regional Council to explore options for establishing more limited Clean Air Zones for the District's two towns than area currently proposed.