Tabled @ Hearing 11/11/2015
RAVENSDOWN

IN THE MATTER	of the Resource Management Act 1991 (RMA)
AND	
IN THE MATTER	of the Proposed Canterbury Air Regional Plan
TO BE HEARD BY	Environment Canterbury

Supplementary Evidence of Christopher Adrian Hansen on Behalf of Ravensdown Limited

11 November 2015

Introduction

1 My name is Christopher Adrian Hansen. My experience and qualifications are set out in my evidence in chief dated 18 September 2015[1]. In my evidence I have included suggested word changes for Policies 6.20 and 6.21, but have offered no suggested wording for Rules 7.17 and 7.18[2].

2 The s.42A Report recommends[3] Policies 6.20 and 6.21 and Rules 7.17 and 7.18 be deleted and replaced with new policies/rules that enable the application of BPO as appropriate to the receiving environment, to implement the Objectives and Policies of the Plan.

3 In the absence of any wording provided in the s.42A Report, I have prepared some wording for Policies 6.20 and 6.21 and Rules 7.17 and 7.18 as a starting point for discussion. I have reviewed the possible wording I have provided in my evidence in chief, and wording offered by planning experts in their evidence. I accept that these provisions are not complete and are likely to require some adjustments. This may be best undertaken by the caucusing of expert planners if the Commissioners consider there is merit is adopting this process.

Principles for a Policy and Rule Regime

6 In accordance with the recommendation of the s.42A Report, the focus of the policy and rule regime should be on ensuring large scale burning devices and industrial or trade premises are applying BPO principles appropriate to the receiving environment.

7 When developing principles for the policy and rule regime, there needs to be consideration of the following key matters:

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[1] Paragraphs 1 – 4 of evidence in chief

[2] Paragraphs 61 and 120; Appendix A

[3] Recommendation R – 6.20; Recommendation R – 6.21; Recommendation R – 7.17; Recommendation R – 7.18

- As the PCARP sets up Clean Air Zones, some experts are suggesting the policies should distinguish between those activities that are within the Clean Air Zone (where air quality requires improvement), and those outside. The policies in the PCARP did not make this distinction, but the rules did.
- As there are existing lawfully established activities that are complying with consent conditions within the Clean Air Zone or outside this zone, these activities be provided for.
- As there are new activities wanting to establish within the Clean Air Zone or outside this zone, these activities be provided for in the context of the existing environment (which includes existing lawfully established activities) and in the context of the air quality improvements required.

8 In my opinion, the following principles should be adopted in policies and rules to address the above key matters:

- The policies should remain high level and provide guidance to the management of effects of all large scale burning devices and industrial or trade premises activities (whether within the Clean Air Zone or outside the zone; and whether existing or new);
- The policies should encourage large scale burning devices and industrial or trade premises activities to adopt BPO practices according to their receiving environment;
- The policies should look to provide for existing lawfully established large scale burning devices and industrial or trade premises activities to continue to operate applying BPO and within their consented conditions;
- The policies should look to control new large scale burning devices and industrial or trade premises activities that establish within the Clean Air Zone that may have cumulative effects that would mean air Ambient Air Quality values and National Environmental Standard for Air Quality standards are not met;
- The rules should provide for existing lawfully established large scale burning devices and industrial or trade premises activities applying

BPO and operating within their consent conditions as restricted discretionary activities within the Clean Air Zone or outside that zone – matters Council would restrict its discretion to would be applying BPO; the level of compliance with Ambient Air Quality values and National Environmental Standard for Air Quality standards; and any conditions imposed on any discharge permit held.

- The rules should control new large scale burning devices and industrial or trade premises activities as non-complying activities within the Clean Air Zone, and discretionary activities outside that zone.

Policy 6.20

9 The notified PCARP version reads:

"Apply the best practicable option to all large scale and industrial activities discharging contaminants into air so that degradation of ambient air quality is minimised."

10 In my evidence in chief I proposed Policy 6.20 be amended to read (which is the same as Fonterra):

"Apply the best practicable option to all large scale and industrial activities discharging contaminants into air so that localised effects on ~~degradation of ambient~~ air quality ~~is minimised~~ does not cause significant adverse effects."

11 I note Mr Tim Ensor (Synlait) has put forward the following amended wording for Policy 6.20:

"Outside a clean air zone ~~A~~ apply the best practicable option to all large scale and industrial activities discharging contaminants to air so that the degradation of ~~ambient~~ localised air quality is minimised."

11 While I support the suggested amendment proposed by Mr Ensor that focusses the policy on localised air quality, I do not support the proposed amended policy only applying to outside the Clean Air Zone. I my opinion, to be consistent with the principles I have outlined above, I consider the policy should apply to all large scale and industrial activities and I consider the amended policy wording included in my evidence in chief, and Fonterra, be adopted.

Policy 6.21

12 The notified PCARP version reads:

"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."

13 In my evidence in chief I proposed Policy 6.21 to be deleted and replaced to read:

"Apply the best practicable option to all large scale and industrial activities discharging contaminants into air so that degradation of ambient air quality is minimised."

14 I note a number of expert planners have taken the opportunity to provide alternative wording for Policy 6.21 in their evidence in chief. I briefly summarise a number of these alternative wording below:

15 Mr David le Marquand (Oil Companies) suggests the following wording:

"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 in the ambient air of the guideline values set out in the Ambient Air Quality Guidelines 2002 Update or NESAQ targets."

16 In my view, the amended wording proposed by Mr le Marquand places an onus on Council to ensure guidelines are not exceeded which is not helpful, and does not introduce the application of BPO practices as recommended by the s.42A Report. Overall I do not consider the wording suggested by Mr le Marquand improves Policy 6.21 as recommended in the s.42A Report.

17 Mr Tim Ensor (Synlait) suggests the following wording:

"~~Avoid~~ Within a clean air zone apply the best practicable option to avoid, remedy or mitigate the cumulative effects from 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 at sensitive receptors or exceedance of the National Environmental Standards for Air Quality."

18 In my view, while the wording proposed by Mr Ensor does introduce BPO to address cumulative effects, I do not consider it is appropriate that this policy only applying to activities within the Clean Air Zone.

19 Ms Justine Ashley (Fonterra) suggests the following wording;

"Apply the best practicable option to all large scale and industrial activities discharging contaminants into air to avoid or mitigate cumulative airshed wide air quality effects, where this causes an exceedance, or exacerbation of an existing exceedance of the Ministry for Environment Ambient Air Quality Guidelines 2002, or National Environmental Standards for Air Quality 2004."

20 In my view, the replacement Policy 6.21 by Ms Ashley has a number of components that have merit including: it applies to all large scale and industrial activities; provides for cumulative effects to be avoided or mitigated; and applies to exceedance or exacerbation of an existing exceedance of guidelines.

21 However, there is no specific policy guidance regarding how existing lawfully established activities and new activities should be dealt with. While it could be argued Ms Ashley's policy implicitly provides guidance to existing and new activities, this does not recognise that existing activities might be complying with its current consent conditions while not necessarily meeting the MfE AAQ Guidelines or NESAQ.

22 Mr Richard Matthews (Carter Holt Harvey Pulp & Paper) recommends new best practicable option policies to replace Policies 6.20 and 6.21 as follows:

"BPO1 Minimise the effects of air discharges by:

a) Using best practicable option emissions control at the source of the discharge;

b) Adopting a precautionary approach to new discharges to air where there is uncertainty and a risk of serious effects or irreversible harm to the environment from those discharges; and

c) Avoiding discharges to air that will cause significant adverse effects."

"BPO2 Require individual sources of any discharge to air to demonstrate where relevant to the discharge type and reasonably practicable:

a) Fuels used are appropriate for use in the Christchurch Air Shed or Clean Air Zones;

b) Energy is efficiently used;

c) Best practicable option is used;

d) Fugitive emissions are appropriately managed;

e) Risk and adverse effects on people, property and the environment from hazardous air pollutants are avoided; and

f) The amenity provisions of any zone where the discharge is having an effect are met."

23 In my view, the proposed new BOP policies offered by Mr Matthews have elements that I consider have merit, including addressing new discharges. However, I note these policies are generic and relate to all activities – that is they do not specifically relate to large scale and industrial activities so would need to be amended to be relevant and properly replace Policies 6.20 and 6.21.

24 Overall I would recommend the new Policy 6.21 proposed by Ms Ashley be adopted but amended to apply only to existing large scale and industrial activities. The policy would therefore read: *"Apply the best practicable option to all new large scale and industrial activities discharging contaminants into air ..."*

25 In addition, it is recommended a separate policy (Policy 6.21A) be included to recognise that existing activities might be applying BPO and complying with its current consent conditions while not necessarily meeting the air quality standards. Possible wording could be:

"Policy 6.21A Provide for existing lawfully established large scale and industrial activities that are in compliance with all discharge permit conditions and/or are applying Best Practicable Options to their operations appropriate to the receiving environment they are located in."

Rule 7.17

26 The notified PCARP version reads:

"The discharge of contaminants into air from a large scale solid fuel burning device or from an industrial or trade premise established prior to 28 February 2015, outside a Clean Air Zone, that will likely result in guideline values, set out in the Ambient Air Quality Guidelines 2002 Update, being exceeded is a non-complying activity."

27 In my evidence in chief I have not provided any suggested wording for Rule 7.17 but recommended that it be changed to restricted activity status. I envisage that Council would restrict is discretion to applying BPO; the level of compliance with the National Environmental Standard for Air Quality standards; and any conditions imposed on any discharge permit held.

28 I note a number of expert planners have provided their opinions and some have provided suggested wording (such as Mr Richard Matthews for Synlait) for Rule 7.17. In principle, I consider Rule 7.17 intends to address large scale and industrial activities outside Clean Air Zones, and this is appropriate.

29 However, I consider the rule needs to be split into two in order to provide for lawfully established activities to continue to operate in accordance with current consent conditions as a restricted discretionary activity, and for new activities to be developed as discretionary activities. In my opinion, discretionary activity status is appropriate and recognises activities are located outside of the Clean Air Zone.

30 I would recommend Rule 7.17 be amended as follows:

"Rule 7.17 The discharge of contaminants into air from a large scale solid fuel burning device or from an industrial or trade premise lawfully established prior to 28 February 2015, outside a Clean Air Zone, is a restricted discretionary activity. ~~will likely result in guideline values, set out in the Ambient Air Quality Guidelines 2002 Update, being exceeded is a non-complying activity.~~

Council will restrict is discretion to:

1. *Applying Best Practicable Options;*
2. *The level of compliance with Ambient Air Quality Guidelines 2002;*
3. *The level of compliance with the National Environmental Standard for Air Quality standards; and*
4. *Any conditions imposed on any discharge permit held."*

"Rule 7.17A The discharge of contaminants into air from a large scale solid fuel burning device or from an industrial or trade premise established ~~prior to~~ after 28 February 2015, outside a Clean Air Zone, will likely result in guideline values, set out in the Ambient Air Quality Guidelines 2002 Update,

or National Environmental Standard for Air Quality standards being exceeded is a ~~non-complying~~ discretionary activity."

Rule 7.18

31 The notified PCARP version reads:

"The discharge of contaminants into air from a large scale fuel burning device or from an industrial or trade premise established either: inside a Clean Air Zone; or outside a Clean Air Zone after 28 February 2015, that will likely result in guideline values, set out in the Ambient Air Quality Guidelines 2002 Update, being exceeded is a prohibited activity."

32 In my evidence in chief I have not provided any suggested wording for Rule 7.18 but recommended that it be changed to restricted activity status – I envisage that Council would restrict is discretion to applying BPO; the level of compliance with the National Environmental Standard for Air Quality standards; and any conditions imposed on any discharge permit held.

33 I note a number of expert planners have provided their opinions and some have provided suggested wording (such as Mr Richard Matthews for Synlait) for Rule 7.18. In principle, I consider Rule 7.18 intends to address large scale and industrial activities inside Clean Air Zones, and this is appropriate.

34 However, I consider the rule needs to be split into two in order to provide for lawfully established activities to continue to operate in accordance with current consent conditions as discretionary activities, and for new activities to be developed as non-complying activities. In my opinion, non-complying activity status for new activities in the Clean Air Zone is appropriate to address potential cumulative effects and to recognise the need to improve air quality in accordance with the objectives and policies of the PCARP.

"Rule 7.18 The discharge of contaminants into air from a large scale fuel burning device or from an industrial or trade premise lawfully established ~~either:~~ inside a Clean Air Zone~~; or outside a Clean Air Zone after~~ prior to 28 February 2015, is a restricted discretionary activity. ~~that will likely result in guideline values, set out in the Ambient Air Quality Guidelines 2002 Update, being exceeded is a prohibited activity.~~

Council will restrict is discretion to:

1. *Applying Best Practicable Options;*

2. *The level of compliance with Ambient Air Quality Guidelines 2002;*
3. *The level of compliance with the National Environmental Standard for Air Quality standards; and*
4. *Any conditions imposed on any discharge permit held."*

"Rule 7.18A The discharge of contaminants into air from a large scale fuel burning device or from an industrial or trade premise established ~~either:~~ inside ~~outside~~ a Clean Air Zone; ~~or outside a Clean Air Zone~~ after 28 February 2015, that will likely result in guideline values, set out in the Ambient Air Quality Guidelines 2002 Update, or National Environmental Standard for Air Quality standards being exceeded is a ~~prohibited~~ non-complying activity."

Chris Hansen
11 November 2015