

BEFORE THE CANTERBURY REGIONAL COUNCIL

UNDER THE Resource Management Act 1991

IN THE MATTER OF Submissions lodged on the Proposed Canterbury
Regional Air Plan

**ADDENDUM TO THE STATEMENT OF EVIDENCE BY CLAIRE HUNTER
ON BEHALF OF ALLIANCE GROUP LIMITED**

11 February 2016

1. INTRODUCTION

- 1.1 My full name is Claire Elizabeth Hunter.
- 1.2 I appeared before the Hearings Panel with respect to Proposed Canterbury Air Plan (the Proposed Plan) in November 2015 on behalf of Alliance Group Limited (Alliance). Within that statement of evidence, I set out, in detail, my qualifications and experiences as an expert planning witness¹. A description of the activities undertaken by Alliance and their interests in the Proposed Plan was also provided during the course of the hearing². Please refer to my original statement of evidence for this information as I do not intend to repeat it here.
- 1.3 Notwithstanding the above, I reconfirm that I have read the Environment Court's Code of Conduct for Expert Witnesses, and I agree to comply with it. I confirm that the issues addressed in this brief of evidence are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

Scope of Evidence

- 1.4 The following statement of evidence is an addition to my original evidence presented on 9th November 2015. It is specifically in response to the minute and direction of the Hearing Commissioners dated 10 December 2015 regarding Policies 6.20 to 6.21 and Rules 7.17 to 7.18.

2. PROPOSED POLICIES

- 2.1 In response to Minute 3 of the Hearings Panel (dated 10 December 2015), Environment Canterbury has issued a revised set of recommended provisions relating to industrial and large scale discharges to air. I address each of the revised provisions in turn below.

¹ Paragraphs 1.1 to 1.4 of the statement of evidence by Claire Hunter, dated 18 September 2015.

² Paragraphs 2.1 to 2.5 of the statement of evidence by Claire Hunter, dated 18 September 2015.

Policy 6.20

- 2.2 As originally notified, Policy 6.20 required that a “best practicable option” (BPO) approach be applied to all large scale and industrial activities discharging contaminants into air so that degradation of ambient air quality is minimised.
- 2.3 The Council Officer has issued revised drafting of Policy 6.20 which now seeks “to apply BPO to all large scale fuel burning devices and industrial or trade premises discharging contaminants into air so that:
- 1) *the cumulative and local adverse effects on air quality are minimised; and*
 - 2) *the anticipated land use is not constrained beyond the property where the discharge originates”.*
- 2.4 As set out in my original statement of evidence, in principle, I agree that it would be helpful to include a policy in the Proposed Plan that specifically deals with industrial discharges in accordance with BPO obligations. However, I do not support the revised drafting of the Council Officer as it is ambiguous and is likely to create uncertainty in the way that it is applied.
- 2.5 As currently drafted, the policy requires that the cumulative and local adverse effects on air quality are to be minimised, with no consideration of the significance of the effects nor the degree to which they require “minimisation”. I am also unclear what is meant by the reference to “anticipated land use” and how this would be determined. It could mean something more than existing or permitted land use activities and arguably it could apply to any activity that was not expressly prohibited under the District Plan. I do not consider it appropriate to constrain industrial developments on the basis that it might cause a reverse sensitivity effect sometime at an undefined future date. I therefore propose the following wording:

Apply the best practicable option to all large scale fuel burning devices, and industrial or trade premises discharging contaminants into air ~~so that:~~ commensurate with the nature and scale of any actual or potential adverse effects of the discharge.

- ~~1) *the cumulative and local adverse effects on air quality are minimised; and*~~
- ~~2) *the anticipated land use is not constrained beyond the property where the discharge originates.*~~

Policy 6.21

- 2.6 Revised Policy 6.21 requires applicants seeking to discharge contaminants into air from large scale fuel burning devices or from industrial or trade premises to demonstrate, to the extent that they can, observance of the Resource Management (National Environmental Standards for Air Quality) Regulations 2004 (NESAQ) and to have regard to the Ambient Air Quality Guidelines. I consider this policy to be appropriate.

Policy 6.22

- 2.7 Proposed Policy 6.22 has been redrafted by the Council Officer and is now comprised of three new policies – Policy 6.22, Policy 6.22A and Policy 6.22B.
- 2.8 Policy 6.22 now seeks to avoid significant increases in total PM₁₀ from large scale fuel burning devices and industrial or trade premises within Clean Air Zones.
- 2.9 As set out in my original statement of evidence, Alliance is concerned with the reference to the “clean air zone” particularly for the Timaru area, rather than the gazetted airsheds developed under the NESAQ.
- 2.10 Alliance is also concerned that the use of the term “avoid” in this policy could effectively establish a statutory bar and there is no provision for the continuation of existing industrial discharges which departs from NESAQ Regulation 17. An approach that properly recognises and provides for discharges from existing industrial activities and which anticipates a different consenting pathway for these dischargers is in my opinion a more appropriate approach.
- 2.11 I propose the following alternative drafting for Policy 6.22:
- Give effect to Regulation 17 of the National Environmental Standard for Air Regulations 2004 by ~~a~~Avoiding significant increases in total PM10 from new large scale fuel burning devices and industrial or trade premises within ~~Clean Air Zones~~ polluted air sheds.*
- 2.12 Policy 6.22A encourages the consent authority, when considering discharges of contaminants into air from large scale fuel burning devices or from industrial or trade premises, to require the person responsible for the discharge to monitor the cumulative or local effects of the discharge.

2.13 Section 108 of the RMA relates to conditions of resource consent. Of relevance to Policy 6.22A are sub-paragraphs (3) and (4) of Section 108 which states that:

- (3) *A consent authority may include as a condition of a resource consent a requirement that the holder of a resource consent supply to the consent authority information relating to the exercise of the resource consent.*
- (4) *Without limiting subsection (3), a condition made under that subsection may require the holder of the resource consent to do 1 or more of the following:*
 - (a) *to make and record measurements:*
 - (b) *to take and supply samples:*
 - (c) *to carry out analyses, surveys, investigations, inspections, or other specified tests:*
 - (d) *to carry out measurements, samples, analyses, surveys, investigations, inspections, or other specified tests in a specified manner:*
 - (e) *to provide information to the consent authority at a specified time or times:*
 - (f) *to provide information to the consent authority in a specified manner:*
 - (g) *to comply with the condition at the holder of the resource consent's expense.*

2.14 Given the ability of the Consent Authority to place conditions on a consent that may require monitoring and reporting of an effect arising as a result of granting resource consent, I do not consider it necessary to include a policy that essentially emulates the statute. Furthermore, I also consider that it would be inappropriate for a policy to potentially require a consent holder to undertake ongoing cumulative effects monitoring. Such an activity is the function of the Regional Council when undertaking State of the Environment monitoring and reporting. While the consent authority may use the results of consent monitoring to inform State of the Environment reporting, it would be unduly onerous and inequitable to require it of an individual resource consent holder.

2.15 Policy 6.22B encourages the consent authority, when considering the discharge of contaminants into air from large scale fuel burning devices or from industrial or trade premises, to consider the combined effect of all discharges of contaminants into air associated with the activity.

2.16 It is not clear to me what is intended with respect to this policy and I question whether it is necessary. If it is seeking to manage the cumulative impacts of discharges from the site I note that section 104 of the RMA sets out the matters that a consent authority

should have regard to when considering a resource consent application. This includes in subparagraph (a) *“the actual and potential effects on the environment of allowing an activity”*.

- 2.17 The term “effect” includes, in accordance with Part 1, section 3(d) of the RMA, *“any cumulative effect which arises over time or in combination with other effects”*. It is therefore unnecessary to duplicate the Statute. Such effects will also be managed by via the implementation of other proposed policies such as Policy 6.20 set out above. The consideration of combined effects should also apply to areas other than the site on which the consent would be exercised, so as to be consistent the RMA and the NESAQ. It is my view that proposed Policy 6.22B is not necessary and should be deleted.

Policy 6.19 and Rules 7.17 to 7.18

- 2.18 Alliance submitted on Policy 6.19 and Rules 7.17 to 7.18 of the Proposed Plan. The revised drafting of Policy 6.19 and the proposed removal of rules 7.17 to 7.18 are in my opinion appropriate.

3. CONCLUSION

- 3.1 Alliance appreciates the opportunity to provide additional evidence with respect to the Council Officers revised provisions.
- 3.2 A number of the redrafted provisions are in essence, a duplication of requirements inherent in the RMA. In my opinion, they are unnecessary and should be removed.
- 3.3 With respect to Policy 6.20 and 6.22, I consider that further drafting amendments are required to ensure that the provisions are clear and concise and achieve the intended outcome.

CLAIRE E HUNTER

11 February 2016