

**IN THE MATTER**

of the Resource Management Act 1991

**AND**

**IN THE MATTER**

of the Environment Canterbury  
(Temporary Commissioners and  
Improved Water Management) Act  
2010

**AND**

**IN THE MATTER**

of the Proposed Canterbury Regional Air  
Plan

---

**WRITTEN COMMENTS OF HORTICULTURE NEW ZEALAND**

**IN RESPONSE TO THE COUNCIL'S REVISED PROVISIONS (DATED 18  
DECEMBER 2015), AND THE COMMISSIONERS MINUTE 3 (DATED 10  
DECEMBER 2015)**

**12 February 2016**

---



**ATKINS | HOLM | MAJUREY**

Helen Atkins  
PO Box 1585  
Shortland Street  
AUCKLAND 1140

## 1. INTRODUCTION

1.1 The purpose of this submission is to address:

(a) The proposals set out in the Memorandum of Counsel for the Canterbury Regional Council dated 8 December 2015 ("**Memorandum A**") which responds to Minute 2 of the Hearings Panel dated 2 December 2015; and

(b) The further amendments proposed by the Canterbury Regional Council Officers in the Memorandum of Counsel of 18 December 2015 ("**Memorandum B**") which responds to Minute 3 of the Hearings Panel dated 10 December 2015.

1.2 Horticulture NZ provided industry and planning evidence and legal submissions to the Hearings Panel on 23 November 2015.

1.3 Horticulture NZ's interest in relation to large scale fuel burning devices is the use of such devices to heat greenhouses in rural areas.

1.4 Currently under the Operative NRRP Plan such devices would generally require a controlled activity consent. Horticulture NZ is concerned that there appears to be no justification or rationale for the change from the operative controlled activity status, to the (now) proposed discretionary activity status.

1.5 The revised framework, in the Proposed Regional Air Plan, as in the Memorandum from Council 18 December 2015, would require existing greenhouse growers to obtain a discretionary consent under Rule 7.27.

## 2. DELETION OF RULES 7.17 AND 7.18

2.1 The Council Memorandum is recommending that Rules 7.17 and 7.18 be deleted and that Rules 7.19 – 7.27 be relied upon.

2.2 Rule 7.17 as notified provided for existing large scale fuel burning devices. By deleting the rule and relying on Rule 7.19 -7.27, existing

users outside of the Clean Air Zones are not specifically provided for in the rule framework.

2.3 It appears likely that growers will require a discretionary activity consent under proposed Rule 7.27. However, the application of this rule to existing large scale fuel burning devices is not clear.

2.4 In addition, as noted above there is no justification for a shift from the operative controlled activity status to discretionary activity status for existing, established operators.

2.5 It is noted that in Minute 2 the Hearing Commissioners have specifically asked the Council to consider in the Council's Reply to consider:

Is there is justification for the proposed discretionary activity status for smaller coal burning devices outside CAZ's, particularly where these devices can achieve the same PM<sub>10</sub> emission criterion as devices burning other solid fuels (for example wood).

2.6 The Council's response to that question could affect how the existing greenhouse burners are addressed in the Plan so Horticulture NZ's response to Minute 3 is given in the absence of the Council's response to the question above.

2.7 Horticulture NZ supports the need to rework Rule 7.17 but does not support complete deletion of provisions for existing large scale fuel burning devices outside of the Clean Air Zones. Horticulture NZ seeks that such devices are provided for as a controlled or restricted discretionary activity with clear and appropriate matters of control or discretion stated.

2.8 Horticulture NZ's suggested rewording for Rule 7.17 is:

The discharge of contaminants into air from large scale fuel burning devices established prior to 28 February 2015 outside a Clean Air Zone is a controlled (or restricted discretionary) activity.

2.9 Matters of control or discretion would be similar those used in operative rule AQL26D, attached as **Appendix A**.

**3. PROPOSED REVISIONS TO POLICY 6.20**

- 3.1 The Council Memorandum proposes changes to Policy 6.20 regarding the application of best practicable option.
- 3.2 The amendment to clause 1 is opposed as it is not necessary to refer to 'cumulative and local' adverse effects. A grower cannot control the effects beyond the property boundary so it is not reasonable to require BPO to be applied to minimise such external effects.
- 3.3 The amendment to clause 2 requires that BPO is applied to avoid reverse sensitivity effects beyond the boundary on 'anticipated land uses'. The term 'anticipated land uses' is not supported as it is imprecise. Consideration of reverse sensitivity should be the potential for effects on existing legally established activities.
- 3.4 In addition there are a range of mechanism that may be used to reduce potential for reverse sensitivity effects, and so should not be limited to BPO as set out in the proposed changes to Policy 6.20.
- 3.5 Horticulture NZ seeks that Clause 2 be deleted and that Clause 1 be modified so that the Policy reads as follows:

Apply the best practicable option to all large scale fuel burning devices, and industrial or trade premises discharging contaminants into air so that adverse effects on air quality from the discharge are minimised.

**4. NEW POLICY 6.21**

- 4.1 New policy 6.21 is linked to the deletion of Proposed Policies 6.21 and 6.22. The deletion of the Proposed Policy 6.21 and replacement with the new policy is supported as it gives more appropriate regard to the Ambient Air Quality Guidelines rather than establishing them as a threshold in the Plan.
- 4.2 However the policy requires an applicant has to 'demonstrate to the extent they can' how the listed matters are observed. As such the policy presents a degree of discretion as to 'the extent they can'. It would be appropriate that the word 'reasonably' is added so that

there is a clearer expectation of what an applicant may be required to undertake.

- 4.3 Horticulture NZ would support an amendment to Policy 6.21 by adding: 'demonstrate, to the extent they reasonably can'

**5. NEW POLICY 6.22**

- 5.1 New Policy 6.22 relates to discharges within Clean Air Zones and is not of immediate relevance to Horticulture NZ but note that the policy should seek to the 'Avoid remedy or mitigate adverse effects from significant increases in total PM<sub>10</sub>.

**6. NEW POLICY 6.22A**

- 6.1 New policy 6.22A seeks outside of gazetted airsheds, to place responsibility for monitoring cumulative or local effects of the discharge on the person responsible for the discharge.
- 6.2 It is reasonable that the discharger monitors the discharge for which consent is granted but that person should not be responsible for monitoring in the wider airshed, such as anticipated in the new policy.
- 6.3 This requirement would appear to be a new provision and it is unclear if any submitter sought such a change.
- 6.4 Horticulture NZ seeks that Policy 6.22A be deleted and that monitoring of the specific discharge be a matter of discretion in rules for discharges.

**7. NEW POLICY 6.22B**

- 7.1 New Policy 6.22B is a new policy that seeks to consider the combined effect of all discharges associated with the activity. Such an approach is already provided for in the RMA so inclusion as a specific policy is not necessary.

**Attachment A: Operative Rule AQL26D**

**Rule AQL26D External combustion of solid fuel or light fuel oil greater than 5 MW in an existing large scale fuel burning device outside of Christchurch clean Air Zones 1 and 2, Rangiora Clean Air Zones 1 and 2, Kaiapoi Clean Air Zones 1 and 2 and Ashburton Clean Air Zones 1 and 2 – controlled activity**

Activity	Conditions
<p>Except where prohibited by Rule AQL12, the discharge of contaminants into air from the burning, outside the Christchurch Clean Air Zones 1 and 2, Rangiora Clean Air Zones 1 and 2, Kaiapoi Clean Air Zone 1 and 2 and Ashburton Clean Air Zones 1 and 2, of coal, wood or light fuel oil in any existing external combustion equipment having a net combines heat output capacity within one property of greater than 5 megawatts is a <b>controlled activity</b>.</p> <p><b>For the purpose of this rule</b> “existing” means a large scale fuel burning device burning coal, wood or light fuel oil, legally installed and operating:</p> <ol style="list-style-type: none"> <li>on or before 25 March 2008; and</li> <li>at the time any resource consent application is made and considered under this rule.</li> </ol>	<ol style="list-style-type: none"> <li>Any discharge of contaminants into air shall not be greater than that which may have been lawfully discharged on 25 March 2008.</li> <li>The discharge into air shall occur via a chimney stack at a height of at least 7 metres above ground level and at least 3 metres above the ridge line of the roof of any building, land or other substantial structure within a distance of five times the height of that building, land or structure.</li> <li>The discharge shall be directed vertically into air and shall not be impeded by any obstruction above the stack which decreases the vertical efflux velocity, below that which would occur in the absence of such obstruction.</li> <li>The concentration of total suspended particulate in combustion gas discharge from all emission stacks, when measured according to the requirements described in Schedule AQL6, shall not exceed 500 milligrams per cubic metre of air adjusted to 0° Celsius, dry gas basis, 101.3 kilopascals and 8% oxygen or 12% carbon dioxide.</li> <li>The sulphur content of fuel to be burned shall not exceed 2% by weight.</li> </ol> <p style="text-align: center;"><b>Matters for control</b></p> <p>Environment Canterbury will reserve control over the following matters in imposing any conditions:</p> <ol style="list-style-type: none"> <li>Any measures necessary to further reduce the level of contaminants discharged into air to minimise localised adverse effects on the environment.</li> <li>The fuel burning rate.</li> <li>Any measures necessary to ensure the ability of the equipment to disperse contaminants, including chimney height, chimney design and emission velocity.</li> <li>Any steps to be taken to ensure maintenance of the fuel-burning equipment.</li> <li>Carrying out of measurements, samples, analyses, surveys, investigations, or inspection, including: <ol style="list-style-type: none"> <li>monitoring contaminant concentrations;</li> <li>monitoring the opacity of the discharge;</li> <li>recording the quantity of fuel used;</li> <li>monitoring the emission rate of contaminants; and</li> <li>analysing the cumulative effects of the discharge, in combination with discharges from other sources.</li> </ol> </li> <li>Provisions of information to the consent authority at specified times.</li> <li>Compliance with monitoring, sampling and analysis conditions at the consent holder’s expense.</li> <li>Duration of consent.</li> <li>Review of conditions of consent and the timing and purpose of the review.</li> </ol>