

Policy AQL8: Control all other discharges to air ## 03-025 01 00

18	R. Vore	Support.
89	J. McSweeney	Support.
117	TrustPower Ltd	Amend Policy AQL8 to extend to 'network utility operators' and make any consequential amendments.
120	Christchurch City Council, Fendalton Service Centre	Support.
147	Ashburton District Council	Support.
215	Canterbury Aoraki Conservation Board	Support.
239	Telecom NZ Ltd	Opposes the lack of certainty. No decision requested.
329 (point 1)	Lyttelton Port Company Ltd	Delete Policy AQL 8, or amend policy - refer 3-25-7, 3-25-14, 3-25-1, 3-25-15, 3-25-31. Make any consequential amendments to the Plan as necessary.
329 (point 2)	Lyttelton Port Company Ltd	As an alternative to deleting Policy AQL 8, add a new clause: '(d) avoiding encroachment of sensitive activities on existing activities discharging contaminants to air, unless adverse effects of the contaminant can be avoided or mitigated by the encroaching activity.' Make any consequential amendments to the Plan as necessary.
353	Canterbury Meat Packers Ltd	Delete Policy AQL 8. Make any consequential amendments to the plan where necessary.
371	NZMP	Retain as worded.
372	New Zealand Post	Retain as worded.
374	New Zealand Institute For Crop & Food Research Ltd	Retain as worded.
379	Christchurch City Council, Civic Offices	Clarify the expected additional duties proposed to be placed on territorial authorities in regard to investigation and resolution of complaints being provided including the means by which agreement would be reached.
427	BP Oil New Zealand Ltd, Shell NZ Ltd, Mobil Oil NZ Ltd & Caltex NZ Ltd	Retain Policy AQL 8 without further amendment. Make any consequential amendments to the Plan where necessary.
F239	Telecom NZ Ltd	Support submission 117

F347 (point 1)	Federated Farmers of New Zealand	Support submission 374.
F347 (point 2)	Federated Farmers of New Zealand	Support submission 427.
F386 (point 1)	Te Runanga O Ngai Tahu	Oppose submission 329 (point 1).
F386 (point 2)	Te Runanga O Ngai Tahu	Oppose submission 353.
F435	Tegel Foods Ltd	Support submission 329 (point 2).

Submission Clarification

Submission 120

Submission 120 is the Fendalton/Waimairi Community Board, not the Christchurch City Council, Fendalton Service Centre as recorded in the summary.

Submission 239

Submission 239 sought a change to the 'explanation and principal reasons' associated with Policy AQL8 in relation to radio frequency fields. This is summarised below (see 'Explanation and principal reasons ## 03-025 15 00'). The submission did not submit on, or seek relief in relation to, Policy AQL8 itself.

Submissions 329 and 353

Submissions 329 and 353 sought that Policy AQL8 should be deleted or, in the alternative, amended as follows:

"Control discharges of contaminants to air not specifically provided for in Policies AQL1 to AQL7 by:

- (a) *allowing as permitted activities discharges of contaminants into air from industrial or trade premises or industrial or trade processes that have no more than minor adverse effects on the environment; and*
- (b) *~~giving priority to~~ avoiding, remedying or mitigating adverse effects of localised ground level concentrations of contaminants, including cumulative effects, on:*
 - (i) *human health; and*
 - (ii) *the health and functioning of ecosystems, plants and animals; and*
 - (iii) *values of significance to Tangata Whenua; and*
 - (iv) *cultural and amenity values; and*
- (c) *applying the precautionary principle to the discharge of hazardous air pollutants identified in Schedules AQL1 and AQL2 where they have unknown but potentially significant adverse effects on the environment.*

(d) avoiding encroachment of sensitive activities on existing activities discharging contaminants to air, unless adverse effects of the contaminant can be avoided or mitigated by the encroaching activity.

and that the following paragraphs and material be added to the ‘explanation and principal reasons’:

“Discharges of localised contaminants to air are often associated with land use activities. Therefore, the issue of reverse sensitivity can be addressed by requiring sensitive activities to locate well away from activities that may cause objectionable or offensive emissions. This will minimise problems associated with encroachment of residential and other development on existing industrial and trade processes. In general, existing industrial and trade activities have been developed in areas that are removed from sensitive areas and activities poor land use planning shall not diminish the value of the investment of the existing industrial and trade activities.

The concept of reverse sensitivity is an important policy tool to separate incompatible new activities with established activities. This concept recognises the importance of land use planning to, where possible, ensure activities discharging objectionable or offensive levels of contaminants into the air are kept separate from sensitive land use activities such as residential use or vice versa.

Schedule AQL1 lists the priority hazardous air pollutants for which national ambient air quality guidelines are proposed. Schedule AQL2 lists other hazardous air pollutants identified by the Ministry for the Environment, which are either known or suspected to cause acute human health effects or other significant adverse effects on the environment. In assessing acceptable levels of hazardous air pollutants in discharges, a precautionary approach will be applied where there are unknown but potentially significant adverse effects having particular regard to available information, including any guidelines.”

Consideration

Submission 239

The substance of this submission is considered in Issue AQL1 Localised air quality issues ## 03-007 01 00, 239. The consideration is relevant and it is adopted. The Commissioners agree that radio frequency fields are not a contaminant. The recommendation is the same – that no change be made, and that the submission be rejected.

Submissions 329(points 1 and 2), 353 and Further Submissions F386 (points 1 and 2) and F435

Submissions 329 and 353 sought that Policy AQL8 should be deleted. Three reasons were given in the submissions: it is inappropriate to give priority to broad matters such as ‘cultural and amenity values’; the application of the precautionary principle should follow the terms of the New Zealand Coastal Policy Statement; the concept of reverse sensitivity should be recognised for industrial and trade premises and processes. In the alternative, the relief set out above was sought.

Policy AQL8 as notified is as follows:-

“Control discharges of contaminants to air not specifically provided for in Policies AQL1 to AQL7 by:

- (a) *allowing as permitted activities discharges of contaminants into air from industrial or trade premises or industrial or trade processes that have no more than minor adverse effects on the environment; and*
- (b) *giving priority to adverse effects of localised ground level concentrations of contaminants, including cumulative effects, on:*
 - (i) *human health; and*
 - (ii) *the health and functioning of ecosystems, plants and animals; and*
 - (iii) *values of significance to Tangata Whenua; and*
 - (iv) *cultural and amenity values; and*
- (c) *applying the precautionary principle to the discharge of hazardous air pollutants identified in Schedules AQL1 and AQL2.”*

The Commissioners will address each of the matters raised by the submissions in turn.

Deletion

Policy AQL8(a) provides a framework for the formulation of the permitted activity rules within Chapter 3. Policy AQL8(b) and (c), in part, support the activity status of those matters found in Rules AQL13 to AQL57, and AQL69. Deleting Policy AQL8 would mean that there would be no management framework for those activities which can cause the adverse effects identified in Objective AQL1 and are not the subject to Policies AQL1 to AQL7. This approach is not supported. Therefore, deleting Policy AQL8 is not recommended by the Commissioners.

Giving priority (avoid, remedy or mitigate)

Policy AQL8(b) focuses on ‘localised ground level concentrations’. These are a measured or predicted concentration of a contaminant in the air at ground level typically representing a discrete area of elevated (or maximum) contaminant concentration from a single source in close proximity to that source. They may have an effect on the four matters listed in (i) to (iv). They are similar to, but not the same as, a number of the matters identified in Objective AQL1. Human health, and the health and functioning of ecosystems, plants and animals, are matters taken directly from Objective AQL1. However, values of significance to Tangata Whenua are potentially broader than the effects on Tangata Whenua from the loss of air as a Taonga (unless any effect on Tangata Whenua values are described in terms of the value of the air as a taonga). Further, cultural and amenity values carries wider meaning than the matters relating to odour, visibility, and structure corrosion and soiling. Finally, there are matters within Objective AQL1 that do not appear in Policy AQL8(b). These relate to aspects of human safety, odour, corrosion and soiling of structures, and contamination of water.

‘Giving priority’ focuses the application of any localised ground level concentration analysis, but implies that other effects may also be relevant. ‘Avoid, remedy or mitigate’ implies that only those effects listed in Policy AQL8(b) are relevant. In practice, the matters listed in Policy AQL8(b) are likely to be applied as an exclusive list for analysis in terms of Policy AQL8, and the other matters noted in Objective AQL1 will be considered in relation to any analysis of that objective. Therefore, pragmatically, the words ‘giving priority’ do not add meaning to the clause.

The submissions sought that the words ‘giving priority’ be replaced with ‘avoid, remedy or mitigate’. This would broaden Policy AQL8(b) beyond the current ‘avoid’. ‘Mitigation’ implies that some level of adverse effect may be acceptable, and ‘remedy’ implies that a solution must be found to an effect that has occurred.

Objective AQL1 seeks that the adverse effects identified within it do not occur. This is contrasted with an approach based around minimisation or reduction. It is considered by the Commissioners to be unlikely that Objective AQL1 would be applied in a manner that means ‘no adverse effect’. Consequently, it is recommended by the Commissioners that Policy AQL8(b) start with ‘avoiding, remedying or mitigating’, and that submissions 329 (point 1), and 313 be accepted in this regard and that those in opposition be rejected.

Precautionary principle

The consideration in 1.2.2 Definition of Terms ## 01-009 01 00, 5, 8, 285, 379 (points 1, 1a and 4), 411, 416, 432, F338 (point 3), F365 (points 1 and 17), and F391 (point 2) is relevant. The Commissioners recommended that “Precautionary Approach” be used in Policies AQL8 and AQL10. They adopt that reasoning. No further change is recommended.

Reverse sensitivity

The submissions sought an addition to Policy AQL8 that would provide a basis for controlling the encroachment of sensitive activities on activities discharging, thereby avoiding reverse sensitivity effects. This does not fit within the ambit of Policy AQL8 which is; ‘[c]ontrol discharges of contaminants to air’. What is being sought is a control on land use, not a discharge to air. This issue is already the focus of Chapter 13 Policy AQL5(b), and Method 2 in the Canterbury Regional Policy Statement (pg. 212). No change is recommended by the Commissioners.

It is recommended that except as noted above, the primary submission and F435 be rejected, and that the further submission in opposition be accepted, either in whole or in part as has been noted.

Submission 117 and Further Submission F239

Submission 117, supported by Submission 239, sought that Policy AQL8(a) is broadened to include ‘network utility operators’ - similarly changes to Rules AQL38 (fugitive dust emissions), AQL41 (metal work processes) and AQL51 (water blasting) are sought.

For those activities, undertaken by a network utility operator, that do not occur on an industrial or trade premise, section 15(2) applies – that is the activity can occur unless constrained by a regional rule. The purpose of Policy 8(a), and Rules AQL38, AQL41 and AQL51, is to provide, by the way of permitted activity rules, for discharges from trade and industrial premises and processes when the effects on the environment are considered to be minor. Without this approach resource consent would be required because of section 15(1)(c) of the RMA. Given that the submitter’s concern relates to activities that occur in an industrial or a trade process, and which do not occur in an industrial or trade premise, the change sought is not necessary. No change is recommended by the Commissioners and it is recommended that the submissions are rejected.

Submission 379

Submission 379 sought clarification of the expected additional duties of territorial authorities in relation to the investigation and resolution of complaints.

The submission refers to Policy AQL8). It is assumed that the submission refers to ‘Method AQL8(d) Response to complaints and enquiries’ (iv), which, as notified, is:

- “(iv) *in association with territorial authorities, Crown Public Health Limited and other authorities that receive complaints, develop and implement a procedure to investigate and resolve complaints regarding discharges to air from industrial or trade processes or industrial or trade premises and investigate any other methods to jointly address complaints about discharges to air from industrial or trade processes or industrial or trade premises;*”

This method is not interpreted by the Commissioners as requiring additional complaint response actions from territorial authorities. Rather, it is seeking co-operation where there is the potential for overlap and duplication. Whether this co-operation is forthcoming, and what form it may take, will be dependant on future negotiations and agreements. No change is recommended by the Commissioners, and it is recommended that the submission is rejected.

Submissions 18, 89, 120, 147, 215, 371, 372, 374, 427 and Further Submission F347 (points 1 and 2)

Given their recommendations in relation to Policy AQL8, these submissions can be accepted in part.

Recommendations

Reject

Submissions 117, 239, 329(point 2), 353 (in part), 379 and Further Submission F239, F435.

Accept

Further Submission F435, F386 (point 2).

Accept in Part

Submissions 18, 89, 120, 147, 215, 329 (point 1), 353, 371, 372, 374, 427 and Further Submissions F347 (points 1 and 2) and F386 (point 1).

Amendment Required

1. Amend Chapter 3: Air quality, ‘Policy AQL8 Control all other discharges to air’, p.3-25 as follows:

“Control discharges of contaminants to air not specifically provided for in Policies AQL1 to AQL7 by:

- (a) allowing as permitted activities discharges of contaminants into air from industrial or trade premises or industrial or trade processes that have no more than minor adverse effects on the environment; and*
- (b) ~~giving priority to~~ avoiding, remedying or mitigating adverse effects of localised ground level concentrations of contaminants, including cumulative effects, on:*
 - (i) human health; and*
 - (ii) the health and functioning of ecosystems, plants and animals; and*
 - (iii) values of significance to Tangata Whenua; and*

(iv) cultural and amenity values; and

(c) applying the precautionary ~~principle~~approach to the discharge of hazardous air pollutants identified in Schedules AQL1 and AQL2.

2. Amend Chapter 3: Air quality, 'Policy AQL8 Control all other discharges to air'. 'Explanation and principal reasons', paragraph 2, p.3-25, as follows:

"Policy AQL8(b) identifies that where there are adverse effects from discharges an appropriate response to avoid, remedy or mitigate those adverse effects needs to be formulated. When considering applications for resource consents to discharge contaminants into air, ~~priority must be given to ensuring~~ the adverse effects on the values listed in (i) to (iv) are to be avoided, remedied or mitigated."

Policy AQL8 (a) ## 03-025 04 00 - 03-025 06 00

199	Petroleum Exploration Association Of New Zealand	Clarify what is meant by 'minor adverse effects' and clarify on what basis the Council will determine whether a discharge will have more than minor adverse effects.
338	Transit New Zealand, Christchurch	Amend Policy AQL 8(a) to include the activities associated with road construction and maintenance, and that these be provided for as a permitted activity.

Consideration

Submission 199

Submission 199 sought that 'minor adverse effects' should be defined in the context of Policy AQL8(a) – the specific definition sought was not set out in the submission.

In its submission, the submitter identifies that the term is subject to considerable comment by the Courts in relation to the non-notification of resource consents. Policy AQL8(a) addresses discharges from industrial or trade premises/processes that would otherwise require resource consent by virtue of section 15(1) of the RMA. It defines what discharges to air from industrial or trade premises, or industrial or trade processes, are to be permitted activities in Chapter 3. Policy AQL8(a) is implemented by Rules AQL38 to AQL56. The effects of those discharges permitted by Rules AQL38 to AQL56 are considered to have minor adverse effects in terms of Policy AQL8(a). This, together with Objective AQL1, and the understanding developed through the considerable number of decisions from the Environment Court and from higher Courts, means that further elaboration of this term, in the Commissioners' view, is not required. No change is recommended by the Commissioners, and it is recommended that the submission be rejected.

Submission 338

Submission 338 sought that the scope of Policy AQL8(a) is widened to include activities associated with road construction and maintenance that generally have no more than minor adverse effects on the environment, but which do not fall within the definitions of either 'industrial or trade premises' or 'industrial and trade processes'.

The discharge of contaminants into air from a site that is not defined as 'industrial or trade premises' does not require resource consent unless the discharge contravenes a rule in a regional plan (see Section 15(2) of the RMA). Consequently, discharges to air from road construction and maintenance are permitted unless a rule is formulated in Chapter 3 that specifies otherwise. Policy AQL8(a) specifically addresses minor discharges from industrial or trade premises/processes that would otherwise have required resource consent by virtue of section 15(1) of the RMA. It is not considered necessary to specifically refer to road construction and maintenance activities in the policy. It is recommended that the submission is rejected.

Recommendation

Reject

Submissions 199 and 338.

Amendment Required

None required.

Policy AQL8 (b) ## 03-025 07 00

329	Lyttelton Port Company Ltd	As an alternative to deleting Policy AQL 8, amend (b) as follows: 'Avoiding, remedying or mitigating adverse effects of... ' Make any consequential amendments to the Plan as necessary.
338	Transit New Zealand, Christchurch	Amend Policy AQL 8 (b) to include remedying and mitigation.
341	Heinz Wattie's Australasia Pty Ltd	Amend Policy AQL 8 (b) by replacing the words 'avoiding' with 'avoiding, remedying, or mitigating'. Or any other similar relief to satisfy the concerns of Heinz Wattie's.
342	Canterbury Breweries Limited	Amend Policy AQL 8 (b) by replacing the words 'avoiding' with 'avoiding, remedying, or mitigating'. Or any other similar relief to satisfy the concerns of Canterbury Breweries Ltd.
352	Feltex Carpets Ltd	Delete 'avoiding' and replace with 'avoiding, remedying or mitigating'. Make any consequential amendments to the plan where necessary.
353 (point 1)	Canterbury Meat Packers Ltd	Delete 'avoiding' and replace with 'avoiding, remedying or mitigating'. Make any consequential amendments to the plan where necessary.

353 (point 2)	Canterbury Meat Packers Ltd	As an alternative to deleting Policy AQL 8 (refer submission 3-25-1), amend point (b) to read: 'Avoiding, remedying or mitigating adverse effects...' Delete 'prevent or minimise' and replace with 'avoid, remedy or mitigate'. Make any consequential amendments to the plan where necessary.
364	Avon Hotel Ltd	Delete Policy AQL8(b), or delete the words 'giving priority to avoiding' and replace with 'Avoiding, remedying or mitigating'. Make any consequential amendments to the plan where necessary.
F435	Tegel Foods Ltd	Support submission 353 (point 1).

Consideration

Submissions 329, 338, 341, 342, 352, 353 (point 1), 364 and Further Submission F435

The substance of these submissions is considered above (see Policy AQL8: Control all other discharges to air ## 03-025 01 00, 329 (points 1 and 2), 353, F386 (points 1 and 2), and F435. The consideration is relevant and it is adopted. The recommendation is the same – delete 'giving priority to', and begin the policy with 'avoiding, remedying or mitigating'. It is recommended that the submission be accepted.

Submission 353(point 2)

The deletion of Policy AQL8 is considered above (see Policy AQL8: Control all other discharges to air ## 03-025 01 00, 353). The consideration is relevant and has been adopted. As an alternative to deletion the submission sought that "prevent or minimise" were replaced by "avoid, remedy or mitigate". "Prevent or minimise" do not occur in the policy. The usage of avoid, remedy or mitigate is provided through the submissions point 1, above. No further action is recommended as a result of this submission. It is recommended that this submission is rejected.

Recommendations

Accept

Submissions 329, 338, 341, 342, 352, 353(point 1), 364 and Further Submission F435.

Reject

Submission 353(point 2).

Amendment Required

1. Amend Chapter 3: Air quality, 'Policy AQL8 Control all other discharges to air', p.3-25 as follows:

“Control discharges of contaminants to air not specifically provided for in Policies AQL1 to AQL7 by:

- (a) allowing as permitted activities discharges of contaminants into air from industrial or trade premises or industrial or trade processes that have no more than minor adverse effects on the environment; and*
- (b) ~~giving priority to~~ avoiding, remedying or mitigating adverse effects of localised ground level concentrations of contaminants, including cumulative effects, on:

 - (i) human health; and*
 - (ii) the health and functioning of ecosystems, plants and animals; and*
 - (iii) values of significance to Tangata Whenua; and*
 - (iv) cultural and amenity values; and**
- (d) applying the precautionary ~~principle~~ approach to the discharge of hazardous air pollutants identified in Schedules AQL1 and AQL2.*

2. Amend Chapter 3: Air quality, 'Policy AQL8 Control all other discharges to air'. 'Explanation and principal reasons', paragraph 2, p.3-25 as follows:

“Policy AQL8(b) identifies that where there are adverse effects from discharges an appropriate response to avoid, remedy or mitigate those adverse effects needs to be formulated. When considering applications for resource consents to discharge contaminants into air, ~~priority must be given to ensuring~~ the adverse effects on the values listed in (i) to (iv) are to be avoided, remedied or mitigated.”

Policy AQL8 (c) ## 03-025 13 00 - 03-025 14 00

329	Lyttelton Port Company Ltd	As an alternative to deleting Policy AQL 8, amend (c) as follows: 'AQL 1 and AQL 2 where they have unknown but potentially significantly adverse effects on the environment.' Make any consequential amendments to the Plan as necessary.
338	Transit New Zealand, Christchurch	Delete Policy AQL 8(c), and deal with solely in Policy AQL 10.
353	Canterbury Meat Packers Ltd	As an alternative to deleting Policy AQL 8 (refer submission 3-25-1), amend point (c) to read: 'Where hazardous air pollutants identified in Schedules AQL 1 and AQL 2 have unknown but potentially significant adverse effects on the environment then the precautionary principle is to be applied.' Make any consequential amendments to the plan where necessary.
379	Christchurch City Council, Civic Offices	Provide a definition for 'precautionary principle'.

Consideration

Submissions 329, 353 and 379

The substance of these submissions is considered above (see Policy AQL8: Control all other discharges to air ## 03-025 01 00, 329 (points 1 and 2), 353, F386 (points 1 and 2), and F435). The consideration is relevant and it is adopted. The recommendation is the same – that no change be made in response to these submissions, and that they be rejected.

Submission 338

Submission 338 sought that Policy AQL8(c) is deleted, with reliance being placed on Policy AQL10. If this does not occur, Submission 338 seeks that the use of the term ‘precautionary principle’ should be clarified in the ‘explanation and principal reasons’. The clarification sought was not set out in the submission.

Policy AQL8 and Policy AQL10 relate to two interlinked, but different, situations. Policy AQL8 links to Objective AQL1 and is focussed on localised adverse effects. Policy AQL10 links to Objective AQL2 and is focussed on ambient air. They fulfil different purposes and cannot, in the Commissioners’ view, be substituted as sought. No change is recommended by the Commissioners in relation to this matter.

In terms of clarifying the term ‘precautionary principle’, the substance of this is considered above (see Policy AQL8: Control all other discharges to air ## 03-025 01 00, 329 (points 1 and 2), 353, F386 (points 1 and 2) and F435). The consideration is relevant and it is adopted. The recommendation is the same – that no change is made in response to this submission, and that it is rejected.

Recommendations

Reject

Submissions 329, 353 and 379.

Accept

Submissions 338.

Amendment Required

None required.

Explanation and principal reasons ## 03-025 15 00

239	Telecom NZ Ltd	Add at the end of the Explanation and Principal Reasons: 'In December 2000 the Ministry of Health and the Ministry for the Environment produced the 'National Guidelines for Managing the Effects of Radio frequency transmitters'. One of the key findings of the guideline was that there are no established health effects from exposure to radio frequency fields as long as they comply with the New Zealand Standard (2772.1:1999 Radio frequency Fields part 1 - Maximum Exposure Levels 3kHz - 300GHz). Notwithstanding this, for the avoidance of doubt and for the purposes of this Plan, radio frequency fields are not considered to be a contaminant.'
329	Lyttelton Port Company Ltd	Add new paragraphs to the Explanation and principal reasons, as follows: Discharges of localised contaminants to air are often associated with land use activities. Therefore, the issue of reverse sensitivity can be addressed by requiring sensitive activities to locate well away from activities that may cause objectionable or offensive emissions. This will minimise problems associated with encroachment of residential and other development on existing industrial and trade processes. In general, existing industrial and trade activities have been developed in areas that are removed from sensitive areas and activities poor land use planning shall not diminish the value of the investment of the existing industrial and trade activities. The concept of reverse sensitivity is an important policy tool to separate incompatible new activities with established activities. This concept recognises the importance of land use planning to, where possible, ensure activities discharging objectionable or offensive levels of contaminants into the air are kept separate from sensitive land use activities such as residential use or vice versa.' Make any consequential amendments to the Plan as necessary.
338	Transit New Zealand, Christchurch	If Policy AQL 8 (c) is to remain, provide information in the Explanation on the use of the term 'precautionary principle' and how it will apply in the Plan relative to hazardous air pollutants.
353	Canterbury Meat Packers Ltd	As an alternative to deleting Policy AQL 8 (refer submission 3-25-1), add a new paragraph to the Explanation and principal reasons, as follows: 'Discharges of localised contaminants to air are often associated with land use activities. Therefore, the issue of reverse sensitivity can be addressed by requiring sensitive activities to locate well away. Make any consequential amendments to the plan where necessary.'

F427	BP Oil New Zealand Ltd, Shell NZ Ltd, Mobil Oil NZ Ltd & Caltex NZ Ltd	Support submission 329.
F435	Tegel Foods Ltd	Support submission 329.

Consideration

Submission 239

The substance of this submission is considered, in Issue AQL1 Localised air quality issues ## 03-007 01 00, 239. The consideration is relevant and it is adopted. The recommendation is the same – that no change be made, and that the submission be rejected.

Submissions 329, 353 and Further Submissions F427 and F435

The substance of these submissions is considered above (see Policy AQL8: Control all other discharges to air ## 03-025 01 00, 329 (point 2) –reverse sensitivity. The consideration is relevant and has been adopted. The issue of reverse sensitivity is a land use planning matter. Policy AQL8 relates to the control of discharges of contaminants to air, not land use matters. The Commissioners, while having sympathy with the views of the submitters, do not consider that the change sought is appropriate. The recommendation is the same – that no change is made.

Submission 338

The substance of this submission is considered above (see Policy AQL8 (c) ## 03-025 13 00 - 03-025 14 00, 338). The consideration is relevant and it is adopted. The recommendation is the same – that no change is made, and that the submission be rejected.

Recommendation

Reject

Submissions 239, 329, 338, 353 and Further Submissions F427 and F435.

Amendment Required

None required.

Explanation and principal reasons - Paragraph 3 ## 03-025 26 00 - 03-025 31 00

8 (point 1)	Primary Producers Co-Operative Society Ltd, Christchurch	Delete reference to the Ministry for the Environment Ambient Air Quality Guidelines.
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8 (point 2)	Primary Producers Co-Operative Society Ltd, Christchurch	As an alternative to the submissions made (see 3-26-31, 3-26-34, 3-27-11, 3-28-28, 3-33-33, 3-148-33, 3-178-23, 3-178-32, 3-1819, 3-211-2, 3-211-4, 3-212-2, 3-213-2, 3-217-3, 3-25-26, 3-27-11, 3-211-5 and 3.0), amend reference to the Ministry for the Environment Ambient Air Quality Guidelines to only apply to urban airshed management, not to individual discharges.
285 (point 1)	Alliance Group Ltd	Delete reference to the Ministry for the Environment Ambient Air Quality Guidelines.
285 (point 2)	Alliance Group Ltd	As an alternative to the submissions made (see 3-26-31, 3-26-34, 3-27-11, 3-28-28, 3-33-33, 3-148-33, 3-178-23, 3-178-32, 3-1819, 3-211-2, 3-211-4, 3-212-2, 3-213-2, 3-217-3, 3-25-26, 3-27-11, 3-211-5 and 3.0), amend reference to the Ministry for the Environment Ambient Air Quality Guidelines to only apply to urban airshed management, not to individual discharges.
329	Lyttelton Port Company Ltd	As an alternative to deleting Policy AQL 8, amend to read: '... will be applied when there are unknown but potentially significant adverse effects, having particular...' Make any consequential amendments to the Plan as necessary.
353	Canterbury Meat Packers Ltd	As an alternative to deleting Policy AQL 8 (refer submission 3-25-1), amend to read '...will be applied when there are unknown but potentially significant adverse effects, ...' Make any consequential amendments to the plan where necessary.
411 (point 1)	NZMP	Delete reference to the Ministry for the Environment Ambient Air Quality Guidelines.
411 (point 2)	NZMP	As an alternative to the submissions made (see 3-26-31, 3-26-34, 3-27-11, 3-28-28, 3-33-33, 3-148-33, 3-178-23, 3-178-32, 3-1819, 3-211-2, 3-211-4, 3-212-2, 3-213-2, 3-217-3, 3-25-26, 3-27-11, 3-211-5 and 3.0), amend reference to the Ministry for the Environment Ambient Air Quality Guidelines to only apply to urban airshed management, not to individual discharges.
416 (point 1)	NZMP	Delete reference to the Ministry for the Environment Ambient Air Quality Guidelines. Make other changes necessary to give effect to this submission.

416 <i>(point 2)</i>	NZMP	As an alternative to the submissions made (see 3-26-31, 3-26-34, 3-27-11, 3-28-28, 3-33-33, 3-148-33, 3-178-23, 3-178-32, 3-1819, 3-211-2, 3-211-4, 3-212-2, 3-213-2, 3-217-3, 3-25-26, 3-27-11, 3-211-5 and 3.0), amend reference to the Ministry for the Environment Ambient Air Quality Guidelines to only apply to urban airshed management, not to individual discharges. Make other changes necessary to give effect to this submission.
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Consideration

Submissions 8 (points 1 and 2), 285 (points 1 and 2), 411 (points 1 and 2) and 416(points 1 and 2)

The substance of these submissions is evaluated, in Further General Submissions ## 03-000 00 00, 201, F401 (point 2), and Objective AQL2 (a) ## 03-026 30 00 - 03-026 31 00, and Objective AQL 2(b) ## 03-026 33 00 - 03-026 34 00 - 03-026 37 008 (points 1 and 2), 285 (points 1 and 2), 455 (points 1 and 2), 416 (points 1 and 2). The consideration is relevant here but will not be repeated. The recommendation is the same – that no change be made, and that the submissions are rejected.

Submissions 329 and 353

The substance of these submissions is considered above in Policy AQL8: Control all other discharges to air ## 03-025 01 00. The consideration is relevant. The recommendation is the same – that no change is made in response to these submissions aside from replacing “precautionary principle” with “precautionary approach”.

Recommendation

Reject

Submissions 8 (points 1 and 2), 285 (points 1 and 2), 329, 353, 411 (points 1 and 2) and 426(points 1 and 2).

Amendment Required

None required.

Method AQL8(c) Compliance and enforcement ## 03-026 01 00

348	Environment Canterbury	Add a new first sentence into the method of compliance and enforcement to read: 'Environment Canterbury will undertake monitoring and ensure compliance with resource consents conditions.'
F347	Federated Farmers of New Zealand	Oppose submission 348.

Consideration

Submission 348 and Further Submission F347

Submitter 348 sought that Method AQL8(c) should be amended by adding a statement to the effect that Environment Canterbury would undertake monitoring and ensure compliance with resource consent conditions. These submissions are considered above in relation to Method AQL1(d) ##03-010 08 00, 348, F347. That analysis is adopted. It is recommended that submission 348 be rejected, and submission 347 accepted.

Recommendations

Reject

Submission 348.

Accept

Further submission F347.

Amendment Required

None required.

Method AQL8(d) Response to complaints and enquires ## 03-026 08 00

347	Federated Farmers Of New Zealand Inc, North Canterbury Branch	Amend Method 8(d) to signal that ECan staff will only investigate complaints where the nuisance is (i) ongoing and (ii) arises from the effects of an ECan consent.
378	Canterbury Growers Society Ltd	Ensure that the complaints database only contains verified complaints. Make any consequential amendments to the plan where required. (Refer 0-0.)
379	Christchurch City Council, Civic Offices	Delete 'Crown Public Health Limited' and replace with 'District Health Board' or 'public health services'.
401	NZ Vegetable & Potato Growers Fed. Inc. and NZ Fruitgrowers Fed Inc.	Ensure that the complaints database only contains verified complaints. Make any consequential amendments to the plan where required. (Refer 0-0.)
F347	Federated Farmers of New Zealand	Support submission 401.

Submission Clarification

Submission 379

This submission relates to Policy AQL2 and “...where it appears in any other place in the plan...” Accordingly, it should have been summarised in this location. Unfortunately that did not occur.

Consideration

Submissions 378, 401 and Further Submission F347

These submissions are common to all of Chapters 1, 2 and 3. They are considered at ## 01-029 12 00. The consideration is adopted. The recommendation is the same – that no change be made, and that the submission be rejected.

Submission 347

Submission 347 sought that Environment Canterbury should only investigate complaints where the nuisance is (i) ongoing, and (ii) arises from the effects of an Environment Canterbury consent. As part of the reasoning, the submission states it considers only verified complaints should be logged.

In part, the substance of this issue is considered at ## 01-029 12 00. The consideration is relevant and it is adopted. Further, section 35(2) of the RMA sets out five circumstances where Environment Canterbury must monitor and take appropriate action. Monitoring the exercise of resource consent is only one of those five matters. Monitoring one off nuisances will be relevant to monitoring the effectiveness of the policies, rules and other methods in Chapter 3. Nothing can be inserted into chapter 3 that derogates from these duties. No change is recommended by the Commissioners, and it is recommended that the submission is rejected.

Submission 379

Submission 379 sought the term 'Crown Public Health' be amended to 'District Health Board' or 'public health services'. The name, and purpose, of organisations will change over time. The Commissioners accept that making the reference more general will ensure it retains currency. It is recommended that the submission is accepted.

Recommendations

Reject

Submissions 347, 378, 401 and Further Submission F347

Accept

Submission 379

Amendment Required

Amend Chapter 3: air quality, Method AQL8(d) p. 3-26 Response to complaints and enquires, (iv), as follows:

“(iv) *in association with territorial authorities, ~~Crown Public Health Limited health agencies~~ and other authorities that receive complaints, develop and implement a procedure to investigate and resolve complaints regarding discharges to air from industrial or trade processes or industrial or trade premises and investigate any other methods to jointly address complaints about discharges to air from industrial or trade processes or industrial or trade premises; and*”

Method AQL8(d) (iv) ## 03-026 18 00

125	Waimakariri District Council	Add after 'in association with territorial authorities' the following: "where appropriate, or where agreement on roles and responsibility has been reached."
F429	Selwyn District Council	Support submission 125.

Consideration

Submission 125 and Further Submission F429

Submission 125 sought, with support from further submission 429, that Method AQL8(d)(iv) should be amended to qualify the actions of Environment Canterbury with respect to the territorial authorities.

With respect to responding to complaints, there is considerable overlap between the functions of a regional council and a territorial authority, both as a result of the function definition in the RMA, and other pieces of legislation that territorial authorities administer (e.g. Health Act 1956).

The method is for Environment Canterbury to “*develop and implement a procedure*” in association with territorial authorities and other agencies. Part of this process will require agreements be reached (where possible) with the territorial authorities and other agencies. The change sought does not add understanding to Environment Canterbury’s obligations and therefore, in the Commissioners’ view it is not necessary. It is recommended that the submission be rejected.

Recommendation

Reject

Submission 125 and Further Submission F429.

Amendment Required

None required.