

Section 42A Hearing Report

Proposed Otago Regional Policy Statement 2021

Chapter 7:

AIR – Air

Hannah Goslin

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7. AIR

7.1. Introduction

1. Controlling the discharge of contaminants into air is a function of regional councils, as specified in section 30(f) of the RMA. In Otago, air quality monitoring shows that for most of the year air quality in the region is very good. During winter months however, temperatures drop and emissions from home heating increase. This coupled with the topography of some areas and cold, calm conditions leads to poor winter air quality in many towns and cities across the region. The AIR chapter of the pORPS contains two objectives, which collectively provide for the sustainable management of air quality in the Otago region. The objectives give effect to the RMA and Resource Management (National Environmental Standards for Air Quality (Regulations 2004 (NESAQ)). At a regional level, the objectives also address significant resource management issues raised during consultation, and in response to clause 3 and 4A consultation.
2. Objective AIR – O1 sets the long term goal for Otago’s air resource and drives the policy framework for improving air quality in Otago. Objective AIR – O2 specifies that human health, amenity, mana whenua values and life supporting capacity of ecosystems are all protected from adverse effects of discharges to air.
3. The provisions contained in the AIR chapter of the PORPS that are intended to implement Objectives AIR–O1 and AIR–O2 are set out below:
 - AIR–P1 – Maintain good ambient air quality
 - AIR–P2 – Improve poor ambient air quality
 - AIR–P3 – Providing for discharges to air
 - AIR–P4 – Avoiding certain discharges
 - AIR–P5 – Managing certain discharges
 - AIR–P6 – Impacts on mana whenua values
 - AIR–M1 – Review airshed boundaries
 - AIR–M2 – Regional plans
 - AIR–M3 – Territorial authorities
 - AIR–M4 – Monitoring and reporting
 - AIR–M5 – Incentives and other mechanisms
4. In addition to the policies and methods, the AIR chapter also includes the following explanation, principal reasons and anticipated environmental results:
 - AIR–E1 – Explanation
 - AIR–PR1 – Principal reasons
 - AIR–AER1
 - AIR–AER2

AIR–AER3

AIR–AER4

AIR–AER5

AIR–AER6

7.2. Author

5. My full name is Hannah Louise Goslin and I am an Associate at the firm Incite. I hold a Bachelor of Science in Geography from the University of Canterbury and a Certificate in Engagement from the International Association for Public Participation (IAP2). I have completed the Ministry for the Environment’s “Making Good Decisions” course with Excellence and I am an Associate Member of the New Zealand Planning Institute and a member of the Resource Management Law Association.
6. I have 8 years’ of resource management experience in both the private sector and local government. During this time, I have been involved in providing environmental impact and policy assessments for a wide range of discharge permits to discharge contaminants to air, water and land, landuse consents and water permits, including attendance at hearings for large notified resource consent applications and Environment Court assisted mediation. My policy planning experience includes undertaking work for a range of Councils, drafting regional policy statements and regional plans. I have also assisted with the drafting of Section 32 evaluation reports, Section 42A reports and appearances at hearings. I have experience taking part in Environment Court assisted mediation for policy planning projects and appearing as an expert witness in the Environment Court.
7. I have been involved in the review of the pORPS and preparation of the pORPS since April 2020. I have assisted with the development of the AIR Chapter, this included provision drafting, consultation, Section 32 evaluation report drafting and drafting this Section 42A Report and recommendations.

7.3. General themes

8. A range of general submissions were made on this chapter that covered all objectives and policies. This section addresses all of those submission points in addition to those that seek the inclusion of new provisions.

7.3.1. Submissions

9. A number of submitters seek the removal or replacement of provisions that are more stringent than the NESAQ.¹
10. This is sought on the basis that air quality standards set by national regulation should provide an appropriate balance between protection of natural resources and growth and

¹ 00014.016, 00014.017, 00014.018, 00014.019, 00014.020, 00014.021, 00014.022, 00014.023, 00014.024 Mt Cardrona Station, 00118.016, 00118.017, 00118.018, 00118.019, 00118.020, 00118.021, 00118.022, 00118.023, 00118.024 Maryhill Limited, 00209.010 Universal Developments, 00210.010 Lane Hocking, and 00211.010 LAC

development/change. The submitters are concerned that requirements to improve air quality and avoid and/or mitigate all adverse effects (without qualifying a level of effect that is appropriate), could result in adverse consequences such as restricting appropriate development, or increasing litigation to oppose growth and development.

11. Horticulture NZ seeks the addition of a new policy to manage reverse sensitive issues as follows:

Avoid locating new sensitive activities near existing activities which are permitted or consented to discharge to air.²

12. Horticulture NZ considers there needs to be clear direction in the pORPS that the location of activities is an important consideration in terms of likely adverse effects on people from discharges of contaminants into air. This is a particularly relevant consideration when identifying new locations for urban growth as new sensitive activities locating in proximity to existing consented or permitted discharges to air is likely to lead to reverse sensitivity effects.

7.3.2. Analysis

13. In relation to those submissions seeking the removal or replacement of provisions more stringent than the NESAQ, limiting the provisions to only what is required by the NESAQ does not allow for the future Regional Air Plan to set provisions that may be more stringent than the NESAQ if required. Section 28 of the NESAQ delegates the regional council with the power to set more stringent rules and specifies that more stringent rules would prevail over the NESAQ. Given the ability to include more stringent provisions is already provided for in the NESAQ and that the stringency of such provisions will be a key component of the future Regional Air Plan, I do not recommend any changes to the provisions on the basis of these submissions.
14. In relation to the Horticulture NZ submission, I consider the specifics of addressing reverse sensitivity matters are too detailed for the pORPS and will be a key component of the future Regional Air Plan. Based on this I recommend no amendments.

7.3.3. Recommendation

15. I recommend no changes.

7.4. Definitions

16. There are a range of submissions relating to defined terms used in this chapter, some of which are addressed in other parts of this report. In summary:
- Defined terms used throughout the pORPS, including in this section, are addressed in *Chapter 1: Introduction and general themes*.
 - Defined terms, including requests for new definitions of terms, used only in the Air chapter are addressed in this section of this report.

² 00236.047 Horticulture New Zealand

17. I have addressed the following term in this section:
- Ambient air
 - Polluted airshed
- 7.4.1. Ambient air
- 7.4.1.1. Introduction
18. The term ‘ambient air’ is used throughout the AIR Chapter of the pORPS, but does not have an associated definition.
- 7.4.1.2. Submissions
19. Horticulture NZ seeks to include a definition of the term ‘ambient air’. The submitter seeks the following definition of the term:³
- Ambient air is air outside buildings and structures. It does not include indoor air, air in a workplace or contaminated air discharged from a source.
20. Horticulture NZ states that the Air domain refers to ambient air quality, but does not clearly state what is meant by the term. They state that it is important that the term clearly distinguishes from localised air quality, which is linked to a specific discharge source.
- 7.4.1.3. Analysis
21. The term ‘ambient air’ is not defined in the National Planning Standards or the NESAQ.
22. The applicant’s definition largely aligns with the definition of ambient air in the Ambient Air Quality Guidelines (Ministry for the Environment, 2002), which is as follows:
- Ambient air**
- The air outside buildings and structures. This does not refer to indoor air, air in the workplace, or contaminated air discharged from a source.
23. I consider the term ambient air is a well understood term that refers to outdoor air quality. In the context of the terms use in the pORPS, ‘ambient air’ is clearly differentiated from discharges to air, and the activities that result in those discharges. Based on this, I do not consider an additional definition is necessary.
- 7.4.1.4. Recommendation
24. I do not recommend any amendments.

³ 00236.012 Horticulture NZ

7.4.2. Polluted airshed

7.4.2.1. Introduction

25. A definition of 'polluted airshed' is included in the 'Interpretation' section of the pORPS. Use of the term is limited to the AIR Chapter of the pORPS. As notified the definition of 'polluted airshed' reads:

Polluted airshed has the same meaning as in regulation 14(4) of the National Environmental Standards for Air Quality 2004 (as set out in the box below)

- (a) an airshed becomes a polluted airshed on and from 1 September 2012 or any later day if, for the immediately prior 5-year period—
 - (i) the airshed has meaningful PM10 data for at least a 12-month period; and
 - (ii) the airshed's average exceedances of PM10 (as calculated under regulation 16D) was more than 1 per year; and
- (b) an airshed stops being a polluted airshed on and from any day if the PM10 standard was not breached in the airshed in the immediately prior 5-year period

7.4.2.2. Submissions

26. Ravensdown seeks to have the definition of *polluted airshed* deleted from the pORPS, due to its source, the National Environmental Standards for Air Quality (2004) (NESAQ), currently being reviewed with updates expected soon⁴. The submitter identifies that although the final form of the standards is not known, the consultation document outlines changes to the contaminate of concern, with associated changes likely as to how a polluted airshed would be determined.

7.4.2.3. Analysis

27. Whilst the updates to the NESAQ were due to be finalised late in 2021, no update has yet been finalised. As such, I consider it appropriate for the pORPS to include the definition from the standard as it currently applies. I recommend not accepting this submission point.

7.4.2.4. Recommendation

28. I do not recommend any amendments.

⁴ 00121.008 Ravensdown

7.5. AIR–O1 – Ambient air quality

7.5.1. Introduction

29. As notified AIR-O1 reads:

AIR–O1 – Ambient air quality

Ambient air quality provides for the health and well-being of the people of Otago, *amenity* and *mana whenua values*, and the life-supporting capacity of ecosystems.

7.5.2. Submissions

30. A number of submitters seek to retain as AIR-O1 as notified.⁵

31. Kāi Tahu ki Otago seeks to amend the structure of the provision as follows:

Ambient air quality provides for:

- (1) the life-supporting capacity of ecosystems,
- (2) *mana whenua values*,
- (3) the health and well-being of the people of Otago, and
- (4) *amenity*.⁶

32. This change is sought to better reflect the significance of *mana whenua values* as being separate from *amenity values*.

7.5.3. Analysis

33. I understand the relief sought by the submitter, however I consider Objective AIR-O1 in the format as notified does not imply a hierarchy of matters for which ambient air quality should provide for. I do consider a minor change to include reference to ‘amenity values’ may provide relief for the submitter and benefit implementation given the term ‘amenity values’ is defined in the pORPS.

7.5.4. Recommendation

34. I recommend Objective AIR-O1 be amended as follows:

AIR–O1 – Ambient air quality

Ambient air quality provides for the health and well-being of the people of Otago, *amenity values*⁷ and *mana whenua values*, and the life-supporting capacity of ecosystems.

⁵ 00242.002 Cosy Homes Charitable Trust , 00139.049 Dunedin City Council, 00213.024 Fonterra , 00138.012 QLDC, and 00121.029 Ravensdown.

⁶ 00226.114 Kāi Tahu ki Otago

⁷ 00226.114 Kāi Tahu ki Otago

7.6. AIR–O2 – Discharges to air

7.6.1. Introduction

35. As notified AIR-O2 reads:

AIR–O2 – Discharges to air

Human health, *amenity* and *mana whenua* values and the life-supporting capacity of ecosystems are protected from the adverse effects of discharges to air.

7.6.2. Submissions

36. QLDC seeks to retain Objective AIR-O2 as notified.⁸

37. Horticulture NZ and Fonterra seek amendments to Objective AIR-O2 to enable or provide for discharges into air provided there are no ‘significant localised effects’ on human health, amenity, mana whenua values or the life supporting capacity of ecosystems.⁹ Fonterra considers that social and economic wellbeing is dependent on certain activities that may have discharges to air, and these activities need to operate. Horticulture NZ considers that because Objective AIR-O1 relates to ambient air quality, Objective AIR – O2 should clearly relate to localised effects of discharges.

38. Similarly, Ravensdown seeks to amend the wording of Objective AIR – O2, such that the discharges into air are provided, while ensuring the effects on human health, amenity and mana whenua values and the life supporting capacity of ecosystems are appropriately managed.¹⁰ This is sought on the basis that Objective AIR-O2 largely repeats Objective AIR-O1 and inappropriately provides for protection from adverse effects, rather than ensuring that adverse effects from discharges to air are avoided, remedied or mitigated.

39. Queenstown Airport are concerned that visibility for operations in and around the region’s airports and flight paths is not adequately provided for in the objective. To remedy this, they seek that human ‘safety’ is included as value which must be protected from the adverse effects of discharges to air.¹¹

40. Kāi Tahu ki Otago seeks an alternative wording hierarchy as follows:

Human health, ~~amenity and mana whenua values~~ and the life-supporting capacity of ecosystems, mana whenua values, and amenity are protected from the adverse effects of discharges to air.¹²

41. Similar to Kāi Tahu ki Otago’s submission on Objective AIR-O2, it is considered that mana whenua values should be considered separately from amenity values.

⁸00138.013 QLDC

⁹ 00236.042 Horticulture NZ, 00233.025 Fonterra

¹⁰ 00121.030 Ravensdown

¹¹ 00313.008 Queenstown Airport

¹² 00226.115 Kāi Tahu ki Otago

7.6.3. Analysis

42. I understand the concerns raised by Fonterra and Horticulture NZ in relation the threshold of adverse effects set in Objective AIR-O2. I consider the threshold of protection from 'adverse effects' to be low and, in my experience, there are a number of activities for which resource consent is required to discharge contaminants into air that could result in adverse effects whether adverse effects are at the negligible end of the scale, or significant. While the ability to discharge contaminants into air needs to be provided for, it is important that these discharges do not cause significant adverse effects on human health and other values. AIR-O2 is an objective and is a statement of what is to be achieved through resolution of a particular issue. Given this, I consider maintaining unqualified 'protection' as an outcome provides the ability for the policies to establish the level of adverse effects that are acceptable. Based on this, I do not support the relief sought by Fonterra and Horticulture NZ.
43. I do not support the changes to Objective AIR-O2 proposed by Ravensdown or additional changes proffered by Fonterra to use action-based language in Objective AIR-O2. As mentioned above, I consider an objective is a statement of what is to be achieved through the resolution of a particular issue. To me, the amendments proposed by these submitters describe the actions that will be undertaken to achieve an objective and are more appropriate at a policy level.
44. In relation to the change sought by Kāi Tahu ki Otago, similar to the recommended change to AIR-O1 above, I consider a minor change to include reference to 'amenity values' may provide relief for the submitter and benefit implementation given the term 'amenity values' is defined in the PORPS.
45. I consider the concerns raised by Queenstown Airport in relation to the visibility for operations in and around the region's airports and flight paths is already provided for in Objective AIR-O2 by the reference to 'amenity values'. Accordingly, I do not consider any changes are necessary to provide further relief for the submitter.

7.6.4. Recommendation

46. I recommend Objective AIR-O2 be amended as follows:

AIR-O2 – Discharges to air

Human health, *amenity values*¹³ and *mana whenua* values and the life-supporting capacity of ecosystems are protected from the adverse effects of discharges to air.

7.7. AIR-P1 – Maintain good ambient air quality

7.7.1. Introduction

47. As notified AIR-P1 reads:

AIR-P1 – Maintain good ambient air quality

¹³ 00226.115 Kāi Tahu ki Otago

Good ambient air quality is maintained across Otago by:

- (1) ensuring *discharges* to air comply with ambient air quality limits where those limits have been set, and
- (2) where limits have not been set, only allowing *discharges* to air if the adverse *effects* on ambient air quality are no more than minor.

7.7.2. Submissions

48. Three submitters seek retention of Policy AIR-P1 as notified.¹⁴ CODC note their support in principle, although raise concern in relation to affordable alternative heating options and that the timeframes are too short.

49. QLDC and Ravensdown are concerned with use of the term ‘good’ as it is too ambiguous and open for wide interpretation. QLDC consider the term should be deleted or replaced with a more directive term. Ravensdown also seek deletion of the term ‘good’ and propose the following more specific changes to Policy AIR-P1:

AIR-P1-Maintain ~~good~~ ambient air quality

~~Good~~ – Ambient air quality is maintained across Otago, where ambient air quality standards are complied with, by:

- (1) ensuring *discharges* to air comply with ~~ambient air quality limits where those limits have been set,~~ ambient air quality standards or relevant guidelines, and
- (2) ~~where limits have not been set, only~~ allowing *discharges* to air if the adverse *effects* on ambient air quality are avoided, remedied or mitigated ~~no more than minor~~.¹⁵

50. Similarly, Fonterra seek the following specific changes to Policy AIR-P1:

Good ambient air quality is maintained across Otago by:

- (1) ensuring discharges to air ~~comply with~~ are managed to maintain ambient air quality within the contaminant thresholds in the National Environment Standards for Air Quality and the Ambient Air Quality Guidelines ~~ambient air quality limits where those limits have been set, and~~
- (2) where limits have not been set, only allowing discharges to air if the adverse effects on ambient air quality are no more than minor.¹⁶

51. Both Fonterra and Ravensdown consider that the reference to ‘ambient air quality limits’ is unclear and should instead refer to ‘ambient air quality standards’ as set out in the NESAQ. Ravensdown go on to also seek acknowledgement of other ‘relevant guidelines’ used by air quality experts for other contaminants not managed by the NESAQ.

¹⁴ 00201.008 CODC, 00139.052 DCC, 00226.116 Kāi Tahu ki Otago

¹⁵ 00138.014 QLDC, 00121.031 Ravensdown

¹⁶ 00213.026 Fonterra

52. In relation to clause (2) of Policy AIR-P1, Ravensdown and Fulton Hogan seek to replace ‘no more than minor’ with ‘avoided, remedied or mitigated’ and ‘acceptable’ respectively.¹⁷ Both submitters cite that the ‘no more than minor’ threshold relates to notification tests under the RMA and introduces ambiguity into the policy approach.

7.7.3. Analysis

53. I acknowledge the submissions made by QLDC, Ravensdown and Fonterra to align AIR-P1 with the NESAQ. However, air quality monitoring results show that during the winter months, air quality in the Otago Region does not comply with the ambient air quality standards set out in the NESAQ or the operative Regional Air Plan. The Regional Air Plan was made operative in 2003 and the most recent plan change to the Regional Air Plan intended to implement the NESAQ was made operative in 2009. Due to the high number of exceedances continuing, and potentially increasing as a result of future amendments to the NESAQ, the operative Regional Air Plan is not adequately managing air quality. The intent of the policy direction for the Air chapter is to establish a framework for the future Regional Air Plan. Given the current air quality monitoring results, it is likely that the future Regional Air Plan will provide an interim step to meeting the ambient air quality standards in the NESAQ and adoption of terms used in the NESAQ to inform drafting of the Policy AIR-P1 is not required.
54. It is important at a high level to set a state of ambient air quality that is to be maintained so as to consider where ambient air quality can be improved (as set out in AIR – P2). The use of the word ‘good’, in the context of ambient air quality, is a qualifier that can be clarified further through the future Regional Air Plan.
55. In response to the alternative wording proposed by Ravensdown to refer to ‘other relevant guidelines’, I consider maintaining the more general wording in Policy AIR-P1 enables the future Regional Air Plan to determine whether other relevant guidelines should be used to establish limits.
56. On the changes sought to clause (2) of the policy, I consider the replacement of ‘no more than minor’ with ‘acceptable’ introduces subjectivity to the policy, accordingly I do not consider the relief should be adopted. I understand the intent of the changes to clause (2) sought by Ravensdown, however I consider the level of detail on how particular adverse effects could be managed where limits are not set is best left for the review of the Regional Air Plan.

7.7.4. Recommendation

57. I recommend no change to Policy AIR-P1.

¹⁷ 00322.010 Fulton Hogan

7.8. AIR-P2 – Improve poor ambient air quality

7.8.1. Introduction

58. As notified AIR-P2 reads:

AIR-P2 – Improve poor ambient air quality

Poor ambient air quality is improved across Otago by:

- (1) establishing, maintaining and enforcing plan provisions that set limits and timeframes for improving ambient air quality, including by managing the spatial distribution of activities and transport, and
- (2) prioritising actions to reduce *PM₁₀* and *PM_{2.5}* concentrations in *polluted airsheds*, including phasing out existing domestic *solid fuel* burning appliances and preventing any *discharges* from new domestic *solid fuel* burning appliances that do not comply with the standards set in the NESAQ.

7.8.2. Submissions

59. Cosy Homes Charitable Trust and Waka Kotahi seek retention of Policy AIR-P2 as notified.¹⁸

60. Fonterra considers that where air quality in the region is degraded, the target should be to move towards compliance with the NESAQ. Specific amendments that provide the NESAQ as a target are provided.¹⁹

61. Kāi Tahu ki Otago seek additions to Policy AIR-P2 to require the active monitoring of air quality and to take action if ambient air quality standards in the NESAQ are breached.²⁰

62. Similarly, Ravensdown²¹ and QLDC²² consider reference to ‘poor ambient air quality’ is unclear, and reference should instead be made to ‘degraded’ ambient air quality to accord with the NESAQ. Ravensdown also consider the last clause of the policy is not applicable given identical regulations have been in force under the NESAQ since 2005. A number of specific amendments to Policy AIR-P2 are proposed by Ravensdown as follows:

AIR – P2 – Improve ~~poor~~ degraded ambient air quality

~~Poor~~ Degraded ambient air quality, where ambient air quality standards are not complied with, is improved across Otago including by:

- (1) establishing, maintaining and enforcing plan provisions that set limits and timeframes for improving ambient air quality, including by

¹⁸ 00242.003 Cosy Homes Charitable Trust, 00305.010 Waka Kotahi

¹⁹ 00213.027 Fonterra

²⁰ 00226.117 Kāi Tahu ki Otago

²¹ 00121.032 Ravensdown

²² 00138.015 QLDC

managing discharges to air so that the discharge of contaminants that contribute to the degradation are minimised,

- (2) managing the spatial distribution of activities and transport, and
- (32) prioritising actions to reduce PM₁₀ and PM_{2.5} concentrations in polluted airsheds, including phasing out existing domestic solid fuel burning appliances and ~~preventing any discharges from new domestic solid fuel burning appliances that do not comply with the standards set in the NESAQ.~~

- 63. Graymont seeks the term 'practicable' is included in clause (1) of Policy AIR-P2. This relief is sought on the basis that it is not possible for the regional council to manage the spatial distribution of all activities and some activities, such as mineral extraction, have a functional need to be in particular location.²³
- 64. Wise Response²⁴ seeks to amend the provision to include a third clause prohibiting or phasing out the use of fuel types that are known to cause poor air quality by 2027.

7.8.3. Analysis

- 65. As discussed in the analysis for Policy AIR-P1, air quality monitoring results show that during the winter months, air quality in the Otago Region does not comply with the ambient air quality standards set out in the NESAQ or the operative Regional Air Plan. Due to the high number of exceedances continuing, and potentially increasing as a result of future amendments to the NESAQ, the Regional Air Plan is not adequately managing air quality and the intent of the policy direction for this chapter is to establish a framework for the future Regional Air Plan. Given the current air quality monitoring results, it is likely that the future Regional Air Plan will provide an interim step to eventually meeting the ambient air quality standards in the NESAQ and future iterations of the standard. Based on this, it is considered that not referring to the NESAQ through Policy AIR-P2 will provide the ability for the future Regional Air Plan to set the limits and timeframes for improving ambient air quality in the region where it is poor.
- 66. I consider the relief sought by Kāi Tahu ki Otago in relation to the monitoring of air quality is already provided by Method AIR-M4. In terms of the relief sought to take action if ambient air quality standards in the NESAQ are breached, I consider the thrust of Policy AIR-P2 to maintain and enforce plan provisions already requires the Council to take action where ambient air quality is poor.
- 67. I agree with the concerns raised by Ravensdown and QLDC in relation to the use of 'poor'. I consider the term 'degraded' is well understood and should replace the term 'poor' in Policy AIR-P2.
- 68. Ravensdown's submission also suggests a significant re-draft and restructure of Policy AIR-P2. As mentioned above, the intent of the Air Chapter is to establish a framework for the future Regional Air Plan. I agree with the intent of the changes sought on clause (1),

²³ 00022.013 Graymont

²⁴ 00509.053 Wise Response

however I consider it is cast at a level which is more appropriate for the future Regional Air Plan. A critical mechanism for improving ambient air quality in Otago where it is degraded is to prevent any new discharges that do not comply with the standards set in the NESAQ. While this standard is already in force under the NESAQ and the operative Regional Air Plan, it will also be part of the approach in the future Regional Air Plan.

69. I do not consider Policy AIR-P2 should be amended to include ‘practicable’, I consider clause (1) provides examples of mechanisms that the future Regional Air Plan may include to improve ambient air quality and such detail is best left for that process.

70. Finally, the addition of a new clause was proposed to set a timeframe for phasing out the use of all fuel types known to cause poor ambient air quality. I consider specific mechanisms such as limiting particular types of fuel, amongst other mechanisms and timeframes is a level of detail that is better addressed in the future Regional Air Plan. Again, Policy AIR-P2 provides the direction to improve degraded ambient air quality, and the suggested additional clause may be one such consideration through that process.

7.8.4. Recommendation

71. I recommend Policy AIR-P2 be amended as follows:

AIR-P2 – Improve degraded ~~poor~~²⁵ ambient air quality

Degraded ~~Poor~~²⁶ ambient air quality is improved across Otago by:

- (1) establishing, maintaining and enforcing plan provisions that set limits and timeframes for improving ambient air quality, including by managing the spatial distribution of activities and transport, and
- (2) prioritising actions to reduce *PM₁₀* and *PM_{2.5}* concentrations in *polluted airsheds*, including phasing out existing domestic *solid fuel* burning appliances and preventing any *discharges* from new domestic *solid fuel* burning appliances that do not comply with the standards set in the NESAQ.

7.9. AIR-P3 – Providing for discharges to air

7.9.1. Introduction

72. As notified AIR-P3 reads:

AIR-P3 – Providing for discharges to air

Allow discharges to air provided they do not adversely affect human health, amenity and *mana whenua* values and the life supporting capacity of ecosystems.

²⁵ 00121.032 Ravensdown

²⁶ 00121.032 Ravensdown

7.9.2. Submissions

73. Six submitters seek retention of the policy as notified.²⁷
74. Federated Farmers seeks to remove ‘amenity’ and ‘mana whenua values’ from the provision.²⁸ Federated Farmers consider the reference to mana whenua values introduces duplication into the chapter given mana whenua values are already provided for by Policy AIR-P6. It is also considered inappropriate to provide for ‘amenity’ in this way given the subjective nature of this term.
75. Kāi Tahu ki Otago seeks to change the order of values in Policy AIR-P3 to place ‘Mana whenua values, human health and amenity’ after ‘life supporting capacity of ecosystems’.²⁹ This is sought to better reflect the significance of mana whenua values as being separate from amenity values.
76. Fonterra considers Policy AIR-P3 is worded too strictly and effectively establishes a “no adverse effects” test to whether discharges are to be allowed.³⁰ Amendments are sought to Policy AIR-P3 to require discharges be enabled, subject to Policies AIR-P1 and AIR-P4 and provided they do not have ‘significant’ adverse effects on values.
77. Fulton Hogan consider the language used in Policy AIR-P3 is broad and could be interpreted to mean that only discharges that do not cause any effects can be allowed or authorised, including by resource consents. Amendments are sought to clarify that Policy AIR-P3 only refers to allowing such discharges as permitted activities.³¹
78. Ravensdown considers the term ‘allow’ implies permitted activity status for activities where Policy AIR-P2 would apply. Amendments are sought to replace ‘allow’ with ‘provide for and manage’ amongst other amendments.³²

7.9.3. Analysis

79. The intent of Policy AIR-P3 is to ensure the framework of the future Regional Air Plan provides a regime that enables discharges into air, where they do not result in adverse effects on the listed values. As discussed in the earlier sections of this report, use of the term ‘adverse effects’ without qualification sets a particularly low threshold. Given this, it is likely such activities may be authorised via a permitted or restricted discretionary activity framework in the future Regional Air Plan. I prefer the wording of the notified wording to ‘allow’ instead of the wording sought by Fulton Hogan to ‘provide for’ I consider use of the term ‘allow’ provides greater direction for the future Regional Air Plan. I do not support the specific amendments proposed by Fulton Hogan to include reference to permitted activities through the policy, I consider the determination of appropriate activity statuses is more appropriately left to the future Regional Air Plan.

²⁷ 00016.003 Alluvium and Stoney Creek, 00017.002 Danny Walker and Others, 00236.043 Horticulture NZ, 00240.013 NZ Pork, 00138.016 QLDC, 00221.003 Silver Fern Farms.

²⁸ 00239.053 Federated Farmers

²⁹ 00226.118 Kāi Tahu ki Otago

³⁰ 00213.028 Fonterra

³¹ 00322.011 Fulton Hogan

³² 00121.033 Ravensdown

80. In relation to the change sought by Kāi Tahu ki Otago, similar to the recommended change to Objectives AIR-O1 and AIR-O2 above, I consider a minor change to include reference to 'amenity values' may provide relief for the submitter and benefit implementation given the term 'amenity values' is defined in the pORPS.

81. I do not support the relief sought by Federated Farmers to remove amenity and mana whenua values from the policy. The term 'amenity values' is defined in the pORPS and while it is to some extent subjective, I consider it is useful to maintain reference to the term in Policy AIR-P3. As mentioned above, the intent of Policy AIR-P3 is to establish a less stringent framework in the future Regional Air Plan for activities that do not adversely affect the listed values, while Policy AIR-P6 seeks avoidance of discharges into air where adverse effects on mana whenua values could occur. Given this, I do not consider the policies are duplicates.

7.9.4. Recommendation

82. I recommend Policy AIR-P3 be amended as follows:

AIR-P3 – Providing for discharges to air

Allow discharges to air provided they do not adversely affect human health, *amenity values, and*³³ *mana whenua* values and the life supporting capacity of ecosystems.

7.10. AIR-P4 – Avoiding certain discharges

7.10.1. Introduction

83. As notified AIR-P4 reads:

AIR-P4 – Avoiding certain discharges

Avoid discharges to air that cause offensive, objectionable, noxious or dangerous effects.

7.10.2. Submissions

84. Four submitters seek retention of the policy as notified.³⁴

85. Horticulture NZ and NZ Pork seek to delete the provision unless guidance or definition was provided for regarding the terms 'offensive, objectionable, noxious or dangerous'.³⁵

86. Federated Farmers seeks to remove the term 'objectionable' from the provision because avoid is an effective prohibition and should not be connected to a subjective term such as 'objectionable'.³⁶

³³ 00226.118 Kāi Tahu ki Otago

³⁴ 00016.004 Alluvium and Stoney Creek, 00017.003 Danny Walker and Others, 00313.009 Queenstown Airport, 00138.017 QLDC.

³⁵ 00236.044 Horticulture NZ, 00240.014 NZ Pork

³⁶ 00239.054 Federated Farmers

87. Three submitters oppose the use of ‘avoid’ in Policy AIR-P4, Fonterra considers the use of the term “avoid” is too absolute as it relates to offensive and objectionable effects. Amendments are sought to remove the terms ‘offensive’ and ‘objectionable’ and include a qualifier that noxious or dangerous effects should be considered in the context of human health.³⁷ Oceana Gold consider the current wording of the policy is too uncertain and seek to replace ‘avoid’ with ‘manage’.³⁸ Ravensdown consider use of the term ‘avoid’ can be problematic as it infers a prohibited activity status for such activities. Amendments are sought by Ravensdown to delete and replace ‘avoid’ as follows:³⁹

AIR-P4-~~Restricting~~ Avoiding certain discharges

Ensure Avoid discharges to air do not ~~that~~ cause offensive, objectionable, noxious or dangerous effects beyond the boundary of the property of origin.

88. Fulton Hogan and Ravensdown also seek either the addition of ‘beyond the boundary of the property of origin’ to the policy, or to restrict the avoidance of effects to beyond the boundary of the property of origin.⁴⁰ Fulton Hogan considers that Policy AIR-P4 as notified has the potential to foreclose activities that may give rise to effects within the boundary of a property.
89. DCC considers it is unclear how policies AIR-P3 to AIR-P6 are intended to work together and seek amendments to Policy AIR-P4 to avoid ‘or minimise as far as practicable’ discharges to air that could result in offensive, objectionable, noxious or dangerous effects.⁴¹
90. Kāi Tahu ki Otago seeks the addition of ‘mana whenua values’ to the list of discharges that are to be avoided.⁴²

7.10.3. Analysis

91. I understand the concerns raised by Horticulture NZ, NZ Pork and Federated Farmers with regards to the use of the terms ‘offensive, objectionable, noxious or dangerous’. The terms are used widely in the management of discharges to air around New Zealand. It is preferred that the criteria used to determine whether a discharge to air is offensive or objectionable is contained in the future Regional Air Plan.
92. I consider the use of ‘avoid’ in Policy AIR-P4 is generally appropriate, a discharge that results in the effects listed in Policy AIR-P4 are unacceptable and an indicator of significant adverse effects therefore avoidance of such effects is appropriate. However, there may be instances where it is sometimes necessary to provide for these effects in the short term to provide resource users with an opportunity to mitigate effects. In my view, the more appropriate place to determine these matters this would be through the review to inform the future Regional Air Plan. To provide opportunity for a more nuanced

³⁷ 00213.029 Fonterra

³⁸ 00115.013 Oceana Gold

³⁹ 00121.034 Ravensdown

⁴⁰ 00322.012 Fulton Hogan, 00121.034 Ravensdown

⁴¹ 00139.050 DCC

⁴² 00226.119 Kāi Tahu ki Otago

approach to managing objectionable, offensive, noxious or dangerous effects in the future Regional Air Plan, I consider the term 'generally' should be included prior to 'avoid'. I also consider that this provides for a nuanced approach to determining whether such effects should be able to occur within the boundary of the property of origin.

93. I consider the addition of 'human health' as a qualifier for noxious or dangerous effects would limit the scope of the policy. Discharges of contaminants into air could give rise to effects that are noxious or dangerous on ecosystem health, amenity values and mana whenua values in addition to human health.

94. In response to the relief sought by Kāi Tahu ki Otago, I consider this is provided by AIR-P6 and does not need to be addressed in this policy.

7.10.4. Recommendation

95. I recommend Policy AIR-P4 be amended as follows:

AIR-P4 – Avoiding certain discharges

Generally Avoid⁴³ discharges to air that cause offensive, objectionable, noxious or dangerous effects.

7.11. AIR-P5 – Managing certain discharges

7.11.1. Introduction

96. As notified AIR-P5 reads:

AIR-P5 – Managing certain discharges

Manage the *effects of discharges* to air beyond the boundary of the property of origin from activities that include but are not limited to:

- (1) outdoor burning of organic material,
- (2) agrichemical and fertiliser spraying,
- (3) farming activities,
- (4) activities that produce dust, and
- (5) industrial and trade activities.

7.11.2. Submissions

97. Five submitters seek retention as notified⁴⁴

98. Fonterra and Graymont seek to amend the provision to specify the management of 'adverse' effects of discharges to air.⁴⁵ Fonterra considers AIR-P4 adequately addresses offensive and objectionable discharges, but considers this could be clarified by specifically

⁴³ 00213.030 Fonterra, 00022.014 Graymont

⁴⁴ 00208.005 AgResearch Limited, 00226.120 Kāi Tahu ki Otago, 00138.018 QLDC, 00410.003 Rural Contractors NZ, 00221.004 Silver Fern Farms

⁴⁵ 00213.030 Fonterra, 00022.014 Graymont

noting that effects of discharges managed under this policy includes ‘those that are offensive or objectionable’.⁴⁶

99. Graymont also seeks to amend the provision to specify the management of discharges ‘that are not acceptable’.⁴⁷
100. Horticulture NZ and NZ Pork request the term ‘farming activities’ is replaced with ‘primary production activities’.⁴⁸ Additionally, Horticulture NZ seeks the term ‘agrichemical and fertiliser spraying’ is replaced with ‘agrichemical and fertiliser applications’.⁴⁹ Both submitters note that existing terms in the policy used are too narrow and wider scope could be achieved with the adoption of the requested amendments.
101. Lauder Creek Farming consider additional direction should be provided in the policy to identify mitigation measures to ensure the policy can be adhered to.⁵⁰
102. Ravensdown seeks to amend the provision to remove ‘beyond the boundary of the property of origin’.⁵¹ Ravensdown considers that the policy as drafted, infers that the discharges beyond the property of origin is where management of the discharge, under the RMA, will occur. It is noted that this is not how discharges to air are managed under the RMA, nor is it anticipated that this is what is meant in the drafting of the policy.

7.11.3. Analysis

103. I agree with the relief proposed by Fonterra and Graymont, I consider specifying that it is the ‘adverse’ effects that are being managed is a helpful addition to the policy. I do not consider the additional relief sought by Fonterra to specify ‘offensive and objectionable’ provide any additional value as the policy seeks to manage the adverse effects arising as a result of certain discharges. I consider the additional wording sought by Graymont to the require management of adverse effects ‘that are not acceptable’ introduces an element of subjectivity into the policy and would likely be problematic during implementation.
104. I consider the amendments sought by Horticulture NZ and NZ Pork to replace terms in clauses (2) and (3) of the policy are helpful and have recommended these changes accordingly. I also note the term ‘primary production’ is defined in the pORPS, and so the use of the term improves consistency across the document.
105. The relief sought by Lauder Creek Farming seeking identification of mitigation measures is more appropriate for the future Regional Air Plan. Based on this, I do not consider additional specificity relating to mitigation measures should be included in Policy AIR-P5.
106. Finally, it is not recommended to remove ‘beyond the boundary of the property of origin’ from the provision. It is important to have provision for cases where activities result in discharges to air that extend beyond the boundary of the property of origin. Provided

⁴⁶ 00213.030 Fonterra

⁴⁷ 00022.014 Graymont

⁴⁸ 00236.045 Horticulture NZ, 00240.015 NZ Pork

⁴⁹ 00236.045 Horticulture NZ

⁵⁰ 00406.006 Lauder Creek Farming

⁵¹ 00121.035 Ravensdown

those discharges are not offensive, objectionable, noxious, or dangerous, they should be permitted to take place within the property boundaries. However, in some circumstances discharges from these activities do adversely affect areas outside the property boundaries. AIR – P5 requires the management of discharges to air where the effect occurs beyond the boundary of the property of origin.

7.11.4. Recommendation

107. I recommend Policy AIR-P5 be amended as follows:

AIR–P5 – Managing certain discharges

Manage the adverse⁵² effects of *discharges* to air beyond the boundary of the property of origin from activities that include but are not limited to:

- (1) outdoor burning of organic material,
- (2) agrichemical and fertiliser spraying applications⁵³,
- (3) ~~farming~~ primary production⁵⁴ activities,
- (4) activities that produce dust, and
- (5) industrial and trade activities.

7.12. AIR–P6 – Impacts on mana whenua values

7.12.1. Introduction

108. As notified AIR-P6 reads:

AIR–P6 – Impacts on *mana whenua* values

Avoid *discharges* to air that adversely affect *mana whenua* values by having particular regard to values and areas of significance to *mana whenua*.

7.12.2. Submissions

109. QLDC seeks retention of the provision as notified.⁵⁵

110. Horticulture NZ considers mana whenua values are already included in Objectives AIR-O1, AIR-O2 and Policy AIR-P3, therefore a specific policy on the impacts on mana whenua values is not necessary. They seek deletion of the provision in its entirety.⁵⁶

111. A number of submitters oppose use of the term ‘avoid’ in Policy AIR-P6, most citing that use of the term is too restrictive and implies a prohibited activity status. Aurora Energy seek amendments to Policy AIR-P6 as follows:

⁵² 00213.030 Fonterra, 00022.014 Graymont

⁵³ 00236.045 Horticulture NZ

⁵⁴ 00236.045 Horticulture NZ, 00240.015 New Zealand Pork Industry

⁵⁵ 00138.019 QLDC

⁵⁶ 00236.046 Horticulture NZ

Avoid, Remedy or mitigate discharges to air that adversely affect mana whenua values by having particular regard to values and identified areas of significance to mana whenua.⁵⁷

112. Similarly, DCC considers that it is unclear how policies AIR-P3 to AIR-P6 will work together and there may be potential for conflict between these policies. DCC seek a similar amendment to Aurora Energy to include the terms ‘or minimise as far as practicable’ after ‘avoid’.⁵⁸ Federated Farmers seeks to replace ‘avoid’ with ‘manage’⁵⁹. Fonterra considers that it is only significant adverse effects that should be avoided, and amendments are sought accordingly.⁶⁰ Ravensdown submit that ‘avoid’ should be deleted and replaced with ‘ensuring that discharges to air do not adversely affect’.⁶¹
113. Kāi Tahu ki Otago seeks that a supporting assessment criterion for assessing the impact of discharges to air be included. When developed, the assessment criteria would have particular regard to sites and landscapes of significance to Kāi Tahu, including wahi tupuna, wahi tapu and wahi taoka.⁶²
114. Ngāi Tahu ki Murihiku seeks to add the inclusion of ‘including wahi tupuna’ to Policy AIR-P6.⁶³

7.12.3. Analysis

115. The primary theme within the submissions seeking amendments to this provision relate to the use of ‘avoid’ in the context of discharges that effect mana whenua values. In my opinion this is for two reasons. The first is that there is a general aversion to use of the word ‘avoid’ unless it forms part of the phrase ‘avoid, remedy or mitigate’, because it leaves no room beyond preventing something from happening. The second reason is that there is a lack of clarity concerning mana whenua values in the context of discharges to air, what this provision means for existing discharges, and what the lack of clarity will mean retrospectively when the pORPS becomes operative.
116. I consider the relief sought by Kāi Tahu ki Otago and Ngāi Tahu ki Murihiku is useful in that it provides examples of areas that are significant to mana whenua. In my view, including additional detail will assist those who implement the provisions of the pORPS. I also consider clarification of significant areas and landscapes for Kāi Tahu ki Otago may also provide some certainty for the other submitters on this provision. I consider the amendments proposed by Kāi Tahu ki Otago to include direction that such matters are taken into account when assessing the impact of discharges to air may be too detailed to be included within a policy at an RPS level. However, I do not consider that omitting such detail at an RPS level will impact on the consideration of effects on mana whenua values

⁵⁷ 00315.020 Aurora Energy

⁵⁸ 00139.051 DCC

⁵⁹ 00239.055 Federated Farmers

⁶⁰ 00213.031 Fonterra

⁶¹ 00121.036 Ravensdown

⁶² 00226.121 Kāi Tahu ki Otago

⁶³ 00223.062 Ngāi Tahu ki Murihiku

by decision makers on resource consents as decision makers are directed to have regard to the relevant provisions of an RPS in accordance with Section 104(1)(b) of the RMA.

7.12.4. Recommendations

117. I recommend Policy AIR-P6 be amended as follows:

AIR-P6 – Impacts on *mana whenua* values

Avoid *discharges* to air that adversely affect *mana whenua* values by having particular regard to values and areas of significance to *mana whenua*, including wāhi tupuna, wāhi tapu and wāhi taoka⁶⁴.

7.13. AIR-M1 – Review airshed boundaries

7.13.1. Introduction

118. As notified AIR-M1 reads:

AIR-M1 – Review *airshed* boundaries

Prior to implementing AIR-M2, and no later than 31 December 2022, the Otago Regional Council must review existing *airshed* boundaries and apply to the Ministry for the Environment to gazette amended boundaries where *airsheds* do not account for:

- (1) current or anticipated areas of development,
- (2) weather patterns and geography, or
- (3) existing areas of poor air quality.

7.13.2. Submissions

119. CODC supports the method in principle but has concerns with the timeframes being too short. The submitter also notes concerns regarding public access to alternative heating options.⁶⁵

120. QLDC seeks more context around the word ‘poor’ with respect to air quality.⁶⁶

7.13.3. Analysis

121. I agree with the submission made by QLDC and consider it appropriate to amend the term ‘avoid’ to ‘degraded’ to provide consistency with the changes made to AIR-P3.

7.13.4. Recommendation

122. I recommend Method AIR-M1 be amended as follows:

⁶⁴ 00226.121 Kāi Tahu ki Otago and 00223.062 Ngāi Tahu ki Murihiku

⁶⁵ 00201.01 CODC

⁶⁶ 00138.020 QLDC

AIR–M1 – Review *airshed* boundaries

Prior to implementing AIR–M2, and no later than 31 December 2022, the Otago Regional Council must review existing *airshed* boundaries and apply to the Ministry for the Environment to gazette amended boundaries where *airsheds* do not account for:

- (1) current or anticipated areas of development,
- (2) weather patterns and geography, or
- (3) existing areas of degraded ~~poor~~⁶⁷ air quality.

7.14. AIR–M2 – Regional plans

7.14.1. Introduction

123. As notified AIR-M2 reads:

AIR–M2 – Regional plans

No later than 31 December 2024, Otago Regional Council must prepare or amend and maintain its *regional plans* to:

- (1) avoid offensive, objectionable, noxious or dangerous *discharges* to air,
- (2) include provisions to mitigate the adverse *effects* from *discharges* to air beyond the boundary of the property of origin,
- (3) implement the prioritisation of actions set out in AIR–P2,
- (4) mitigate the adverse *effects* of *discharges* to air in areas adjacent to *polluted airsheds* where the *discharge* will adversely affect air quality in the *polluted airshed*, and
- (5) give effect to the Air Quality Strategy for Otago and any subsequent amendments or updates.

7.14.2. Submissions

124. QLDC seeks retention as notified.⁶⁸

125. FENZ seeks to link public awareness messages on air quality from regional plans with the FENZ permitting system.⁶⁹

126. Cosy Homes Charitable Trust seeks to bring the timeline from 2024 forward to 2023.⁷⁰ This is due to the health impacts from particulate matter pollution being cumulative, so measures to improve air quality must be implemented as soon as possible.

⁶⁷ 00138.020 QLDC

⁶⁸ 00138.021 QLDC

⁶⁹ 00219.023 FENZ

⁷⁰ 00242.004 Cosy Homes Charitable Trust

127. Four submitters seek to amend clause (1) of the AIR-M2 to state ‘give effect to policy AIR-P4’.⁷¹ Horticulture NZ seeks to delete clause (1) entirely.⁷² They have concerns about the directive to avoid offensive, objectionable, noxious or dangerous discharges to air without certainty as to how the terms will be applied. They also consider it is unclear what may be included in ‘any subsequent amendments or updates’ of the Air Quality Strategy for Otago.
128. Kāi Tahu ki Otago seeks to extend clause (1) to include the avoidance of discharges that affect mana whenua values.⁷³
129. Ravensdown seeks the method specifies that “offensive, objectionable, noxious or dangerous discharges beyond the boundary of the property of origin do not occur”.⁷⁴ Ravensdown also seeks to replace ‘mitigate’ with ‘manage’ in clause (2) and to delete ‘beyond the boundary of the property of origin’ from clause (2).⁷⁵ In relation to clause (3), Ravensdown seeks to amend the clause to ‘implement the actions prioritised in accordance with AIR-P2.’⁷⁶ Additionally, Ravensdown seeks to delete both clause (4) and (5) entirely.⁷⁷
130. Fonterra seeks to amend clause (5) to ‘recognise and, where appropriate, give regulatory weight to the Air Quality Strategy for Otago (subject to the schedule 1 process)’. Additionally, the submitter seeks to delete ‘and any subsequent updates’ from clause (5).⁷⁸ Fonterra considers that it is inappropriate for a strategic document that is not subject to the same rigorous consultation and regulatory processes as those documents prepared via the Schedule 1 RMA process to be ‘given effect to’ as part of the Otago Regional Air Plan framework.
131. Te Rūnanga o Ngāi Tahu seeks to add a sixth clause to the provision that reads:
- (6) include measures to avoid adverse effects of discharges to air on wahi tupuna.⁷⁹

7.14.3. 1.2.11.2 Analysis

132. The inclusion of FENZ cross referencing is useful for resource users, however fire permit matters fall out of the jurisdiction of the Council, therefore I do not consider it appropriate to be included within Method AIR-M2.
133. I do not consider it practicable to amend the timeframe from 2024 to 2023. As the pORPS is still in the process of being developed, sufficient time needs to be provided to ensure the review of the operative Regional Air Plan is carried out in a timeframe where it can give effect to the operative ORPS provisions. Expediting the review of the Regional Air

⁷¹ 00213.032 Fonterra,

⁷² 00236.048 Horticulture NZ

⁷³ 00226.122 Kāi Tahu ki Otago

⁷⁴ 00121.037 Ravensdown

⁷⁵ 00121.037 Ravensdown

⁷⁶ 00121.037 Ravensdown

⁷⁷ 00121.037 Ravensdown

⁷⁸ 00213.032 Fonterra

⁷⁹ 00234.012 Te Rūnanga o Ngāi Tahu

Plan may result in unnecessary conflicts with the pORPS or the provisions being inappropriately implemented.

134. In relation to changes sought to clause (1), I consider this change would reduce the risk of cross referencing errors between the policies and methods however such an approach is not consistent with the drafting approach for other methods in the pORPS. Additionally, regardless of how policy direction is expressed in the methods, any future provisions of the Regional Air Plan would need to give effect to the direction in Policy AIR-P4 in accordance with Section 67(3)(c) of the RMA.
135. I do not consider the proposed changes to clause (2) are necessary and would result in inconsistency between Policy AIR-P5 and Method AIR-M2.
136. I do not have a strong view on the relief sought by Ravensdown in relation to clause (3). As I understand it, so long as the actions set out in Policy AIR-P3 are prioritised, degraded air quality will improve to eventually achieve . Based on this, I do not consider any changes to clause (3) are required.
137. I do not recommend the deletion of clauses (4) and (5). Clause (4) serves a purpose as it directs that the future Regional Air Plan will address polluted airsheds and effects of discharges from adjacent areas that will further exacerbate already degraded air quality. Clause (5) directs that the future Regional Air Plan will give effect to the Air Quality Strategy for Otago, and any subsequent updates and amendments to that strategy. The Air Quality Strategy sets out the overall approach that the Council will take to achieve air quality for good human health and seeks to ensure a coherent approach to achieve air quality outcomes across various work programmes. The Air Quality Strategy includes a number of mechanisms that would not be included in the future Regional Air Plan, but are part of the overall approach to improving or maintaining air quality within the Otago Region. Based on this, I do not consider it necessary to make amendments to Clause (5).
138. It is recommended that an additional subclause is added to AIR-M2 which ensures that discharges to air that would have adverse effects on mana whenua values and wāhi tupuna are avoided. As notified, there is no specific direction within the methods section as to how AIR-P6 is to be achieved, inclusion of an additional clause will provide clarify the implementation of AIR-P6. I consider the additional clause may also go some to provide some relief to Kāi Tahu ki Otago who seek the changes to clause (1) to include acknowledgement of mana whenua values.

7.14.4. Recommendations

139. I recommend Method AIR-M2 is amended as follows:

AIR–M2 – Regional plans

No later than 31 December 2024, Otago Regional Council must prepare or amend and maintain its *regional plans* to:

- (1) avoid offensive, objectionable, noxious or dangerous *discharges* to air,
- (2) include provisions to mitigate the adverse *effects* from *discharges* to air beyond the boundary of the property of origin,

- (3) implement the prioritisation of actions set out in AIR–P2,
- (4) mitigate the adverse *effects of discharges* to air in areas adjacent to *polluted airsheds* where the *discharge* will adversely affect air quality in the *polluted airshed*,~~and~~
- (5) give effect to the Air Quality Strategy for Otago and any subsequent amendments or updates,~~and~~
- (6) include measures to avoid adverse effects of discharges to air on *mana whenua* values and wāhi tupuna.⁸⁰

7.15. AIR–M3 – Territorial authorities

7.15.1. Introduction

140. As notified Method AIR-M3 reads:

AIR–M3 – Territorial authorities

No later than 31 December 2029, *territorial authorities* must prepare or amend and maintain their *district plans* to include provisions that direct an urban form that assists in achieving good air quality by:

- (1) reducing reliance on private motor vehicles and enabling the adoption of *active transport*, shared transport and *public transport* options to assist in achieving good air quality, and
- (2) managing the spatial distribution of activities.

7.15.2. Submissions

141. Three submitters seek retention of AIR-M3 as notified.⁸¹

142. DCC seeks to amend the method as follows:⁸²

Territorial authorities in preparing their FDS (Future Development Strategy under the NPS-UD) must consider ~~No later than 31 December 2029, territorial authorities must prepare or amend and maintain their *district plans* to include provisions that direct an urban form that assists in achieving good air quality by:~~

- (1) reducing reliance on private motor vehicles (except electric vehicles and other ultra-low emissions motor vehicles) and enabling the adoption of *active transport*, shared transport, and *public transport* options to assist in achieving good air quality, and
- (2) managing the spatial distribution of activities.

143. DCC consider the range of methods identified is incomplete and, more specifically, acknowledgment that not all motor vehicles have an impact on air quality (such as electric

⁸⁰ 00226.122 Kāi Tahu ki Otago and 00234.012 Te Rūnanga o Ngāi Tahu

⁸¹ 00201.011 CODC, 00226.123 Kāi Tahu ki Otago, 00305.011 Waka Kotahi

⁸² 00139.054 DCC

vehicles). Similarly, Wayfare seeks to amend the provision to specify that there should be a reduced reliance on private 'non-electric' motor vehicles.⁸³

144. Federated Farmers consider Councils should not dictate, via a district plan, reliance on motor vehicles. As an alternative, Federated Farmers seek to amend the chapeau to replace 'direct' with 'provide for'.⁸⁴ Amendments are also sought to clause (1) to 'encourage or facilitate' reduced reliance on private motor vehicles as oppose to 'reducing' reliance on private motor vehicles.⁸⁵
145. Three submitters seek to amend the method or include a new method to require urban spatial planning to take into consideration reverse sensitivity.⁸⁶
146. QLDC are generally supportive of clause (1) and seeks this is retained as notified. Greater clarity is sought in relation to (2) by QLDC, specifically on what aspects of urban form and associated activities are to be managed to achieve good air quality.⁸⁷ QLDC consider additional specific direction is required to ensure the effective and efficient implementation of the method as Territorial Authorities do not have the specific range of expertise necessary to inform the management of activities to achieve good air quality.
147. Wise Response considers territorial authorities must plan for a lower emissions economy and compact urban design for services. To achieve this, Wise Response seeks to amend the date in the chapeau of the method from 2029 to 2027. Specific amendments are also sought to clause (2) to specify that the spatial distribution of activities should be managed to minimise the need to travel with associated emissions.⁸⁸

7.15.3. Analysis

148. In relation to the submission from DCC, I do not agree that an additional reference to a Future Development Strategy (FDS) under the NPS-UD is required. In my view, the method is not specific as to how the district plan is to be amended, including such detail within a FDS under the NPS-UD may be one possible outcome and is an obligation for tier 2 local authorities (QLDC and DCC), however the direction could also be achieved through a plan review process for tier 3 local authorities. Based on this, I do not consider the amendments sought by DCC in relation to the chapeau are necessary.
149. I consider the relief sought by DCC and Wayfare Group to acknowledge electric vehicles in some way through the method is a useful amendment and provides for alternative approaches to be implemented when transitioning communities away from the use of private motor vehicles that degrade air quality. I have recommended changes to the method accordingly.
150. In response to the submission made by Federated Farmers, I consider the direction to 'encourage or facilitate' the reduced reliance on private motor vehicles is less directive,

⁸³ 00411.038 Wayfare

⁸⁴ 00239.056 Federated Farmers

⁸⁵ 00239.056 Federated Farmers

⁸⁶ 00213.033 Fonterra, 00236.049 Horticulture NZ, 00240.016 NZ Pork

⁸⁷ 00138.022 QLDC

⁸⁸ 00509.054 Wise Response

but would provide territorial authorities with the scope to encourage and facilitate reduced reliance on private motor vehicles in ways that are tailored to the specific needs of the different communities. I consider this amendment enhances the method and have recommended the change accordingly.

151. With regards to the submissions seeking recognition of reverse sensitivity matters, I consider that managing reverse sensitivity effects may be better suited in the Urban chapter of the pORPS.

152. In relation to providing further specificity in clause (2) as sought by QLDC, I consider this may be too detailed for inclusion within a method at an RPS level. In my view the spatial distribution of activities would likely be township specific and nuanced. Therefore, providing further detailed information at this time would be unhelpful. I note that the Council is required to amend its Regional Air Plan no later than 31 December 2024, prior to the 2029 date set under AIR-M3, therefore additional direction would be provided on the matters listed in AIR-M2 in the future Regional Air Plan that would likely assist with the managing the spatial distribution of activities. For these reasons, I do not recommend adopting the relief sought by QLDC or Wise Response.

7.15.4. Recommendation

153. I recommend Method AIR-M3 is amended as follows:

AIR–M3 – Territorial authorities

No later than 31 December 2029, *territorial authorities* must prepare or amend and maintain their *district plans* to include provisions that direct an urban form that assists in achieving good air quality by:

- (1) encouraging or facilitating a reduced ~~reducing~~⁸⁹ reliance on private non-electric⁹⁰ motor vehicles and enabling the adoption of *active transport*, shared transport and *public transport* options to assist in achieving good air quality, and
- (2) managing the spatial distribution of activities.

7.16. AIR–M4 – Monitoring and reporting

7.16.1. Introduction

154. As notified Method AIR-M4 reads:

AIR–M4 – Monitoring and reporting

Otago Regional Council must monitor and report no less frequently than annually on:

⁸⁹ 00239.056 Federated Farmers

⁹⁰ 00411.038 Wayfare

- (1) air quality in accordance with the NESAQ to identify changes in ambient air quality within *airsheds*, and
- (2) progress towards attainment of the *ambient air quality standards*.

7.16.2. Submissions

155. QLDC seeks to retain the method as notified.⁹¹
156. Kāi Tahu ki Otago seeks to increase the frequency of monitoring and reporting from once per year to four times per year. Kāi Tahu ki Otago also seeks to add to clause (1) that the Council will monitor and report on the actions being taken to address air quality in polluted air sheds.⁹²

7.16.3. Analysis

157. It has been advised by the Council's Science and Monitoring teams, that air quality monitoring is a continuous exercise and is not undertaken at specified periods during the year. Based on this, I do not consider the amendment sought by Kāi Tahu ki Otago provides any additional value to the method beyond the notified version and recommend no changes.

7.16.4. Recommendation

158. I recommend Method AIR-M4 is retained as notified.

7.17. AIR–M5 – Incentives and other mechanisms

7.17.1. Introduction

159. As notified Method AIR-M5 reads:

AIR–M5 – Incentives and other mechanisms

In collaboration with *territorial authorities*, iwi authorities, key stakeholders and industry, Otago Regional Council must, on an on-going basis, use other mechanisms or incentives to assist with achieving the air quality objectives, including:

- (1) improving community awareness of air quality issues in Otago associated with home heating,
- (2) educating communities and promoting the use of alternative methods for home heating including the use of new technology (including low emission or ultra-low emission home heating appliances) and cleaner fuels or energy sources,
- (3) advocating, promoting and supporting upgrading Otago's housing stock and changes to the Building Act 2004 and Building Code to

⁹¹ 00138.023 QLDC

⁹² 00226.124 Kāi Tahu ki Otago

require houses to create and maintain warmth more efficiently and reduce reliance on non-compliant domestic *solid fuel* burning appliances as described in AIR-P2,

- (4) advocating to energy providers to improve the *resilience* of electricity infrastructure so alternative sources of heating are available and reliable,
- (5) measures to encourage the use of *active transport*, shared transport and *public transport* over the use of private motor vehicles, and
- (6) providing financial incentives (such as funding schemes, subsidies or rates relief) and support to improve home heating efficiency and assist with the transition towards cleaner heating, improved energy efficiency and home insulation, including the replacement of *solid fuel* burners that do not comply with the NESAQ standards.

7.17.2. Submissions

160. Five submitters seeks to retain the method as notified.⁹³

161. Horticulture NZ seeks to add a new clause as follows:

- (7) NZ standards and codes of practice that include methods that support achieving the air quality objectives.⁹⁴

162. Similarly, NZ Pork seeks amendments that recognise the role that good management practices, industry guidelines and codes can play in achieving the outcomes.⁹⁵ This is sought on the basis that existing activity and industry specific Codes of Practice and NZ Standards will assist with achieving Objectives AIR-O1 and AIR-O2, and these should be specified as appropriate mechanisms to use within a method.

163. Kāi Tahu ki Otago seeks to replace the term 'iwi authorities' with 'and in partnership with Kāi Tahu'. Kai Tahu ki Otago/ Aukaha also seeks to amend the provision by adding a new clause as follows:

- (7) having particular regard to the needs of vulnerable, deprived and isolated communities and people in Otago, and with particular regard to polluted airsheds, in undertaking these actions.⁹⁶

164. Meridian seeks to amend clause (4) to focus on renewable electricity and improving the resilience and reliability of renewable electricity generation infrastructure.⁹⁷

⁹³ 00201.012 CODC, 00242.005 Cosy Homes Charitable Trust, 00219.022 FENZ, 00138.024 QLDC, 00305.012 Waka Kotahi

⁹⁴ 00236.050 Horticulture NZ

⁹⁵ 00240.017 NZ Pork

⁹⁶ 00226.125 Kāi Tahu ki Otago

⁹⁷ 00306.026 Meridian

165. Wise Response seeks to amend clause (3) to add emphasis on passive housing design and reducing the reliance on both compliant and non-compliant burners for domestic heating.⁹⁸

7.17.3. Analysis

167. I do not consider there is value in including reference to NZ Standards and codes of practice at an RPS level, I consider such detail is more appropriately included at a regional plan level.
168. Amending the chapeau to read 'and in partnership with Kāi Tahu ', instead of 'iwi authorities' is a useful amendment as it highlights the specific partnership Council has with Kāi Tahu. I have recommended this amendment to the chapeau of the method accordingly.
169. Having particular regard to the needs of vulnerable, deprived, and isolated communities is a positive and desirable intent for the method, and the wider chapter in general. However, I consider that clauses (1), (2), (3), (4) and (6) in particular all sufficiently cover the various communities in Otago. Therefore, I do not see a benefit in additional changes to specify any particular community or communities.
170. I consider amending clause (4) to focus on renewable electricity and reliability would be useful to the extent that improved reliability of electricity service would mitigate the concerns some communities may have in relation to the reliability of electricity infrastructure. However, limiting the method to renewable electricity may result in non-renewable infrastructure becoming neglected in terms of its security and reliability in providing isolated communities with power. Based on this I consider reference to 'reliability' should be included in clause (4) and reference to 'electricity infrastructure' more generally should be maintained.
171. I do not consider the changes sought by Wise Response provide any additional value to clause (3), and the more general references to the Building Act 2004 and the Building Code should be maintained.

7.17.4. Recommendation

172. I recommend the following amendments are made to Method AIR-M5:

AIR–M5 – Incentives and other mechanisms

In partnership with Kāi Tahu ki Otago and iwi⁹⁹ collaboration with *territorial authorities*, ~~iwi authorities~~,¹⁰⁰ key stakeholders and industry, Otago Regional Council must, on an on-going basis, use other mechanisms or incentives to assist with achieving the air quality objectives, including:

⁹⁸ 00509.055 Wise Response

⁹⁹ 00226.125 Kāi Tahu ki Otago

¹⁰⁰ 00226.125 Kāi Tahu ki Otago

- (1) improving community awareness of air quality issues in Otago associated with home heating,
- (2) educating communities and promoting the use of alternative methods for home heating including the use of new technology (including low emission or ultra-low emission home heating appliances) and cleaner fuels or energy sources,
- (3) advocating, promoting and supporting upgrading Otago's housing stock and changes to the Building Act 2004 and Building Code to require houses to create and maintain warmth more efficiently and reduce reliance on non-compliant domestic *solid fuel* burning appliances as described in AIR-P2,
- (4) advocating to energy providers to improve the *resilience and reliability*¹⁰¹ of electricity infrastructure so alternative sources of heating are available and reliable,
- (5) measures to encourage the use of *active transport*, shared transport and *public transport* over the use of private motor vehicles, and
- (6) providing financial incentives (such as funding schemes, subsidies or rates relief) and support to improve home heating efficiency and assist with the transition towards cleaner heating, improved energy efficiency and home insulation, including the replacement of *solid fuel* burners that do not comply with the NESAQ standards.

7.18. 1.2.15 AIR–E1 – Explanation

7.18.1. Introduction

173. As notified AIR-E1 reads:

AIR–E1 – Explanation

The policies in this chapter are designed to achieve and maintain good air quality for Otago by requiring improvements where air quality is poor, maintaining it where it is good. Managing air quality does not include emissions from ships which are managed under separate national regulation. The policies in this chapter focus on preventing further decline in air quality by preventing use of new domestic *solid fuel* burning appliances that do not comply with the NESAQ, and phasing out the use of existing domestic *solid fuel* burning appliances that are non-compliant. The policies also require the boundaries of *airsheds* be amended to accurately reflect current and anticipated areas of urban growth. This is required to ensure monitoring of ambient air quality is accurate and that all activities that contribute to poor ambient air quality within an *airshed* are subject to the same measures to

¹⁰¹ 00306.026 Meridian

improve ambient air quality. This policy framework also directs future reviews of the Regional Plan: Air to manage the adverse effects of discharges to air.

In addition to the objectives and policies in this chapter, the air quality outcomes are also provided for in the objectives and policies listed within the following chapters of the RPS where they provide direction on the management of *environments* and activities that may affect air quality:

- IM – Integrated management
- EIT – Energy, *infrastructure* and transport
- UFD – Urban form and development

7.18.2. Submissions

174. Two submissions were received in relation to the explanation.

175. Kāi Tahu ki Otago seeks to amend part of the explanation as follows:

‘The policies in this chapter are designed to achieve and maintain good air quality for Otago by requiring improvements where air quality is poor, maintaining it where it is good. Regular monitoring and reporting on air quality in Otago will be undertaken to identify polluted airsheds, in order to progress towards attainment and maintenance of the ambient air quality standards. ... This is required to ensure monitoring of ambient air quality is ongoing and accurate ...’¹⁰²

176. Horticulture NZ also seeks to amend the explanation by adding a new sentence as follows:

‘Territorial authorities will include provisions in district plans for spatial distribution and separation in district plan provisions for urban development.’¹⁰³

7.18.3. Analysis

177. AIR-E1 is intended to provide explanation and rational for why the provisions are included. In my view, the proposed amendments do not add further value to the explanation section other than clarification or directives that would be better suited as methods. Specifying that there will be regular monitoring is useful, however it may be better acknowledged as a means to achieve Objectives AIR-O1 and AIR-O2 through a method. Similarly, the amendment to specify that territorial authorities will include provisions in district plans for spatial distribution may be useful as a method to achieve better air quality but would not provide any additional value to AIR-E1. Based on this, I recommend no amendments to AIR-E1.

7.18.4. Recommendation

178. I recommend that no amendments are made to AIR-E1.

¹⁰² 00226.126 Kāi Tahu ki Otago

¹⁰³ 00236.051 Horticulture NZ

7.19. AIR-PR1

7.19.1. Introduction

179. As notified AIR-PR1 reads:

AIR-PR1

Clean air is vital for supporting a healthy population and *environment*. Air quality monitoring shows that for most of the year air quality in the Otago Region is very good. During winter months however, temperatures drop and emissions from home heating increase. This, coupled with the topography of some areas and cold, calm conditions, leads to poor winter air quality in many towns and cities across the region. At times, parts of Otago have some of the poorest air quality in New Zealand. This is intensifying through urban growth.

The provisions in this chapter set out the framework for a review of the Air Plan and supports ORC's obligation to both observe and enforce the NESAQ. Implementation of the provisions in this chapter will occur primarily through regional and *district plan* provisions, however a collaborative approach with central government, other *local authorities*, stakeholders and industry will support the achievement of the objectives over time.

7.19.2. Submissions

180. Two submissions were received in relation to AIR-PR1.

181. Kāi Tahu ki Otago seeks to amend the second sentence as follows:

‘During the winter months however, temperatures drop and emissions from home heating increase, with higher emissions evident in economically deprived areas.’

182. Kāi Tahu ki Otago also seeks to amend the second sentence of the second paragraph as follows:

‘A collaborative approach with central government, other local authorities, stakeholders, communities, and industry, and in partnership with Kāi Tahu as mana whenua, will support the achievement of the objectives over time.’¹⁰⁴

7.19.3. Analysis

183. Based on air quality monitoring data, it is not only economically deprived areas where emissions are higher. Based on this, the amendment sought by Kāi Tahu ki Otago does not add any additional value to AIR-PR1.

184. I consider the amendments to the second paragraph sought by Kāi Tahu ki Otago is useful as it highlights further the partnership between with Kāi Tahu as mana whenua and local communities and provides greater cohesion with the other amendments made throughout the chapter.

¹⁰⁴ 00226.127 Kāi Tahu ki Otago

185. A minor Clause 16 change has also been recommended which includes the word ‘plans’ to ensure drafting consistency throughout the pORPS.

7.19.4. Recommendations

186. I recommend AIR-PR1 is amended as follows:

AIR-PR1

Clean air is vital for supporting a healthy population and *environment*. Air quality monitoring shows that for most of the year air quality in the Otago Region is very good. During winter months however, temperatures drop and emissions from home heating increase. This, coupled with the topography of some areas and cold, calm conditions, leads to poor winter air quality in many towns and cities across the region. At times, parts of Otago have some of the poorest air quality in New Zealand. This is intensifying through urban growth.

The provisions in this chapter set out the framework for a review of the Air Plan and supports ORC’s obligation to both observe and enforce the NESAQ. Implementation of the provisions in this chapter will occur primarily through *regional plans*¹⁰⁵ and *district plan* provisions, however a collaborative approach with central government, other *local authorities*, *stakeholders*, *communities*,¹⁰⁶ and industry, and in partnership with Kāi Tahu as mana whenua,¹⁰⁷ will support the achievement of the objectives over time.

7.20. AIR – AER1

7.20.1. Introduction

187. As notified AIR-AER1 reads:

AIR-AER1 Where air quality is poor, there is a decreasing trend in concentrations of *PM₁₀* and *PM_{2.5}*.

7.20.2. Submissions

188. Kāi Tahu ki Otago seeks to amend AER1 as follows:

Airsheds are regularly monitored to identify polluted airsheds, and action is taken when air quality standards have been breached, to ensure ~~Where air quality is poor, there is a decreasing trend in concentrations of PM10 and PM2.5.~~¹⁰⁸

¹⁰⁵Clause 16(2), Schedule 1, RMA

¹⁰⁶ 00226.127 Kāi Tahu ki Otago

¹⁰⁷ 00226.127 Kāi Tahu ki Otago

¹⁰⁸ 00226.128 Kāi Tahu ki Otago

7.20.3. Analysis

189. The amendment sought is not considered an environmental outcome, rather a method to achieve the anticipated environmental result. This wording may be better suited as a method, however, it is not considered appropriate to adopt in this instance.

7.20.4. Recommendation

190. I recommend AIR-AER1 is retained as notified.

7.21. AIR – AER2

7.21.1. Introduction

191. As notified AIR-AER2 reads:

AIR–AER2 Otago has an urban form that takes into account the *effects* of activities, and any *discharges* to air they create, on Otago’s air quality.

7.21.2. Submissions

192. Horticulture NZ seeks AIR-AER2 is amended to take into account potential reverse sensitivity effects.¹⁰⁹
193. QLDC seeks to amend AIR-AER2 to provide guidance on what acceptable urban form would give effect to the AER.¹¹⁰

7.21.3. Analysis

194. The amendments sought by Horticulture NZ are not an anticipated environmental result and may be more appropriately placed in a provision.
195. Direction and guidance on an acceptable urban form that achieves the AER would come in part through the regional air plan. However additional direction would come from a combination of the urban development and EIT chapters respectively, including any subsequent relevant or related plans. Considering the document is to be read as an integrated document, it is not necessary to link any specific urban development sections to the anticipated environmental result.

7.21.4. Recommendations

196. I recommend AIR-AER2 is retained as notified.

7.22. AIR – AER4

197. As notified AIR-AER4 reads:

¹⁰⁹ 00236.052 Horticulture NZ

¹¹⁰ 00138.025 QLDC

AIR-AER4 There is a decrease in the number of complaints, regarding offensive, objectionable, noxious or dangerous discharges to air.

7.22.1. Submissions

198. Kāi Tahu ki Otago seeks to amend AIR-AER4 as follows:

‘There is a decrease in the number of complaints regarding offensive, objectionable, noxious or dangerous discharges into air, or those that adversely affect mana whenua values.’¹¹¹

7.22.2. Analysis

199. A decrease in complaints regarding offensive, objectionable, noxious, or dangerous discharges to air would adequately cover all values sought to be protected in the chapter objectives (life supporting capacity of ecosystems, human health, mana whenua values, and amenity values). Therefore, I do not consider the relief sought would improve the anticipated environmental result beyond what is already provided in the notified version.

7.22.3. Recommendation

200. I recommend that AIR-AER4 is retained as notified.

201. There were no submissions on AIR-AER3, AIR-AER5 or AIR-AER6. Based on this, I recommend these are retained as notified.

7.23. References

Ministry for the Environment. (2002). *Ambient Air Quality Guidelines 2002 Update*. Wellington: Ministry for the Environment.

¹¹¹ 00226.129 Kāi Tahu ki Otago