Introduction
The Rotorua Air Quality Control Bylaw (the Bylaw) gives the Bay of Plenty Regional Council discretion to grant dispensation from full compliance with the Bylaw.

The Regional Council may either decline or grant the dispensation application subject to any conditions it considers appropriate.

Anyone who is affected by the Bylaw, including purchasers, vendors, homeowners, tenants and landlords, may apply for a dispensation using the Rotorua Air Quality Control Bylaw Dispensation Application Form.

These guidelines are intended to assist you with completing the Application form. It is the responsibility of the applicant to provide the evidence and documentation to support the application.

The Bylaw was introduced in Rotorua for the benefit of the community to improve air quality. Any dispensations granted must not undermine the purpose of the bylaw, and will be granted only in exceptional circumstances.

The Bylaw’s purpose
The purpose of the Rotorua Air Quality Control Bylaw 2010 is to improve the quality of air in Rotorua through restricting and reducing the emissions of fine particulates from old and inefficient solid-fuel burners used for home heating in the Rotorua Urban Airshed. The Bylaw introduces three rules:

1. New Burner Rule – from 1 December 2010 only clean-air approved burners can be installed in the airshed.
2. Point of Sale Rule – from 1 May 2012 non-compliant burners must be removed by the vendor before the property is sold.
3. Open Fire Rule – from 1 May 2015 indoor open fires cannot be used.

Who does the bylaw apply to?
The Bylaw applies to all vendors, purchasers, homeowners, landlords and tenants within the Rotorua Urban Airshed. This covers most of urban Rotorua, excluding Ngongotaha (refer map below).

Compliance and enforcement
Everyone who owns a property and/or lives in the Rotorua Urban Airshed is potentially affected by the Bylaw. The primary responsibility for complying with the Bylaw lies with vendors, purchasers, homeowners, landlords and tenants in the Rotorua Urban Airshed.

The Regional Council is responsible for ensuring compliance with the Bylaw and for enforcement.

To encourage compliance and assist with the costs of conversion from a non-complying solid-fuel burner to an approved appliance, the Regional Council is offering the “Hot Swap Loan”*. This is a $4,000 interest free loan available to households affected by the Bylaw, to upgrade their old wood burner or open fire to a clean heat appliance.

The Regional Council will enforce the Bylaw in cases where measures to encourage and educate compliance with the Bylaw have failed. The Bylaw allows for fines to be imposed.

*Borrow up to the cost of a standard installation of clean heat. Loan amount exclusive of GST. Eligibility criteria and conditions apply.

Reasons for dispensation
There will be limited or exceptional cases where it is appropriate for the Regional Council to dispense with the full compliance of any clause of the bylaw.

The main reasons for applying for a dispensation will be:
Solid fuel burner upgrade required at point of sale

You are selling/purchasing a property with a solid fuel burner that is not listed on the Ministry for the Environment’s current National List of Authorised Wood Burners or Pellet Burners List and it does not meet the design standard and thermal efficiency standard for wood burners as set out in the National Environmental Standards for air quality and there are exceptional reasons why it cannot be removed prior to settlement date OR you are selling/purchasing a property with a solid fuel burner that is not listed on the Ministry for the Environment’s current National List of Authorised Wood Burners or Pellet Burners List and it does meet the design standard and thermal efficiency standard for wood burners as set out in the National Environmental Standards for air quality. It is the responsibility of the applicant to prove that the appliance complies with the required standard.

Restriction on installation of solid fuel burners in new and existing houses

Your solid fuel burner is not listed on the Ministry for the Environment’s current National List of Authorised Wood Burners or Pellet Burners List but it meets the design standard and thermal efficiency standard for wood burners as set out in the National Environmental Standards for air quality. It is the responsibility of the applicant to prove that the appliance complies with the required standard.

Open fires (indoors)

You wish to discharge contaminants into the air using an indoor open fire after 1 May 2015. Note: From 1 May 2015, the use of all indoor open-air fires is banned within the Rotorua airshed. No discharges from any indoor open fires will be permitted from 1 May 2015, except for heritage buildings and industrial or trade premises where the open fire is used for the smoking and cooking of food for sale. In these cases the applicant should be aware that they are asking to continue to pollute the air of Rotorua while everyone else must comply. Dispensations under this category will only be granted for exceptional circumstances.

Application process

Please complete the application form and provide evidence where requested to support your application. Please provide as much detail as possible to support your application.

On receipt of the application, the Regional Council will assess it to determine if dispensation should be approved.

In making this assessment, the Regional Council will decide if:

(a) The application falls under the Bylaw (full compliance needlessly or injuriously affects any person or business or causes loss or inconvenience without any corresponding community benefit); or

(b) The appliance is acceptable because it meets the required design and efficiency standards even though it is not on the approved lists (and this has been proven by the applicant to the satisfaction of the Regional Council).

An application fee may be charged.

Decision-making principles

In making decisions on Bylaw Dispensation Applications the Regional Council will use the following principles

Reasonableness

All applications will be assessed fairly and reasonably and in accordance with the Bylaw and the decision-making guidelines.

Impartiality and objectivity

All applications will be assessed in a consistent, impartial and objective manner.

Efficiency

The application will be processed in a timely, professional and efficient manner.

Communication

The Regional Council may request any information or evidence from the applicant as required, to support the application.

Alternatively the Regional Council may undertake its own investigations to decide on the application. All Regional Council decisions will be in writing, with reasons given for the decision.

Granting dispensations

Dispensations will only be granted to those directly affected by the Bylaw at the time of the application.

Dispensations will be in writing and may include conditions or limitations.

Before granting a dispensation, the Regional Council must be satisfied that full compliance with the bylaw would needlessly or injuriously affect any person without any corresponding benefit to the community. In all cases, the Regional Council must be satisfied that the granting of a dispensation will not significantly undermine the purpose of the Bylaw.

Appealing the decision

You have a right to have your application reviewed by a third party if you are dissatisfied with the Council’s decision. The reviewer will re-assess the Council’s decision and make a recommendation to the Council. This process will incur an administration fee. If you are dissatisfied with the outcome of this review process you are entitled to have the decision judicially reviewed by the Courts.

Contact Details

Please contact us if you require further information or assistance:

Bay of Plenty Regional Council
PO Box 364
Whakatāne 3158

Or visit our offices (during normal business hours) at:

1125 Arawa Street, Rotorua
Phone: 0800 884 880 880
Website: www.boprc.govt.nz