

# MEMORANDUM



**To:** Regional Direction & Delivery Committee  
**19 February 2019 Committee Meeting**

**From:** Karen Parcell  
**Senior Policy Analyst, Natural Resources Policy**

**Date:** 12 February 2019

**Subject:** **Agenda Item 8.6, Proposed Plan Change 13 (Air Quality) - Hearing Panel Recommendations**

SUPPORTING DOCUMENT - Plan Change 13 (Air Quality) Report and Recommendations of the Hearing Committee

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## **ATTACHMENT 1**

This attachment accompanies the report titled *Proposed Plan Change 13 (Air Quality) - Hearing Panel Recommendations* (the Report) to the Regional Direction and Delivery Committee (the Committee) on 19 February 2019.

The Report outlines the Hearing Panel's recommendations on Proposed Plan Change 13 (the Plan Change) and recommends that the Committee accepts these recommendations and approves public notification of its decisions on submissions on the Plan Change.

The supporting document to the Report consists of the Hearing Panel's report and recommendations with three appendices that include Version 7.4 of Plan Change 13 (redline/strikeout and clear copy), and the Section 32AA analysis.

Since completion of these documents, an unintended consequence has been identified with the management of open burning in the Plan Change, specifically rule AQ R6.

### **Further Recommendation**

**That the Regional Direction and Delivery Committee:**

**7 Approve the additional amendments to the supporting document "Plan Change 13 (Air Quality) Report and Recommendations of the Hearing Committee" and its appendices A to C as outlined in Attachment 1.**

As notified in February 2018, open burning on non-urban properties, for any reason, including recreational/cultural purposes, was a permitted activity under rule AQ R6. Open burning on urban properties was a non-complying activity under rule AQ R9, but this rule provided a carve-out for open burning carried out for recreational/cultural purposes. Therefore, open burning for recreational/cultural purposes anywhere on both rural and urban properties, was permitted.

During the submissions and hearing process, rules AQ R6 and AQ R9 were expanded. The Hearing Panel recommendation is for these rules to target all open burning carried out within 100 metres of a neighbouring dwelling house, regardless of whether it is on an urban property.

Rule AQ R9 still contains the carve-out for recreational burning, therefore this rule does not cause any issue.

However, the change to AQ R6 now manages all open burning, both rural and urban. As open burning for recreational/cultural purposes is not explicitly permitted anywhere else, rule AQ R6 applies.

**In summary - In order to carry out recreational burning within 100 metres of any neighbouring dwelling house, written approval from the neighbour is required.**

At no stage has it been the intention to manage open burning for recreational/cultural purposes with anything other than the standard “bottom-line” conditions (where no discharge may be noxious or dangerous, offensive or objectionable beyond the boundary) nor were any submissions received requesting a change to this approach. Therefore management of open burning for recreational/cultural purposes under the amended rule AQ R6 – which requires the permission of neighbours if the recreational/cultural burning is within 100 metres of their dwelling house – is not consistent with the intended approach.

### Recommendation to resolve issue

To resolve this unintended consequence, the Hearing Panel recommends explicitly listing open burning for recreational/cultural purposes as a permitted activity in AQ R3. This requires the following additional amendments to the supporting document (shown in underlined blue text):

1. To the Report and Recommendations of the Hearing Committee paragraph 500

As a result of a submission by Mr. Geoffrey Oliver regarding his business' composting operation, the Hearing Panel decided to add “composting” as a specific activity. The change to clause (7) applies only to small-scale in-vessel composting with filter emissions. In those circumstances, odour is contained and treated and is expected to cause no more than minor effects at neighbouring properties. The Panel also agreed, under a new clause (8), to specifically provide for small free-range poultry farms, and for recreational/cultural open burning under new clause (9), as permitted activities.

2. To Version 7.4 of Plan Change 13 Hearing Recommendations (Appendix A – redline/strikeout and Appendix B – clear copy)

#### **AQ R3 Miscellaneous discharges – Permitted — Ngā tukunga matahuhua – E whakaaehia ana**

The discharge of *contaminants* to air from:

- (1) spray irrigation, soil injection, truck spreading, or land soakage of **liquid waste**
- (2) the ventilation and displacement of liquids in storage tanks and tankers
- (3) the use and application of **fertiliser** or lime
- (4) the disturbance of land and soil carried out according to rules LM R1, LM R2, and LM R3 of this regional plan
- (5) **contaminated land remediation** permitted by DW R24 of this regional plan
- (6) roasting of coffee beans
- (7) **fully enclosed in-vessel composting** producing up to 200 tonnes per year (of finished product) where emissions are captured and filtered
- (8) **free range farms** of up to 100 **poultry** birds
- (9) **open burning for recreational/cultural purposes**

are permitted activities provided the discharge does not cause any noxious or dangerous, offensive or objectionable *effect* beyond the boundary of the **subject property**.

**AQ R6 Open burning – Permitted — Te tahutahu ahi noa – E whakaaehia ana**

Except where [AQ R3](#), AQ R7 and AQ R8 apply the discharge of *contaminants* to air from **open burning** is a permitted activity provided the fire is not located within 100 metres of any neighbouring **dwelling house**, unless written approval is obtained from the occupier/s of all such neighbouring **dwelling houses**, and the following conditions are complied with:

- (a) No materials either listed in AQ R10 or prohibited by the regulations of the National Environmental Standards for Air Quality are burned.
- (b) The discharge of smoke must not adversely affect the safety of any vehicle, aircraft, or *ship*.
- (c) The discharge must not be noxious or dangerous, offensive, or objectionable beyond the boundary of the **subject property**.

Advice Note: This rule manages open burning according to the potential for adverse effects on air quality. Open burning must also be carried out according to local bylaws and the Fire and Emergency New Zealand Act 2017.

3. To the Section 32AA report; section 4.4 bullet 3

The amended proposal also includes [three four](#) permitted activities added to the list in AQ R3.