
DISCUSSION DOCUMENT TO DISTRICT PLAN COMMITTEE

DATE: 10 October 2018

TOPIC NAME: Rural

SCOPE DESCRIPTION: RUAQ - Air Quality Rural Activities

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EXECUTIVE SUMMARY

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| Issue(s) | There are a range of rural land use activities which may result in an effect on the amenity value of the surrounding area. Best practice would indicate that a council should adopt a consistent approach across these different activities within the District Plan. |
| Preferred Option | Option 3: Maintain odour and/ or dust assessment discretion in instances where a quarry, intensive farm, composting manufacturer, mushroom grower or other relevant activity seeks to establish in close proximity to a sensitive activity. |
| DPC Decision | While no official decision was made, there was general agreement from the Committee that Option 3 should be adopted, with this being confirmed for each topic as part of the post consultation summary report. |



1.0 Introduction

Consistency of approach is a high priority for the Selwyn District Council when assessing activities that have the potential to cause an odour and/or dust effect. Some of the currently occurring activities within the District which can and do cause significant odour and/or dust effects is intensive farming, quarrying, commercial composting, and mushroom farming.

Currently when addressing adverse effects on air quality there is an overlap in regulatory responsibility between the district and regional councils. Regional councils have a specific duty to control air discharges, whereas the district council are primarily responsible for managing land use activities affecting amenity values. Ideally, such roles are intended to complement each other. It is evident that care needs to be taken to reduce the risk of producing plans containing discrepancies, gaps, or duplication of provisions in addressing air quality matters.

Presently, when some activities seek to establish they are required to obtain a consent from both Environment Canterbury and Selwyn District Council. This situation can and does lead to an overlap in process between the two authorities. This can have significant cost and time implications on applicants, especially if multiple experts need to be enlisted to prepare and support any application.

Unfortunately no Central Government directive exists, and guidance only indicates two potential options. One being that the regional council adopts sole responsibility, and the other being for a joint approach between the two authorities.

Odour and dust discharges can have particularly unpleasant effects on amenity values, and have significant effects on both the health of people and stock. Dust can contain particulate matter (PM) less than 1 micron, with visible dust being usually larger than 50 microns. Dust will generally create issues around the soiling of areas, and cause general visibility issues. Given that the settling rate of PM increases as the size increases, it is fair to state that if visible dust is present then PM less than 10 microns is also present, and possessing far greater reach. Central Government has created strict controls (National Environmental Standard for Air Quality) on PM less than 10 microns and 2.5 microns, as this can have significant health effects. Regional authorities are required to manage activities that breach these Standards.

It is relevant to note that this report does not intend to specify the actual distances that should be used if setbacks are included in any endorsed option. If the use of setbacks are endorsed then the quantum used will be further investigated and subject to another report.

2.0 Previous District Plan Review Committee Decisions

| Topic | DPC Decision |
|---------------------------------|---|
| Intensive Farming | Amend provisions and remove duplication with Environment Canterbury (Remove controls). |
| Quarrying | Retain dust controls, and potentially add setback provisions. |
| Composting and Mushroom Farming | Amend provisions, and remove duplication with Environment Canterbury where possible, but retain control when activities establish in close proximity to sensitive activities. |

3.0 Legal framework

3.1 Ministry for the Environment (guides on odour and dust emissions)

These guides set out the roles and responsibilities of councils for assessing and managing odour and dust discharges under the Act. Regional councils have the responsibility to manage air quality, while district councils are required to manage land uses which have the potential to discharge odour and dust which cause amenity effects. District councils also have the responsibility to manage the location of sensitive activities in relation to proximity to discharges. Additionally Section 31 of the RMA requires district councils to control activities which may cause an effect on the amenity of an area (i.e. dust soiling, drying washing). Guidance states that district councils have the option to achieve this through pushing certain activities into particular zones and implementing setbacks to and from sensitive activities. Each zone within a district plan should have different expectations about what is an acceptable effect on the amenity values of an area.

These requirements can and do lead to regional and district regulation overlap for various activities. Guidance states that there are two options for exercising these functions, either for the regional council to take control of managing activities that cause effects as a result of odour and dust discharges, or a combined approach where the district council manages the amenity effects arising from emissions associated with any land use, and the regional council dealing with the contaminants of any emissions. To determine the best outcome it is recommended that regional and district authorities collaborate together, as the Ministry encourages that duplication should be avoided.

Whilst it is recognised that in the first instance any significant odour and dust effect should be internalised within the site generating the discharge, this may not always be practical or reasonable to do so. Separation distances between the discharge point/site and neighbouring land uses can be an effective tool to allow the discharge to dilute to a point where any effect is below the threshold to require action. Whether a discharge has an offensive or objectionable effect requires an overall judgement that considers the frequency, intensity, duration, offensive/character, and location of the discharge (FIDOL factors).

3.2 Resource Management Act 1991 (RMA; Act)

Section 17 of the Act places a duty on every person to avoid, remedy, or mitigate adverse effects. If a district council were to adopt a stance of removing all air discharge controls, and allow the regional council to manage these discharges, and an activity was declared acceptable by the regional council but still caused an adverse effect, then the district council could address the activity retrospectively through s17 of the Act by way of abatement notice or enforcement order. However, planning for activities in this way would not be considered best practice, but does provide for an adequate backstop if an activity's effects did not breach a threshold to require consent from a regional authority.

It is relevant to note that the regional authority under Section 30(1)(f) has the responsibility to control the discharge of contaminants to air, but Section 30(1)(c) does not extend this function to assessments on amenity grounds. Whereas under Section 31(1)(b)(ia) grants a territorial authority the power to control an activity where there is an effect on amenity.

Section 75(4)(b) requires that where a regional and district plan both have provisions controlling the same activity, then the district plan must not be inconsistent with the regional plan provisions.

3.3 Canterbury Regional Policy Statement (RPS)

The provisions within Chapters 5 and 6 seek to ensure the protection of existing rural activities from reverse sensitivity effects while managing the location of these types of activities and the potential for significant adverse effects. The objectives and policies seek to avoid incompatible land-uses being based near each other to minimise reverse sensitivity issues. It is noted that the rural economy makes up a significant component of the economic and social well-being of Canterbury, and therefore needs to be protected from incompatible land uses.

The provisions in Chapter 14 seek to maintain and improve air quality, and to protect activities with air discharges from encroachment from incompatible development. It is noted that people and communities should be free from unpleasant effects on air quality.

3.4 Canterbury Air Regional Plan (CARP)

3.4.1 Policy

The most relevant policies of this Plan are as follows:

Policy 6.9 “discharges into air from new activities are appropriately located and adequately separated from sensitive activities, taking into account land use anticipated by a proposed or operative district plan and the sensitivity of the receiving environment”

When consent is applied for any assessment of environmental effects needs to take into consideration the separation and subsequent effect on any sensitive activities, existing or non-fanciful potential future development on sites as allowed under the District Plan. For instance a resource consent application to the regional council for an intensive farm would need to take into consideration as part of the receiving environment any existing dwellings, and the potential for a land allotment, if permissible under the district plan, to contain a dwelling in the future. This view of what makes up the receiving environment is well established in case law.

Policy 6.10 ‘if the sensitivity of the receiving environment is altered by authorised land use change so that an existing discharge results in significant adverse effects on the receiving environment, require the effects of the discharge to be reduced and provide a reasonable timeframe for achieving that reduction’

This policy seeks to address a situation where a district council authorises a sensitive activity such as a dwelling to be located within the ‘cone of effect’ of an existing lawful activity which discharges contaminants into air. It then falls on the regional council to reduce the effect caused by the activity.

Policy 6.31 ‘adverse effect of discharges or odour into air from farming activities are managed through performance standards and conditions on resource consents that ensure the amenity values of the area in which the discharge occurs are maintained and effects on sensitive activities are minimised.’

This policy takes the assessment scope of the regional council beyond only assessing the health effect from a contaminant discharge, but to also consider effects on amenity values, traditionally a district council domain. However, based on discussions with Environment Canterbury, this assessment can only occur with strong direction at a District Plan level as to what the appropriate location is of certain odour/ dust causing activities in relation to sensitive activities.

3.4.2 Rules

The following rules are contained within the CARP, and address activities that are also expressly dealt with by the Operative District Plan.

Rule 7.32 is the permitted rule for the discharge of dust from earthworks. To achieve a permitted level the activity needs to meet the following:

- For the associated building to be under a certain height, and if not then a dust management plan needs to be prepared.
- For the earthworks to be less than 1000 m², but if larger, then a dust management plan needs to be prepared.
- That the effects from the discharge are not offensive or objectionable.

If an activity breaches this standard it is classified as either a restricted discretionary or a non-complying activity.

Rule 7.35 is the permitted rule for the **handling** of bulk solid materials. This would include activities such as quarrying. To achieve a permitted level the activity needs to meet the following:

- To be indoors, or if outdoors then less than 100 t/h needs to be processed; and
- If outdoors and over a duration less than 21 days then less than 250 t/h needs to be processed; and
- If outdoors and over 20 t/h is processed a dust management plan needs to be created; and
- Any required dust management plan needs to be supplied to the Regional Council; and
- Does not occur within 200 m of a sensitive activity; and
- If involving blasting, for it not to occur within 500 m of a sensitive activity;
- And for there to be no offensive or objectionable effects.

Rule 7.36 is the permitted rule for the discharge of dust from bulk **storage**. For an activity to meet the permitted level it must meet the following:

- Does not exceed 1000 t when PM is less than 3.5mm; and
- When exceeding 200 t then a dust management plan is required; and
- Any required dust management plan needs to be supplied to the Regional Council; and
- Does not occur within 100 m of a sensitive activity; and
- Does not cause an offensive or objectionable effect.

N.B.

1000 t of soil is approximately 1450 m³ and 200 t of soil is approximately 290 m³

1000 t of gravel is approximately 2000 m³ and 200 t of gravel is approximately 400 m³

Environment Canterbury has stipulated that a Dust Management Plan must include but is not limited to the following:

- What dust control procedures must be done and why; and
- Who has to carry out the dust control procedure and/or ensure that they have been carried out; and
- How the dust control procedures will be carried out; and
- The anticipated outcomes; and
- How these outcomes will be monitored.

It may be relevant to note that the amenity effects of odour from the spreading of animal effluent is solely controlled by the Regional Council through Rule 7.73-7.74 and could potentially set a precedent for the District Council to remove all controls dealing with air discharges. Alternatively, it may be

appropriate for the Selwyn District Council to adopt provisions controlling effluent storage and disposal similar to those in the Ashburton and Hurunui District Plans.

3.4.3 Free range poultry farming

It is relevant to note an issue that has arisen through a recent resource consent application submitted to the Selwyn District Council. The application was for the conversion of an existing intensive farm to a free range poultry farm. Consent was required from the Selwyn District Council as free range poultry farming is still considered intensive farming under the Operative District Plan, despite their permitted status under the CARP.

Odour modelling supplied with this application indicated that the extent of the odour discharge would be approximately the same as that that already existed from the intensive farming operation. Given the similarity in effects and the differing in the activity status classifications (i.e. permitted under the CARP verses restricted discretionary under the district plan), there may be a case that the CARP has erred in its classification of free range poultry farming as a permitted activity. However, in saying this, this circumstance and its odour profile may be a unique situation.

This leads to the potential response that the Proposed District Plan will need to have to this situation. If Council were to adopt a 'no air quality rule' approach, leaving odour entirely up to ECan, it would leave situations such as this open to occurring without any assessment from either Council. Conversely, the regional council does have the ability to require retrospective consent if the activity did cause an adverse effect beyond the boundary.

Additionally, even if Council were to adopt a 'full control' approach this situation may still not be captured unless free range poultry farming was considered to be intensive farming, triggering resource consent.

The latter option causing an additional problem as there would be an inconsistency in how each Council approaches free range poultry farming, being permitted by the regional council, and potentially requiring consent from the district council.

4.0 Setbacks

For a setback to be included within a district plan, evidence needs to be included as part of the s32 report justifying the need for, and distance of the setback. However, given the difficulties, as discussed below, surrounding the implementation of a setback, it may be appropriate to adopt an approach where a conservative setback is used that captures the majority of activities, or to adopt an approach similar to that of the current District Plan that requires resource consent for all intensive farming and quarrying activities as a discretionary activity.

District plan setbacks can be used as effective criteria that may trigger or change a land use activity status. This does not necessarily preclude or restrict the use of land as indicated, but would instead require a more detailed assessment to support and justify the land use. The presence of a setback may cause conflict with the community, as they may believe that it will stop the activity from establishing within it. In essence the public may see a setback as a 'red line' that activities are not allowed to cross. However, unless the activity is a prohibited activity, an application can be made within the setback area, and it will be treated on its merits. Additionally, a compliance and monitoring issue may arise if an activity lawfully establishes within the setback, the public may perceive effects from the activity, or become ultra-sensitive to any effects, or falsely attribute an effect to the activity.

Depending on the activity type, and even for different aspects within the same activity type, varying quantum will need to be used. For instance quarrying may require a certain distance to mitigate dust setbacks, but a smaller setback may be more appropriate for noise and vibration mitigations.

The inclusion of a setback within a district plan can provide some certainty to both the industry and the community as to when an activity will be subject to greater levels of scrutiny. Clear setback distances can enable all parties to plan for their future through the clarity provided by the planning framework. However, a caveat on this statement is that a setback does not prevent an activity, it only triggers a higher level of assessment.

Setbacks can be effective in dealing with odour, dust, spray drift, and noise effects which diminish with distance. Such measures are simple to enforce, keeping compliance costs relatively low. However, in atypical situations they can be inaccurate due to localised environmental conditions and management techniques. Separation distances do not take into account the nature of the topography, wind patterns, vegetation or other features that might influence the intensity or spread of the effect. Additionally they do not address how each individual activity is operated. For instance the strength and character of odours discharged from a shed will depend on building temperature, building design, and means of ventilation (passive or active), population density, type of feed, method of food and water supply, effluent collection and removal system, shed-flushing arrangements, and age of buildings.

There is a question of fairness when considering the appropriateness of setbacks as a poorly managed activity outside of a setback may cause greater effects than a well-managed activity within a setback. This may create perverse planning outcomes if the poorly managed activity was subject to less assessment than the well managed activity.

Setbacks are a blunt planning tool that can provide general guidance as to how far an activity should be located from a sensitive site. An argument could be made as to how necessary they are if the activity is already assessed on its merits/effects.

The presence of setbacks within the planning framework does assist the Planner when crafting rule structures by allowing for more of a stepped classification status. So if a breach does occur it would move the classification into a discretionary/ non-complying status.

There is a practical issue about implementing setbacks from 'sensitive activities' rather than a zone based setback. Case law regarding the receiving environment would indicate that a setback would need to be to any existing and potential sensitive activities that could be developed as of right. The latter component causing significant issues as it would mean a majority of the rural environment would be covered by setbacks. Alternatively it may be possible to expressly state within any rule that the setback only applies to existing lawfully established sensitive activities.

Setbacks can be a two edged sword, whereby a reverse sensitivity setback protects the existing activity from incursion of sensitive activities, and potential complaints. To introduce a reverse sensitivity setback for an activity where none previously existed can impose development restrictions on the land around an existing activity, i.e. a landowner next to a quarry, may now not be able to develop their land without resource consent, and obtaining any consent may be difficult.

4.1 Setback guidance/examples

4.1.1 Intensive Farming

| Authority | Animal Type | Setback to residential | Setback to residential zones | Reverse sensitive setback- |
|-----------|-------------|------------------------|------------------------------|----------------------------|
|-----------|-------------|------------------------|------------------------------|----------------------------|

| | | dwelling/sensitive activities | | residential to intensive farming |
|---|-----------|---|------------------|----------------------------------|
| Christchurch City Council | All | 200 metres | N/A | 200 metres |
| Ashburton District Council | All | 400 metres | 1200-1500 metres | 400 metres |
| Waimakariri District Council (depends on stock numbers) | Pigs | 200-750 metres | N/A | 200-750 metres |
| | Chickens | 300 metres | N/A | 300 metres |
| | Cow Barns | 100 metres | N/A | 100 metres |
| Hurunui District Council | All | N/A | N/A | 500 metres |
| Selwyn District Council | All | Restricted Discretionary | N/A | 300 metres |
| Canterbury Regional Council (CARP) | Chickens | 200 metres (Restricted Discretionary) | N/A | N/A |
| | Cow Barns | 500 metres (Restricted Discretionary) | 1000 metres | N/A |
| | Pigs | No setback distances included but consent is still required | | |

Environmental Protection Agency – Victoria, Australia

Code of Practice Piggeries, Department of Primary Industries, Victoria, 1992

Note, guidance includes variable considerations which can reduce the required setbacks.

| R-value (no. of pigs) | Zone 1 _A (metres) | Zone 1 _B (metres) | Zone 2 (metres) | Zone 3 (metres) |
|--------------------------|---------------------------------|---------------------------------|--------------------|--------------------|
| Fewer than 500 | 1600 | 1000 | 400 | 300 |
| 501 to 2000 | 2000 | 1500 | 500 | 400 |
| 2000 | 2000 | 1500 | 500 | 400 |
| 2500 | 2500 | 1875 | 625 | 500 |
| 3000 | 3000 | 2250 | 750 | 600 |
| 3500 | 3500 | 2675 | 875 | 700 |
| 4000 | 4000 | 3000 | 1000 | 800 |
| 4500 | 4500 | 3375 | 1125 | 900 |
| 5000 | 5000 | 3750 | 1250 | 1000 |

Figure 1: Zone 1a – Townships, Zone 1B - Rural Residential Area, Zone 2 – Isolated Rural Property, Zone 3 – Farm House not on same property.

The Victorian Department of Primary Industries in 2009 issued setback guidance for poultry activities to sensitive sites.

The Guidance stated that a 100m setback should exist between the shed and the property boundary. An equation (up to 400,000 birds) was included with guidance which calculates the required setback between a poultry shed and a sensitive site. This setback should be either 250 metres or the value calculated, whatever is greater.

$$\text{Distance} = 27 \times (\text{stock number}/1000)^{0.54}$$

Example:

400,000 Birds

$$\text{Distance} = 27 * (400000/1000)^{0.54}$$

Distance = 686 metres

100,000 Birds

$$\text{Distance} = 27 * (100000/1000)^{0.54}$$

Distance = 325 metres

The Australian egg industry produced environmental guidelines in 2008 on setbacks between egg producers and sensitive sites. Guidance states that there should be 500 metres between the source and any non-compatible land use such as a township, 250 metres between the source and a sensitive site in a compatible zone (rural zone), and 100 metres between the source and the property boundary where that boundary is within a rural zone.

4.1.2 Quarrying

| Authority | Zone | Activity | Setback |
|----------------------------|--|---|---|
| Christchurch City Council | Rural - Quarry Zone | Crushing and Screening | 100m to a Zone Boundary and below ground level |
| | Rural - Quarry Zone, Quarry Templeton Zone | Stockpiling | 50m to a Zone Boundary |
| | Rural – Quarry Zone, Quarry Templeton Zone | Quarrying (including processing) | 20m to a road boundary |
| | Rural – Quarry Zone | Excavation (depending on visual screening option) | 10 - 20m from a zone boundary |
| | Rural – Quarry Zone | Quarrying (including processing) | 6m from an adjoining boundary in the same zone |
| | Rural - Waimakariri Zone, Urban Fringe Zone, | Quarrying (includes processing) | 250m to a Residential or Specific Purpose (School) Zone |
| | Other Rural Zones | Quarrying (including processing) | No setback – full discretionary |
| Ashburton District Council | Rural Zone | Quarrying (including processing) | No setback – full discretionary |
| | | Reverse sensitivity | 100m to gravel pits |
| | | | |

| | | | |
|--|------------|--|---|
| Hurunui District Council | Rural Zone | Quarrying (including processing) | 500m from Residential, Business, Open Space Zones |
| | | Reverse Sensitivity | 500m to Quarrying |
| Canterbury Regional Council | - | Handling of bulk solid materials | 200 m to a sensitive activity |
| | | Handling of bulk solid materials that includes blasting | 500 m to a sensitive activity |
| Environmental Protection Authority – Victoria (AUS) ¹ | - | Quarrying not including blasting | 250 metres to a sensitive activity |
| | | Quarrying including blasting | 500 metres to a sensitive activity |
| | | Quarrying of materials containing respirable crystalline silica dust | 500 metres to a sensitive activity |

5.0 Options

Regarding the three options, Options One and Two have both been covered in other scopes (quarrying, intensive farming, composting and mushroom farming) so the assessment of these Options contained within this report is limited to avoid duplication. However, Option Three is a new approach, and therefore the degree of assessment carried out in this report reflects this.

5.1 Option 1: No Air Quality Controls

5.1.1 Explanation

This option would see all controls dealing with air discharges be removed from the district plan, with Environment Canterbury having sole responsibility under the CARP.

5.1.2 Positive

By relying on the provisions of the regional plan this option provides a benefit through avoiding any potential repetition and inconsistency. Further, it ensures a clear delineation between the functions of a regional council and district council. This option reduces the overlap between the regional and local authority, reducing planning costs and timeframes.

5.1.3 Negative

This option revokes the ability for a district council to have any control over activities causing an effect through an air discharge. An element of risk arises from the reliance on the regional authority to effectively address odour and dust effects on amenity values. Differences in philosophy or expectations between the two councils could lead to outcomes which are deemed acceptable by the regional authority, but which are not acceptable to the district authority. This situation could be triggered by a lack of direction set by the district authority on the appropriate location of particular activities in relation to sensitive sites.

¹ Recommended Separation Distances for Industrial Residual Air Emissions – Guideline - 07/03/2013

5.2 Option 2: Retain Air Quality Controls

5.2.1 Explanation

This option would see the District Plan retain all relevant air discharge controls for land use activities. This will result in the assessment of these effects during the processing of a consent, and the conditioning of any relevant matter on the consent document.

5.2.2 Positive

The primary benefit of retaining air quality controls is that potentially two layers of regulation would exist which would help prevent any unforeseen or uncontrolled activity having an effect on an existing sensitive site.

This option would also give the ability for a district council to tailor rules to be district specific as long as they are consistent and do not conflict with regional provisions. This aspect can be important given the delineation of roles as specified by the RMA and MFE guidance. This delineation being that regional councils look at the discharge of contaminants to air where chiefly there is a health effect, and district councils look at land use activities that can cause an effect on amenity values from an air discharge.

5.2.3 Negative

If care is not taken then it is possible that a District Plan provision could conflict, or not be consistent with the provisions of the Regional Plan. So while a district council may wish to retain full control, the freedom to create provisions is restricted.

There would be two layers of planning provisions (district and regional) controlling the same air discharge. This can increase planning costs but also increase confusion to plan users. Additionally, confusion can occur when considering who the appropriate authority is for compliance and monitoring.

5.3 Option 3: Partial Control

5.3.1 Explanation

This option would see the retention of the ability to assess odour and/or dust where a setback to a sensitive site has been breached. Activities outside of the setback would not be subject to odour and/or dust assessments. Essentially this option is a cross between the previous options, but does not fully embrace either option (retain control or no controls).

An example of this Option is:

Activity type: Intensive Farming

Setback distance to and from the activity/ sensitive site: 300 metres

A farm setting up inside the 300 metre setback would trigger an odour and/or dust assessment by the district authority.

For a farm setting up outside of the 300 metre setback, no odour and/or dust assessment would occur as the district authority would not have the jurisdiction to assess these matters. Matters of control/discretion would only be restricted to more land use type attributes such as coverage, noise, traffic and lighting etc.

A secondary matter for consideration under this Option is how an activity should be assessed if that activity has a regional council consent or certificate of compliance authorising the discharge. Should the district council still be assessing these situations?

Additionally, DPC will need to consider the setback origin point (façade of the building, notional boundary, or property boundary).

5.3.2 Positive

While not retaining full assessment control over all activities in all locations, this Option does provide protection to sensitive activities where an incompatible activity may seek to establish nearby. In these cases the district council will still reserve the right to assess the activity on odour and/or dust matters.

Additionally, the planning hurdles will reduce for activities seeking to establish outside of a setback, as a result of the removal of any odour and dust assessment jurisdiction.

This Option does allow for a staged activity classification hierarchy, by way of triggering a greater activity classification if an activity establishes within a setback. For instance an activity which would either typically be permitted or restricted discretionary, may be elevated to discretionary or non-complying if a setback provision is breached.

Furthermore, this Option provides clear guidance to the regional council as to where appropriate locations for air discharges should occur. This is line with the policies of the CARP already mentioned in this report.

5.3.3 Negative

As this Option is a compromise between the two previous options, it does not fully realise the benefits of each. Duplication to a certain degree will still exist between the two authorities when assessing air discharges within a setback.

The merits of a setback have already been explored in this report, but some of the main points of concern when introducing a setback into a district plan include:

- They are a blunt planning tool that may not be appropriate in every situation;
- Each setback included would need to be supported by expert evidence which has a time and cost element.
- There is a question of, to what degree should an effect be reduced to through the use of setbacks to dilute the effect. Should there be no resultant effect at the end point, or should an effect be at least less than minor.
- There are practical issues when including setbacks into a district plan around what makes up the receiving environment and determining the extent of a setback.
- When implementing a setback one way a reverse sensitivity setback should also be introduced the other way. This will place restrictions on land development rights where none previously existed due to the location of existing air discharging activities.

This Option could potentially penalise an activity which is managed well with little effect, just because it is within a setback. Where a poorly managed activity outside of the setback would not be held to the same scrutiny.

There is an element of risk that the regional authority may rely on a district council setback to determine the intensity of an effect (less than minor, minor, etc.). The setback should only be used as a trigger point for greater scrutiny from a district council perspective. It would still be expected that

the regional authority would require expert reports on the potential effect that a discharge of contaminants to air may have.

6.0 Conclusion

While no perfect option exists when trying to manage these activities, it is considered that Option 3 (retain odour and/or dust discretion where a setback has been breached) is the most desirable due to the reduction in regulatory requirements if locating in appropriate areas, but still maintaining some form of district authority control when activities seek to establish near sensitive sites. While the merits of setbacks has been discussed at length there are methods to ensure any setback used is as accurate and appropriate as possible.