From: Mary Sparrow
To: Mailroom Mailbox
Subject: Re: Submission from the Waimakariri District Council
Date: Friday, 24 April 2015 10:23:16 a.m.
Attachments: Submissions to Proposed Canterbury Air Regional Plan.DOCX

Please find the attached submission to the Proposed Canterbury Air Regional Plan from the Waimakariri District Council, and not that the Council wishes to be heard in support of these submissions.

Regards

Mary Sparrow
Principal Policy Analyst

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WAIMAKARIRI DISTRICT COUNCIL

Submission to Proposed Canterbury Air Regional Plan

Attention: Policy Manager
Waimakariri District Council
Private Bag 1005
RANGIORA

1 Submission: General

Reason for submission:

Each of the following submissions includes a specific decision requested. It is recognised that there may be alternatives ways in which an outcome similar to that sought could be achieved. It is also recognised that in some instances the relief sought may require a consequential amendment to another section of the Plan.

Decision requested:

That each submission from the Waimakariri District Council is deemed to be accompanied by the following caveats:

- Any additional or alternative relief that achieves the same or similar outcome;
- Consequential or ancillary changes as a result of any of the specific relief sought.

2 Submission: *"Outdoor burning and rural discharges of contaminants"* (p.1-3)

Reason for submission:

The Proposed Plan states that the burning of organic matter in rural areas is *"in some instances a critical land management tool, but often results in nuisance effects."* This observation overstates the likely effects of burning in rural areas, and is misleading.

Decision requested:

Delete the phrase ~~*"often results in nuisance effects"*~~ and replace with the phrase *"may result in nuisance effects."*

3 Submission: Figure 1.1 Non-regulatory work programme (p.1.5)

Reason for submission:

While it is accepted practice for plans developed under the *Resource Management Act 1991* to provide an indication of the actions the sponsoring local authority may take to support its regulatory framework, it is not necessary to have the level of detail provided in the Proposed Plan.

Expenditure to support the non-regulatory work programme is authorised through its Long Term Plan, and it is unwise to anticipate the level of expenditure signalled in Figure 1.1 in this Proposed Plan.

Decision requested:

Delete Figure 1.1 and replace with a more succinct statement identifying the programme and whether it will be a region-wide or targeted programme.

4 Submission: Definition "public amenity area" (p2.4)

Reason for submission

The definition of "public amenity areas" (e) includes beaches, but the definition also includes a caveat that roadways are not public amenity areas. The problem with this definition is that beaches are legal roads.

Decision requested:

Amend the definition of "public amenity area" to acknowledge that these legal roadways, excluding beaches, are not considered public amenity areas for the purposes of this Proposed Plan.

5 Definition "sensitive activity" (p2.5)

Reason for submission:

Part (b) of the definition simply states a *"residential area or zone",* and should specify that these areas or zones are as defined in district plans.

Part (c) of the definition seeks to expand on what might be normally understood by the term *"public amenity area".* It also seeks to distinguish between the areas that are available for public use and the service areas of a building. It is noted that the definition of "sensitive activity" in the Natural Resources Regional Plan Chapter 1 did not include the additional explanation and the caveat added to (c) in the Proposed Plan is considered to add unnecessary confusion.

If it is considered necessary to extend the definition of "public amenity area" for the purposes of this plan to include buildings and associated outdoor areas normally available for public use, then to achieve greater clarity consideration should be given to the following.

Decision requested:

To (b) add the words following *"residential area or zone <u>as defined in a district plan.</u>"*

To (c) delete the words *~~"including those parts of any building and associated outdoor area normally available for use by the general public, excluding any area used for services or access areas;"~~*

Amend the definition of Public Amenity Area to add the following:

"Buildings and associated outdoor areas licensed for use by the general public."

6 Submission: Definition "stock holding area" (p2.5)

Reason for submission

The time thresholds in definition of "stock holding area" make it very difficult to apply to any situation in advance, to monitor or enforce any Rule including this definition. The inclusion of farm raceways used for holding purposes during milking should not be included in this definition as it is very unlikely that the holding of stock in these areas would involve such significant time as to be a cause for concern. The changes requested mean that the definition of stock holding area is similar to general definitions of intensive farming and clearly captures milking platforms, feedpads, and wintering pads.

Decision requested

Delete from the definition for "stock holding area" the words:

~~*"and is used for confining livestock for more than 30 days in any 12 month period or for more than 10 consecutive 24 hour days at any time. For the avoidance of doubt, this definition includes"*~~ so that the definition would read:

"Stock holding area means an area of land in which the construction of the holding area of stocking density precludes maintenance of pasture or vegetative ground cover, and includes milking platforms, feedpads, and wintering pads, but excludes sheep and cattle yards constructed on pasture or bare soil."

Or

As this definition is only used in Rule 7.66 it could be deleted and the matters addressed in Rule 7.66 specified in the preamble to the conditions.

7 Submission: Definition "urban" (p2.6)

Reason for submission:

The definition refers to any site or area zoned for residential, commercial or industrial activities and should also state that these areas are zoned in a district plan. In addition, it is possible for district plans to also include other special zonings in *RMA* plan for parks and reserves or similar and if these are within an urban boundary should also be regarded as *"urban"* for the purposes of the Proposed Plan.

Decision requested:

Add to the definition of "urban" *"or other such zoned area within an area zoned for these activities in a district plan."*

8 Submission: New Definition (p2.6)

Reason for submission:

There is no definition for “bulk solid materials”, a term used in rules 7.37 for example. The NRRP Chapter 1 definition provided for bulk materials and presumably the term “bulk solid materials” refers to the same range of materials. To avoid any uncertainty there should be a definition for this term, and in the interests of planning momentum it should be the same as in the Operative Air Plan.

Decision requested:

Add a definition for *“bulk solid materials”*

“Bulk solid materials include all materials consisting of fragments or particles that could be discharged as dust or particulate. These materials include, but are not limited to: gravel, quarried rock, fertiliser, coal, cement, flour, rock aggregate, grains and wood chips.”

9 Table 2.2 Space heating appliance definitions (p2.6)

Reason for submission:

The notes relating to *“low emitting enclosed burners”* with reference to pellet burners is vague and misleading. If the pellet burners referred to in this note are the ones that were clean air approved at the time they were installed in clean air zones outside of Christchurch then the note should state this.

Decision requested:

Specify the pellet burners referred to in the note in Table 2.2 relating to *“low emitting enclosed burners”.*

10 Submission: Objective 5.4 (p5.1)

Reason for submission:

This objective focuses on managing discharges for amenity values, but does not acknowledge that there will be occasions when an activity involving emissions is of sufficient significance in terms of other values such as those relating to heath or wellbeing that it is acceptable to compromise the amenity values of the receiving environment, but not to the extent that the emissions involved are dangerous or noxious. It is important that Objective 5.4 does not stand in the way of infrastructure development or similar.

Decision requested:

Add to Objective 5.4 following the words *“receiving environment”* the following:

"while recognising that some significant activities may involve a limited decrease in these values."

11 Submission: Objective 5.7 (p5.1)

Reason for submission:

Objective 5.7 enables nationally and regionally significant infrastructure and focuses on efficient and effective operation, on-going maintenance, repair, development and upgrading. It is appreciated that the Regional Policy Statement identifies the nationally and regionally significant infrastructure for the Canterbury Region, but it is also important for the Proposed Plan to also recognise the contribution that local infrastructure also makes to economic, cultural and social wellbeing.

Decision requested:

Add reference to local infrastructure under Objective 5.7; or

Alternatively include an additional objective as follows or to similar effect:

"The economic, social and cultural wellbeing and health of communities is enabled by the efficient and effective operation, on-going maintenance, repair, development and upgrading of local infrastructure."

12 Submission: Policy 6.1 (p.6.1)

Reason for submission

This policy provides an overall standard to be applied to the discharge of contaminants, either singularly or in combination, and sets an unreasonably high standard with respect to either the likely impact on human health and wellbeing, and on the effects on the mauri/life supporting capacity of ecosystems, plants or animals. This is an unreasonably high threshold against which to assess the likely impact of all discharges of contaminants to air irrespective of the significance of the purpose of the activity. In some instances the discharge of contaminants may involve a marginal adverse effect on human health and wellbeing, but provide gains in terms of other aspects of health or wellbeing. Similarly, a discharge of contaminants may involve a marginal adverse effect on plant or animal life, but that this can be mitigated by making compensatory changes.

Decision requested:

Amend Policy 6.1 (a) to read *"significant adverse effects on human health and wellbeing;"* and
Amend Policy 6.1 (d) to read *"significant adverse effects on the mauri/life supporting capacity of ecosystems, plants or animals."*

13 Submission: Policy 6.4 (p6.1)

Reason for submission:

Policy 6.4 is directed towards the reduction in overall concentrations of $PM_{2.5}$ in clean air zones by 2030 and refers to the 24 hour average of 25ug/m^3. In view of the absence of any guidelines under NESAQ it would be appropriate for this policy to adopt the annual average as the benchmark rather than the 24 hour average.

The critique of the current approach to the management of air quality by Dr. Jan Wright, Parliamentary Commissioner for the Environment in *"The State of Air Quality in New Zealand"* 2015, stressed the greater importance of long-term exposure to poor air quality. This critique would support a policy focusing on the annual average for $PM_{2.5}$ rather than the 24 hour average.

Decision requested:

Amend Policy 6.4 to refer to the annual average for $PM_{2.5}$.

14 Submission: Policy 6.5 (p6.1)

Reason for submission

Policy 6.5 as proposed does not represent a policy, rather it is stated as an objective. It is advisable for policy 6.5 to be restated as a policy.

Decision requested:

Amend Policy 6.5 to read:

"Identify and manage, appropriately in relation to the location, the frequency, intensity, duration, and seriousness of discharges of contaminants resulting in offensive and/or objectionable effects beyond the property on which the emission occurs.

15 Submission: Policy 6.7 (p6.1)

Reason for submission:

Policy 6.7 signals an expectation that where there is a zoning change in a District Plan and there is an emission to air in the locality which causes adverse effects for the new activities, the discharging activity will either *"reduce the effects or relocate."* The Section 32 Report indicates that this Policy does not encourage or condone reverse sensitivity, and that it sits within the context of the Canterbury Regional Policy Statement (CRPS).

Policy 14.3.5 of the RPS states *"(1) Avoid encroachment of new development on existing activities discharging to air where new development is sensitive to these discharges, unless any reverse sensitivity effects on the new development can be avoided or mitigated."*

It would appear that the RPS places the onus on the new development to absorb the reverse sensitivity effect, while Policy 6.7 places the onus on the existing activity, which is expected to *"reduce the effects or relocate."*

Decision requested:

Delete Policy 6.7 and replace with the following:

"Take account of reverse sensitivity implications associated with existing activities when making decisions with respect to authorising land use changes, to ensure that any changes proposed will allow discharges from the existing activity to continue at the level that prevailed at the time that the changes were approved, or can reasonably be mitigated to reduce the adverse effects."

Or policy statement to similar effect which is consistent with CRPS Policy 14.3.5 (1)

16 Submission: Policy 6.10 (p6.1)

Reasons for submission

Policy 6.10 is directed to *"all activities"* and requires these to adopt *"the best practicable option"*. The use of the *"best practicable"* test is usually confined to the conduct of a larger scale activity and often to the situation faced when dealing with existing manufacturing plant or similar where *"best practice"* is not practical. In fact, the way that this Policy is worded would appear to rule out requirements for the use of *"best practice"* in circumstances where it is practical to require this higher standard.

As the purpose of this policy would appear to be directed towards the introduction of the test of *"best practicable"* Policy 6.10 should address large scale activities where it is reasonable to apply this test as opposed to *"best practice".* Also, Policy 6.10 should to apply it to large scale activities rather than all activities, as in these cases consenting is usually addressed on a case by case basis, it is not necessarily the cumulative effect that is at issue but the level of performance that is relevant to the facts of the case.

Decision Requested:

"Where appropriate existing activities that discharge contaminants into air shall adopt the best practicable option to avoid or mitigate offensive or objectionable effects on air quality beyond the boundary of the property from which these originate."

17 Submission: Policy 6.11 (p6.1)

Reason for submission:

Policy 6.11 recognises the contribution of nationally and regionally significant infrastructure, but there is no mention of the contribution that local infrastructure makes to the economic, social and cultural wellbeing and health of communities.

Decision requested:

Add additional policy to follow 6.11 that reads:

"Recognise the contribution of local infrastructure to the economic, social and cultural wellbeing and health of communities.

18 Submission: Policy 6.12 (p6.1)

Reason for submission:

Policy 6.12 would appear to be based on the assumption that there are going to be opportunities to improve the management of discharges during the life of resource consents. This will not be the case if the activity consented was using *"best practice"* at the time of consenting, which could be regarded as *"best practicable"* during the life of an 20 or 35 year consent given improvements in the plant or equipment associated with the activity concerned during the life of the consent. The situation prevailing when an activity requires a new consent will be taken into account at that time, in the normal course of applying the statutory tests for the approval of a resource consent. In the context of the suite of general policies in the pCARP, Policy 6.12 is not required.

Decision requested:

Delete Policy 6.12

19 Submission: Policy 6.15 (p6.2)

Reason for submission:

Policy 6.15 provides for outdoor burning of organic material in rural areas if it is undertaken in accordance with Schedule 3. Schedule 3 states that a smoke management plan is required as a condition of Rules 7.8 and 7.10 and as a condition of resource consent under rule 7.9. Rule 7.10 (6) indicates that it is only if discharges are likely to continue for 3 days or more that a smoke management plan is required to be prepared in accordance with Schedule 3. In view of these provisions, Policy 6.15 does not provide policy support for outdoor burning in rural areas of the specified range of organic material for fires not expected to last for 3 days or more.

Decision requested:

Amend Policy 6.15 to state:

"Provide for the outdoor burning of organic material, in rural areas, and where crop residue is to be burnt or fires are likely to be of an extended duration are undertaken in accordance with Schedule 3."

20 Submission: Policy 6.16 (p6.2)

Reason for submission:

Policy 6.16 requires the avoidance of outdoor burning of "non-organic" material in rural areas. In the light of the King Salmon decision there is now an expectation that "avoid" means that the activity will not occur under any circumstances. It is more appropriate that the Policy is directed towards *"minimising"* the burning of non-organic matter because this is a more realistic approach to the encouragement of good practice with respect to outdoor burning in rural areas. If this change is made to Policy 6.16 it would not be necessary to specify that it is acceptable to undertake firefighting training in a rural area which would involve the release of relatively limited discharges of contaminants to air from the burning of non-organic material. It would also mean that the burning of very small and inconsequential amounts of non-organic material that would not be contrary to a policy in the pCARP.

Decision requested:

Amend Policy 6.16 to read:

"Avoid the discharge into air of contaminants from the burning of non-organic materials in rural areas which result in significant adverse effects on the environment."

21 Submission: Policy 6.17 (p6.2)

Reason for submission:

Policy 6.17 is directed towards managing outdoor burning of organic material in rural areas and seeks to *"minimise adverse effects on townships"* with specific reference to the Crop Residue Burning Buffer Areas identified in Section 9 Maps.

The Proposed Plan does not include a definition of *"townships",* but does define *"urban"* areas.

Decision requested:

Replace the term *"townships"* in Policy 6.17 with the term *"urban zoned areas"*.

22 Submission: Policy 6.18 (p6.2)

Reason for submission:

Policy 6.18 is directed toward avoiding outdoor burning in urban areas, except for fire-fighting training, community events and cooking. As a result of the King Salmon decision, *"avoid"* is now interpreted as meaning that the activity concerned is not to occur in any circumstance. This is too strong a policy setting to cover all urban areas throughout Canterbury, irrespective of whether these have controlled airsheds. A Policy setting seeking to *"minimise"* burning, other than the types of activity identified in Policy 6.18 would be more appropriate

The previous NRRP Chapter 13: Air Quality included a definition of cooking as confined to hangi and barbequing, and the inclusion of cooking without a definition is seen as leaving the issue of what constitutes "cooking" in the context of the Proposed Plan open to misunderstanding.

It is noted that in the section of the Proposed Plan addressing Issues of Significance to Ngai Tahu that cooking is qualified as *"including hangi"*. The term cooking is also used in the context of food manufacture, in addition to this Policy and the related Rule addressing outdoor burning as a permitted activity in urban areas.

Decision requested:

Amend Policy 6.18 to read as follows:

"<u>Minimise</u> the outdoor burning of material in urban areas, except for the purpose of fire-fighting research and training, <u>and hangi, barbeque or other small scale or domestic outdoor cooking device</u>."

23 Submission: Policy 6.19 (p6.2)

Reason for submission:

Policy 6.19 *"enables"* discharges of contaminants from large scale activities including nationally and regionally significant infrastructure, but does not provide an enabling policy framework for local infrastructure, which is critical to the health and wellbeing of communities. In addition, this policy does not acknowledge that there may be some instances where the location of an emitting activity is determined by a range of factors. In these cases, therefore, the emissions may not be entirely compatible with the surrounding land use patterns and that mitigation measures are all that are reasonably practicable.

Decision requested:

Amend Policy 6.19 to read:

"Enable discharges of contaminants into air associated with large scale industrial and trade activities, and nationally and regionally significant <u>and local</u> infrastructure, in locations where the discharge <u>is as far as possible</u> compatible with the surrounding land use pattern, and also ensure the mitigation of adverse effects.

24 Submission: Policy 6.21 (p6.2)

Reason for submission:

Policy 6.21 is directed towards *"avoiding"* the discharge of contaminants into air from large scale burning devices or industry or trade premise which result in exceedances, or exacerbate existing exceedances of the guideline values set out in the Ambient Air Quality Guidelines 2002 Update. The use of the term *"avoid"* is as the result of the King Salmon decision to be taken to mean that something cannot occur in any

circumstances. The use of *"avoid"* in this general police is inappropriate, and can even be seen as out of step with pCARP Policy 6.22 which reflects the NESAQ requirement for *"off-sets"* in case where activities result in significant increases in PM_{10} concentrations. A more appropriate general policy setting would be to *"minimise"* or *"off-set"* discharges that could lead to the deterioration of air quality so that an exceedance developed or was exacerbated.

To aid the understanding of this Policy it would be advisable to include the diagrams illustrating the approach involved in with the air quality guidelines as an additional schedule to the pCARP.

Decision requested:

Amend Policy 6.21 by replacing the word *"avoid"* with *"minimise or offset".*

Also, include as an additional schedule the air quality guidelines diagrams as these appear in Table AQL1 and Figure AQL2 of the Operative Canterbury Natural Resources Regional Plan: Chapter 3 – Air Quality (pp3-29/30)

25 Submission: Policy 6.24 (p6.2)

Reasons for submission:

Policy 6.24 is directed towards the avoidance of *"offensive or objectionable effects or adverse effects on human heath"* when permitting discharges of contaminants to air from waste management processes (other than combustion of waste) where the activity is *"appropriately located".* The phrase *"offensive or objectionable"* is significantly wider than the terminology *"noxious and dangerous"* that is used in the rule associated with waste management processes, Rules 7.54 (3), 7.55 (4), 7.56 (1), and 7.57 (2). The issue of what is meant by *"appropriately located"* also requires clarification. In addition, it would be advisable for this policy statement to be expressed more clearly as a policy rather than simply a statement.

Decision requested:

Reword Policy 6.24 as follows:

<u>Enable</u> discharges of contaminants into air from waste management processes, excluding combustion of waste, <u>in locations where the discharge is as far as possible compatible with the surrounding land use pattern and where the discharge does not cause noxious or dangerous effects.</u>

26 Submission: Policy 6.26 (p6.3)

Reason for submission:

Policy 6.26 provides that discharges of contaminants associated with rural activities do not cause offensive or objectionable effects beyond the boundary of the property of origin. The use of the term *"rural activities"* raises the issue of when an activity in a rural area is not a *"rural activity",*

which suggest that the problem could be overcome with the use of *"any activity"*.

Policy 6.25 focuses on the discharge of agri-chemicals and fertilisers when appropriately managed to minimise the risk of affecting non-target locations. This raises the issue of whether Policy 6.26 is directed towards discharges other than those to be managed in accordance with Policy 6.25.

Decision requested:

Amend Policy 6.26 to read:

"The discharge of contaminants into air associated in Rural Zones associated with any activity other than the use of agri-chemicals and fertilisers does no cause offensive or objectionable effects beyond the boundary of the property of origin."

27 Submission: New Policy 6.XX (p6.3)

Reason for submission:

The Policies 6.27 – 6.30 address discharges resulting from the use of space heating appliances anywhere in the Region, and Policies 6.31 – 6.35 address discharges resulting from the use of these appliances in all Clean Air Zones. The Proposed Plan does not provide specific Policy support for the continuing use of open-fires in homes on sites of 2 ha and greater outside of Clean Air Zones.

Given the generally good air quality across Canterbury outside of the urban areas and the limited likelihood of there been a significant number of dwellings on sites of 2 hectares or greater in urban areas not subject to Clean Air Zone controls the adverse effect of open-fires on air quality can be regarded as inconsequential. Under these conditions any effort to control the use of existing open-fires of enclosed domestic burners that do not meet low or ultra-low emission standards are not warranted.

Decision requested:

Provide a new policy for sites of 2 ha or more outside of Clean Air Zones that states:

"On sites of 2 ha or more outside of Clean Air Zones anywhere in the Region allow the discharges to air from open-fires and enclosed burners that are not classified as low-emitting or ultra-low emitting."

28 Submission: Policy 6.31 (p6.3)

Reason for submission:

Policy 6.31 calls for the encouragement of the adoption of efficient space heating appliances that do no discharge contaminants into air. As is becoming clear from the analysis provided by the Parliamentary Commissioner for the Environment in her 2015 report, the extent of the focus on changing to non-emitting appliances is not warranted.

It would be more appropriate for this general policy relating to all Clean Air Zones to reflect a more reasonable overall orientation by referring to *"minimising"* rather than focusing on encouraging the use of appliances that do not discharge contaminants to air.

Decision requested:

Amend Policy 6.31 to read:

"Encourage the adoption of efficient space heating appliances that minimise the discharge of contaminant into air."

29 Submission: Policy 6.33 (p6.3)

Reason for submission:

Rule 7.79 provides for the discharge of contaminants from open-fires in dwellings on sites of 2 ha or greater in area installed before 1 January 2013 as a permitted activity. This Rule does not have policy support.

Decision requested

Amend Policy 6.33 to state:

"On all sites greater than 2ha in area, provide for discharges of contaminants into air from older-style, low and ultra-low emitting burners and open-fires installed prior to 1 January 2013."

30 Submission: Policy 6.35 (p6.3)

Reason for submission:

Policy 6.35 states that the discharge of contaminants into air from the use of open fires is to be avoided. To provide alignment with the Rules regarding the use of space heating appliances, this policy should refer to the date at which the NESAQ was amended to remove the installation of open-fires as a permitted activity after 1 January 2013.

Decision requested

Amend Policy 6.35 by adding words *"installed on or after 1 January 2013"* after the words use of open fires.

31 Submission: Heading for section addressing the Rangiora, Kaiapoi or Ashburton and add new policies for Rangiora and Kaiapoi Clean Air Zones 2 (p6.3)

Reason for submission:

In view of the Waimakariri District Council's submission no. 58 directed towards Plan Maps in Schedule 9 to reinstate the Clean Air Zones 1 and 2 established after extensive negotiation with the community prior to the introduction of the Variations for the Kaiapoi and Rangiora airsheds in

2008, the heading should refer to the Rangiora and Kaiapoi Clean Air Zones 1.

Decision requested

Amend the heading to refer to the Kaiapoi and Rangiora Clean Air Zones 1.

Provide new policies that provide for the Kaiapoi and Rangiora Clean Air Zones 2 to continue to allow the use of open fires installed prior to the introduction of the Variations, and the use of older-style burners without a requirement to these to be upgraded to low-emission burners.

Or alternatively:

Reduce the Kaiapoi and Rangiora Clean Air Zones shown on Proposed Plan Maps (Schedule 9) to the Clean Air Zone 1 boundaries as shown in the Canterbury NRRP: Chapter 3 – Air Quality.

32 Submission: Rule 7.5 (p7.2)

Reason for submission:

Rule 7.5 provides that the discharge of contaminants to air anywhere in the Region from outdoor burning does not comply with Rules 7.6 to 7.13 is a “prohibited activity”. In the NRRP: Chapter 3 – Air Quality Rule AQL34 provides that emissions to air from outdoor burning that does not meet the conditions attached to a similar suite of rules is a “discretionary activity”. The step-down from a permitted activity directly to “prohibited activity” is unreasonably severe.

It is also noted that Schedule 1 (p8.4) provides a list of the information required for a resource consent for applications for discharges to air from outdoor burning. This would indicate that circumstances were outdoor burning is a consented activity is contemplated, which would make the establishment of a default rule to “discretionary activity” a reasonable addition to the plan.

Decision requested:

Amend Rule 7.5 to “discretionary activity” and make the preparation of a smoke management plan a condition of a discretionary consent for Rule 7.10 where condition 7.10 (2) cannot be met.

33 Submission: Rule 7.10 (3) (p7.3)

Reason for submission:

Rule 7.10 (3) requires that organic material to be burnt has been left to dry for at least 6 weeks prior to burning or is located at least 200 metres in any direction from a sensitive activity. Whether the material to be burnt needs to be left to dry will depend on it being living organic matter as opposed to other organic material such as untreated dried wood or cardboard. Having the requirement for material to have dried for a specified period or the location of burning being at an extended distance

from sensitive activities should be qualified. It needs to take into account the nature of the organic material to be burnt.

The extension of the distance from sensitive activities to 200 metres in any direction if the material to be burnt is not dry is also an unreasonable condition of outdoor burning as a permitted activity in rural areas. If people make a habit of lighting fires involving organic material that cause a nuisance effect, then the Air Plan provides the basis for enforcement action.

Decision requested:

Amend Rule 7.10 (3) to remove the requirement for 200 metres clearance in any direction if material has not been left for at least 6 weeks to dry, and simply require that "vegetation must be dry".

34 Submission: Rule 7.10 (4) (p7.3)

Reason for submission

The additional provision relating to outdoor burning within 5km of any urban area is considered excessive. Any controls to protect urban areas from smoke from outdoor burning should not extend to 5km. The requirement concerning wind speeds as forecast by a reputable weather service is also unnecessary.

Decision requested:

Reduce the distance from any urban area subject to additional conditions for outdoor burning as a permitted activity to 1km. Instead of specifying forecasted wind speed, provide that the wind should be from a direction which will ensure that smoke drifts away from the urban area concerned.

35 Submission: Rule 7.10 (8) (p7.3)

Reason for submission:

Rule 7.10 (8) provides that for rural areas within Clean Air Zones burning is not allowed to take place during May, June, July, or August.

In response to an appeal to the Rangiora Variation in relation to outdoor burning during winter months a special set of conditions were negotiated, and these are set out in NRRP: Chapter 3 – Air Quality Rule AQL75A. The appellant's arguments for challenging the prohibition on winter burning in rural areas within the Rangiora Clean Air Zone 2 concerned the difficulties that can arise if conditions are unsuitable for burning small quantities of mainly material from gardens in either a dry autumn or a dry spring.

It was accepted that on balance it was more appropriate to allow burning under the conditions attached to this rule it was unlikely that the air quality in the gazetted airshed would be prejudiced, and this risk was preferable to outdoor burning under dry conditions which would be accompanied by other potentially more serious risks.

Decision requested:

Provide for outdoor burning in rural areas within Clean Air Zones as a permitted activity under the following conditions during the months of May, June, July and August which complies with the following conditions:

1. *The discharge does not occur outside the hours of 8am to 4 pm; and*
2. *The discharge does not occur when the wind causes particles such as smoke to more towards the urban zone protected by the Clean Air Zone; and*
3. *The discharge does not occur during the period within which a temperature inversion has formed.*

The indicators for the temperature inversion are:

a) *Temperatures below 5 degrees Centigrade, and*
b) *Wind speed of 3 metres per second or less, and*
c) *Anti-cyclonic conditions, with clear night skies.*

36 Submission: Rule 7.10 (additional condition) (p7.4)

Reason for submission:

The permitted activity Rule AQL29 (5) in NRRP: Chapter 3 – Air Quality provides that *"only small quantities of petroleum products, up to 10 litres per fire, may be used as accelerants."* It is also noted that in NRRP Chapter 3 – Air Quality Appendix AQL1 "Guide to minimising smoke emissions from outdoor burning …" that it is recommended in (g) that *"small quantities of diesel oil or re-refined oil may be used as accelerants. Burning of rubber, used or waste oil is prohibited …"* As it is necessary to have discharges to air specifically permitted under *RMA Section 15,* it is appropriate to specifically permit the use of diesel oil or re-refined oil as an accelerant when beginning burning vegetable or other organic material outdoors.

Decision requested:

Add to Rule 7.10 new condition that states:

"A quantity of diesel oil or re-refined oil, not exceeding 10 litres per fire, may be used as an accelerant when undertaking outdoor burning of vegetation, paper, cardboard and untreated wood."

37 Submission: Rule 7.10 (additional condition) (p7.4)

Reason for submission:

A further condition caveat with regard to the outdoor burning permitted activity rule for organic waste in NRRP: Chapter 3 – Air Quality Rule 29 states that *"minor and incidental amounts of materials specifically excluded under Rule AQL36 (a), (d), (e), (i) and (l) … is a permitted activity."*

Decision requested:

Add to Rule 10 new condition that states:

"minor and incidental amounts of materials specifically excluded under Rule 7.4"

38 Submission: Rule 7.13 (p7.4)

Reason for submission:

This Rule provides for outdoor burning in urban areas for *"cooking".* In the NRRP: Chapter 3 – Air Quality, cooking is defined as hangi and barbeque. As cooking is also referred to in the Proposed Plan with respect to food manufacturing it would be more appropriate to replace *"cooking"* in Rule 7.13 with hangi and barbeque and other small scale cooking devices.

Decision requested

Amend rule 7.13 to read after the words *"for the purposes of"*: *"hangi, barbeque and other small scale or domestic cooking devices."*

39 Submission: Rule 7.30 (p7.11)

Reason for submission:

The situation with respect to the potential for the generation of dust from works associated with the installation of pipes not necessarily directly associated with subdivision or development of property, particularly those associated with infrastructure is unclear. It would be more appropriate for the release of dust to the environment from this activity is clearly a permitted activity under Rule 7.30 than a restricted discretionary activity under Rule 7.29, particularly as some of this work may involve relatively little land disturbance.

Decision requested:

Amend Rule 7.30 to read:

The discharge beyond the boundary of the property of origin of dust from subdivision development, <u>or the installation of pipes irrespective of whether related to development</u>, where less than 4ha of land is unsealed or unconsolidated at any one time is a permitted activity …"

40 Submission: Rule 7.54 (p7.17)

Reason for submission:

The scope of this Rule relating to *"waste transfer sites"* is unclear. It would appear from the limit of 5t per day that it is intended to be directed to solid not hazardous waste transfer, and this should be clarified.

Given the range of conditions designed to manage discharges, including the quality of the discharges and the management of these beyond the

property boundary, it would appear that the setting of a 5 tonne limit is unnecessarily arbitrary.

Decision requested:

Amend Rule 7.54 to read:

"Discharges of contaminants into air from solid waste transfer sites processing up to an average of 10 tonnes per day is a permitted activity …"

41 Submission: Rule 7.55 (p7.18)

Reason for submission:

Rule 7.55 provides a set of conditions under which the discharge into air of contaminants from a cleanfill site is a permitted activity. Condition (1) provides that the discharge does not occur within 300 metres of a sensitive activity located on an adjoining property.

Given the conditions controlling the material that is deposited in cleanfill sites, differences in the scale of operation, and the relatively infrequent times at which material in a cleanfill site is deposited or otherwise disturbed, the establishment of a 300 metre buffer zone to protect sensitive activities from adverse effects is unreasonable.

It is recognised that there could be instances where there are discharges of dust, but not odour as it is a cleanfill site, these should be managed with respect to neighbouring sensitive activities through the dust management plan required by condition (5).

Decision requested:

Delete Condition Rule 7.55 condition (1).

42 Submission: Rule 7.56 (p7.18)

Reason for submission:

Rule 7.56 provides for the discharge of contaminants into air from the treatment and disposal of $50m^3$ of human sewage effluent per day as a permitted activity. The use of a "per day" threshold is considered unreasonable for identifying those small scale treatment plants that can be operated under 7.56 as a permitted activity. The volume of material through such plants can fluctuate quite widely, and accommodated without any particular difficulty. It would therefore by more reasonable for the threshold for Rule 7.56 to be based on an annual average of $50m^3$ rather than a daily amount

Decision requested:

Amend Rule 7.56 by deleting the words *"~~per day~~"* and replacing them with the words *"less than an annual average of $50m^3$ per day.*

43 Submission: Rule 7.57 (p7.18)

Reason for Submission:

Rule 7.57 provides that the discharge of contaminants into air from air pressure release valves on sewerage systems that are on publicly owned land already in place should be a permitted activity, that meet conditions (2), (3) and (4) irrespective of location. This would avoid the requirement to obtain retrospective global consents for these valves which are already part of the network infrastructure, and not necessarily currently a cause for concern.

Decision requested:

Amend Rule 7.57 so that condition (1) reads:

"The discharge occurs from an existing air pressure release valve on a sewerage system, or does not occur within a property intended for residential use; and (2) …"

44 Submission: Rule 7.58 (p7.19)

Reason for submission:

Rule 7.58 provides for the air pressure release valves on sewerage systems that cannot comply with Rule 7.57 to be a restricted discretionary activity. The need to apply for consents that can be declined by the Regional Council is unreasonable given the importance of sewerage systems to public health and the wellbeing of communities.

Given that the release valves are a component of local infrastructure it would appear that the matters listed in addition to the particular matters for control listed would appear to represent an unnecessary consenting burden on applications for air pressure release valves on sewerage systems. For this reason, reference to (2) *"The matters set out in Rule 7.2"* is unnecessary.

Decision requested:

Amend Rule 7.58 from *"restricted discretionary"* to *"controlled"* with the matters for control to be as set out in 7.58 (2) deleted.

45 Submission: Rule 7.66 (p7.21)

Reason for submission

There are elements of Rule 7.66 area unworkable from a monitoring and enforcement perspective because it is just too complicated. The difficulties would be exacerbated if the definition of *"stock holding area"* remains as notified. Again the setting of time limits for a permitted activity presents problems, which might be frustrated by cows housed during the milking season leaving a facility twice a day to be milked, if this building is not used for wintering the stock.

To overcome the situation the issue of clearances to avoid reverse sensitivity effects should rest with district plans, and most district plans have rules which are designed to protect both sensitive activities (dwelling houses on adjacent properties) and established activities. These rules will have been established after consultation with the respective farming communities, and reflect the policy settings for rural areas which are likely to have adopted a *"right to farm"* approach. It should only be in the absence of reverse sensitivity rules to cover the situations envisaged in Rule 7.66 that a regional rule setting clearance distances for a permitted activity for intensive type farming activities and including the activities such as milking platforms, feed pads and wintering pads. The distances of 500 metres from the property boundary and 1500 metres from an urban area set out in Condition 1 are however considered excessive.

To allow an increase of 10% can create situations were a large operation is given the opportunity to enjoy a significant increase in the level of activity as a permitted activity, while a relatively small operation can be severely constrained. It would be more appropriate not to specify a permitted increase in the number of cattle involved, but require an odour management plan to be prepared and available for inspection in the event of the number of livestock increasing from the number accommodated as at 28th of February 2015.

Decision requested

Amend the preamble to Rule 7.66 to read:

"The discharge of contaminants into air from intensively farmed cattle that are housed or held on milking platforms, feed pads or wintering pads and/or at a density where there is no pasture cover, is a permitted activity provided the following conditions are met:

1. *The structure is located at 200 metres from the property boundary and 1000 metres from an area an area zoned urban in a district plan, or the setback distance provided for intensive farming activities required by the relevant district plan whichever is the lesser distance, or*
2. *The activity was existing on the 28th of February 2015, and*
3. *The number of cattle shall remain the same as at 28th of February or should the number be increased an odour management plan must be prepared to avoid, remedy or mitigate any adverse effects of the increase in the number of cattle housed or held, and*
4. *A record of the number of cattle housed/held as at 28th of February 2015 and any subsequent increases is provided to the CRC on request.*

46 Submission: Rule 7.67 (p7.21)

Reason for submission

Amend the preamble for Rule 7.67 to align with the changes requested to Rule 7.66.

Decision requested

The discharge of contaminants into air from <u>intensively farmed cattle that are housed or held on milking platforms, feed pads or wintering pads and/or at a density where there is no pasture cover</u> which is unable to comply with any conditions of rule 7.66 is a restricted discretionary activity:

47 Submission: Rule 7.68 Condition (6) (p7.22)

Reason for submission

The record keeping required condition (6) is unclear. It states the person responsible *"… will keep a record for 3 months, …"* but it is unclear whether this is simply at the outset of the activity, or that record keeping is continuous and these records are to be retained for three months. On-going record keeping in situations where there is minimal risk of offensive odour reaching "sensitive activities" on adjacent properties, the need for detailed record keeping of application for air quality purposes would be onerous. In cases where there is some risk, this would be addressed under condition (3) which requires an odour management plan.

In order to minimise the risks associated with the activities addressed in Rule 7.68, some District Plans include rules relating to setbacks to manage reverse sensitivity effects and it would be advisable for the Air Plan to include an advice note to this effect in relation to Rule 7.68

Decision requested

Delete Conditions 6 from Rule 7.68, and add an advice note directing those contemplating the establishment of a liquid and slurry animal effluent or solid animal effluent management system that District Plans may include provisions relevant to this activity to manage reverse sensitivity effects of some or all aspects of this activity.

48 Submission: Rule 7.72 (p7.22/23)

Reason for submission:

Rule 7.72 is designed to encompass all discharges that result from the application of agrichemicals or fertilisers as a permitted activity, and requires that applications be undertaken in accordance with NZS8409:2009. This Rule replaces two rules in the Operative Plan, one addressing the small scale application of agrichemicals and the second large scale, commercial and/or contractor scale operations.

The two rule approach has merit because the rule dealing with small scale applications, while requiring the manufacturer's instructions for the use of the agrichemical to be followed, did not require the person using the agrichemical on his/her own property on the road reserve adjacent to that property to have NZS user certification.

It is noted that other regional plans adopt a two rule approach to the management of discharges to air of agrichemicals, and that the Gisborne Plan includes details of the requirements for a person to achieve NZS

certification as a schedule in this Plan. To have a single rule with the level of reliance on NZS8409:2009 also presents difficulties because copies of New Zealand Standards are relatively expensive to purchase and cannot be access on the internet.

It is also noted that in the proposed Canterbury Land and Water Regional Plan as amended by decisions on submissions and further submission that reference to NZS8409:2004 was deleted from new rule 5.22 in response to a submission from the Department of Conservation.

Decision requested

Add a new rule following 7.72 that addresses small scale applications of agrichemicals using hand held appliances by property owners, with the provision that agrichemicals are to be used in accordance with manufacturer's directions. The new rule should only require applications consistent with NZS8409:2009 certification if the applications are undertaken by a commercial operator. As in AQL70, the new rule should provide for the application of agrichemicals without nationally accredited qualifications by owners on roadsides adjacent to their property.

49 Submission: Rule 7.76 (3) (p7.24)

Reason for submission

The provision of a rule defining the time during which a chimney is permitted to show visible smoke is supported, as this will provide a clear test of acceptable use of a space heating appliance for enforcement purposes. The ability to enforce rules relating to the use of space heating appliances is crucial to the maintenance of air quality in urban airsheds.

Decision requested

Retain Rule 7.76 (3)

50 Submission: Rule 7.81 (p7.24)

Reason for submission:

Rule 7.81 only addresses the situation with respect to the operation of any space heating appliance in Clean Air Zones which complies with the conditions associated with this Rule. This means that a building listed in a District Plan or with Category 1 heritage status on a site of less than 2 hectares and outside of a Clean Air Zone does not receive the same concession as one within a Clean Air Zone. This Rule should provide the opportunity for all such buildings to operate space heating appliances that meet the conditions with respect to heritage features.

Decision requested:

Amend Rule 7.81 to read:

"Within a Clean Air Zone <u>and on sites of less than 2 hectares outside of Clean Air Zones</u>, …"

51 Submission: Rule 7.81 (p7.24)

Reason for submission:

The adoption of heritage buildings listed in Schedule 9, which are the buildings with heritage protection under district plans in addition to those with Category 1 status is supported, with the right to continue to use open fireplaces if these are original features of the building is supported. The wording of the Rule with respect to restoration work, particularly with respect to chimneys after the Canterbury earthquakes should however be modified to recognise that restoration may "resemble" the original but could well involve light-weight materials.

Decision requested:

Retail Rule 7.81, but amend the wording of condition 2 to read:

(including restoration to <u>resemble</u> original features)

52 Submission: Rule 7.83 (p7.24)

Reason for submission:

This Rule is inappropriate, as the issue of the installation of space heating appliances is not an Air Plan matter under the *Resource Management Act 1991*, it is a matter that is regulated under the *Building Act 2004.*

Decision requested:

Delete Rule 7.83

53 Submission: Rule 7.85 (2) Rule 7.86 (3) (a) and 4 (b) and others (p7.25/27)

Reason for submission:

These rules use the term *"date of installation"* or imply that this date is relevant. The date of installation is often not recorded and without this date recorded it is not possible to apply these rules. Property files will record the date at which Code Compliance Certificates (CCC) are issued for solid fuel burners if these are installed in an existing structure, or the date at which the Code Compliance Certificate was issued for the dwelling.

Where solid fuel burners are installed, the Council recommends that these not be used until they have been inspected by a building inspector, and the CCC issued. It would therefore appear that the most reliable indication of the time during which a solid fuel burner has been in use, but not the extent of that use, is marked by the issuing of its CCC.

Decision requested

Replace references to the *"date of installation"* with references to *"date on which Code Compliance Certificate was issued."*

54 Submission: Rule 7.86 (4) (b) (p7.25)

Reason for submission:

Rule 7.86 (4) (b) provides that from the date of notification of the Proposed Plan existing open fires, older style or low emitting enclosed burners can only be replaced with a low emitting enclosed burner if these appliances have been *"legally operable"* during the 12 months previously.

Given that in some instances it will not be possible to ascertain from the property records the date of installation, which as the Proposed Plan is currently drafted would appear to infer that this would be the basis on which an assessment of *"legal operability"* would be assessed this Rule will not be easily enforced. Also, the requirement that existing low emitting burners that have been in use for 15 years must be replaced within 12 months of their "15th birthday" could be counter-productive. It could encourage people with older burners who have missed the deadline to continue to use these appliances, and wait for Environment Canterbury to find them. It would be better to allow all solid fuel burners, either older style or low emitting (currently clean air approved) to be replaced with new low emitting burners prior to the deadline of 1 January 2019, than to force those who miss the deadline presumably to install an ultra-low emitting burner, likely to be at considerably greater expense during this interim period.

Decision requested

Amend Rule 7.86 by deleting section (b).

55 Submission: Schedule 2 – Assessment of effects: Odour annoyance surveys (p8.15)

Reason for submission:

The section addressing odour annoyance surveys is somewhat misleading. The schedule for margin for error gives this as 17.9% for a survey of 30 people, 13.9% for a survey of 50 people, and 10.9% for a survey of 80 people at 95% confidence.

Unless the number of people affected by an odour is considerable it is likely to be inappropriate to attempt to use formal survey methods. The information about how to run a survey is also not very helpful. It would be better to simply require any survey undertaken in order to demonstrate odour annoyance to be undertaken using reputable survey methods, and for these to be clearly set out in any survey report, purporting to demonstrate annoyance based on the number of people affected.

Decision requested:

Delete Schedule 2, Section 2 Odour annoyance surveys and replace with the following, or statement to similar effect:

"The use of survey to ascertain the extent of odour annoyance shall be undertaken using reputable methods appropriate to the population surveyed, and the methods used are to be set out clearly in any survey

report purporting to demonstrate odour annoyance based on the number of people affected."

56 Submission: Schedule 2: Contents of dust, odour and smoke management Plans(p8-17)

Reason for submission:

The matters to be addressed in an odour management plan must include a *"description of how often the contaminants will be discharged - …"* The requirements for a management plan also carries the caveat that *"the level of detail required … is relative to the scale of the discharge and the likelihood of the effect being offensive or objectionable."*

It would be more appropriate for any requirement for detailed record keeping of the applications such as that specified as a condition for a permitted activity under Rule 7.68, to be a requirement of an odour management plan under Schedule 2. This would mean that the level of record keeping would be consistent with the risk associated with the activity, whereas as a condition to Rule 7.68 it is required irrespective of the extent of the activity and any risks associated with it.

Decision requested:

Add to Schedule 2 (2) a requirement that the issue of the need for on-going application record keeping be addressed in developing odour management plans, and that this assessment will be based on the description of the character of the discharge provided under (3) and the distance of the proposed activity or activities from sensitive activities on adjacent properties.

57 Submission: Schedule 3: Contents of Smoke Management Plans for the outdoor burning of organic material in rural areas (p.8.19)

Reason for submission:

The list of information required by Schedule 3 involves a significant incursion into the range of responsibilities exercised by territorial authority Rural Fire Officers under the *Forest and Rural Fires Act 1977.* Much of the information required is more relevant to the permits required under this Act than to the management of smoke.

In particular, the methods identified for minimising impacts of people affected are either contradictory or unlikely to be necessary. For example, it is debatable whether a neighbour would want to be away when a fire was lit or at home able to take evasive action if the fire became out of control and threatened their property. Many of the other actions suggested such as notifying neighbours is a "common courtesy" and depending on other aspects of the proposed burn may have little effect on whether smoke beyond the property boundary constituted a nuisance.

It is also the relationship between the smoke management plan required under Schedule 2 and the outdoor burning smoke management plan required under Schedule 3 is unclear. Given the overlap between the

matters to be addressed in the Plan required by Schedule 3 and the responsibilities of Rural Fire Officers under the *Forest and Rural Fires Act 1977,* it would be more appropriate to rely on a smoke management plan developed under Schedule 2 for outdoor burning.

Decision requested:

Delete the requirement for smoke management plans for outdoor burning permitted activities under the Canterbury Air Regional Plan and make compliance with the conditions for outdoor burning as set out in the Outdoor Burning Bylaw for the respective Canterbury territorial authorities a condition of burning as a permitted activity under the Canterbury Air Regional Plan.

58 Submission: Schedule 7 Part 1 (p8.30)

Reason for submission

The *Building Act 2004* allows anyone to install burners/heaters subject to being as per building code and passing final inspection by Council.

As drafted, the Air Plan seeks to impose additional controls beyond the regulatory controls of the *Building Act 2004* as to who may install solid fuel heaters/burners and/or approve the installation of these appliances. This is an instance where the pCARP seeks to extend control into the jurisdiction of another statute, and this is inappropriate.

Decision requested

Delete Part 1 of Schedule 7.

59 Submission: Section 9 Maps for Kaiapoi and Rangiora Clean Air Zones (p9.5/5)

Reason for submission:

The maps in Section 9 for Kaiapoi and Rangiora show only one Clean Air Zone, while the Variations that introduced controls on the use of solid fuel burning appliances and outdoor burning for these two towns introduced 2 Clean Air Zones, with the second being a buffer zone. The distances between the Clean Air Zones 1 and 2 for Kaiapoi and Rangiora are significantly greater than the distances between the two zones established for Christchurch in particular.

The Clean Air 2 Zones were established after extensive consultation with the community, and are well understood by the people affected. These zones were also established after extensive consultation and education on air quality prior to the notification of the Variations in 2008, and there is value in maintaining “planning momentum”, i.e. not introducing changes to a plan without good reason.

It should also be noted that the level of consultation and education undertaken by the Canterbury Regional Council prior to the introduction of the Variations is similar to the level of community involvement currently being sought with the development of the sub-regional chapters of the

Canterbury Land and Water Regional Plan. Under these conditions, it would appear unreasonable for the Clean Air Zones in the Waimakariri District to be changed simply because in some circles having two zones is seen as causing confusion and there is an apparent desire for uniformity of approach across the Region.

Decision requested:

Reinstate the two Clean Air Zones for Rangiora as outlined on Page 3 - 352 (and subsequent series of maps for Rangiora pp 353 - 362) of the Canterbury Natural Resource Regional Plan: Chapter 3 – Air Quality (October2009/June 2011).

Reinstate the two Clean Air Zones for Kaiapoi as outlined on Page 3 – 363 (and subsequent series of maps for Kaipaoi pp 364 – 370) of the Canterbury Natural Resources Regional Plan; Chapter 3 – Air Quality (October2009/June 2011).

Or alternatively:

Delete the Clean Air Zone 2 boundaries as identified on the maps identified above and establish Clean Air Zones for Kaiapoi and Rangiora that coincide with the Clean Air Zones 1 for these urban areas.

The Council wishes to be heard in support of its submissions

Signed:

Nick Harrison (Manager: Planning and Regulation
On behalf of the Waimakariri District Council