From:	Sarah Drummond
To:	Mailroom Mailbox
Subject:	FW: Submission Air Plan
Date:	Thursday, 30 April 2015 1:55:20 p.m.
Attachments:	KDC submission 2015 final.docx

For Trimming Please

From: Matt Hoggard [mailto:matt.hoggard@kaikoura.govt.nz]
Sent: Thursday, 30 April 2015 1:52 p.m.
To: Sarah Drummond
Cc: Rachel Vaughan; Stuart Grant
Subject: Submission Air Plan

Hi Sarah

Please find attached the Kaikoura District Council's submission on the Air Plan, assume it is acceptable to use your email address as opposed to the consultation portal.

Many thanks

Matt Hoggard
District Planner

Telephone: (03) 319 5026 ext #209
Facsimile: (03) 319 5308
Office address: 34 Esplanade, PO Box 6, Kaikoura 7340.
www.kaikoura.govt.nz

KAIKOURA - A SUSTAINABLE CERTIFIED COMMUNITY
Through the international Earthcheck program the Kaikoura community is committing to a sustainable future.
Committing to a sustainable future should be the goal of every Individual, Organisation, Community and Business - contact us to find out more!

Air Plan Submission

Name: Kaikoura District Council

Address PO Box 6

Kaikoura 7300

Att: Matt Hoggard

Email matt.hoggard@kaikoura.govt.nz

Contact Phone Number:033195026 ext: 209

Overview

The Kaikoura District Council supports the intention of the Air Plan to achieve high air quality for the Canterbury Region. As a coastal settlement with agricultural and tourism opportunities we are aware of the nuisance effects which may result from burning. Presently general air quality in Kaikoura is good and the district is not within a clean air zone. We wish to maintain our good air quality and avoid the need for inclusion within the clean air zones.

In the interest of efficient use of council resources collaboration has occurred between Canterbury's other Territorial Authorities (TA's). Waimakariri District Council has prepared a submission and circulated this to other TA's. Where we agree with the submission of the Waimakariri District Council these have be included with a note "per Waimakariri District Council". We believe this approach will allow joint submission points to be considered while minimising resources of the regional council.

1. **General Support**

   Reason for Submission

   Kaikoura District presently has good air quality due to our limited population and coastal and mountainous setting which offers a variety of winds. We wish to maintain our good air quality. We support the exclusion of the Kaikoura District from any Clean Air Zone.

   Decision Requested

   Continue to exclude the Kaikoura District from any Clean Air Zone.

2. **Definition Community or Cultural Event**

   The term "Community or Cultural Event" only relates to rule 7.12. Support in given to the overarch approach of this definition which would enable community groups such as

local surfer to have a bonfire within the urban area. The open approach of the submission definition is supported. The current definition would allow for braziers to be used by community groups. It is considered that families may also wish to use a brazier or have bonfires for example Guy Falkes with family and friends. For these reasons it is suggested that the definition be further broadened to allow for the inclusion of families.

Decision Requested

Amend definition to read:

"Means an event held for the benefit of the community or for members or associates of a community group or organisation or families."

3. **Definition Industrial or trade premises (P2-3)**

Reason for Submission

The definition uses the terms "Industrial or trade purposes" further definitions however are provide for "Industrial or trade process". The definition of "Industrial or trade purposes" should altered to read "Industrial or trade process" to provide greater certainty.

Decision Requested

Amend the definition of the term "Industrial or trade purposes" as follows:

"Means

(a) Any premises used for any Industrial or trade process; or..."

4. **Definition "public amenity area" (p2-4)**

Reason for submission

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

Decision requested:

Amend the definition of "public amenity area" to acknowledge that these legal roadways, exclude; roads within 20m of the Mean High Water Spring, roads within 20m of rivers or lake and these areas are not considered public amenity areas for the purposes of this Plan. For the purpose of defining river or lake refer to Section 230(4) of the RMA.

5. Per Waimakariri District Council - **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 it 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

Decision requested:

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

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. Per Waimakariri District Council - **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."*

7. Per Waimakariri District Council - S**ubmission: 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."

8. Per Waimakariri District Council - **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."*

9. Per Waimakariri District Council - **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.

10. Per Waimakariri District Council - **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."

11. Per Waimakariri District Council - **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.

12. Per Waimakariri District Council - **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."

13. Per Waimakariri District Council - **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."

14. Per Waimakariri District Council - **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"*.

15. Per Waimakariri District Council - **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:

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

16. Per Waimakariri District Council - **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 and local infrastructure, in locations where the discharge is as far as possible compatible with the surrounding land use pattern, and also ensure the mitigation of adverse effects.

17. Per Waimakariri District Council - **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."

18. Per Waimakariri District Council - **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.

19. Per Waimakariri District Council - **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."

20. Per Waimakariri District Council - **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 7.10"

21. **Rule 7.12**

Reason for Submission

The current drafting of Rule 7.12 does not take into consideration of the Clean Air Zones and places the same restrictions for all zones. Urban areas outside of Clean Air Zones do not require the same level of restriction. Celebrations within the winter months may call for an outdoor fire to provide both warmth and amenity.

Decision Requested

Amend rule 7.12 as follows:

7.12 In urban areas, the discharge of contaminants into air from the outdoor burning of vegetation and untreated wood as a part of a community or cultural event is a permitted activity provided the following conditions are met:

1. Within a Clean Air Zone the discharge only occurs between 1 September and 30 April; and

2. The material has been left to dry for at least 6 weeks prior to burning and within the two days prior to burning there has been less than 5mm of rainfall so that the moisture content is unlikely to exceed 25% dry weight; and

3. The discharge does not cause an offensive or objectionable effect beyond the boundary of the property of origin when assessed in accordance with Schedule 2.

22. **Rule 7.13**

Reason for Submission

Support is given for the ability to cook on open fire and pizza ovens etc within the urban area.

Decision Requested

Retail rule 7.13.

23. Per Waimakariri District Council - **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.*

24. Per Waimakariri District Council - **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) …"

25. Per Waimakariri District Council - **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).

26. Per Waimakariri District Council - **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)

27. Per Waimakariri District Council - **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 and on sites of less than 2 hectares outside of Clean Air Zones, …"

28. Per Waimakariri District Council - **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

29. Per Waimakariri District Council - **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."*

30. Per Waimakariri District Council - **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.

The Kaikoura District Council wishes to be heard in support of its submissions

Matt Hoggard
District Planner
Signed on behalf of the Kaikoura District Council