SUPPLEMENTARY JOINT STATEMENT OF ELLESMERE FARMERS GROUP AND COMBINED CANTERBURY PROVINCES OF FEDERATED FARMERS NEW ZEALAND

2 December 2015

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1. **INTRODUCTION**

1.1 This joint supplementary statement is provided in response to the Hearing Commissioners’ interest in potential rewording of Rules 7.8 and 7.9 of the Proposed Canterbury Air Regional Plan (hereafter referred to as ‘the Plan’). This statement is a joint one between the submitters of the Ellesmere Farmers Group and the Combined Canterbury Provinces of Federated Farmers New Zealand (hereafter referred to as ‘We’).

1.2 We understand and appreciate that this information has not been specifically asked for and therefore is at the Commissioners’ discretion as to whether they think that they can consider it. With respect, it is our view that this information can be considered because it:

- Will assist to clarify matters that were brought up at the hearing;
- Relates to matters for which the Hearing Commissioners were seeking answers to at the hearing; and
- Falls within the scope of both the submissions provided by the Ellesmere Farmers Group and the Combined Canterbury Provinces of Federated Farmers New Zealand.

1.3 We thank the Hearing Commissioners for the opportunity to provide this supplementary information.

2. **REMOVAL OF, OR, ALTERNATIVE WORDING FOR PROPOSED RULES 7.8 AND 7.9 OF THE PROPOSED CANTERBURY AIR REGIONAL PLAN**

2.1 Since attending the hearing last week we have had the opportunity to further consult with farmers in our joint areas of jurisdiction as well as further consider the various different crop residue burning codes of practice and bylaws along with fire restriction rules as regulated by a variety of District Councils within the Canterbury Region. What we can advise with some certainty is that there is no significant level of uniformity between a number of district authorities; each dealing with crop residue burning in different ways and in a manner that best suits the respective needs of each individual district.

2.2 As an example of the differences, the South Canterbury Rural Fire District regulates under a permit system and has set parameters which farmers must adhere to during crop residue burns. A copy of such a permit is attached as Annexure A. It can be observed in this particular permit a requirement is to only burn during specific wind speeds and directions and distances from Department of Conservation lands. These are not requirements necessarily of other areas simply because of the differences in the matters of concern for each individual district. The Ashburton Code of Practice which is a joint regulating tool used by the Ashburton District Council in conjunction with Federated Farmers, offers different practices again but relating to the needs of that particular district. A copy of this code is also attached in Annexure A. By comparison the Selwyn District Council operates a system more closely aligned to strict fire restriction seasons throughout the summer months or as may be required throughout the year. A copy of the current fire restriction notice is also attached as Annexure A.

2.3 As a consequence of considering these district level regulations, it is our view that there is no compelling reason why any provisions need to be contained within the Plan given that the effects of smoke and burning are appropriately covered at the district council level and previously well managed this way in our collective experience. It is our preferred stance that...
the Plan therefore does not contain provisions relating to crop residue burning so as to not compromise the existing operations of the district councils and fire authorities. It is emphasised that the Health and Safety at Work Act 2015 also regulates matters to ensure safety in working operations, and that district councils and/or regulating fire authorities are also empowered to undertake prosecution action where crop residue burns are not undertaken appropriately under their jurisdiction.

2.4 However, if it is determined that the Plan should contain some provisions in relation to crop residue burning then we make the following suggestion as a much lesser preferred option for Rules 7.8 and 7.9:

Delete proposed Rule 7.8 and 7.9 and reference to Crop Residue Burning Buffer Areas on maps and replace with the following:

New Proposed Rule 7.8

In rural areas the discharge of contaminants into air from burning crop residue is a permitted activity provided the following conditions are met:

1. Fires shall only be lit during daylight hours and managed to be out by dark;
2. Fires shall only be lit in wind speed conditions between 1 to 19 kph;
3. The area to be burnt is surrounded by a continuous non-combustible strip of no less than 5m in width;
4. The fire is patrolled by a person responsible for its management until the burn is out;
5. Prior to lighting the fire, the occupiers of properties immediately adjoining and downwind of the paddock to be burnt are to be advised of the burn;
6. That Fire Fighting Equipment is onsite to extinguish any fire outbreaks; and
7. Where the fire is located within 3km of the urban area of Ashburton or Timaru towns, then the discharge shall not occur when the wind or forecast wind direction would cause smoke to reach the urban area.

Delete proposed Rule 7.9 and replace with:

Where one or more of the conditions stated in Rule 7.8 cannot be met then the burning of crop residue is a controlled activity.

And make any consequential amendments to the matters of control relating to Rule 7.9. Remove reference to and identification of Crop Residue Burning Buffer Areas around Ashburton and Timaru towns.

2.5 With respect to some aspects of the proposed new rule 7.8 the following points are made:

Condition 2: The maximum wind speed of 19kph is in line with current South Canterbury Rural Fire District and Selwyn District Council requirements for crop residue burning;

Condition 3: This width is in keeping with the requirements of the Ashburton District Council and South Canterbury Rural Fire District. It is smaller than the 10m requirement from the Selwyn District Council so farmers in that area would have to still meet the requirements of that district authority.
We have given considerable thought to the need for a Smoke Management Plan (SMP) within the confines of a permitted rule structure and consider that the need for a SMP here would be problematic in both regulating and enforcing particularly when considering the other requirements of the various district authorities and the relevant legislation. An SMP requirement under our proposed new Rule 7.8 would not create any further improvements for the environment than what is already provided under the proposed new wording and other controlling legislation/regulations. However, an SMP could be provided for under any requirement for a controlled activity under our new proposed Rule 7.9 if deemed necessary.

3. **CONCLUSION**

3. We again thank the Hearing Commissioners for their consideration of this supplementary statement. Any further enquiry if required can be directed to either Mrs Carey Barnett or Dr Lionel Hume as per the contact details shown on the front page of this document.

Signed:

[Signature]

On behalf of Ellesmere Farmers Group

Signed:

[Signature]

Willy Leferink
Chair, Canterbury Regional Policy Committee
Mid Canterbury Provincial President
Federated Farmers of New Zealand
PERMIT FOR LIGHTING FIRES
Section 23 Forest and Rural Fires Act 1977

FIRE PERMIT
Permit Holder: 
Address: 

Permit No: 
Phone/Cell: 
Fax: 

This permit is issued under Section 23 of the Forest and Rural Fires Act 1977. You may light a fire in the open air at the location described, subject to compliance with the conditions below.

Rapid NO: 
Road: 
Fuel Types to be Burned: Stubble 
Location on Property: 
Access Via: 
Area to be Burned: 
Permit Valid From: 

CONDITIONS
All burning must be carried out in DAYLIGHT HOURS ONLY

1. The prevailing wind at the time shall not exceed wind force 3 on the Beaufort scale, that is a breeze of 12-19 kph. (Gentle breeze - leaves and small twigs in constant motion. Wind extends light flag.)
2. No burning shall be carried out in north-west conditions.
3. The area to be burnt shall be fully surrounded by a bare earth or ploughed cultivated and/or non-combustible strip of at least 5 metres in width.
4. The permit holder shall give advance warning of their intention to light a fire to adjacent landowner/occupiers.
5. Initial lighting shall commence at downwind end of the area to be burned.
6. No fires shall be lit within 1 km of Department of Conservation lands.
7. A minimum of three adult persons with hand tools and water on site, for the purposes of Control of outbreaks, shall be present and remain on site at all times during the burn.
8. After the burn the permit holder shall carry out an inspection of the burn area and any smouldering material is to be extinguished prior to leaving the site.
9. Inspection of the fire site may be required by the Principal Rural Fire Officer or his delegated representative.
10. Permit holders should warn the general public of any smoke nuisance that may occur on any highway by providing appropriate signage.
11. Permittees must ensure that fires adjacent to forestry blocks or riverbeds are lit when wind direction is travelling away from these areas.
12. Immediately before lighting a fire you must make reasonable efforts to confirm that no prohibition or order is currently in force.

Special Conditions:

[Signature]
Principal Rural Fire Officer 
Date 09/03/2015

I understand the conditions of permit and have read the INFORMATION FOR PERMIT HOLDERS (over page).

Permit Holder 
Date 

Selwyn District
Restricted Fire Season

Notice is hereby given that pursuant to Section 22(2) of the Forest & Rural Fires Act (1977), the lighting of fires in the open air within the rural areas of Selwyn District is restricted from 8am Monday 23 November 2015 until further notice.

The exemptions to this are:

1. The burning of crop residue will be permitted without the issue of a Fire Permit providing the following conditions are met:
   a. Fires shall only be lit during daylight hours and must be out by dark
   b. No fires shall be lit while strong winds are blowing or forecasted, or when conditions are such that the fire is likely to spread beyond the limits of the land for which this Authority is issued. Maximum allowable wind strength is 19kph (Beaufort Scale 3)
   c. The area to be burnt is to be surrounded by a continuous fire break, cleared of all combustible material to a minimum width of 10 metres
   d. The fire is to be patrolled by the person lighting the fire until it is completely out
   e. Prior to lighting, the occupiers of neighbouring properties are to be advised of the time and date of burning
   f. That some form of Fire Fighting Equipment such as grubbars, beaters, fire extinguishers or vehicle mounted water supply/spray units is on site to deal with any fire outbreaks.
   g. Guidelines for crop burns are available online at selwyn.govt.nz/fire and should be followed. New requirements are also in place under Environment Canterbury's Air Plan which must be followed, a link is available on the Council website under the crop burning information.

2. Fires are permitted in drums with a properly constructed firebox providing the following conditions are met:
   a. The drum top must be covered with a wire mesh sized no greater than 20mm or have a lid and flue with a spark arrester fitted
   b. The drum must be surrounded by a 3 metre area that is cleared of combustible material and be at least 3 metres away from other buildings, trees or vegetation
   c. The area must be serviced by a reticulated water supply or an alternative water supply (tanker, dam, etc.). The water supply must be capable of fully extinguishing the drum fire and the area immediately around it
   d. The drum fire must only be lit during daylight hours and fully extinguished by dark
   e. The drum fire must be attended by someone at all times until it is completely out
   f. The drum fire must not be lit when the wind is blowing or forecasted to be above 19kph (Beaufort Scale 3)
   g. The drum fire must not be lit or allowed to burn when the smoke is likely to cause nuisance to neighbours
   h. Only material that has had a minimum of at least a six week drying period may be burnt under Environment Canterbury's Air Plan. The only type of materials that may be burnt according to these rules is dried vegetation, paper, cardboard and untreated wood.

3. Gas fuelled barbecues lit in properly constructed containers.

4. Only gas fuelled barbecues lit in properly constructed containers are permitted in Council Reserves.

5. Burning may be permitted if a Fire Permit has been obtained from the Principal Rural Fire Officer.

Notes

1. These exemptions apply to the Rural Areas of Selwyn District only. No open air fires may be lit within residential areas without a Resource Consent from Environment Canterbury.

2. Any Permit issued is not a Legal Defence against a Claim for any damage which may be caused by the fire. The responsibility for its control and the liability for any damage which may arise lies with the person lighting the fire.

Douglas Marshall
PRINCIPAL RURAL FIRE OFFICER
23 November 2015

www.selwyn.govt.nz
AGRICULTURAL CROP RESIDUES
BURNING CODE OF PRACTICE

2013/2014

The Ashburton District Council, as the rural fire authority for the district, can implement measures to control the lighting of fires in the open air as fire danger levels rise during the summer fire season. These seasons are Open, Restricted or Prohibited:

During an Open fire season it is not necessary to obtain a fire permit before burning, although there is still an expectation that any open air burning is conducted in a safe manner, and the person responsible for the fire is still liable for any suppression costs should the fire escape and require control measures.

During a Restricted fire season crop residue may be burnt under a blanket Authority (negates the need to obtain a permit). This authority carries with it a set of standard conditions which must be fully complied with. For all other outdoor burning it is necessary to obtain a fire permit from the Ashburton District Council. The only exceptions to this are fires in fully enclosed drums and ethnic cooking fires, and special requirements apply to both of these activities.

During a Prohibited fire season no fires are allowed to be lit under any circumstances.

RESTRICTED FIRE SEASON: (Control Measures In Place)

During a restricted fire season crop residue burning is allowed through a rural fire authority blanket authority which has a generic set of conditions which must be complied with. All other outdoor burning must be done through a permit system where a site visit will be carried out and site specific conditions will be applied. In all cases safe practices are expected to be exercised.

PROHIBITED FIRE SEASON: (Total Fire Ban)

Declared in the interests of public safety when the fire danger levels are extreme. It is an offence to light any fire in the open during a Prohibited Fire Season.

1. Check Out the Current Status of Fire Control Measures

1.1 During the summer fire season when Restrictions or Prohibitions are declared, notices will be published as required, setting out the dates and provisions of the Fire Control Measures.
1.2 Ten Fire Danger Indicator Boards placed alongside major roads within the district keep the public informed of the fire danger status.
1.3 No person shall light an agricultural crop residue fire unless he/she has ascertained the current fire season status.
1.4 Ignorance of the current fire season status shall not be a defence against any liability for any consequences that may occur from an illegally lit fire.

2. Fire Break Preparation
2.1 Good practice for non combustible fire break preparation is to closely mow the stubble and rake off all combustible material to leave only bare mineral earth.
2.2 A single pass of a tyned cultivator is not considered adequate fire break preparation.

3. Fire Breaks
3.1 No agricultural crop residue fire shall be lit until a completely non combustible continuous fire break of no less than 5 metres width has been established around the area to be burned. Ensure it remains clean and clear of all combustible material.
3.2 Any breach of the fire break requirement under any Ashburton District Council Restricted Fire Season notice will be deemed to be a breach of the open air burning regulations.
3.3 The safe practice of burnout from an established firebreak is considered a good fire management strategy and should be encouraged at all times, and should commence at the downwind end of the paddock.
3.4 Immediately following the burn the firebreak and adjacent burnt area of windrow is to be cultivated to minimise the risk of reignition.
3.5 **Remain in attendance until the fire is completely out**, as reignition of a controlled burn can occur after a wind change. Always check the fire ground after violent wind changes.

4. Safe Conditions to Light a Fire
4.1 Good fire management practices must be observed at all times. **No fires should be lit in times of strong or gusty winds or unsettled weather.** Weather forecasts are available by ringing “Met Service infoline” 0900 999 25 (plains) or 0900 999 26 (high country). It is also advised that weather conditions existing in other parts of the District should be checked.
4.2 Adequate fire breaks should be prepared prior to lighting any fire in the open air.
4.3 There must be a portable water supply of no less than 500 litres, with a pump and at least a 20m length of hose of minimum 18mm diameter on hand at all times during any crop residue burnoff.
4.4 Other fire fighting equipment, ie tractor, cultivator, grubber, beaters, fire extinguishers, should be available on site.
4.5 It is an offence to light any fire where the resulting smoke discharge could cause a nuisance to adjacent towns or neighbouring residences, or compromise traffic safety on roads.
4.6 Where smoke from a stubble fire obstructs visibility on any public roadway the person responsible for the fire will be held legally liable for any consequent traffic accidents. Where stubble fires are lit adjacent to any public roadway appropriate road signs should be used to warn motorists of the hazard, and sufficient staff should be on site to temporarily stop traffic if necessary.
4.7 It is recommended a minimum of 2 adults be present during the controlled burn
4.8 All persons on site should carry cellphones to enable communication at all times.
4.9 Stubble burning is only to be carried out during the hours of daylight.

5. Liability on the Person Lighting an Agricultural Crop Residue Fire
In the case of a 111 call out to a fire, the person lighting the fire shall be liable for any costs charged by the New Zealand Fire Service or the Ashburton District Council regardless of how or why that fire escaped (Forest and Rural Fires Act 1977 Section 43 (1) (a)).

5.2 In the case of a 111 call out to a fire where regulations have been breached, all firefighting labour and plant costs will be recovered by the District Council in line with standard rates as set by the National Rural Fire Authority.

5.3 The Ashburton District Council reserves the right to take prosecutions against a person or persons lighting fires that breach any Ashburton District Council Restricted Fire Season notice, such as lighting a fire in unsuitable conditions, not having adequate suppression resources on site or with an inadequate fire break. Where no clear blame can be attributed to any one individual there should be no legal liability on the person lighting the agricultural residue fire.

6. **Good Management Practice**

6.1 Formulate a burn plan and inform neighbours of the date and time of the fire. Have an action plan in event of the fire escaping.

6.2 Ensure that those assisting are adequately dressed and briefed on safety aspects.

6.3 Regularly check machinery for possible build-up of straw and/or combustible material around manifolds or exhausts.

6.4 All agriculture stubble fires once lit must be supervised at all times.

6.5 Seek advice or training on safe burning practices from the Ashburton District Council Rural Fire Authority, phone 307 7700.

Federated Farmers undertakes to inform and encourage farmers to adopt good crop residue fire management practices, within guidelines laid down by the Ashburton District Council. Responsibility for good fire management has been transferred back to farmers. Decisions must be made with the best interests of the community in mind.

D Geddes
Principal Rural Fire Officer
ASHBURTON DISTRICT COUNCIL

D Clark
Chairman, Grains Section
FEDERATED FARMERS OF NZ
MID CANTERBURY PROVINCE