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J Glennie	

12 November 2007
 Our Ref: 4212754/872
 R1:75939-PAW7NL11.DOC

Environment Canterbury
 Freepost 1201
 PO Box 345
 CHRISTCHURCH

Dear Sir/Madam

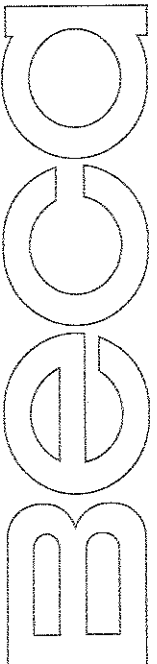
Notice of Appeal - Proposed Canterbury Natural Resources Regional Plan - Chapter 3 Air Quality (AQL)

Please find attached the copy of an appeal lodged on behalf of the New Zealand Fire Service with the Environment Court.

Yours faithfully
 Paul Whyte
 Associate (Planning)

on behalf of
Beca Carter Hollings & Ferner Ltd
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 PO Box 13960, Christchurch 8141, New Zealand
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The Registrar
Environment Court
PO Box 2069
CHRISTCHURCH

9 November 2007
Our Ref: 4212754/872
R1:75928-PAW7ND03.DOC

Dear Sir/Madam

**Notice of Appeal - Proposed Canterbury Natural Resources Regional Plan -
Chapter 3 Air Quality (AQL)**

Please find attached the copy of an appeal lodged on behalf of the New Zealand Fire Service.

We enclose a filing fee of \$55.00.

Yours faithfully

Paul Whyte

Associate (Planning)

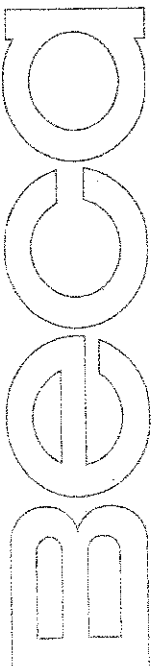
A handwritten signature in black ink, appearing to be "P. Whyte", written over the typed name.

on behalf of

Beca Carter Hollings & Ferner Ltd

Direct Dial: +64-3-374 3180

Email: paul.whyte@beca.com



**NOTICE OF APPEAL TO THE ENVIRONMENT COURT
AGAINST A DECISION ON
PROPOSED CANTERBURY NATURAL RESOURCES REGIONAL PLAN
– CHAPTER 3 AIR QUALITY (AQL)**

To: The Registrar
Environment Court
Christchurch

1. New Zealand Fire Service (NZFS) appeals a decision on the following plan:

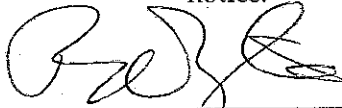
Decision of Canterbury Regional Council (Council) on Proposed Canterbury Natural Resources Regional Plan – Chapter 3 – Air Quality (AQL) in respect of **Submission 340 – Method AQL 4(a) ## 03-016 10 00.**
2. NZFS made a submission to the Proposed Plan.
3. Notice of decision was received by New Zealand fire Service by its consultants Beca Carter Hollings and Ferner Limited on 1 October 2007.
4. The decision was made by the Canterbury Regional Council.
5. The decision NZFS is appealing is not to allow the burning of disused buildings for fire fighting training purposes as a permitted activity (subject to conditions) as it relates to Rule AQL 33, Rule AQL 36, the explanation to Policy AQL 4 and Method AQL 4(a).
- 6.. The reasons for this appeal are that the Council erred in determining that the burning of buildings for fire training purposes would have an adverse effect in terms of Objective AQL 1 which refers to “significant effects” given:
 - The limited number of fire training exercises and the short duration of the exercises
 - Strict control and management of the exercise
 - The proposed community consultation to be undertaken

Council also erred in given undue weight to the NES Regulation 9 relating to coated wire given that the Ministry for Environment (MFE) advised that the regulation was not intended to apply to the burning of disused buildings for fire training purposes and that if necessary the regulation could be amended by MFE.

The decision of Council will unnecessarily restrict the NZFS in undertaking a type of fire training which is cost effective and realistic and which cannot be readily duplicated. The training has significant community benefit and results in a more efficient fire service.
7. The following relief is sought:
 - That the burning of disused buildings for fire training purposes is a permitted activity subject to the imposition of appropriate conditions.

8. The following documents are attached to this notice:

- (a) A copy of the NZFS submission
- (b) A copy of the relevant decision
- (c) A list of names and addresses of persons to be served with a copy of this notice.



Signature of Appellant

Dated 8 November 2007

Address for Service

New Zealand Fire Service
C/- Beca Carter Hollings and Ferner
PO Box 13960
Christchurch

Attn: Paul Whyte
Email: paul.whyte@beca.com
Phone: 03 366 3521
Fax: 03 366 3188

Method AQL4(a) Advocacy ## 03-016 05 00

235	Crown Public Health, Canterbury Office	Detail the advocacy process and the timeframes in which this will occur.
F347	Federated Farmers of New Zealand	Oppose submission 235

Consideration

Submission 235 and Further Submission F347

Submission 235, opposed by Submission 347, sought that further details of the advocacy process and timeframes are inserted into Method AQL4(a). Specific details of the changes sought were not included in the submission.

What Environment Canterbury is required to advocate for is clear from the method. How, and when, the advocacy will be carried out will be dependent on the specific situation and the resources made available through Environment Canterbury's Long Term Council Community Plan and Annual Plan processes. No change is recommended by the Commissioners, and it is recommended that submission 235 be rejected. The further submission should be accepted.

Recommendations

Reject

Submission 235.

Accept

Further Submission F347.

Amendment Required

None required.

Method AQL4(a) (ii) ## 03-016 10 00

312	L Hawkey	The NZ Fire Service should have as many buildings they need for training.
340	New Zealand Fire Service, Christchurch	Delete Method AQL 4 (a) (ii). Or any other similar relief to satisfy the concerns of the NZFS.

Consideration

Submissions 312 and 340

Submissions 312 and 340 sought that provision be made to enable the New Zealand Fire Service (NZFS) to burn dwellings for the purpose of fire training. Submission 312 did not specify the changes sought to Chapter 3. Submission 340 sought that the following changes are made to Chapter 3:

- the expansion of Rule AQL33 to include *'disused buildings'*;
- the addition of a new permitted activity condition (5) for Rule AQL33 requiring the Fire Control Authority to provide neighbour notification to owners or occupiers of any property within 100m when permitted activity condition 3 cannot be met (offensive and objectionable dispersal and disposal of particles);
- the amendment of the explanation to Policy AQL4, paragraph 8, by deleting reference to strongly discouraging unnecessary burning of buildings;
- the amendment of Method AQL4(a) by deleting (ii); and
- the amendment of Rule AQL36 by inserting an exclusion for the burning of disused buildings.

To enable full consideration of submission 340, it is considered in its entirety at this point.

Submission 340 accepts 'Rule AQL35 Outdoor burning in winter in Christchurch Clean Air Zones 1 and 2 – non-complying activity'. This means that, in Christchurch, the submission is not seeking to have Rule AQL33 apply during the months of May to August inclusive.

Rule AQL33 provides for outdoor burning for fire fighting research and fire fighting training purposes as a permitted activity. The rule is limited to the outdoor burning of 'vegetation and fuel'. In the explanation to Rule AQL33 it is stated: "*Environment Canterbury will actively discourage the unnecessary burning of buildings in residential areas because of the potentially harmful contaminants released when combustion occurs*". Non-compliance with Rule AQL33, or activities outside the scope of Rule AQL33, is treated as a discretionary activity (Rule AQL34), unless otherwise controlled by Rules AQL35, AQL36 and AQL37. Rule AQL36 prohibits the burning of certain types of material, some of which will typically be found in a building - this rule effectively militates against the burning of buildings for fire fighting training and research purpose. Rule AQL37 prohibits the outdoor burning of material at landfill sites.

Policy AQL1 prohibits the combustion of specified material, much of which is likely to be found in buildings, and is implemented by Rule AQL36. Policy AQL4(c)(i) currently provides for the burning of material and fuels for fire fighting training and fire research purposes, and the policy is written in such a way that Policy AQL4(e) also applies – offensive or objectionable effects from the dispersal and deposition of particles. The explanation to Policy AQL4 states: “[h]owever, unnecessary burning of buildings as a means of demolition will be strongly discouraged”. Further, Method AQL4(a)(ii) is: “Environment Canterbury will advocate to: (ii) New Zealand Fire Service and the building industry to strongly discourage the unnecessary burning of buildings as a means of demolition”.

As can be seen, Chapter 3 contains mixed signals as to what is intended. Policy AQL4(c)(i) is significantly broader than Rule AQL33 (‘materials and fuels’ versus ‘vegetation and fuels’). The reason for the distinction between ‘fire fighting training and fire research purposes’ specified in Policy AQL4(c)(i), and ‘demolition’ in the explanation to that policy and in Method AQL4(a)(ii), is not clear. One reason may be that the ‘explanation’ is focussed on burning buildings in the name of fire fighting training and fire research purposes in circumstances where this is merely cheap building demolition. Supporting this is that the explanation to Rule AQL33 refers to ‘unnecessary’, which implies some burning of buildings maybe ‘necessary’. Further, the focus on ‘buildings’ in the explanation to Rule AQL33 is, in itself, difficult to reconcile as the rule is focussed on ‘vegetation and fuel’ - the burning of buildings will involve a wider range of materials.

The Commissioners were advised that the characteristics of the burning of dwellings for fire fighting training and research are as follows:

- dwellings are donated to the NZFS for training purposes;
- the training is generally centrally controlled by the Transalpine Fire Region command, as opposed to an individual brigade command;
- the training exercises generally occur on the weekend, which is a reflection of the ‘volunteer’ nature of much of the NZFS;
- a ‘natural’ maximum number of dwellings used for this type of training is one per weekend, over less than three quarters of the year (e.g. approximately 39 dwellings per year);
- building fixtures, such as wiring, are left in place;
- material will be brought into the house so that a ‘real life’ fire environment is created;
- the burning will occur over a period of one day;
- initially there will be series of 6 to 12 fires, set for a duration less than 10 minutes, generally contained within the structure; and finally,
- an uncontrolled structural fire will be set and burn for a period of approximately 90 minutes, destroying the structure.

The NZFS has no real control over where it has the opportunity to carry out this sort of training. It is reliant on the donation of buildings.

Enquires indicate that the 'live' fire training exercises are highly valued. The alternative is a highly controlled fire training building, such as found in Woolston, Christchurch (subject to resource consent (discharge of contaminants to air) CRC961956 (expiring on 5 June 2031)). This is valued for basic training. However, 'live' fire training exercises provide more advanced training because of the higher degree of fire unpredictability.

Limited information appears available on the emissions to air from this practice. It is clear that there will be particulate matter discharged, together with contaminants from the combustion of many of the materials subject to Policy AQL1. In the context of Objective AQL1, it is likely the burning of buildings will have adverse effects in terms of odour, visibility and soiling of structures. Further, burning of buildings may have effects on human and ecosystem health, depending on the material being burned and the exposure time, and on the value of the air as a taonga for Tangata Whenua.

The Commissioners were advised that if appropriate training opportunities are not provided, a possible outcome is that the NZFS will operate less aggressively, or at a less effective level, or in the extreme, not at all. If this occurs, either less 'real' structure fires will be extinguished, or where fires are extinguished, this may occur at a slower rate. Consequently, the 'real' structure fires will result in more contaminants being emitted. Therefore, a consideration is the increase in 'real' fire emissions and the associated adverse effects as a result of not having 'training and research' exercises, compared with the emissions and associated adverse effects from the 'training and research' exercises. On this basis, in the context of Objective AQL1, it may be possible to accept short term low level effects in order to provide long term avoidance or mitigation. However, the difficulty with this is that those exposed to the localised adverse effects of fire fighting training exercise may be different to those exposed to the effects of a 'live' fire.

The submission specifically sought a partial exemption (as opposed to deletion) from Rule AQL33, permitted activity condition 3 (*"[t]he dispersal or deposition of particles shall not cause an objectionable or offensive effect beyond the boundary of the property where the discharge originates"*). This is in the form of a neighbour notification requirement. What is being sought is that non-compliance with permitted activity condition 3 does not result in a resource consent being required for a discretionary activity (Rule AQL34). Rather, those affected are to be notified in advance of the exercise, allowing them to take their own avoidance and mitigation measures. For reasons outlined earlier in this report (Policy AQL4 Restrict outdoor burning ## 03-014 01 00, 114, F401) these types of permitted activity conditions are not recommended by the Commissioners.

Rule AQL33 permitted activity condition 3 implements and achieves Policy AQL4(e) - the submission did not seek any change to Policy AQL4(e). It is likely that permitted activity condition 3 would not be met in a residential situation, nullifying the permitted activity status provided in Rule AQL33. However, as above, in the context of Policy AQL4(e), it may be possible to accept short term adverse effect for long term avoidance or mitigation. Again, the difficulty with this is that those exposed to the fire fighting training exercise may be different to those exposed to the effects of a 'live' fire. It is noted that it is possible to draft permitted activity conditions that 'limit' the local nuisance effects of the fire training and research activities. This can be achieved by controlling the frequency and duration of such activities on any one site and in any one location.

Two matters cause the Commissioners some hesitation in making a recommendation to accept (or accept in part) the submission:

1. the limited understanding of the (relative) effects on the environment of fire fighting training exercises in the context of Objective AQL1; and
2. the NES prohibition on burning of coated wire unless at an industrial or trade premises that has a resource consent and emission control equipment (Regulation 9).

In particular, the implication of the NES is that all coated wire would need to be removed from a disused building before it can be burned. This is possible, but it does not occur at present and the Commissioners were told that it is unlikely to occur in the future. Therefore, the likely consequence of the NES is that the burning of disused buildings for fire fighting and training exercises (from 8 October 2004) cannot occur. The NES will prevail (Sections 43B and 68(2) of the RMA). Amending Rule AQL33 to provide for this activity would be ineffective - the very activity it would provide for is prohibited by the NES. Further, the NES provides a guide to the national perspective on the seriousness of the implications of the combustion of coated wire.

Accordingly, no change is recommended by the Commissioners in response to these submissions, and it is recommended that they be rejected.

Recommendation

Reject

Submissions 312, 340.

Amendment Required

None required.

Method AQL4(b) Promotion and education ## 03-016 16 00 and ## 03-016 18 00

147	Ashburton District Council	Provide as a method codes of practice for stubble burning.
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**SUBMISSION ON A PUBLICLY NOTIFIED PROPOSED
REGIONAL PLAN UNDER CLAUSE 6 OF THE FIRST
SCHEDULE TO THE RESOURCE MANAGEMENT ACT
1991**

To: Environment Canterbury
PO Box 345
CHRISTCHURCH

Submission on: Proposed Canterbury Natural Resources Regional Plan- Chapter 3:
Air Quality

Name: New Zealand Fire Service

Address: c/o Beca Carter Hollings & Ferner
PO Box 13 960
CHRISTCHURCH

1. The specific provisions of the proposed plan that my submission relates to is as follows:

Rule AQL33 Outdoor burning for fire fighting research and fire fighting training purposes- permitted activity.

Rule AQL36 Outdoor burning of unspecified waste- prohibited activity for which no resource consent shall be granted.

2. My submission is that:

The New Zealand Fire Service (NZFS) oppose these rules currently drafted. In their current form, the rules will restrict outdoor burning associated with NZFS fire fighting training and research activities utilising donated structures.

Background

From time to time, property owners donate disused structures to the NZFS for use in fire fighting training with the proviso that upon completion, the NZFS will demolish the structures by burning. These activities provide realistic, cost effective and accessible training for fire fighters, particularly volunteers, which cannot be duplicated by other training facilities. The NZFS conducts such training to improve operational efficiency and to meet its 'good employer' obligations under occupational health and safety legislation and the Fire Service Act 1975.

Currently, the 67 fire districts in the Transalpine Fire Region, which covers Canterbury and the West Coast attend nearly 1,000 building fires each year. More than 400 of these

result in significant structural damage. To prepare fire fighters to perform the difficult and dangerous work required to combat these fires, NZFS conducts between 30 and 50 live-fire training exercises in donated structures (typically single-family dwellings or small outbuildings) per year.

Besides improving the skills of fire fighters, these exercises also provide an opportunity for fire officers and fire safety staff to study the effects of fire on buildings and demonstrate the effectiveness of fire precautions such as smoke alarms, sprinkler systems, portable fire extinguishers and certain fire retardant treatments to fire fighters, the media and others. These activities help the NZFS fulfil the statutory obligation in section 21 of the Fire Service Act 1975 to share fire safety knowledge with the community.

Concerns

As currently drafted Rule AQL33 provides for the discharge of contaminants into air from outdoor burning of vegetation and fuels for fire fighting research or fire fighting training purposes. The definition of vegetation is unclear and appears to preclude burning timber dwellings in which the timber has been treated or painted. The term 'Fuel' is undefined, but interpretations from the Council compliance staff suggest that the term does not include household fittings and furnishings typically present in a dwelling or introduced to simulate a domestic dwelling fire. However it could include diesel fuel or other hydrocarbon liquids as the explanation and reasons related to this rule states *"It is occasionally necessary for fire fighting organisations to undertake training that requires burning of...fuels such as diesel oil."*

Rule AQL36 identifies materials for which a resource consent to burn outdoors shall not be granted. Many of these materials are found in some quantity or another in nearly every dwelling.

Under the Council staff interpretation of AQL33, the New Zealand Fire Service would require resource consents to conduct live fire training exercises in donated structures. But the provisions of AQL36 would appear to preclude such consents being granted because of the prohibited activity status.

In addition permitted activity condition 3 of AQL33 stipulates *"that the dispersal or deposition of particles shall not cause an objectionable or offensive effect beyond the boundary of the property where the discharge originates."* This condition limiting the effects of smoke on adjacent properties will be difficult to achieve in some urban areas within the region. NZFS makes every effort to minimise the effects on any adjacent property owner, and suspend any activity that could cause distress or interfere with the safe exercise or enjoyment of adjacent land use activities.

As currently written, the proposed provisions seriously jeopardise the ability of NZFS to train its personnel and educate the public about fire safety. Without provisions in the plan to permit such training and research activities, fire fighter safety, and indeed public safety generally, will suffer.

Conditions

Training objectives and occupational safety and health considerations require that instructors carefully plan and closely supervise each live fire training exercise. Preparation for each exercise includes predicting the likely growth, development and spread of the fire and its effects on the structure.

Many of the items listed in AQL36 which pose a health risk or lingering environmental or health effects are removed or reduced in quantity prior to conducting exercises.

Instructors avoid conducting activities in structures too close to other buildings or natural features where they cannot confidently prevent fire spread.

NZFS staff notify surrounding residents, by letter drop, several days prior to any training exercise and carefully assess the possible impacts of noise and smoke on surrounding activities. Unfavourable weather conditions that could exacerbate effects on neighbouring properties often lead to the suspension of any planned burning activities.

The training exercises occur relatively infrequently, are of relatively short duration. NZFS makes efforts to limit the quantities of materials prohibited by AQL36 being burnt. Therefore NZFS believes that such activities will have no more than a minor effect on the environment.

Remedy Sought

The New Zealand Fire Service seeks that the provisions in the Plan authorise the NZFS to burn disused structures donated by their owners and furnishings typically found in domestic households for live fire training exercises and similar research and demonstration purposes that simulate the circumstances of 'real' building fires. NZFS seeks revisions to the provisions of AQL33 and AQL36 and their conditions to allow the NZFS to conduct these activities in disused buildings as a permitted activity.

3. I seek the following decision from Environment Canterbury

- (a) That Rule AQL33 is amended to provide for the outdoor burning of disused buildings for fire fighting research and training purposes as a permitted activity. This could be achieved by amending the rule to the following.

Subject to Rules AQL35 and AQL37, the discharge of contaminants into air from outdoor burning of vegetation, disused buildings, and fuels for fire fighting research of fire fighting training purposes, is a permitted activity.

Insert new Condition 5 as follows:

Where condition (3) cannot be met the Fire Controlling Authority must provide advance notification of the fire to the owner or occupier of any property within 100 metres on which a sensitive activity is located. Advance notification of the fire shall be by way of written notification of the fire, at least one week prior to the fire, such notification shall be by way of letter drop and shall include the following:

- (a) the address and legal description of the site of the intended fire.
- (b) The intended date of the fire
- (c) The intended duration of the fire
- (d) The name and contact phone number of the Fire Controlling Authority intending to set the fire; and
- (e) Where and how further information can be obtained.

Amend the explanation and reasons for Rule AQL33 (pg3-160) to reflect this submission. This could be achieved by amending the first sentence to the following, and deleting the second paragraph:

"It is occasionally necessary for fire fighting organisations to undertake training that requires burning of vegetation, disused buildings, or fuels such as diesel oil.

Amend the explanation and principal reasons for Policy AQL4 to reflect this submission by deleting the following sentence:

"However, unnecessary burning of buildings as a means of demolition will be strongly discouraged".

Amend Method AQL 4(a) Advocacy to reflect this submission by deleting point (ii)

- (b) Amending Rule AQL36 to exempt the outdoor burning of the specified materials associated with the burning of disused buildings for fire fighting research and fire fighting training purposes conducted in accordance with Rule AQL33 as amended above. This could be achieved by amending the Rule as follows:

Insert new subsection (p)

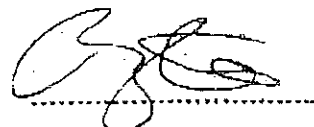
- (p) *This rule shall not apply to outdoor burning of disused buildings carried out by the New Zealand Fire Service for fire fighting research or fire fighting training purposes.*

Or

- (c) Any other similar relief that will satisfy the concerns of the NZFS

4. I do wish to be heard in support of my submission

5. If others make a similar submission I would not be prepared to present a joint case with them at any hearing



(Signature of person making submission or person authorised to sign on behalf of person making a submission.)

Title and address for service of person making submission:

New Zealand Fire Service
C/o Beca Carter Hollings and Ferner Ltd
PO Box 13 960
CHRISTCHURCH

Attention: Paul Whyte

LIST OF NAMES TO BE SERVED WITH NOTICE:

Canterbury Regional Council
PO Box 345
Christchurch

L Hawkey
66 Niven Street
Avondale
Christchurch