

REPORT

TO: Chief Executive Officer
FOR: Council Meeting – 10 June 2009
FROM: Bylaw Analyst
DATE: 2 June 2009
SUBJECT: Adoption of the Rural Fire Bylaw 2009

1. RECOMMENDATION

1.1 That the Council accept for adoption the Rural Fire Bylaw 2009.

2. PURPOSE

2.1 The purpose of this report is to:

- (i) Provide Council with the final bylaw as prepared by Council's Bylaw Analyst and amended by the Council Hearing Panel Subcommittee for adoption.

3. SIGNIFICANCE ASSESSMENT/COMPLIANCE STATEMENT

3.1 While the overall intent and principles that created the existing bylaws remain similar in context, the proposed bylaw contains more specific information on the lighting of fires in the open, restricted and prohibited fire seasons. Additional to this minor corrections have been made relating to the removal of portions of the bylaw (for example, storage of hay) that are now adequately addressed elsewhere either in legislation or within a specific bylaw.

4. HISTORY/BACKGROUND

- 4.1 In 2007 the Management Committee requested that a bylaw was developed for Rural Fire. As a result the Bylaw Analyst initiated the bylaw process.
- 4.2 The Bylaw Analyst developed the proposed Rural Fire Bylaw 2009 in consultation with a working party consisting of Council staff representing Asset Management and Rural Fire including representatives from the Waimakariri, Hurunui, Ashburton District and the Christchurch City Council Rural Fire teams. Advice was also obtained from the Selwyn District Council Regulatory Department. Nothing in the proposed Bylaw relieves any person of any obligation to comply with the Canterbury

Regional Council's Air Quality Plan for the lighting of fires in the open air in the urban areas.

- 4.3 Currently there are two sets of bylaws dealing with Rural Fire. Both the Council and Buddle Findlay agree that it is appropriate to revoke the existing Rural Fire bylaws as they have not been updated under the Local Government Act 2002.
- 4.4 A report attaching the first draft of the bylaw was provided to the Council meeting of 25 February 2009 requesting that the Special Consultative Procedure be initiated. Council approved the recommendations of the Council meeting of 25 February 2009. Subsequently a sub-committee was formed, consisting of Cr Morten, Cr Barnett and Cr Pearcy.
- 4.5 The bylaw was publicly notified on 28 February 2009 in Council Call and The Christchurch Press with submissions closing on 30 March 2009. The Council internet site was also utilised.
- 4.6 Correspondence was also sent to the Council Committees (Reserve, Hall, Township and Community Boards) and key stakeholders for their consideration.
- 4.7 Submissions
 - 4.7.1 Six submissions were received. A copy of the summary of the submissions was provided to the submitters and to the Hearing Panel Subcommittee.
- 4.8 Hearing and Deliberations
 - 4.8.1 The hearing and deliberations were held on 21 April 2009 at the Rolleston Service Centre.
 - 4.8.2 The Hearing Panel consisted of Cr Morten and Cr Barnett with Mrs K Harrison and Mr W Brown (Principal Rural Fire Officer) in attendance.
 - 4.8.3 Two of the six submitters indicated they wished to be heard in support of their submission.
 - 4.8.4 One of these two submitters was unable to attend the Hearing and tabled a paper to be read at the hearing. This was accepted by the Hearing Panel. The submission related to the lighting of fires in proximity to the National Grid (Transpower).
 - 4.8.4.1 In summary the submitter stated that they wished for the Council to consider the proximity of the National Grid transmissions lines when deciding whether to grant fire permits as there are significant adverse effects on lines through deposition of ash and other contaminants directly onto lines or insulators. The submitter advised that Transpower wishes to ensure any risks from fire on the National Grid is minimised.

- 4.8.4.2 The submitter requested that an additional clause was developed into Clause 5.1 (f) that would state "within 32 metres either side of a high voltage transmission line without the prior approval from Transpower New Zealand Limited".
- 4.8.4.3 The Hearing Panel expressed concern about the practicability of the enforcement of the proposed clauses if they were breached within the bylaw. The Hearing Panel agreed that a new clause should be included within Clause 5.1 (Open Fire Season) but the distance of 32 metres should not be included. This clause was also proposed to be duplicated into Clause 6.
- 4.8.4.4 The Bylaw Analyst informed the submitter of the proposed clauses. Additional to this the submitter was asked to provide some educational information on the managing of activities near high voltage lines to be available at the Council Service Centres and a link on the Council website to this documentation.
- 4.8.5 The other submitter was Federated Farmers who attended the Hearing to present their submission. The submitter indicated they fully support the bylaw but requested that an additional clause was incorporated into the bylaw that acknowledged occasions where fires may be required to be lit under permit conditions (restricted/prohibited fire seasons) primarily relating to crop or in the interests of Animal Biosecurity. The Hearing Panel supported two additional proposed clauses.
- 4.8.6 The National Rural Fire Authority indicated that they had concerns that some of the definitions within the proposed bylaw were not consistent with the Forest and Rural Fires Act 1977. The Hearing Panel requested the Bylaw Analyst to seek further clarification on this matter. This has occurred and as a result minor amendments were made to the definitions within the proposed bylaw.
- 4.8.7 The Hearing Panel considered all of the submissions and then deliberated on the bylaw.
- 4.8.8 Appendix One details the proposed amendments to the bylaw.

4.9 Conclusion

- 4.9.1 The Bylaw Analyst and the Hearing Panel confirmed the proposed amendments to the bylaw.
- 4.9.2 Legal advice was obtained to confirm these amendments.
- 4.9.3 A notice will be placed into the Council Call and on the Council website to inform readers that the bylaw will be presented to the Council meeting of 10 June 2009 for final adoption.

4.9.4 Correspondence has been sent to the submitters advising them that the bylaw will be presented to the Council meeting of 10 June 2009 for final adoption.

4.9.5 The final Rural Fire Bylaw 2009 is attached to this report for adoption by the Council (refer Appendix Two).

5. TIMELINE

5.1 The timeline leading to the adoption of the bylaw is detailed below.

Timeline	Selwyn District Council Rural Fire Bylaw 2009
10 June 2009 (Council Meeting)	Adoption of the Selwyn District Council Rural Fire Bylaw 2009 at its ordinary Council Meeting
13 June 2009	Public notification on the adoption of the Selwyn District Council Rural Fire Bylaw 2009 by Council and its commencement date
25 June 2009* (Council Meeting)	Adoption of the Selwyn District Council Rural Fire Bylaw 2009 by Council at its ordinary Council Meeting
1 July 2009	Commencement date of the new Selwyn District Council Rural Fire Bylaw 2009

** If there are further considerations identified by the Council at the meeting of 10 June 2009, this shall be reported back to Council including recommendations on how to proceed or the final bylaw will be sent for adoption at the Council meeting of 25 June 2009.*

6. VIEWS OF THOSE AFFECTED/CONSULTATION

6.1 Public consultation on the bylaws was undertaken between 28 February and 30 March 2009. The general public and specific groups and organisations were invited to make submissions on the proposed new bylaw.

6.2 On receipt of the submission a Bylaw Subcommittee consisting of Councillors and Council staff was convened to consider and hear the submission made on the draft bylaw. Based on these deliberations the draft bylaw was amended and refined as necessary.

6.3 Consultation with Maori:

6.3.1 The Council has entered into discussions with the local Runanga in recognition of our special partnership with Maori. This is an ongoing partnership.

7. COMMUNITY OUTCOMES

7.1 Appendix Three provides a review of the Community Outcomes and details how the Rural Fire contributes.

8. NEGATIVE IMPACTS

- 8.1 The bylaw is unlikely to negatively impact on the community as a whole or on the Council activities and will assist in the long term sustainable management of the Rural Fire in the Selwyn District.

9. RELEVANT POLICY/PLANS

- 9.1 The current The Malvern County Council NZS 9231, 1971 Model Bylaw for Fire Prevention (including amendment 1, 1973 and amendment 2, 1979) and the Paparua County Bylaw 1981 Section 10 Protection Against Fire have been considered as part of the review process.

10. LEGAL IMPLICATIONS

- 10.1 Council have obtained legal advice to ensure that the proposed new Rural Fire Bylaw 2009 is consistent with the NZ Bill of Rights Act 1990. Any further amendments to the bylaw as a result of the submissions have been finalised with the Hearing Panel and the Council Solicitor.

11. FUNDING IMPLICATIONS

- 11.1 The recommendations contained in this report do not have any significant funding implications.

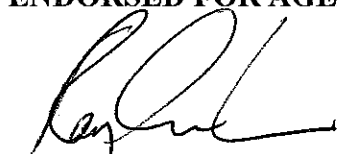
12. HAS THE INPUT/IMPACT FROM/ON OTHER DEPARTMENTS BEEN CONSIDERED?

- 12.1 The Asset Management Bylaw Analyst has developed the proposed new bylaws with Council staff representing Asset Management, Regulatory and Rural Fire (including representation from adjoining local authorities) and with the assistance of Susan Newell of Buddle Findlay (Council Solicitor).



K J Harrison
BYLAW ANALYST

ENDORSED FOR AGENDA



R J Anderson
ASSET DELIVERY MANAGER

APPENDIX ONE

SUMMARY OF PROPOSED AMENDMENTS TO THE RURAL FIRE BYLAW 2009

- Amendment to *Title*
- Removal of *Definition "Acceptable Means of Fire Suppression"*
- Amendment to *Definition "Open Air"*
- Amendment to *Definition "Open Fire Season"*
- Amendment to *Definition "Prohibited Fire Season"*
- Removal of portion of *Clause 5.1a(ii)*
- New *Clause 5.1(c)*
- Removal of *Clause 5.1(c)*
- Amendment to *Clause 5.1(e)*
- New *Clause 6.4(e)*
- New *Clause 6.4(f)*
- Removal of *Clause 7.3*
- New *Clause 7.3*
- Changed order of *7.3 and 7.4*

SELWYN DISTRICT COUNCIL RURAL FIRE BYLAW 2009

1. TITLE

1.1 A Bylaw of the Selwyn District Council by way of Special Order pursuant to the powers and authority vested in the Council by provisions of the Local Government Act 2002 and the Forest and Rural Fires Act 1977, powers and authorities and all other Acts, power and authorities enabling it in that behalf to make a Bylaw to be known as the Selwyn District Council Rural Fire Bylaw 2009.

Comment [h1]: Updated to reflect other bylaw titles - consistency

2. DATE OF COMMENCEMENT

2.1 This Bylaw comes into force on 1 July 2009.

3. APPLICATION OF BYLAW

3.1 This Bylaw applies throughout Selwyn District except in residential areas.

3.2 Lighting of fires in the open air in urban areas is regulated under the Canterbury Regional Council's Air Quality Plan, and nothing in this Bylaw relieves any person of any obligation to comply with that Plan.

3.3 Compliance with other Acts

The Rural Fire Bylaw 2009 is subject to Acts and Regulations and nothing in this Bylaw derogates from any of the provisions of the Forest and Rural Fires Act 1977 and the Forest and Rural Fire Regulations 2005 and their regulations or subsequent amendments or any other relevant statutory or regulatory requirements. In the event of any inconsistency between this Bylaw and the legislation the more stringent applies.

4. DEFINITIONS

For the purpose of this Bylaw, unless the context otherwise requires:

"Acceptable means of fire suppression" means a hose connected to a reticulated water supply or an alternative means of fire suppression approved in writing in a particular case by an authorised officer.

"Agricultural Crop Residue" includes but is not limited to: plant material remaining after harvesting crops such as cereals, pulses, brassicas, grasses, clovers and other small specialist seed crops and may include leaves, stalks and roots, and also includes plant material that has been desiccated as a result of chemical application. It does not include any material that may be considered anything other than fine fuel.

"Authorised Officer" means a person appointed as a Rural Fire Officer or Principal Rural Fire Officer under the Forest and Rural Fires Act 1977 or any person appointed by the Council as an Enforcement Officer under the Local Government Act 2002 by the Council to perform duties required under this Bylaw.

Comment [h2]: Removed as per submission #4

"Barbeque" means any fixed or portable gas or solid fuel burning equipment or device designed or intended for the cooking of food in the open air.

"Combustible Material" means a substance or material that is able to catch fire and burn.

"Council" means the Selwyn District Council or any officer authorised to exercise the authority of the Council.

"District" means the Selwyn District.

"Ethnic Cooking Fire" means any hangi, umu or similar fire in the open air and used for the preparation of food using ethnic cooking methods.

"Fees" means the list of prices for services associated with the issuing of Rural Fire Permits as adopted by the Council from time to time in accordance with the Local Government Act 2002.

"Fine Fuel" means fuels such as straw, grass, leaves and dropped pine needles that ignite easily and are consumed rapidly by fire when dry.

"Fire Permit" means a permit to light a fire in the open air granted in accordance with clauses 6 and 7 of this Bylaw and has the same meaning as 'Permit' in the Forest and Rural Fires Act 1977.

"Incinerator" means a container made of non-combustible materials which has a grate and a lid or spark arrester, which is authorised by the Principal Rural Fire Officer to be used for burning waste material.

"Incinerator Fire" means a fire within an incinerator.

"Open Air" means lighting a fire out of doors other than in a fireplace, incinerator, barbeque or other receptacle authorised in accordance with the Forest and Rural Fires Act 1977.

Comment [h3]: Definition amended as per submission #1

"Open Fire Season" means a period of time, whether fixed or of indefinite duration, during which period lighting fires in the open air is neither prohibited nor restricted under the Forest and Rural Fires Act 1977.

Comment [h4]: Definition amended as per submission #1

"Principal Rural Fire Officer" means the Principal Rural Fire Officer for the Selwyn District appointed pursuant to the Forest and Rural Fires Act 1977.

"Prohibited Fire Season" means a period of time, whether of fixed or indefinite duration, during which lighting fires in the open air is prohibited under this Bylaw or the Forest and Rural Fires Act 1977.

Comment [h5]: Definition amended as per submission #1

"Public Notice" has the same meaning as in the Local Government Act 2002.

"Residential" means those areas classified as Living Zones in the Selwyn District Plan.

"Restricted Fire Season" means a period of time, whether of fixed or indefinite duration, during which lighting fires in the open air is prohibited unless authorised by a permit issued under this Bylaw or the Forest and Rural Fires Act 1977.

Comment [h6]: While this definition is not the same as the NZ Forest and Rural Fires Act it remains the same in context and does not require amendment as per submission #1

"Rural Fire District" means the Selwyn Rural Fire district constituted under the Forest and Rural Fires Act 1977.

"Special Fire Permit" means a permit to light a fire in the open air granted in accordance with Clause 7 of this Bylaw and section 24 of the Forest and Rural Fires Act 1977.

"Urban Area" means an urban fire district constituted under the Fire Services Act 1975.

5. FIRES DURING THE OPEN FIRE SEASON

5.1 During an open fire season no person may light a fire in the open air under any of the following conditions:

(a) Where the location, wind, or other conditions cause or are likely to cause the fire to become:

- (i) A danger to any person or property; or
- (ii) Out of control or spread beyond the limits of the premises on which it is lit; or

~~A smoke or ash nuisance to any person.~~

(b) Within 10 metres of any part of a building, tree, hedge, fence or other combustible material;

(c) Within the proximity to any high voltage transmission line

~~Between the hours of sunset and sunrise, except in accordance with a fire permit issued by the Council;~~

(d) Without continuous supervision being maintained at all times;

(e) Without an acceptable means of fire suppression being available.

Comment [h7]: Removal of Clause as per submission #5

Comment [h8]: New Clause as per submission #3 - While the submitter indicated a distance to be specified, the Hearing Panel questioned the enforcement of this provision if it was breached. It was agreed that a clause needs to be included to draw readers to the issue of considering high voltage lines when proposing to light a fire in the open fire season.

Comment [h9]: Removal of Clause as per submission #5

Comment [h10]: Amended as per submission #4

6. RESTRICTED FIRE SEASON

6.1 The Principal Rural Fire Officer may at any time prescribe, vary or cancel a restricted or prohibited fire season within the District or in any part of the District.

6.2 During a restricted fire season no person may set on fire, or cause or permit to be set on fire, in the open air any vegetation or other combustible material except in accordance with a fire permit.

6.3 Any person may apply for a fire permit during a restricted fire season.

6.4 The Principal Rural Fire Officer may issue a fire permit upon payment of the prescribed fee (if any) and may impose such conditions and restrictions in respect of the permit as the Principal Rural Fire Officer considers reasonably necessary.

In deciding whether to issue a fire permit the Principal Rural Fire Officer will consider the following:

(a) Cultural requirements or practices; and

- (b) The location, terrain and vegetation; and
- (c) The existence of buildings, structures and fuels; and
- (d) Protection of the safety, health and convenience of persons on the premises in respect of which the permit is issued and on adjoining land and premises; and
- (e) Control of the spread of disease, and
- (f) The proximity to any high voltage transmission line, and
- (g) Any other issues that the Principal Rural Fire Officer deems appropriate to consider.

Comment [h11]: As per submission point #2

Comment [h12]: New Clause as per submission #3. While the submitter indicated a distance to be specified, the Hearing Panel questioned the enforcement of this provision if it was breached. It was agreed that a clause needs to be included to draw readers to the issue of considering high voltage lines when proposing to light a fire in the open fire season.

- 6.5 The Principal Rural Fire Officer may issue a fire permit subject to any terms and conditions he or she considers reasonably necessary in the public interest or may decline to issue a fire permit.
- 6.6 Notwithstanding Clause 6.2 the Principal Rural Fire Officer may exempt certain activities from the requirements for a fire permit.

7. PROHIBITED FIRE SEASON

- 7.1 The Principal Rural Fire Officer may at any time prescribe, vary or cancel a prohibited fire season within the district or any part of the district.
- 7.2 In a prohibited fire season, no person may set on fire, or cause or permit to be set on fire, in the open any vegetation or other combustible material unless a special fire permit is issued by the Principal Rural Fire Officer in accordance with the Forest and Rural Fires Act 1977.
- ~~7.3 The Principal Rural Fire Officer may prohibit the use of gas barbecues in specified areas when, in his or her opinion, such prohibition is reasonably necessary and in the interest of public safety.~~

7.3 The Principal Rural Fire Officer may issue a special fire permit upon payment of the prescribed fee (if any) and may impose such conditions and restrictions in respect of the permit as the Principal Rural Fire Officer considers reasonably necessary.

Comment [h13]: As per submission # 2

7.4 The Principal Rural Fire Officer may prohibit the use of gas barbecues in specified areas when, in his or her opinion, such prohibition is reasonably necessary and in the interest of public safety

Comment [h14]: Changed order of 7.3 and 7.4 as per final legal advice

8. PUBLIC NOTICE OF RESTRICTED OR PROHIBITED FIRE SEASON

- 8.1 Public notification of the prescription, cancellation or variation of a restricted or prohibited fire season shall be by:
- (a) A notice inserted in a daily or community newspaper circulating within the District; and

- (b) By any other effective means.

9. REVOCATION OR SUSPENSION OF PERMITS DURING RESTRICTED OR PROHIBITED FIRE SEASON

- 9.1 Every fire permit issued or any exempted activities granted pursuant to this Bylaw remains in force from the date of issue until the time specified in that fire permit or activity, unless a prohibited fire season is declared or the permit or activity is revoked in accordance with Clause 9.2 of this Bylaw.
- 9.2 Notwithstanding any other provisions in this Bylaw, a fire permit or special permit issued under this Bylaw or any exempted activities granted may be revoked by the Principal Rural Fire Officer at any time, or suspended for any period of time on such terms and conditions as the Principal Rural Fire Officer considers reasonable under the circumstances.

10. FEES FOR PERMITS

- 10.1 The Council may from time to time, by resolution publicly notified, specify the fees payable in respect of the issue of any permit under this Bylaw. Council will consult on, and publicly notify, its intended fees prior to making a resolution fixing such fees.
- 10.2 No fire permit is effective until such time as all fees are paid in full.

11. COUNCIL OR ITS AGENT MAY EXTINGUISH FIRES

- 11.1 Where a fire has been lit or allowed to burn in breach of these Bylaws a Rural Fire Officer of the Council or the New Zealand Fire Service may direct the occupier of the premises on which the fire is located, or the persons who lit the fire, to extinguish the fire.
- 11.2 If a direction given under clause 11.1 is disregarded, the Principal Rural Fire Officer may authorise an agent of the Council to extinguish the fire and to take such other steps as may be reasonably necessary to ensure the safety of any person or to protect any property.
- 11.3 Where a fire has been extinguished pursuant to clause 11.2 the Council may recover any costs incurred in extinguishing the fire from the occupier of the premises on which the fire was located, and/or from the person who lit the fire.

12. LIVE ASHES

- 12.1 No person may place any live cinders, embers or ashes in or upon any premises other than:
- (a) In a container made and constructed of concrete or other similarly fire resistant material capable of preventing the transmission of heat to any combustible material; or
 - (b) In a pit or upon any fire-resistant substance in a manner that will prevent the spreading of fire or heat by the action of wind or otherwise.

13. OFFENCES AND PENALTIES

- 13.1 Every person who breaches this Bylaw commits an offence and is liable on summary conviction to a fine not exceeding \$5,000.00; and
- 13.2 Every person who is convicted of an offence against this Bylaw is liable for the costs of remedying any damage caused in the course of committing the offence and the cost to carry out fire suppression.

14. REPEALS

- 14.1 The Malvern County Council NZS 9231, 1971 Model Bylaw for Fire Prevention (including amendment 1-1973, amendment 2-1979) and the Paparua County Council Bylaw 1981 Section 10 Protection against Fire are hereby repealed.

The **COMMON SEAL** of the
SELWYN DISTRICT COUNCIL
was hereunto affixed, in accordance
with the Special Order made by the
Council on _____
in the presence of:

Mayor

Chief Executive

APPENDIX TWO

FINAL RURAL FIRE BYLAW 2009 TO BE ADOPTED BY THE COUNCIL

SELWYN DISTRICT COUNCIL RURAL FIRE BYLAW 2009

1. TITLE

- 1.1 A Bylaw of the Selwyn District Council pursuant to the powers and authority vested in the Council by the Local Government Act 2002 and the Forest and Rural Fires Act 1977, and all other Acts, power and authorities enabling it in that behalf to make a Bylaw to be known as the Selwyn District Council Rural Fire Bylaw 2009.

2. DATE OF COMMENCEMENT

- 2.1 This Bylaw comes into force on 1 July 2009.

3. APPLICATION OF BYLAW

- 3.1 This Bylaw applies throughout Selwyn District except in residential areas.
- 3.2 Lighting of fires in the open air in urban areas is regulated under the Canterbury Regional Council's Air Quality Plan, and nothing in this Bylaw relieves any person of any obligation to comply with that Plan.
- 3.3 Compliance with other Acts

The Rural Fire Bylaw 2009 is subject to Acts and Regulations and nothing in this Bylaw derogates from any of the provisions of the Forest and Rural Fires Act 1977 and the Forest and Rural Fire Regulations 2005 and their regulations or subsequent amendments or any other relevant statutory or regulatory requirements. In the event of any inconsistency between this Bylaw and the legislation the more stringent applies.

4. DEFINITIONS

For the purpose of this Bylaw, unless the context otherwise requires:

"Agricultural Crop Residue" includes but is not limited to: plant material remaining after harvesting crops such as cereals, pulses, brassicas, grasses, clovers and other small specialist seed crops and may include leaves, stalks and roots, and also includes plant material that has been desiccated as a result of chemical application. It does not include any material that may be considered anything other than fine fuel.

"Authorised Officer" means a person appointed as a Rural Fire Officer or Principal Rural Fire Officer under the Forest and Rural Fires Act 1977 or any person appointed by the Council as an Enforcement Officer under the Local Government Act 2002 by the Council to perform duties required under this Bylaw.

"Barbeque" means any fixed or portable gas or solid fuel burning equipment or device designed or intended for the cooking of food in the open air.

"Combustible Material" means a substance or material that is able to catch fire and burn.

“Council” means the Selwyn District Council or any officer authorised to exercise the authority of the Council.

“District” means the Selwyn District.

“Ethnic Cooking Fire” means any hangi, umu or similar fire in the open air and used for the preparation of food using ethnic cooking methods.

“Fees” means the list of prices for services associated with the issuing of Rural Fire Permits as adopted by the Council from time to time in accordance with the Local Government Act 2002.

“Fine Fuel” means fuels such as straw, grass, leaves and dropped pine needles that ignite easily and are consumed rapidly by fire when dry.

“Fire Permit” means a permit to light a fire in the open air granted in accordance with clauses 6 and 7 of this Bylaw and has the same meaning as ‘Permit’ in the Forest and Rural Fires Act 1977.

“Incinerator” means a container made of non-combustible materials which has a grate and a lid or spark arrester, which is authorised by the Principal Rural Fire Officer to be used for burning waste material.

“Incinerator Fire” means a fire within an incinerator.

“Open Air” means lighting a fire out of doors other than in a fireplace, incinerator, barbeque or other receptacle authorised in accordance with the Forest and Rural Fires Act 1977.

“Open Fire Season” means a period of time, whether fixed or of indefinite duration, during which period lighting fires in the open air is neither prohibited nor restricted under the Forest and Rural Fires Act 1977.

“Principal Rural Fire Officer” means the Principal Rural Fire Officer for the Selwyn District appointed pursuant to the Forest and Rural Fires Act 1977.

“Prohibited Fire Season” means a period of time, whether of fixed or indefinite duration, during which lighting fires in the open air is prohibited under this Bylaw or the Forest and Rural Fires Act 1977.

“Public Notice” has the same meaning as in the Local Government Act 2002.

“Residential” means those areas classified as Living Zones in the Selwyn District Plan.

“Restricted Fire Season” means a period of time, whether of fixed or indefinite duration, during which lighting fires in the open air is prohibited unless authorised by a permit issued under this Bylaw or the Forest and Rural Fires Act 1977.

“Rural Fire District” means the Selwyn Rural Fire district constituted under the Forest and Rural Fires Act 1977.

“Special Fire Permit” means a permit to light a fire in the open air granted in accordance with Clause 7 of this Bylaw and section 24 of the Forest and Rural Fires Act 1977.

“Urban Area” means an urban fire district constituted under the Fire Services Act 1975.

5. FIRES DURING THE OPEN FIRE SEASON

- 5.1 During an open fire season no person may light a fire in the open air under any of the following conditions:
- (a) Where the location, wind, or other conditions cause or are likely to cause the fire to become:
 - (i) A danger to any person or property; or
 - (ii) Out of control or spread beyond the limits of the premises on which it is lit; or
 - (b) Within 10 metres of any part of a building, tree, hedge, fence or other combustible material;
 - (c) Within the proximity to any high voltage transmission line;
 - (d) Without continuous supervision being maintained at all times;
 - (e) Without a means of fire suppression being available.

6. RESTRICTED FIRE SEASON

- 6.1 The Principal Rural Fire Officer may at any time prescribe, vary or cancel a restricted or prohibited fire season within the District or in any part of the District.
- 6.2 During a restricted fire season no person may set on fire, or cause or permit to be set on fire, in the open air any vegetation or other combustible material except in accordance with a fire permit.
- 6.3 Any person may apply for a fire permit during a restricted fire season.
- 6.4 The Principal Rural Fire Officer may issue a fire permit upon payment of the prescribed fee (if any) and may impose such conditions and restrictions in respect of the permit as the Principal Rural Fire Officer considers reasonably necessary.

In deciding whether to issue a fire permit the Principal Rural Fire Officer will consider the following:

- (a) Cultural requirements or practices; and
- (b) The location, terrain and vegetation; and
- (c) The existence of buildings, structures and fuels; and
- (d) Protection of the safety, health and convenience of persons on the premises in respect of which the permit is issued and on adjoining land and premises; and

- (e) Control of the spread of disease; and
- (f) The proximity to any high voltage transmission line; and
- (g) Any other issues that the Principal Rural Fire Officer deems appropriate to consider.

- 6.5 The Principal Rural Fire Officer may issue a fire permit subject to any terms and conditions he or she considers reasonably necessary in the public interest or may decline to issue a fire permit.
- 6.6 Notwithstanding Clause 6.2 the Principal Rural Fire Officer may exempt certain activities from the requirements for a fire permit.

7. PROHIBITED FIRE SEASON

- 7.1 The Principal Rural Fire Officer may at any time prescribe, vary or cancel a prohibited fire season within the District or any part of the district.
- 7.2 In a prohibited fire season no person may set on fire, or cause or permit to be set on fire, in the open air any vegetation or other combustible material unless a special fire permit is issued by the Principal Rural Fire Officer in accordance with the Forest and Rural Fires Act 1977.
- 7.3 The Principal Rural Fire Officer may issue a special fire permit upon payment of the prescribed fee (if any) and may impose such conditions and restrictions in respect of the permit as the Principal Rural Fire Officer considers reasonably necessary.
- 7.4 The Principal Rural Fire Officer may prohibit the use of gas barbecues in specified areas when, in his or her opinion, such prohibition is reasonably necessary and in the interest of public safety.

8. PUBLIC NOTICE OF RESTRICTED OR PROHIBITED FIRE SEASON

- 8.1 Public notification of the prescription, cancellation or variation of a restricted or prohibited fire season shall be by:
- (a) A notice inserted in a daily or community newspaper circulating within the District; and
 - (b) By any other effective means.

9. REVOCATION OR SUSPENSION OF PERMITS DURING RESTRICTED OR PROHIBITED FIRE SEASON

- 9.1 Every fire permit issued or any exempted activities granted pursuant to this Bylaw remains in force from the date of issue until the time specified in that fire permit or activity, unless a prohibited fire season is declared or the permit or activity is revoked in accordance with Clause 9.2 of this Bylaw.
- 9.2 Notwithstanding any other provisions in this Bylaw, a fire permit or special permit issued under this Bylaw or any exempted activities granted may be

revoked by the Principal Rural Fire Officer at any time, or suspended for any period of time on such terms and conditions as the Principal Rural Fire Officer considers reasonable under the circumstances.

10. FEES FOR PERMITS

10.1 The Council may from time to time, by resolution publicly notified, specify the fees payable in respect of the issue of any permit under this Bylaw. Council will consult on, and publicly notify, its intended fees prior to making a resolution fixing such fees.

10.2 No fire permit is effective until such time as all fees are paid in full.

11. COUNCIL OR ITS AGENT MAY EXTINGUISH FIRES

11.1 Where a fire has been lit or allowed to burn in breach of these Bylaws a Rural Fire Officer of the Council or the New Zealand Fire Service may direct the occupier of the premises on which the fire is located, or the persons who lit the fire, to extinguish the fire.

11.2 If a direction given under clause 11.1 is disregarded, the Principal Rural Fire Officer may authorise an agent of the Council to extinguish the fire and to take such other steps as may be reasonably necessary to ensure the safety of any person or to protect any property.

11.3 Where a fire has been extinguished pursuant to clause 11.2 the Council may recover any costs incurred in extinguishing the fire from the occupier of the premises on which the fire was located, and/or from the person who lit the fire.

12. LIVE ASHES

12.1 No person may place any live cinders, embers or ashes in or upon any premises other than:

- (a) In a container made and constructed of concrete or other similarly fire resistant material capable of preventing the transmission of heat to any combustible material; or
- (b) In a pit or upon any fire-resistant substance in a manner that will prevent the spreading of fire or heat by the action of wind or otherwise.

13. OFFENCES AND PENALTIES

13.1 Every person who breaches this Bylaw commits an offence and is liable on summary conviction to a fine not exceeding \$5,000.00; and

13.2 Every person who is convicted of an offence against this Bylaw is liable for the costs of remedying any damage caused in the course of committing the offence and the cost to carry out fire suppression.

14. REPEALS

- 14.1 The Malvern County Council NZS 9231, 1971 Model Bylaw for Fire Prevention (including amendment 1-1973, amendment 2-1979) and the Paparua County Council Bylaw 1981 Section 10 Protection against Fire are hereby repealed.

The **COMMON SEAL** of the)
SELWYN DISTRICT COUNCIL)
was hereunto affixed, in accordance)
with the Special Order made by the)
Council on _____)
in the presence of:)

_____ **Mayor**

_____ **Chief Executive**

APPENDIX THREE

- **COMMUNITY OUTCOMES – RURAL FIRE**

SECRET

We know & help our neighbours	Encourage and support volunteers' involvement with safety initiatives	SDC Community Development Strategy	Reduction in number of injuries in Selwyn		Volunteering Canterbury; Neighbourhood Support Canterbury; Safer Canterbury
We maintain a coordinated and effective response to, and recover from, emergency and disaster events	Provide and maintain a Civil Defence Emergency organisation and a Rural Fire Organisation	Canterbury Civil Defence Emergency Management Group Plan	Requirements of the Canterbury Civil Defence Emergency Plan and Civil Defence Emergency Management Act 2002 met		Canterbury Civil Defence Emergency Group; Emergency Services; Government Departments; Health and Social service agencies; Community groups and communities; Township committees; Community boards
		Civil Defence Emergency Management Act 2002			
		Selwyn District Council Local Emergency Management Arrangements			
		Forest and Rural Fires Act 1977			
	Encourage and support community involvement in emergency management	Selwyn District Council Fire Plan	Increase in number of volunteers and community groups involved in emergency management		