

PROSECUTION AND RECOVERY OF FIRE SUPPRESSION COSTS

— Arising from breaches of restricted or prohibited fire season conditions

Introduction

The Ashburton District Council is a Rural Fire Authority appointed under the Forest and Rural Fires Act 1977, and as such has a statutory obligation to provide for the prevention, detection, suppression and extinction of rural fires in that part of the District for which it is the Rural Fire Authority, and may implement whatever conditions, restrictions or prohibitions deemed necessary to carry out its functions.

The Forest and Rural Fires Act 1977, Section 61 (1) (a) states that every person commits an offence who wilfully acts in contravention of or fails to comply with any fire control measure lawfully issued or required by or under the authority of a Fire Authority or Fire Officer pursuant to this Act.

The Act further states under Section 61 (3) (a) that every person who commits such an offence shall be liable on summary conviction to imprisonment for a period not exceeding 2 months, or to a fine not exceeding \$1500, and if the offence is a continuing one to a further fine not exceeding \$150 for every day during which the offence continues.

Offences against this section of the Act in the case of a body corporate upon summary conviction may be subject to a fine not exceeding \$7,500 and if the offence is a continuing one to a further fine not exceeding \$750 for every day during which the offence continues.

Each summer, usually about mid December but dependant on fire danger levels, the Ashburton District Council declares a Restricted Fire Season for that part of Ashburton District for which it is the Rural Fire Authority. During these restricted seasons the burning of agricultural crop residue is allowed without issue of individual permits providing specific conditions are complied with. For the burning of any other material in the open air it is necessary to first obtain a permit from the Rural Fire Authority which sets out the conditions under which the burn is allowed.

Special Conditions for Agricultural Crop Residue Burning

1. The prevailing wind at the time shall not exceed 15 km per hour.
2. No person shall light any fire without first checking the long term weather forecast, and furthermore, that forecast to show settled weather and calm conditions for at least 24 hours following the time of lighting of any fire.
3. The controlled burn shall be conducted during the hours of daylight only.
4. The area to be burnt shall be fully surrounded by a continuous fire break cleared of all combustible material to a minimum width of 5 metres.
5. In the case of crop residue, immediately following the burn the firebreak and adjacent burnt area of windrow is to be cultivated to minimise the risk of reignition.
6. A portable water supply sufficient to suppress any wildfire that may result from the controlled burn, and a means of delivery for that water, is to be on site for the duration of the burn, and must remain on site until the fire is completely out.
7. A minimum of two adults shall stay in attendance until the fire is completely out.
8. Regular patrolling of the fire perimeter is to be conducted wherever practical.
9. It is recommended a cellphone be on site for early warning should the controlled burn escape.

10. The person lighting the fire shall have current insurances for public liability and fire suppression in place.
11. Compliance with all the conditions listed above in no way invalidates the responsibility of the person lighting the fire should that fire escape and require suppression measures and later be the subject of legal claims for damages or suppression cost recoveries.

Policy Statements

- (1) Delegated authority is granted to the Operations Manager and the Principal Rural Fire Officer to take prosecutions on behalf of the Council with regard to offences against the Forest and Rural Fires Act 1977.
- (2) Where breaches of restricted or prohibited fire season special conditions are observed that have not resulted in the escape of the controlled burn beyond the firebreak, or have not required fire suppression measures from the NZ Fire Service or the District Council rural fire parties, prosecution is to be at the discretion and the Operations Manager or the Principal Rural Fire Officer.
- (3) Where breaches of restricted or prohibited fire season special conditions are observed that have resulted in the escape of the controlled burn beyond the firebreak and have required fire suppression measures from the NZ Fire Service or the District Council rural fire parties, prosecution is to be automatic.
- (4) In all cases where fire suppression measures are necessary from the NZ Fire Service or the District Council rural fire parties, recovery of all fire suppression costs incurred by the Rural Fire Authority will be sought from the person responsible for the fire.
- (5) This policy applies only to that part of Ashburton District for which the Ashburton District Council is the Rural Fire Authority.

30 October 2001