

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of an appeal under Clause 14 of the
First Schedule to the Act

BETWEEN FULTON HOGAN LIMITED

(ENV-2007-CHC-270)

Appellant

AND

CANTERBURY REGIONAL
COUNCIL

Respondent

BEFORE THE ENVIRONMENT COURT

Environment Judge J R Jackson sitting alone under section 279 of the Act

In Chambers at Christchurch

CONSENT ORDER

Introduction

- [1] The Court has read and considered the appeal, the respondent's reply, and the memorandum of the parties received on 18 June 2008.
- [2] Lyttleton Port Company Limited became a section 274 party to the appeal on 15 January 2008. However, the Lyttleton Port Company Limited is only



interested in that part of the appeal relating to rule AQL42(b). That rule is not addressed in the consent memorandum setting out the relief that has been agreed.

[3] The Court is making this order under s279(1)(b) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to section 297. The Court understands for present purposes that:

- (a) All parties to the proceedings have executed the memorandum requesting this order;
- (b) All parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to relevant requirements and objectives of the Resource Management Act, including in particular Part 2.

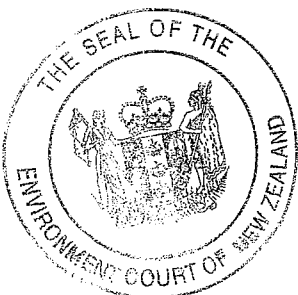
Order

[4] Therefore the Court orders, by consent, that the appeal is allowed to the extent that the Canterbury Regional Council is directed to modify Chapter 3 (Air Quality) of the Natural Resources Regional Plan as set out below:

[a] Amend Policy AQL1(1) to read as follows:

- (1) *used and waste oil, excluding refined oil, and excluding used and waste oil which contains only trace level of contaminants that will not cause adverse environmental, health or nuisance effects when discharged and is combusted in a purpose built large scale fuel burning device*

[b] Amend Rule AQL12A to read as follows:



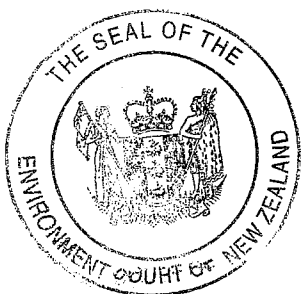
Rule AQL12A

Subject to Rule AQL12, the discharge of contaminants into air from the burning, in any large scale fuel burning device, of any of the following materials is a non-complying activity:

- (a) wood treated with Copper-Chrome-Arsenic (CCA); or*
- (b) wood which is painted, stained or oiled; or*
- (c) used and waste oil, except for re-refined oil and waste oil where the waste oil meets the following standards:*
 - (i) Sulphur content no greater than 1%; and*
 - (ii) Arsenic levels no greater than 5 ppmw; and*
 - (iii) Cadmium levels no greater than 2 ppmw; and*
 - (iv) Chromium levels no greater than 10 ppmw; and*
 - (v) Copper levels no greater than 100 ppmw; and*
 - (vi) Lead levels no greater than 100 ppmw; and*
 - (vii) Total halogens no greater than 1,000 ppmw; and*
 - (viii) PCB no greater than 2ppmw.*

- [c] Amend the explanation to Rule AQL12A by inserting the following wording after the third paragraph to the explanation:

The standards set out for the exclusion of waste oil are indicators of the standard of the waste oil. Listing all the potential contaminates that may be present within the rule is not practicable. Accordingly, in considering any resource consent application for the burning of waste oil as fuel meeting the specified standards in this rule (being considered under Rules AQL17 and AQL27), Environment Canterbury will consider whether the discharge will cause adverse environmental, health or nuisance effects.



[d] Amend Rule AQL17 to read as follows:

The discharge of contaminants into air from burning, in the Christchurch Clean Air Zones 1 and 2, of oil or gas, including but not limited to, diesel, kerosene, petrol, natural gas or liquid petroleum gas in any large scale fuel-burning devices which:

(a) *is not classified as a permitted activity, controlled activity, non-complying activity or prohibited activity by Rules AQL12 to AQL16; or*

(b) *does not comply with the conditions of Rules AQL12 to AQL15 and standards and terms of Rule AQL16;*

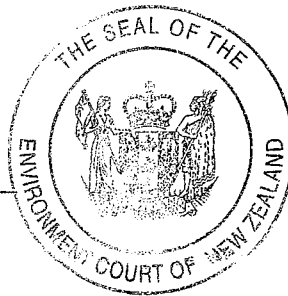
is a discretionary activity.

[5] This consent order determines that part of Fulton Hogan's appeal relating to "B: Large-Scale Fuel Burning Devices". The part of the appeal relating to Rule AQL42(b) will be dealt with in due course.

[6] There is no order for costs.

DATED at CHRISTCHURCH 23 June 2008.


J R Jackson
Environment Judge



Issued: 23 JUN 2008