

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 CANTERBURY MEAT PACKERS

(ENV-2007-CHC-281)

(Topics: ENV-2007-308-085

ENV-2008-331-008)

Appellant

AND

CANTERBURY REGIONAL  
COUNCIL

Respondent

BEFORE THE ENVIRONMENT COURT

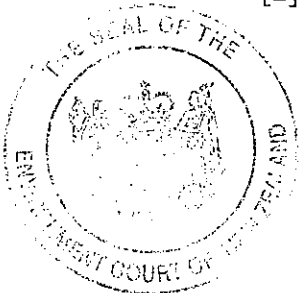
Environment Judge J E Borthwick sitting alone under section 279 of the Act

In Chambers at Christchurch

### CONSENT ORDER

#### **Introduction**

- [1] The Court has read and considered the appeal and the memorandum of the parties received on 7 May 2009.
- [2] TrustPower Limited and Horticulture New Zealand have given notice under section 274 of their intention to be parties to the part of Canterbury Meat Packers Limited's appeal that relates to the topic of Existing Large



Scale Fuel Burning Devices (ENV-2007-308-085) and have signed the memorandum setting out the relief sought.

[3] TrustPower Limited, Horticulture New Zealand and Lyttelton Port Company have given notice under section 274 of their intention to be parties to the part of Canterbury Meat Packers Limited's appeal that relates to the topic of New Large Scale Fuel Burning Devices - Rules AQL26 & 27 (ENV-2008-331-008) and have signed the memorandum setting out the relief sought.

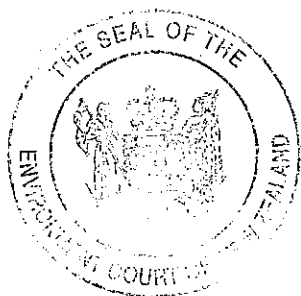
[4] The Court is making this order under s279(1)(b) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to section 297. The Court understands for present purposes that:

- (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

[5] Therefore the Court orders, by consent, that the appeals are allowed to the extent that the Canterbury Regional Council is directed to modify Chapter 3 of the Proposed Canterbury Natural Resources Regional Plan as set out in **Appendix One** attached to and forming part of this consent order.

[6] The appeal, in respect of the topics listed in the intitialing on the subjects of Existing Large Scale Fuel Burning Devices and New Large Scale Fuel Burning Devices – AQL26 & 27, is otherwise dismissed.

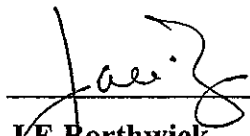


[7] There is no order for costs.

DATED at CHRISTCHURCH

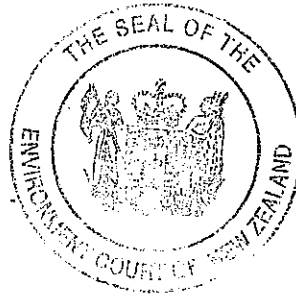
15<sup>th</sup>

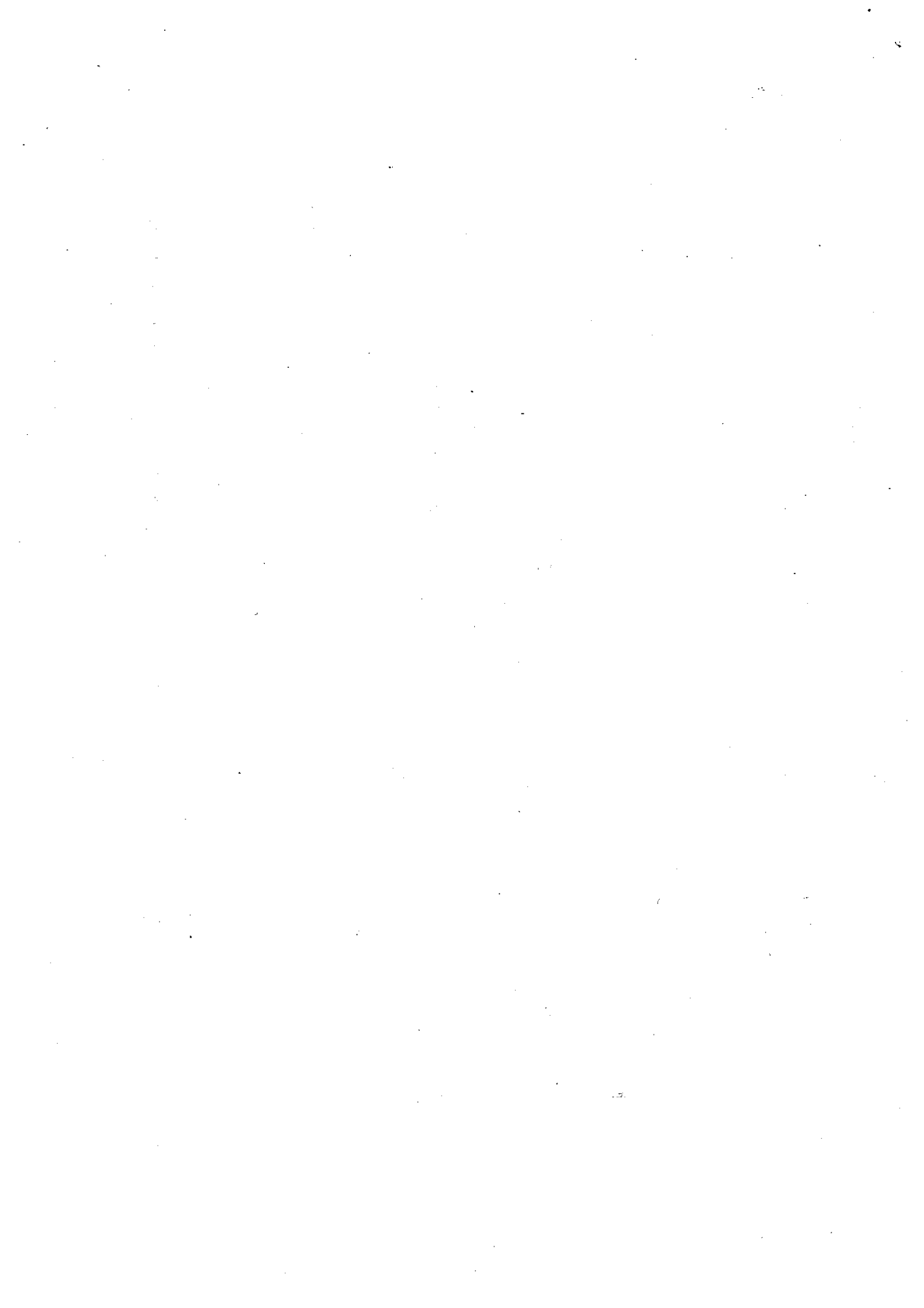
May 2009.



J E Borthwick  
Environment Judge

Issued: 20 MAY 2009



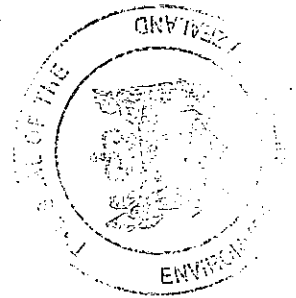


**Appendix One: Changes to Chapter 3 of the Proposed Canterbury Natural Resources Regional Plan**

**1. Table 3.1 Summary of Rules**

Amend **Table 3.1 Summary of Rules** as follows:

	AQL26		External combustion of diesel or kerosene greater than 2 MW to 5 MW or less, gas greater than 5 MW to 20 MW or less, internal combustion of diesel, petrol or gas greater than 300 kW, and external combustion of solid fuel or light fuel oil greater than 1 MW to 3 5 MW or less	Controlled
<i>The Canterbury Region outside of Christchurch Clean Air Zones 1 and 2, Rangiora Clean Air Zones 1 and 2, Kaiapoi Clean Air Zones 1 and 2 and Ashburton Clean Air Zones 1 and 2</i>	AQL26A		<i>External combustion of solid fuel or light fuel oil greater than 5 MW in an existing large scale fuel burning device</i>	<i>Controlled</i>
<i>The Canterbury region outside of the Christchurch Clean Air Zones 1 and 2</i>	AQL27		Large scale fuel burning devices not permitted or controlled	Discretionary



**2. Rule AQL26**

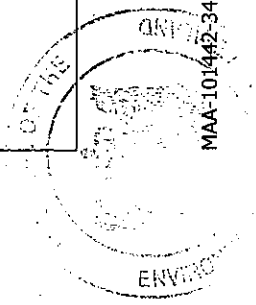
Amend Rule AQL26 External combustion of diesel or kerosene greater than 2 MW to 5 MW or less, gas greater than 5 MW to 20 MW or less, internal combustion of diesel, petrol or gas greater than 300 kW, and external combustion of solid fuel or light fuel oil greater than 1 MW to 3 MW or less outside of the Christchurch Clean Air Zones 1 and 2 – controlled activity, as follows:

**Rule AQL26** External combustion of diesel or kerosene greater than 2 MW to 5 MW or less, gas greater than 5 MW to 20 MW or less, internal combustion of diesel, petrol or gas greater than 300 kW, and external combustion of solid fuel or light fuel oil greater than 1 MW to 3 MW or less outside of the Christchurch Clean Air Zones 1 and 2 – controlled activity

Air Quality	Standards / Terms	Control	Cross Ref.
<p>Except where prohibited by Rule AQL12, the discharge of contaminants into air from the burning, outside the Christchurch Clean Air Zones 1 and 2, of:</p>	<p>(a) diesel or kerosene, in any external combustion equipment having a net combined heat output capacity within one property of greater than 2 megawatts and less than or equal to 5 megawatts; or</p> <p>(b) natural gas or liquefied petroleum gas, in any external combustion equipment having a net combined heat output capacity within one property of greater than 5 megawatts and less than or equal to 20 megawatts; or</p> <p>(c) diesel, petrol, natural gas or liquid petroleum gas, in any internal combustion equipment having a net energy output capacity of greater than 300 kilowatts; or</p>	<p>1. The discharge into air shall occur via a chimney stack at a height of at least 7 metres above ground level and at least 3 metres above the ridge line of the roof of any building, land or other substantial structure within a distance of five times the height of that building, land or structure.</p> <p>2. The discharge into air from internal combustion equipment shall occur via a chimney stack above the ridge line of the roof of any building, land or other substantial structure within a radius, from the stack, of 5 times the stack height.</p> <p>3. The discharge shall be directed vertically into air and shall not be impeded by any obstruction above the stack which decreases the vertical efflux velocity, below that which would occur in the absence of such obstruction.</p> <p>4. Generators shall only be used for emergency electricity supply, and shall not be used for network load shedding during times of</p>	<p>Environment Canterbury will reserve control over the following matters in imposing any conditions:</p> <ol style="list-style-type: none"> <li>1. The fuel burning rate.</li> <li>2. Any measures necessary to ensure the ability of the equipment to disperse contaminants, including chimney height, chimney design and emission velocity.</li> <li>3. Any steps to be taken to ensure maintenance</li> </ol>

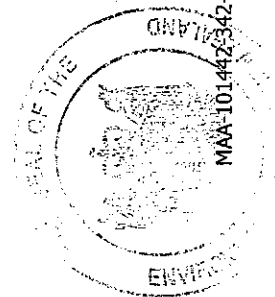


Activity	Standards / Terms	Control	Cross Ref.
<p>(d) coal, wood, or light fuel oil, in any external combustion equipment having a net combined heat output capacity within one property of greater than 1 megawatt and less than or equal to 3.5 megawatts;</p> <p>is a controlled activity.</p>	<p>5. The concentration of total suspended particulate in combustion gas discharged from all emission stacks, when measured according to the requirements described in Schedule AQL6, shall not exceed 500 milligrams per cubic metre of air adjusted to 0°Celsius, dry gas basis, 101.3 kilopascals and 8% oxygen or 12% carbon dioxide.</p> <p>6. The sulphur content of the fuel to be burned shall not exceed 2% by weight.</p>	<p>of the fuel-burning equipment.</p> <p>4. Carrying out of measurements, samples, analyses, surveys, investigations, or inspection, including:</p> <p>(a) monitoring contaminant concentrations;</p> <p>(b) monitoring the opacity of the discharge;</p> <p>(c) recording of the quantity of fuel used;</p> <p>(d) monitoring the emission rate of contaminants; and</p> <p>(e) analysing the cumulative effects of the discharge, in combination with discharges from other sources.</p> <p>5. Provisions of information to the consent authority at specified times.</p> <p>6. Compliance with</p>	



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Activity	Standards / Terms	Control	Cross Ref.
		<p>monitoring, sampling and analysis conditions at the consent holder's expense.</p> <p>7. Duration of consent.</p> <p>8. Review of conditions of consent and the timing and purpose of the review.</p> <p><b>Notification</b></p> <p>In accordance with section 94D(2), an application for resource consent required by this rule does not need to be notified, and in accordance with section 94D(3), notice of such an application does not need to be served.</p>	



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3. Rule AQL26A

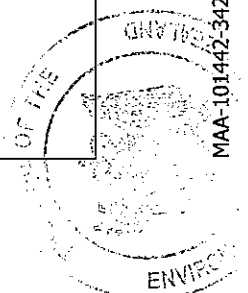
Add new Rule AQL26A External combustion of solid fuel or light fuel oil greater than 5 MW in an existing large scale fuel burning device outside of the Christchurch Clean Air Zones 1 and 2, Rangiora Clean Air Zones 1 and 2, Kaiapoi Clean Air Zones 1 and 2 and Ashburton Clean Air Zones 1 and 2 - controlled activity as follows:

Rule AQL26A External combustion of solid fuel or light fuel oil greater than 5MW in an existing large scale fuel burning device outside of Christchurch Clean Air Zones 1 and 2, Rangiora Clean Air Zones 1 and 2, Kaiapoi Clean Air Zones 1 and 2 and Ashburton Clean Air Zones 1 and 2 – controlled activity

Air Pollutants	Standards / Terms	Control	Cross Ref.
<p>Except where prohibited by Rule AQL12, the discharge of contaminants into air from the burning, outside the Christchurch Clean Air Zones 1 and 2, Rangiora Clean Air Zones 1 and 2, Kaiapoi Clean Air Zones 1 and 2 and Ashburton Clean Air Zones 1 and 2 of coal, wood or light fuel oil in any existing external combustion equipment having a net combined heat output capacity within one property of greater than 5 megawatts is a controlled activity.</p> <p>For the purposes of this rule "existing" means a large scale fuel burning device burning coal, wood or light fuel oil, legally installed and</p>	<ol style="list-style-type: none"> <li>1. Any discharge of contaminant into air shall not be greater than that which may have been lawfully discharged on 25 March 2008.</li> <li>2. The discharge into air shall occur via a chimney stack at a height of at least 7 metres above ground level and at least 3 metres above the ridge line of the roof of any building, land or other substantial structure within a distance of five times the height of that building, land or structure.</li> <li>3. The discharge shall be directed vertically into air and shall not be impeded by any obstruction above the stack which decreases the vertical efflux velocity, below that which would occur in the absence of such obstruction.</li> <li>4. The concentration of total suspended particulate in combustion gas discharged from all emission stacks, when measured according to the</li> </ol>	<p>Environment Canterbury will reserve control over the following matters in imposing any conditions:</p> <ol style="list-style-type: none"> <li>1. Any measures necessary to further reduce the level and type of contaminants discharged into air to minimise localised adverse effects on the environment.</li> <li>2. The fuel burning rate.</li> <li>3. Any measures necessary to ensure the ability of the equipment to disperse contaminants, including chimney height, chimney design and emission velocity.</li> </ol>	



Activity	Standards / Terms	Control	Cross Ref.
<p>operating:</p> <p>a) <u>on or before 25 March 2008, and</u></p> <p>b) <u>at the time any resource consent application is made and considered under this rule.</u></p>	<p><u>requirements described in Schedule AQL6, shall not exceed 500 milligrams per cubic metre of air adjusted to 0 Celsius, dry gas basis, 101.3 kilopascals and 8% oxygen or 12% carbon dioxide.</u></p> <p>5. <u>The sulphur content of the fuel to be burned shall not exceed 2% by weight.</u></p>	<p>4. <u>Any steps to be taken to ensure maintenance of the fuel-burning equipment.</u></p> <p>5. <u>Carrying out of measurements, samples, analyses, surveys, investigations, or inspection, including:</u></p> <p>(a) <u>monitoring contaminant concentrations;</u></p> <p>(b) <u>monitoring the opacity of the discharge;</u></p> <p>(c) <u>recording of the quantity of fuel used;</u></p> <p>(d) <u>monitoring the emission rate of contaminants; and</u></p> <p>(e) <u>analysing the cumulative effects of the discharge, in combination with discharges from other sources.</u></p> <p>6. <u>Provisions of information to the consent authority at specified times.</u></p> <p>7. <u>Compliance with monitoring, sampling and analysis conditions at the consent holder's expense.</u></p> <p>8. <u>Duration of consent.</u></p> <p>9. <u>Review of conditions of consent and the timing and purpose of the review.</u></p> <p><b>Notification</b></p> <p><u>In accordance with section 94D(2), an application for resource consent required by this rule does not need to be notified, and in accordance with section 94D(3),</u></p>	



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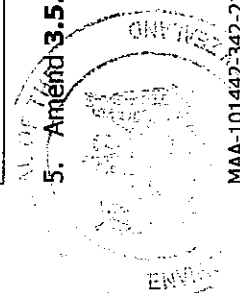
<u>Activity</u>	<u>Standards / Terms</u>	<u>Control</u>	<u>Cross Ref.</u>
		notice of such an application does not need to be served.	

4. Amend Rule AQL27 Large scale fuel burning devices not permitted or controlled outside the Christchurch Clean Air Zones 1 and 2 – discretionary activity, as follows:

**Rule AQL27 Large scale fuel burning devices not permitted or controlled outside the Christchurch Clean Air Zones 1 and 2 – discretionary activity**

<u>Activity</u>	<u>Standards / Terms</u>	<u>Discretion</u>	<u>Cross Ref.</u>
<p>Except where prohibited by Rule AQL12, the discharge of contaminants into air from burning, outside the Christchurch Clean Air-Zones 1 and 2, any fuel in any large scale fuel burning device which:</p> <p>(a) is not classified as a permitted activity or controlled activity by Rules AQL22 to AQL26A; or</p> <p>(b) does not comply with the conditions, standards or terms of Rules AQL22 to AQL26A;</p> <p>is a discretionary activity.</p>		Unlimited	

5. Amend 3.5.9.2 Regional rules for discharges of contaminants into air from large scale fuel burning devices, as follows:



**Rule AQL26** External combustion of diesel or kerosene greater than 2 MW to 5 MW or less, gas greater than 5 MW to 20 MW or less, internal combustion of diesel, petrol or gas greater than 300 kW, and solid fuel and light fuel oil greater than 1 MW to 3 MW or less outside of the Christchurch Clean Air Zones 1 and 2 – controlled activity

Discharges from these moderately sized burners do not usually cause significant adverse effects, provided stack design, fuel quality and combustion conditions are adequately controlled. The effects of particulate matter and sulphur dioxide emissions can be mitigated to prevent any major impact on ambient air quality. However, because of the scale of these discharges, the localised effects of emissions should be assessed in each case and conditions set accordingly.

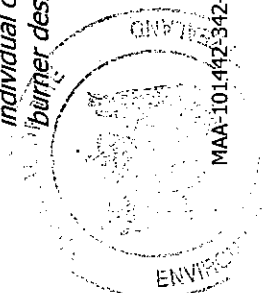
Large internal combustion equipment (greater than 300 kW output capacity) cause significant particulate matter and nitrogen dioxide emissions. While the discharge is usually infrequent, emissions may persist for a prolonged period (such as during a major power failure) and result in high ground level concentrations of contaminants. It is therefore necessary to assess the effects in each case to ensure contaminants are adequately dispersed.

**Rule AQL26A** External combustion of solid fuel or light fuel oil greater than 5MW in an existing large scale fuel burning device outside of Christchurch Clean Air Zones 1 and 2, Rangiora Clean Air Zones 1 and 2, Kaiapoi Clean Air Zones 1 and 2, and Ashburton Clean Air Zones 1 and 2 – controlled activity

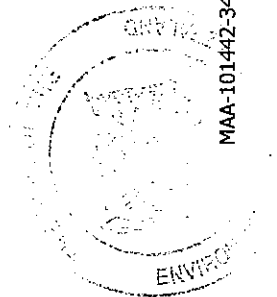
Rule AQL26A applies to solid fuel or light fuel oil external combustion large scale fuel burning devices outside of the Christchurch Clean Air Zones 1 and 2, Rangiora Clean Air Zones 1 and 2, Kaiapoi Clean Air Zones 1 and 2 and Ashburton Clean Air Zones 1 and 2 which are greater than 5MW that as of 25 March 2008 were legally existing and operating, and continue to be legally operated at the time a resource consent application is made and considered under this rule. At that time these devices formed an accepted part of the existing environment. This rule provides for such devices to continue to be part of the existing environment into the future. When replacement resource consent is sought for these devices it is appropriate for the consent authority to consider requiring the implementation of the best practicable options available to minimise localised adverse effects on the environment.

**Rule AQL27** Large scale fuel burning devices not permitted or controlled outside the Christchurch Clean Air Zones 1 and 2 – discretionary activity

Rule AQL27 applies to larger appliances that can have significant impact on air quality. Because of the scale of emissions, and the potential for adverse effects if burners are not operated according to good practice, it is necessary to assess effects with regard to the local conditions that apply in each individual case. Thus background contaminant concentrations, additive effects with other large industrial sources, terrain and meteorological factors, and burner design and operation should be considered during the consent application process.



*The discretionary activity rule also applies to fuel burning equipment that cannot meet the conditions of Rules AQL22 to AQL26A for various reasons, including: insufficient stack height; poorly designed rain excluding devices; high fuel sulphur content; lack of stack insulation; excessive particulate emissions; or use of a fuel not specified in the rules. In these cases the discharge has potential to cause significant adverse effects. It is therefore necessary to undertake a case-specific assessment of effects via the consent application process.*



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