



Department of Conservation
Te Papa Atawhai

NRRP/2000/1-3/NOT/ENV/2C

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12 November 2007

The Chief Executive
Environment Canterbury
P O Box
CHRISTCHURCH

APPEAL TO THE ENVIRONMENT COURT- NRRP CHAPTER 3 AIR QUALITY

Please find **enclosed** a copy of our appeal to the Environment Court on part of the decision on Chapter 3 Air Quality of the NRRP.

It is our view that the provisions as set out in the decision on NRRP Chapter 3 AQL as it relates to burners and open fireplaces installed in back country huts on public conservation land are, unduly restrictive and we are seeking through our appeal an exemption to Policy AQL 1 and Rules 1, 2 4, and 5 to allow their use to continue to be a permitted activity.

The Department of Conservation maintains a network of back country huts which form part of a long established network of shelters providing for the health, safety and enjoyment of those people using public conservation land.

Over fifty of these huts in the Canterbury region, most of which are in remote locations, have wood burners or open fires. The enclosed burners provided in the huts are designed to accommodate both coal and wet wood, often the only fuel available in these areas.

In areas where there is relatively easy vehicle access dry wood is transported into the huts and in areas where there is no wood available coal is supplied and usually delivered to the hut by helicopter. The use of helicopters is costly therefore coal is used because it is more efficient as it lasts longer than wood and does not necessitate as many helicopter flights to ensure an ongoing supply of fuel.

All the burners in the back country huts will be unable to comply with the provisions in the Air Quality chapter of the NRRP in relation to discharge of contaminants to air by enclosed solid fuel burners or open fires and in fact means that the fuel that is sometimes currently used, wet wood and coal, will be prohibited

We would be happy to discuss this matter with you further prior to Environment Court mediation.

Yours sincerely

David Newey

Community Relations Supervisor – RMA Planning

Department of Conservation

Canterbury Conservancy

Private Bag 4715, Conservation House, 133 Victoria Street, Christchurch, New Zealand
Telephone 03-379 9758, Fax 03-365 1388

Form 7
Notice of appeal to Environment Court against decision
on proposed policy statement or plan

Clause 14(1) of First Schedule, Resource Management Act 1991

To The Registrar
Environment Court
PO Box 2069
Christchurch

1 I, Alistair Morrison, Director General of the Department of Conservation, appeal against part of a decision of Canterbury Regional Council on the following Plan

Proposed Canterbury Natural Resources Regional Plan Chapter 3 – Air Quality

2 I made a submission on that plan.

3 I received notice of the decision on 2 October 2007.

4 The decision was made by Canterbury Regional Council.

5 The parts of the decision that I am appealing are:

- 5.1. Decision 03-008-02-00; Policy AQL 1 Prohibit combustion of specified materials. This policy prohibits the discharge of contaminants into air resulting from the combustion of materials which result in significant adverse effects on the environment including requiring fuel to have a sulphur content of 1% or less and wood having a moisture content of less than 25% dry weight
- 5.2. Decisions 03-062-03-00, 03-062-04a01, 03-063-01b02; Rule AQL 1 Enclosed burners or open fires anywhere in Canterbury installed before 1 January 2004 – permitted activity. This Rule means that enclosed burners or open fires anywhere installed in Canterbury before 1 January 2004 that can not meet standards for a permitted activity are non complying or prohibited.
- 5.3. Decision 03-063-02-00, 03-064-01b24; Rule AQL 2 Enclosed burners meeting specific criteria anywhere in Canterbury – permitted activity. As a consequence enclosed burners anywhere in Canterbury that cannot meet specific criteria for a permitted activity, including the sulphur content of the fuel to be burned shall not exceed 0.5% by weight, are non complying or prohibited.
- 5.4. Decision 03-066-01-00; Rule AQL 4 Enclosed burners, oil or gas burning heating devices or open fires anywhere in Canterbury not complying with Rules AQL1, AQL2, AQL3 or AQL8 that are not otherwise prohibited – non-complying activity. Under this rule enclosed burners and open fires not meeting standards and conditions for a permitted activity in Rule 1 and 2 and are not otherwise prohibited are non complying.
- 5.5. Decision 03-066-04-00, 03-066-06a01; Rule AQL 5 Fuels prohibited from use in small scale fuel burning devices anywhere in Canterbury – prohibited activity for which no resource consent shall be granted. The rule therefore prohibits the use some fuels in small scale burning devices including wood exceeding moisture content of 25% dry weight or fuel having a sulphur content greater than 1% by weight.

6 The reasons for the appeal are as follows:

- 6.1. The decision to grant consent for the proposed activity fails to promote the sustainable management of natural and physical resources as required by Part 2 of the RMA. In particular the decision is contrary to section 5 and fails to provide for the health and safety of users of back country huts.

For the following reasons:

- 6.1.1. The parts of the decision under appeal apply to rural areas of Canterbury which include lands managed by the Department of Conservation (public conservation land). These public conservation areas provide recreational opportunities for the public and include remote areas (back country) accessible only on foot. These back country areas are subject to severe weather and the users must have access to shelter and warmth.
- 6.1.2. To provide for public access to these areas the Department of Conservation constructs and maintains accommodation in the form of "huts". These huts need to have provision for heating facilities in order to provide for the safety and well being of trampers and hunters in challenging terrain and to ensure that fires are not lit in the open. Most of these huts have fires which use firewood collected from the near vicinity and usually such firewood is the only practical fuel source.
- 6.1.3. In these locations burning of the types of fuel in burners affected by Policy AQL 1 and Rules AQL 1, 2, 4 and 5 will not have significant adverse effects on the environment. Further these are low-risk locations where people (other than the transient hut users) are unlikely to be present. There is therefore no need to apply the provisions described in 5 above to such areas.
- 6.1.4. It would be very difficult to supply fuels which meet the standards proposed to these remote locations and quite impossible to ensure that the public who used these huts complied with the requirements. Further in these locations the effects would be difficult to monitor.
- 6.1.5. Applying Policy AQL 1 and Rules AQL 1, 2, 4 and 5 to the public conservation lands described above is not necessary to manage significant adverse effects and does not enable the public to use the type of fuel that is likely to be available in the huts to. In such remote locations the blanket application of policies and objectives designed for more populated areas is neither efficient nor effective.
- 6.1.6. Therefore Policy AQL 1 and Rules 1, 2, 4 and 5 are unnecessarily restrictive and impossible to achieve in most instances where open fires and enclosed burners are used in back country huts located on public conservation land. The remote location, sparse density of these huts and the relatively infrequent use they receive mean any effects of emissions on the environment would be minor and difficult to monitor.

I seek the following relief:

- 1 Amend Policy AQL 1 to allow for minor effects of discharge to air by burners or open fires in back country huts on public conservation land.
- 2 Amend Rules 1, 2, 4 and 5 to exempt emissions to air by enclosed burners and open fires in back country huts on public conservation land.
- 3 For the purposes of the amendment '*back country huts*' means any facility erected for the purposes of providing shelter within the boundaries of any land held or managed by the Department of Conservation under the Conservation Act 1987 or any other Act specified in Schedule 1 of the Act.
- 4 AND any consequential relief to give effect to the matters raised above;

Advice to recipients of copy of notice of appeal*How to become party to proceedings*

You may be a party to the appeal if you made a submission on the matter of this appeal and you lodge a notice of your wish to be a party to the proceedings (in Form 33) with the Environment Court within 30 working days after this notice was lodged with the Environment Court.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing requirements (*see* Form 38).

** How to obtain copies of documents relating to appeal*

The copy of this notice served on you does not attach a copy of the appellant's submission and (*or*) the decision (*or* part of the decision) appealed. These documents may be obtained, on request, from the appellant.

* Delete if these documents are attached to copies of the notice of appeal served on other persons.

Advice

If you have any questions about this notice, contact the Environment Court Unit of the Department for Courts in Auckland, Wellington, or Christchurch.