4. SALE OF WOOD FOR DOMESTIC USE IN CHRISTCHURCH

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The purpose of this report is to consider the concerns expressed by elected members on the perceived lack of action in the enforcement of requirements relating to the sale of authorised fuels in Christchurch.

CONTEXT

Burning wet wood has two adverse effects it increases the amount of air pollution created and it reduces the effective heat output of the wood. This report deals with the pollution effects.

While there is some debate over the optimum moisture of fire wood, for the purposes of this report, wet wood refers to wood that is wet under the clean air zone regulations - it has a moisture content of 25% or more on a wet wood basis.

RELEVANT CURRENT POLICY

The control of domestic fuel quality was first introduced with the Clean Air Act 1972 when provisions were introduced to control fuel used in "clean air zones" in New Zealand largely based on a British model that enabled controls over domestic air pollution when they introduced "smokeless fuels".

The Clean Air Act 1972 contained a provision relating to the acquisition and sale of unauthorized fuel in clean air zones. In regard to sale the provision was as follows:

Any person who –
(a) Acquires any fuel, other than an authorised fuel, for use in any premises in a clean air zone otherwise than in premises or fuel burning equipment, or in a building or an industrial plant, exempted from the application of section 16 of this Act; or
(b) Sells any fuel, other than an authorised fuel, for delivery by that person or on that person's behalf to any premises in a clean air zone, other than scheduled premises –
commits an offence.

It should be noted that this did not have any force until The Clean Air Zone (Christchurch) Order 1977 was introduced in that year. Initially this related only to fuels such as coal, coke, char or charcoal and the first mention of moisture content of wood was in relation to approvals for enclosed wood burners in 1981 when the conditions stated: *Wood with a moisture content not exceeding 25 percent (on wet weight), this being wood which has been cut and air dried usually for a period of not less than three months*. This condition applied to three types of approved appliances only. Five more wood burning appliances were added in 1982.

In 1988 the Clean Air Zone Order was again amended to include 20 approved wood burners but also authorized or prohibited fuels in those or any other fuel burning equipment whether authorized or not. It then applied the standard to all fuel burning in Christchurch [as it then was] and those TLAs outside Christchurch City Council that were under The Clean Air Zones (Canterbury Region) Order 1984. The requirement was *wood having a moisture content not exceeding 25 percent (on wet weight)*.

The latter provision was carried over into the Canterbury Regional Council's Transitional Regional Plan, October 1991, following the introduction of the Resource Management Act 1991 which had revoked the Clean Air Act 1972. In that case it specified that The use as a fuel of wood having a moisture content exceeding 25 percent (on wet weight) was prohibited. These provisions remain in place until superseded by a Regional Plan. This will occur when the NRRP Air Plan is adopted. The provision of the Clean Air Act 1972 relating to the offence of supplying prohibited fuel to premises in a clean air zone remain in force until that time also.

The Proposed Canterbury Natural Resources Regional Plan Chapter 3: Air Quality contains a rule [AQL5] which states that wood having a moisture content of more than 25% dry weight (this is equivalent to about 20% on a wet weight basis) is prohibited from use in small scale burning devices.

ISSUES FOR CONSIDERATION

It appears clear, in my opinion, that the provisions contained in the Transitional Regional Plan relating to the offence *Sells any fuel, other than an authorised fuel, for delivery by that person or on that person's behalf to any premises in a clean air zone, other than scheduled premises* remains in force at this time. It also appears clear that, despite there being a range of satisfactory moisture contents for wood that can be burnt and ensure compliance with emission levels specified, the legislation does indicate one level of moisture content that is acceptable. While this means of prescribing a standard may not be scientifically rigorous it is so set down and therefore the expectation is that it will be met. I do not know of any cases where the matter has been tested in a legal setting.

In the case of those who collect their own wood, and up to half of wood users do not purchase from wood merchants, or those who purchase wood some months ahead of the need to burn, the approved moisture content requirement could be met if the wood is stored under cover for a period of three months or so. Those purchasing just prior to the winter heating period will have the expectation that the wood will have the required moisture content, which may often only be able to be met by the supplier undertaking long term air drying [possibly under cover] or by kiln drying. The provisions of the current legislation support this latter expectation.

The provisions of the bylaw making power of the Local Government Act 1974 would not seem to be suitable for dealing with either the energy reduction or air pollution potential of "wet" wood. Section 682 (c) states that *A bylaw may provide for the licensing of persons and property and for the payment of reasonable licence fees, and may require sanitary and other works to be executed only by qualified and licensed persons*. On the face of it this would appear to enable licensing of wood merchants but this would only be if it complied with those subjects in section 684 in my view. Neither air pollution nor efficient energy use are objectives contained in the current Local Government Act.

It should be noted that the Christchurch area is the only area in New Zealand in which clean air zones were implemented under the Clean Air Act 1972 and hence the provisions of the section relating to acquisition and sale could be applied. The provisions of the Resource Management Act, with its emphasis on an individual effects based approach, moved away from the prescriptive approach [or command and control method] contained in the Clean Air Act. I know of no similar provisions in the Resource Management Act that would permit the control of sale or delivery of fuels to premises included in a regional air plan. That responsibility rests with the operator of the fuel burning equipment who must comply with any emission requirements.

CONCLUSION

In my view the provisions that currently exist under the Transitional Regional Plan enable the Canterbury Regional Council to take legal action in relation to the sale of wood to premises within the areas declared as clean air zones in the Christchurch area.

Staff Recommendation: That the Council write to Environment Canterbury asking that they use the provisions within the Transitionary Regional Plan to take legal action against those who sell wet wood for use within the Clean Air Zone.

Chair's Recommendation: That the above recommendation be adopted.