

Presented to Regulatory Committee 10/3/11

Decision:

That

- a) *this report be noted*
- b) *Council staff use the outdoor burning decision tool in enforce outdoor burning rules.*
- c) *Council undertake a public education programme responsibilities.*

REPORT

Document Id: A325105

Report No: 2011/0683

Prepared For: Regulatory Committee

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Date: 17 March 2011

Subject: Outdoor Burning Enforcement

1. Précis

Every year Council has been receiving, and attending, a substantial number of complaints on outdoor burning from the inner city areas and rural areas. The Dunedin and Mosgiel outdoor burning complaints have been dealt effectively by the Council contractors and the Air Plan rules have been enforced in several of the cases, resulting in infringement notices because the breaches are easily identifiable and enforceable. However, owing to the complexity of a range of applicable rules, outdoor burnings in the suburban or rural areas are not easy to enforce. The purpose of this paper is to provide a pathway for a consistent approach to rural outdoor burning while increasing the extent of the outdoor burning enforcement.

2. Background

Regional Plan: Air has six rules related to outdoor burning (Appendix 1). Rules 16.3.2.1 to 16.3.2.5 allow certain outdoor burning as permitted activities and Rule 16.3.2.6 has the discretion on outdoor burning activities requiring consents. In addition to these rules Rule 16.3.3.1 prohibits burning of certain specified materials (e.g. food waste, paint, agrichemicals, tyres) in the open and Rule 16.3.3.2 has the discretion on burning such materials under controlled conditions (e.g. incinerators). The prohibited rule is easy to enforce and there have been several enforcement actions taken against persons or companies that have breached this rule to date.

Rule 16.3.2.1 is enforceable in most towns in Otago which are located in Air Zones 1 and 2. Under this rule only dry paper, cardboard, vegetative matter and untreated wood that are from the property can be burnt outdoor within 50 metres of the closest part of the boundary of the property. Council has been successfully enforcing this rule since 2003 in Dunedin and Mosgiel, using its contractors, by serving infringement notices with a fine of \$300.

Rule 16.3.2.4 permits the burning of any material (wet or dry) other than materials specified under Rule 16.3.2.5 on production land in Air Zone 3. Most people in the region who undertake outdoor burning are aware of the fire restrictions, hence approach the respective district or city

councils for permission to burn. Often people are either not aware of or ignore the Council Rules and bear the consequences of their activities. Enforcement of such activities is on the rise because of increasing outdoor burning incidents associated with farm or lifestyle blocks (e.g. Figure 1). It is vital that staff consistently enforce the outdoor burning rules. The purpose of this report is to provide a consistent approach to enforcing outdoor burning rules.

Figure 1 – An outdoor burning incident involving green material being burnt



3. Outdoor Burning Decision Tool

Appendix 1 illustrates the approach taken on a range of outdoor burning activities. The flow chart approach enables consideration of the straightforward requirements of the rules as a first step (e.g. prohibited specified materials or wet materials being burnt) and deals with consideration of the objectionable nature or offensiveness of the smoke or particulate matter as a last step. This way the enforcement of the rules is easier. As for the objectionable nature or offensiveness of the smoke or particulate matter, exacerbation of the prevailing smog conditions, poor visibility, and effects on people (strong or suffocating smoke smell) are considered. If one or all the above conditions exist, enforcement action should be taken.

4. Recommendations

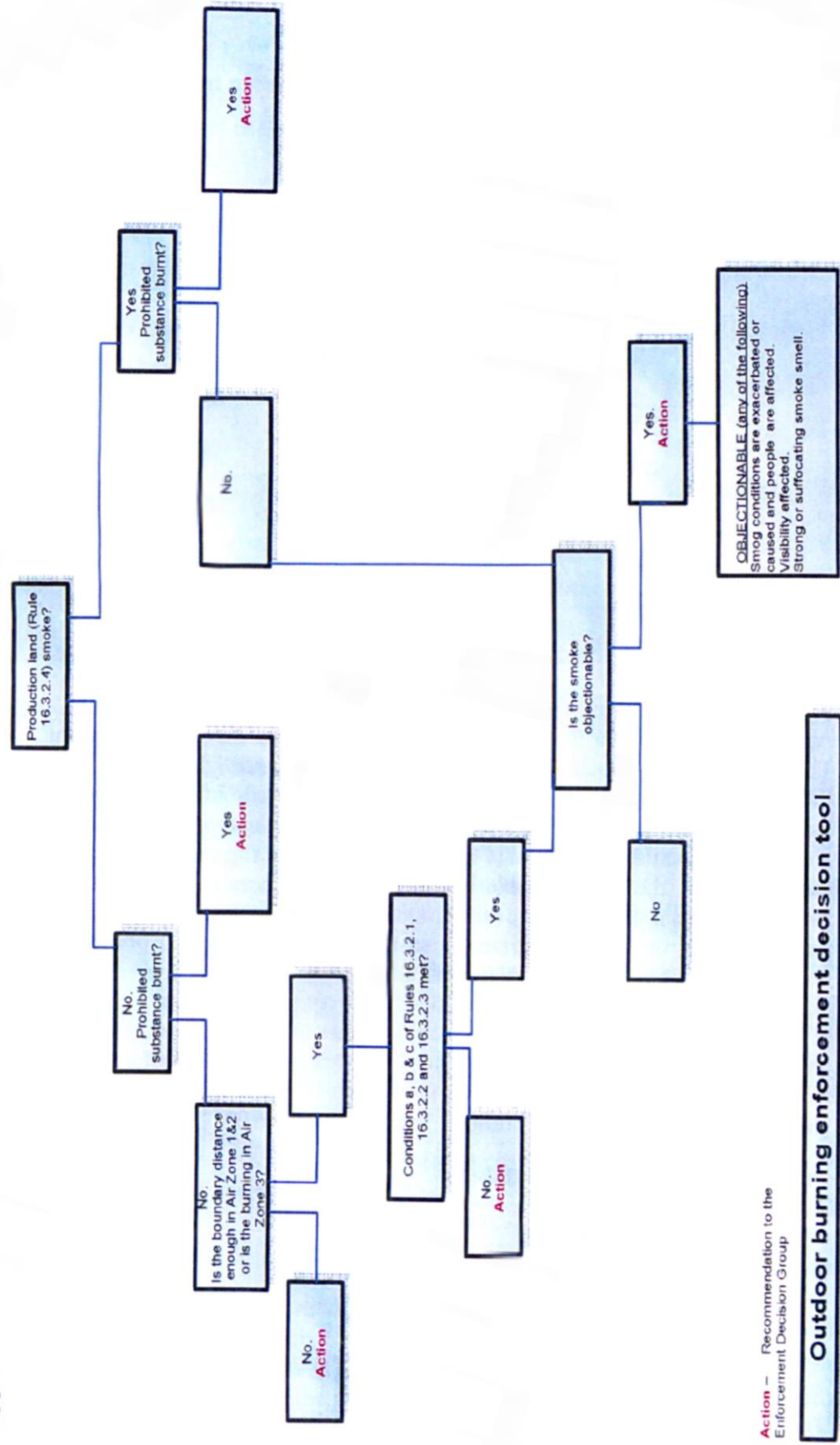
That

- a) this report be noted
- b) Council staff use the outdoor burning decision tool in the report to enforce outdoor burning rules.

Selva Selvarajah

Director Resource Management

Appendix 1



Appendix 2

16.3.2 Outdoor burning

Note:

1. City and district councils in implementing the Forests and Rural Fires Act 1977 may also have bylaws controlling outdoor burning of materials for fire safety purposes.
2. The Health Act 1956 also has some control on nuisance effects from, the discharge of contaminants into air.
3. These rules do not permit the use of fire accelerants such as waste petroleum products or tyres. The burning of such materials, is prohibited by Rule 16.3:3.1 and incineration of such materials maybe allowed only if a consent is obtained.
4. Where the separation distances specified in the rules cannot be achieved: or other conditions of the rules are not met consents arc required to be obtained from the Otago Regional Council.

16.3.2.1 Discharges from outdoor burning on residential properties in Air Zone 1 or 2 - permitted activity

for by Rule 16.3.2.5, the discharge of contaminants into air from outdoor burning on any residential property in Air Zone 1 or 2;

is a *permitted activity*, providing:

- 1) Only paper, cardboard, vegetative matter or untreated wood is burnt; and
- 2) The material is from the property where the burning occurs; and
- 3) The material is dry at the time of burning; and
- 4) The burning does not occur within 50 metres of the closest part of the:-boundary of the property; and
- 5) Any discharge of smoke, odour or particulate matter is riot offensive or objectionable at or beyond the boundary of the property.

16.3.2.2 Discharges from outdoor burning on non-residential properties, including production land, in Air Zone 1 or 2 - permitted activity

Except as provided for by Rule 16.3.2.5, the discharge of contaminants into air from outdoor burning on any non-residential properly, including production land in Air Zone 1 or 2;

is a *permitted activity*, providing:

- a) Only paper, cardboard, vegetative matter or untreated wood is burnt; and
- b) The material is from the properly where the burning occurs; and
- c) The material is dry at the time of burning; and
- d) The burning does not occur within 100 metres of any dwelling on any other property; and
- e) Any discharge of smoke, odour or particulate matter is not offensive or objectionable at or beyond the boundary of the property.

16.3.2.3 Discharges from outdoor burning on properties which arc not production land, in Air Zone 3 - permitted activity

Except as provided for by Rule 16.3.2.5, the discharge of contaminants into air from outdoor burning on any property which is not production land, in Air Zone 3; is a *permitted activity*, providing:

- a) Only paper, cardboard, vegetative matter or untreated wood is burnt; and
- b) The material is from the property where the burning occurs; and
- c) The material is dry at the time of burning; and
- d) Any discharge of smoke, odour or particulate matter is not offensive or objectionable at or beyond the boundary of the property.

16.3.2.4 Discharges from outdoor burning on production land in Air Zone 3 - permitted activity

Except as provided for by Rule 16.3.2.5, the discharge of contaminants into air from outdoor burning on any property which is production land, in Air Zone 3; is a *permitted activity*, providing:

- a) No material specified in Rule 16.3.3.1 is burnt; and
- b) Any discharge of smoke, odour or particulate matter from burning waste is not offensive or objectionable at or beyond the boundary of the property.

16.3.2.5 Discharges from outdoor burning of any campfire or celebratory fire, or for the cooking of food - permitted activity

The discharge of contaminants into air from outdoor burning of any campfire or celebratory fire, or outdoor burning for the cooking of food by any barbecue, hangi, umu or similar means;

is a *permitted activity*, providing:

- a) No material specified in Rule 16.3.3.1 is burnt; and
- b) The material is dry at the time of burning; and
- c) Any discharge of smoke, odour or particulate matter is not offensive or objectionable at or beyond the boundary of the property.

16.3.2.6 Other discharges from outdoor burning - discretionary activity

Except as provided for by Rules 16.3.2.1 to 16.3.2.5, or prohibited by Rule 16.3.3.1, the discharge of contaminants into air from outdoor burning is a *discretionary activity*.

16.3.3 Burning or incineration of specified materials

Note:

1. City and district councils in implementing the Forests and Rural Fires Act 1977 may also have bylaws controlling outdoor burning of materials for fire safety purposes.
2. The Health Act 1956 also has some control on nuisance effects from the discharge of contaminants into air.

16.3.3.1 Burning or incineration of specified materials - prohibited activity

Except as provided for by Rules 16.3.3.2 and 16.3.13.2, the discharge of contaminants into air from the burning or incineration of any of the following materials:

- a) Chlorinated organic chemicals including, but not limited to, dioxins, furans, polychlorinated biphenyls (PCB);
 - b) Contaminated material from contaminated sites and buildings;
 - c) Food waste;
 - d) Materials containing heavy metals;
 - e) Material associated with the recovery of metal from coated or covered cables;
 - f) Motor vehicles and vehicle parts;
 - g) Materials containing mineral fibre⁸ including but not limited to asbestos;
 - h) Paint and other surface coatings;
 - i) Pathological materials excluding animal carcasses on production land;
 - j) Agrichemicals and agrichemical waste;
 - k) All plastic, including, but not limited to, polyvinylchloride (PVC), polystyrene, nylon, styrofoam, but not including polyethylene;
 - l) Tyres and other rubber;
 - m) Timber treated with copper, chronic and arsenic (CCA) or organochlorine preservatives;
 - n) Waste oil or other waste petroleum products; or
 - o) Sewage sludge and associated solids, or solids derived from liquid-borne municipal, industrial or trade waste; or
 - p) Asphalt surfaces (seal burning);
- is a *prohibited activity*, for which no consent will be granted.

16.3.3.2 Discharges from the burning or incineration of materials specified in Rule

16.3.3.1 - discretionary activity

The discharge of contaminants into air from the burning or incineration of:

1. Any material specified in Rule 16.3.3.1, in an incinerator or crematorium; or
2. Waste oil, in a frost pot, or fuel burning equipment;

is a *discretionary activity*.

Principal reasons for adopting

Rules 16.3.3.1 and 16.3.3.2 recognise that the burning of the materials specified in Rule 16.3.3.1 can result in the discharge of hazardous air contaminants (identified in Schedule 3), in addition to effects such as smoke and odour which are common to the burning of all waste. Contaminants of this nature have been identified by the Ministry for the Environment as being known, or suspected, to cause significant adverse effects on human health and the environment.

Rule **16.3.3.1** recognises that when the materials specified are burnt on the open ground or by uncontrolled means it is not possible to take any measures to manage the discharge of hazardous air contaminants. Because of this, adverse effects can be avoided only through prohibiting this type of burning.

Rule **16.3.3.2** recognises that, in some circumstances, the materials specified in Rule 16.3.3.1 are best disposed of by incineration. There is, however, considerable variation in the technical specifications of incinerators and some are more suited to burning the specified materials than others. Because of this and the fact that the burning of these materials may have significant adverse effects, the management of these effects needs to be considered on a case-by-case basis through a resource consent process. For example, it may be appropriate to incinerate waste oil in fuel burning equipment such as boilers and kilns, but the effects need to be assessed through a consent process.