

BEFORE CANTERBURY REGIONAL COUNCIL

IN THE MATTER of the Resource Management Act
1991

AND IN THE MATTER The Proposed Canterbury Air
Regional Plan

**STATEMENT OF EVIDENCE OF DONOVAN VAN KEKEM
DATED 25 SEPTEMBER 2015**

1. INTRODUCTION

- 1.1 My name is Donovan Van Kekem. I am a Principal Air Quality Scientist at AECOM New Zealand Ltd (“AECOM”). I have over 12 years’ specialist air quality experience.
- 1.2 I was engaged in September 2015 by Bupa Care Services NZ (Bupa) to prepare air quality evidence addressing the issues arising from the submissions on proposed Rule 7.28 in the proposed Canterbury Air Regional Plan (pCARP).

2. QUALIFICATIONS AND EXPERIENCE

- 2.1 I have the following qualifications:
- (a) a Bachelor’s Degree in Biochemistry from the University of Canterbury; and
 - (b) a Post Graduate Diploma in Forensic Science from the University of Auckland.
- 2.2 I am also a current member of the Clean Air Society of Australia and New Zealand.
- 2.3 Some of my work experience which is relevant to this hearing is as follows:
- (a) I have been involved in preparing the air quality assessments and evidence for numerous industrial clients in New Zealand and Australia including Contact Energy, Winstone Aggregates, Anglo Coal, Holcim, Exxon Mobil and many more. I also currently act as an independent processing officer for Environment Canterbury assessing a number of complex air discharge consent applications.
- 2.4 While this is not a hearing before the Environment Court, I confirm that I have read the code of conduct for expert witnesses contained in the Environment Court Consolidated Practice Note (2014). I have complied with it when preparing my written statement of evidence and I agree to comply with it. I confirm that the evidence and the opinions I have expressed in my evidence are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

3. SCOPE OF EVIDENCE

- 3.1 I have been asked to present this air quality evidence on behalf of Bupa.
- 3.2 My primary focus will be on addressing proposed rule 7.28 and potential odour emissions from commercial laundry facilities.
- 3.3 In preparing this evidence I have read and familiarised myself with:
- (a) The Canterbury Regional Policy Statement 2013 (RPS)
 - (b) The notified Proposed Canterbury Air Regional Plan (Proposed Plan)
 - (c) The predecessor to the Proposed Plan, Chapter 3 of the Natural Resources Regional Plan (NRRP);
 - (d) The Section 32 and 42A reports;
 - (e) The evidence prepared by Ms Mary McConnell.

4. BACKGROUND

- 4.1 BUPA Care Services NZ (BUPA) is a residential care provider offering accommodation and care services for the aged and those rehabilitating from serious injury. In Canterbury, the organisation runs three retirement villages: Ballarat in Rangiora, and Cashmere View and Parklands on Papanui in Christchurch.
- 4.2 The key discharges to air from the retirement villages are from commercial sized laundries and cooking facilities. For the most part, discharges to air from these sites have been minor and non-objectionable. These discharges have therefore been classified as permitted.

5. PROPOSED RULE 7.28

- 5.1 Proposed rule 7.28 in the pCARP is as follows:

The discharge of odour, beyond the boundary of the property of origin, from an industrial or trade premise is a restricted discretionary activity, except where otherwise permitted or prohibited by rules 7.29 to 7.59 below.

The exercise of discretion is restricted to the following matters:

1. *The contents of the odour management plan to be implemented; and*

2. *The frequency of the discharge; and*
 3. *The intensity of the discharge; and*
 4. *The duration of the discharge; and*
 5. *The offensiveness of the discharge; and*
 6. *The location of the discharge; and*
 7. *The matters set out in Rule 7.2.*
- 5.2 It is considered that as written Canterbury Air Regional Plan (pCARP) rule 7.28 captures any activity that might generate odour, including those non-objectionable ones associated with residential care villages, and that there are sufficient provisions contained within the proposed industry specific rules, and in particular rule 7.3, to deal with discharges relating to odour which might cause an effect.
- 5.3 Rule 7.3 states the following:
- The discharge of odour, dust or smoke into air that is offensive or objectionable beyond the boundary of the property of origin when assessed in accordance with Schedule 2 is a non-complying activity.*
- 5.4 Schedule 2 sets out a number of practical and prescriptive criteria to make an assessment as to whether an activity involves the discharge of odour that is offensive and objectionable. I consider that this rule provides adequate scope for objectionable odour discharges to be dealt with by the proposed Plan.
- 5.5 Proposed rule 7.28 is a 'catch all' rule which applies a restricted discretionary status to all industrial or trade activities which produce any odour beyond their boundary not described in proposed rules 7.29 – 7.59.
- 5.6 In my opinion this is overly restrictive, for example, technically, a florist which may emits pleasant odours beyond their boundary would be a restricted discretionary activity.
- 5.7 Other examples of industrial or trade activities which would potentially be caught by the wording of rule 7.28 would include; dog kennels, nail salons, plant nursery, lavender oil extractor, pet shop, etc.
- 5.8 I would expect in the case of a florist that a FIDOL (frequency, intensity, duration, offensiveness, and location; the test set out in Schedule 2)

assessment would confirm that the odour discharge beyond the boundary is not offensive or objectionable and therefore a consent would be granted. But a requirement for all such industries and discharges to obtain a resource consent under a restricted discretionary rule is overly restrictive and not consistent with the purposes of the RMA.

- 5.9 As Bupa operates a commercial scale laundry (which does not involve a dry cleaning operation) which does have occasional odour emissions beyond the boundary of its site, it would also be covered by this rule (if defined as an 'industrial or trade premise'). The requirement for Bupa and for that matter a vast number of other industries and trade premise to obtain resource consent for their lawfully established businesses is unduly onerous.
- 5.10 Having studied the proposed definitions of 'industrial or trade premise' and 'industrial or trade process' in the pCARP I am unsure as to whether or not this definition would cover a commercial laundry operation. I default to the evidence of Ms McConnell in this regard, and her discussion as to the correct interpretation of these definitions.

6. ALTERNATE APPROACH

- 6.1 Should proposed rule 7.28 be retained in its current state and Bupa's commercial laundry operation be included in the definition of industrial or trade premise', Bupa would seek the inclusion of another permitted activity rule (similar to the dry cleaning rule 7.35 or fumigation rule 7.45) to address commercial laundry's utilising ozone.
- 6.2 A suggested wording of the proposed additional rule (to be included in the range exempt from rule 7.28) is as follows:

The discharge of contaminants into air from commercial laundry operations is a permitted activity provided the following conditions are met:

- (a) *The discharge does not cause a noxious or dangerous effect; and*
- (b) *If there is a discharge of odour beyond the boundary of the property of origin an odour management plan prepared in accordance with Schedule 2 must be held and implemented by the persons responsible for the discharge to air; and*

(c) *The odour management plan is supplied to CRC on request.*

7. RECOMMENDATIONS

- 7.1 I recommend that proposed rule 7.28 be amended to better define the 'odour' in which is seeks to control (i.e. offensive or objectionable, or nuisance odour) and which operations are included within the term 'industrial or trade premise' so as not to include a wide range of legitimate businesses and activities whom have previously been permitted and do not result in nuisance odour effects.
- 7.2 Should rule 7.28 be retained without change, then I consider that there should be a new permitted activity rule added which deals with odours from commercial scale laundries.
- 7.3 Businesses whom cannot meet the permitted activity rule will default to the discretionary activity status under rule 7.59.

Donovan Van Kekem

25 September 2015