

APPLICANT

WASTE MANAGEMENT NZ LIMITED

COUNCIL

CANTERBURY REGIONAL COUNCIL

SUBMISSION IN OPPOSITION TO THE GRANT OF RESOURCE CONSENT

31 January 2020

To Canterbury Regional Council

DISCHARGE PERMIT APPLICATION CRC194083 – WASTE MANAGEMENT NZ LIMITED (the “Application”)

Submission of Mike Gibson

Healthy Harvest Fruit and Veges

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- 1 I run a vegetable retail store at 407 Springs Road, Prebbleton, which is approximately 420 metres from the boundary of the proposed waste treatment facility. I have owned and operated my business at this property for the over 7 years. I also lease part of this property out to tenants for long term residential purposes. My current tenants are a family who have lived there for approximately 2 years.
- 2 Our retail store has a market type vibe with an indoor/outdoor flow, whereby a lot of our produce is displayed outdoors.
- 3 Given the close proximity of my business to the proposed discharge point, our amenity, business, health, and the health and amenity of our workers and residential tenants would be directly and adversely affected by the grant of consent for this proposed activity.
- 4 The effects that our rural residential community would be forced to endure are totally inappropriate, unreasonable and unnecessary. To that end, the fact that this Application was not publically notified is outrageous and incorrect. The Application was only limited notified, and many relevant people and communities were excluded from notification. This application, if granted, will have far-reaching consequences on our community and environment. It is appropriate that all potentially impacted persons are given the opportunity to have their say.
- 5 Under section 104(1)(d) of the Resource Management Act 1991 (the “RMA”), when a consent application should have been notified but wasn’t, it cannot proceed and must be declined. This section applies here because the Application should have been publically notified and wasn’t. As per section 104(1)(d) I therefore submit that the Application is unable to proceed and should therefore be declined.
- 6 I therefore oppose the Application in its entirety, and wish to be heard at any consent hearing if it is found that the application is able to proceed beyond the s104(1)(d) restriction.

- 7 I seek the relief that the application be refused or alternatively that stringent conditions be imposed to avoid or mitigate the adverse effects of the proposed activity on the following areas:
- Odour emissions;
 - Immediate adverse health effects such as, but not limited to, irritation of eyes and respiratory system, headaches, nausea and other adverse reactions to the contaminants discharged;
 - Long term health risks, such as those that may arise in conjunction with contaminants' carcinogenic properties, including effects of low probability but high potential impact;
 - Contamination of soils, plants, processes and produce;
 - Adverse effects on the health and amenity expectations of my residential tenants; and
 - Cumulative adverse effects.
- 8 I consider that any resource consent, if granted, should only be consented for a short period, with extensive monitoring conditions. The potential adverse effects on neighbours, the community and the environment are extensive, and so must have the opportunity to be fully reassessed in several years, once these effects are realised.

Reasons for the relief sought

- 9 Consent is sought for the discharge of contaminant to air from industrial or trade premises. That discharge is not expressly allowed by a rule in a regional plan and any relevant proposed regional plan or regulations. As such, it contravenes s15(1)(c) of the RMA unless it can be authorised by a resource consent.
- 10 When assessing a resource consent application, the consenting authority must have regard to the actual and potential effects on the environment of allowing that activity. The specific actual and potential effects on the environment include:
- An increase in particulates in the air;
 - The release of objectionable odour beyond the boundary of the site and to the residences and businesses that are located both within the 500m notified area and immediately beyond. These include sensitive receptors such as:
 - o homes in both residential and rural zoned areas;
 - o businesses;

- a large primary school; and
- childcare centres.
- The release of toxins to the air that are hazardous to human health as well as the release of toxins with unknown chemical make ups (not specifically consented for) that will have an unknown impact on human health;
- The risk to the eco system of the Marshes Road water race, an objective of such races within Selwyn as supporting amenity and ecological values;
- The risk of contamination of food producing soils;
- The risk of contamination of water supplies;
- No limits are provided in terms of type of pollutants that can be released, or the volume of pollutants that can be released.

11 The proposed activity is inconsistent with the Canterbury Air Regional Plan, including objectives 5.1, 5.2, 5.6, 5.7, 5.9, 6.1 for the following reasons:

- The potential odours are noxious, and as noted by the CDHB will have an impact on human health;
- The potential odours are of uncertain duration, impact and appear to be dependent on the wind levels;
- Odour issues have a significant impact on human well-being (and have done on the Prebbleton Community in the past);
- The dust impacts may have a significant impact on both human health and business activity (including food growing and food storage);
- The activity is inappropriately located being on the boundary of long inhabited family homes and bordering on a large rural-residential community of moderate density (i.e. more dense than the rural zoning would suggest);
- Any odour issues beyond the boundary impact on amenity value for surrounding land users;
- The inherently offensive and objectionable nature of the activity appears to be acknowledged – its effects only being mitigated and wholly dependent on the assumptions made by the applicant and the plant running correctly. These assumptions include:

- Assumptions that all receiving documentation correctly identifies what is being delivered to the plant;
- The plant running at capacities anticipated;
- The biological systems operating as intended;
- The wind assumptions not changing over time and the data being representative of this site, despite being taken 8km away;
- That nothing drifts beyond the boundary of the property;
- That despite the applicant relying on the same methodology used at its existing Bromley site, that the odour issues will be different.
 - The possible effects of an emergency event, including the discharge of noxious chemicals such as chlorine, ammonia and hydrogen sulphide.
 - Significant risk of reverse sensitivity. This was the grounds for objection by the applicant to a resource consent application for the establishment of pre-school within 430m of its site in East Tamaki. It is wholly inconsistent for it to now suggest that all odour issues will be fully contained within this plant;
 - The Application fails to address the reported breaches by the applicant of its consents in Bromley – 8 since 2016.

- 12 The site under application is within close proximity to many activities sensitive to the adverse effects of contaminant discharge and odour release. These include a primary school, a kindergarten, a residential area, a small scale food grower, a fruit and vegetable market retailer (my business), a plant retail business, and an established walkway, running track, and cycling way. I am concerned about the emission of unknown substances into the air in this environment where many people live, walk, play, and call home. Fugitive emissions pose a risk to human health, so much so that any level of exposure to some chemicals can cause major health effects. Therefore, when considering the proximity of the discharge site to our sensitive receiving environment (e.g. residences with children), the Council ought to proceed with a precautionary approach whereby the most conservative standard is applied.
- 13 The receiving environment and therefore the emission standards quoted in the application fail to properly account for the unusually sensitive receiving environment and consequently fall short of adequately protecting this environment that is in close proximity to the discharge site.
- 14 The site is opposite homes and a market garden in the rural urban fringe, which in turn backs on to residentially zoned properties in Prebbleton (520m from the site). The description of the application fails to mention any of these operations (including my fruit and vegetable retail

business) and any of the dwellings located close to the site (including my tenant's home). Instead, numerous engineering and manufacturing activities that are located in the newly established heavy industrial zone are listed with great specificity. The applications is being deliberately deceptive about the actual range of sensitive activities occurring so closely to the site.

- 15 The receiving zone comprises both rural fringe and rural residential zones as well as the heavy industrial zone. In order to appropriately assess the effects of this air discharge, those receiving environments need to be fully identified and the proper assessment standards need to be undertaken.
- 16 I own and operate a fruit and vegetable retail store in close proximity to the discharge site (as set out above). We display much of our produce in the outdoor air and retain a total outdoor/indoor flow during trading hours. We also pride ourselves on providing our customers with a large range of top quality fruit and vegetables. I am therefore concerned about the risk that the contamination of toxic products will have on the quality of my stock and on the reputation and loyal customer base that we have developed over many years.
- 17 On occasion, we also stock some organic ranges of fruit and vegetables. Concentrations of any unnatural chemicals will impose a threat to the certification status of that organic produce and therefore threaten our reputation with our customers and our suppliers, as well as the reputation of those growers we are supplied by.
- 18 This market like environment that we have created is an integral part of our brand and the experience we provide for our customers. This is also the only way we are able to operate within the confines of our building. We would be unable operate a wholly indoor store without having to either downsize our operation (reducing our produce selection), or upscale the size of the building envelope; two things that are not prepared to do and would be unacceptable to expect of us.
- 19 We also employ over 20 workers whose health and wellbeing are of paramount importance. We comply with the requirements of an employer in relation to keeping our staff safe on site. However, the health concerns that arise from exposure to increased particulate and toxic matter go beyond what one should be exposed to and will impact the health of our employees and therefore our ability to retain employees; notwithstanding the fact that we would feel uncomfortable having placing our employees in an environment that has the potential to cause so much harm to their health. The amenity value of our work environment will also be diminished by the odours that may be generated.
- 20 Other neighbouring properties operate commercial vegetable gardens whilst many residents upkeep small scale home vegetable gardens and orchards. These are sensitive to low levels of contaminants and artificial contaminants such as those proposed to be discharged by the

applicant. Concentrations below those indicated as safe for working conditions for humans may still impose a threat to the growth of these products and the reputation and certification of the organic commercial growers alongside the amenity values of those growing to provide for their private needs.

- 21 The receiving environment comprises many cycle ways, walkways and running tracks. Many residents and their families utilise the outdoor areas because they offer a wonderful place for people to partake in exercise that ranges from light to intense aerobic exertion. Those users are likely to have an increased sensitivity to air contaminants due to increased inhalation during exercise. The health concerns that arise from increased inhalation of toxic chemicals would go beyond those accounted for and be a greater risk for the residents wanting to be active within their home environment, notwithstanding the objectionable odours that will severely reduce the amenity value of the areas that promotes these activities.
- 22 A family also lease a section of my property for wholly residential purposes. The “offensive and objectionable odours” that may be generated from this activity as well as the health effects associated with living in an environment with such heightened particulate and toxic particulate matter will have dire effects on the health and amenity values of our tenants. This concern is however not isolated to the family that lives at our property, there is a huge amount of long established residential activity in this area that will fall within the receiving zone.
- 23 As a whole, the existence of contaminants and the odours that this activity may produce are out of step with what is expected within this vulnerable receiving environment and does not align with the expectation that can be attributed to the receiving zones. The adverse effects that this activity will have on the businesses, recreational areas and living environments that have established within the fringe rural and rural residential zones is unnecessary and will cause irreversible damage to lives, livelihoods, and the amenity values of this vibrant community. Given the amenity, values and the lifestyle this community offers, many people have chosen this as their place to live, bring up their families, run their businesses, and work. The granting of this discharge permit will directly jeopardise those things due to the effect on human health and amenity values.
- 24 The lack of data provided regarding the release of toxins into the air of both unknown and known chemical makeups also makes it difficult to determine the level of hazard that this will have to human health and to the environmental outcomes and amenity values of the receiving environment. In my view this is completely unacceptable.
- 25 I understand that the term “effect” has several definitions in the RMA, including “any potential effect of low probability which has a high potential impact”. Although I do **not** accept that the effects I have outlined above have a low probability (on the contrary, I expect they would arise), I do consider that these effects have a high potential impact. We have no certainty as to the impacts of these toxins, and the effects could be significant.

26 Following the construction of the motorway and the rezoning of this land to heavy industrial, the environment that we live and work in has become exposed to an increasing amount of particulate matter. The cumulative effects that this proposed activity will have on the environment goes further than what is acceptable and falls well beyond what we can be expected to put up with in this vulnerable receptor zone.

Conclusion

27 In my submission, the Canterbury Regional Council has incorrectly decided not to publically notify this application. As such, it should not proceed any further and should be declined given the prescription set out in section 104(1)(d) of the RMA.

28 I also submit that the Canterbury Regional Council has not been presented with an accurate description of the receiving environment or of the likely profile of the contaminants which might be emitted in the discharge. The information provided is incomplete and inadequate, particularly when considered against the potential effects on the environment and the community. The information presented does not support the grant of consent, and I seek that discretion should be used to decline the application (if it is able to proceed beyond the section 104(1)(d) constraints).

29 In particular, the application does not demonstrate that it is possible to mitigate the effects of the proposal to the extent that it eliminates all reasonable possibility of effects of high potential impact, such as carcinogenic effects on particularly sensitive receptors in the site's immediate vicinity.

30 The proposal is also contrary to the applicable policies of the relevant planning documents.

31 The conditions proposed are inadequate to avoid, remedy or mitigate the adverse effects of the proposal to the required level. It is considered doubtful that it would be possible to impose conditions that will be able to achieve sufficient mitigation of the adverse effects of the proposal. On the basis of this the Canterbury Regional Council should refuse the resource consent sought.

32 Should the Canterbury Regional Council nevertheless be minded to grant consent, it should do so only subject to very strict conditions, considerably more stringent than those proposed by the applicant at this stage, including extensive monitoring and reporting conditions, and a comprehensive review condition. The consent should be subject to a short consent timeframe, so that actual effects can be assessed in future.

Kind Regards,
Mike Gibson

Address for service

Please ensure that any further communications are served on both of the following parties:

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