

**SUBMISSION ON APPLICATION CONCERNING A RESOURCE CONSENT
SUBJECT TO LIMITED NOTIFICATION BY THE CONSENT AUTHORITY
UNDER SECTION 96 OF THE RESOURCE MANAGEMENT ACT 1991 (“RMA”)**

TO: Environment Canterbury (“**Council**”).

SUBMISSION ON: An application by Waste Management NZ Limited (“**applicant**”) for a discretionary resource consent to discharge contaminants into air from a proposed waste processing and stabilisation facility at 305 Marshs Road, South Hornby, Christchurch (adjacent to the Applicant’s existing transfer station at 301 Marshs Road), referenced as CRC194083 (“**air discharge consent**”).

SUBMITTER: Jagsaw Enterprises Limited (“**Jagsaw**” or “**Submitter**”).

COPIED TO: The applicant, c/: RChilton@tonkintaylor.co.nz

Introduction

1. Jagsaw has been identified as an affected person in respect of the air discharge consent, and was limited notified by the Council of the Proposal by way of letter dated 26 November 2019. That letter stated that submissions are to be received by the Council by **5.00pm Friday 17 January 2020**.
2. The limited notification letter does not record or explain why the application was not publicly notified, which remains a concern to the Submitter. There is also no explanation or report (at least not publicly available on the website to which submitters are directed to) as to how limited notification was determined, and the extent of affected parties recognised. This is also a concern to the Submitter, in terms of identifying what effects were considered to warrant limited notification and how widespread those effects were.
3. The discharge of contaminants to air from a hazardous waste treatment facility of the sort proposed is not specifically provided for by the rules in the Canterbury Air Regional Plan (“**CARP**”). However, the “catch-all” Rule 7.63.2 applies and a resource consent as a **discretionary** activity from Environment Canterbury is required. As a discretionary activity, all relevant matters can be taken into account. There is no presumption that consent is appropriate or should be granted. The air discharge consent must be assessed on its merits,

including its effects, as well as against the relevant objectives and policies, and, potentially Part 2.

4. Land use consent was granted for the proposed facility by the Christchurch City Council on 11 December 2018 – RMA/2018/2330 (“**land use consent**”). The existence of the land use consent does not weigh in favour or otherwise assist consideration of the air discharge consent. It was entirely at the applicant’s risk to seek to obtain land use consent and the air discharge consent separately – and was contrary to good resource management practice which requires that requires all the resource consents required for a project to be carefully identified from the outset, and applications for them all to be made at the same time so that they can be considered together or jointly: *AFFCO New Zealand Ltd v Far North District Council (No 2)* [1994] NZRMA 224.
5. Jagsaw is not a trade competitor of the Applicant for the purposes of section 108B of the RMA.

Nature of submission

6. The submission relates to the all of the activities to be authorised by the air discharge consent. The concerns particularly relate to:
 - (a) odour;
 - (b) dust;
 - (c) potential emissions of hazardous substances;
 - (d) reverse sensitivity;
 - (e) the applicant’s approach to dealing with complaints; and
 - (f) the length of term (35 years) sought.
7. The air discharge consent is opposed in its current form.

Reasons for submission

8. The general reasons for the submission are that the air discharge consent, if it is approved in its current form:
 - (a) will give rise to significant adverse effects;

- (b) is inconsistent with the objectives and policies of the CARP and CRPS, and/ or is otherwise not anticipated by the relevant provisions of the CARP and CRPS;
- (c) is inappropriate and fails to promote sustainable management of resources and will not achieve the section 5 purpose of the RMA;
- (d) will not maintain or enhance amenity values, and will not maintain or enhance the quality of the environment, matters to which particular regard is to be has under section 7(c) and (f) of the RMA;
- (e) will not meet the reasonably foreseeable needs of future generations, in particular of those having interests around the subject site;
- (f) will not enable social, economic and cultural well-being of those having interests around the subject site;
- (g) will not ensure the efficient use and development of natural and physical resources of those having interests around the subject site;
- (h) does not appropriately avoid, remedy or mitigate its adverse effects; and
- (i) creates an adverse precedent effect and / or does not otherwise address precedent issues.

Decision sought

9. Jagsaw seeks the following decision from the Council:
 - (a) the air discharge consent be declined consent; or
 - (b) **if and only if** it can be demonstrated – on the basis of robust, independent, evidence – that the concerns raised by Jagsaw can be addressed through a modified proposal and / or conditions, to grant the air discharge consent subject to appropriate conditions, including a reduced term of consent, 35 years being inappropriately long for an activity of the nature proposed.
10. Jagsaw wishes to be heard in support of this submission.
11. If others make a similar submission consideration Jagsaw would consider presenting a joint case with them at any hearing.

DATED 17 January 2020



J D K Gardner-Hopkins

Counsel for the Submitter

The Submitter's address for service is C/- James Gardner-Hopkins, Barrister, PO Box 25-160, Wellington 6011.

Documents for service on the Submitter may be sent to that address for service or may be emailed to james@jghbarrister.com. Service by email is preferred, with receipt confirmed by return email.