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## **Submission to Resource Consent Applicant RM19-0753, Lawter NZ Limited**

### **Introduction**

Toi Te Ora Public Health (Toi Te Ora) is the public health service for the Bay of Plenty and Lakes districts, part of the National Public Health Service within Te Whatu Ora (Health New Zealand). Toi Te Ora has a purpose to improve, promote and protect health among the Bay of Plenty and Lakes population. As a Tiriti o Waitangi partner, Toi Te Ora advocates for equitable health outcomes by striving to eliminate health differences, particularly for Māori, and build towards pae ora (healthy futures) for everyone.

Medical Officers of Health have a responsibility to reduce conditions within their local community which are likely to cause disease. Many of the crucial underlying factors that contribute to improving, promoting, and protecting the health of people and communities are directly influenced by the decisions and activities of Councils. In part, this is undertaken by assisting Councils with their responsibilities pursuant to the Resource Management Act to address the improvement, protection, and promotion of public health.

Toi Te Ora represents a relevant aspect of the public interest in this resource consent. Medical Officers of Health, in their designated position, also have an interest that is greater than the interest of the public. To clarify, the public means anyone and includes people who reside, work, and visit the area.

Toi Te Ora and **I could not gain** an advantage in trade competition through this submission. This submission seeks to provide helpful, objective, and independent input to assist the consenting authority in protecting sensitive receiving environments<sup>1</sup> and human health<sup>2</sup>.

### **Submission Points**

Health is a state of complete physical, mental, and social well-being and is more than the absence of illness; it is the opportunity to live in an environment where populations can thrive, be connected to their communities and their environments.

- Clean air is a basic requirement for human health and wellbeing and is a fundamental human right<sup>3</sup>
- Exposure to air pollutants is largely beyond the control of individuals.

<sup>1</sup> Bay of Plenty Regional Natural Resources Plan, Purpose

<sup>2</sup> Bay of Plenty Regional Air Plan Objective

<sup>3</sup> United Nations, 2021. [A/RES/76/300. UN. General Assembly \(76th session: 2021-2022\)](https://digitallibrary.un.org/record/3983329). [Online: <https://digitallibrary.un.org/record/3983329>]

- Environments should improve not harm our health.
- Air is a taonga or treasure to Māori. In the Māori world view, air pollution degrades and lessens the mauri or life-force of this taonga. It also affects the mauri of other taonga, for example plants and animals, as all living things need air, and all things share the same air. It is important to Māori to exercise kaitiakitanga to protect and maintain the mauri of taonga.<sup>4</sup>
- Air pollution affects everyone. However, there are inequities in who is likely to be exposed to air pollution than not, and who will be affected more when they are exposed. We refer to this population as the most vulnerable groups to air pollution. These populations are:
  - people 65 years and over
  - pregnant people
  - children
  - communities with poorer air quality, e.g., those situated close to industry and ports
  - people with cardiovascular disease and/or respiratory disease.

The more vulnerabilities a population has, the greater the health impact. Māori are likely disproportionately represented in most of the vulnerable groups above.

- The Resource Management (National Environmental *Standards* for Air Quality) Regulations 2004 (the national environmental standards) set a guaranteed level of health protection for all New Zealanders. The National Ambient Air Quality *Guidelines* set minimum requirements to protect human health and the environment. Coupled with global ambient air quality guidelines published by the World Health Organization, these guidelines and standards provide quantitative limits for the protection of human health. Because these limits are not being met in the Mount Maunganui airshed, health is being harmed.
- The standard and guidelines are not targets to pollute up to. This is because there is no safe level for human health for some of these contaminants. To be protective of health, air quality must improve beyond standard and guideline limits.
- There is no practical way of treating or cleaning air like we can treat water for drinking and therefore discharges to air are most effectively controlled at source.
- Every effort must be taken to avoid the production and release of contaminants, especially when those contaminants are known to cause adverse health effects. It is not acceptable to knowingly harm the health of the public, in the same way that it is not acceptable to harm the health of people in a workplace.
- Economic prosperity does help to improve health, but the industries associated with this prosperity should not be producing discharges which are detrimental to health and wellbeing.
- The effective management of discharges from industrial activities or trade premises is important in protecting the health of the public.
- Medical practitioners are legally required to notify Medical Officers of Health of ill health suspected to have arisen from contamination of the environment. The Medical Officer of Health has received such reports associated with the Mount Maunganui area. Our investigations into these reports led to our involvement in Plan Change 13 to the Regional Natural Resources Plan to improve ambient air quality in the Bay of Plenty and, in particular, the Mount Maunganui airshed.

<sup>4</sup> [Māori and the air | Waikato Regional Council](#)

Bearing in mind the points above I make the following comments:

**General**

- Although the Lawter NZ site is in an industrial zone there are number of vulnerable groups and sensitive activities in proximity to the proposal. For example, there are residences, kaumātua housing (papakāinga), a kōhanga reo and Whareroa Marae around 300 metres to the southwest, and five early childhood centres inside the Mount Maunganui airshed<sup>5</sup>.
- There are also vulnerable populations and sensitive activities adjacent to the industrial zone such as schools, childhood centres and kōhanga reo. I have outlined the disproportionate health impacts of poor air quality to people in these groups.
- There are also approximately 8,000 people working in the Mount Maunganui airshed every day.



- I query whether meaningful consultation has transpired with mana whenua by the applicant in recent times<sup>6</sup> bearing in mind the assessment of effects which includes the cultural assessment that was undertaken in 2019-2020.
- The application was lodged four years ago at around the same time as the air shed was gazetted polluted. I am mindful that a renewal of consent can take many years and all the while the applicant’s expired consent enables this emitter to contribute significant discharges to a polluted airshed. I therefore request that significant emission improvement milestones and timeframes be included in conditions of consent. I would expect to see improvement within 12 to 24 months, and improvements that may be made now progressed without unnecessary delay.

<sup>5</sup> [Airshed Mount Maunganui \(arcgis.com\)](https://arcgis.com)

<sup>6</sup> [Engaging Māori \(boprc.govt.nz\)](https://boprc.govt.nz)



- Should this application be approved, I would like to see a technical review undertaken after one year and every five years thereafter to ensure that the applicant continues to operate to best practices. I would expect the applicant to demonstrate that it has taken steps to continually reduce air emissions. A copy of each compliance assessment and improvement report should be provided by the regulatory authorities to the Medical Officer of Health to give reassurance that best practice is implemented and public health is protected.

### **Air Emissions**

- The Lawter NZ site is within the Mount Maunganui airshed which has a polluted status for the purposes of the national environmental standards (NES). The Mount Maunganui airshed officially became a polluted airshed in 2019 after data showed exceedances and will remain polluted until the PM<sub>10</sub> standard is not breached for five consecutive years. The airshed has historically exceeded the NES for sulphur dioxide (SO<sub>2</sub>), the World Health Organization (WHO) hourly and daily guidelines for SO<sub>2</sub>, and the WHO daily and annual guidelines for PM<sub>2.5</sub>. The air quality in this airshed needs to improve.
- It is important to note that SO<sub>2</sub> is a secondary pollutant that, once emitted, goes on to form fine particulate (PM<sub>2.5</sub>). Thus, emissions of SO<sub>2</sub> have significance for ambient levels of both PM<sub>2.5</sub> and PM<sub>10</sub>.
- No less important to public health is that Mount Maunganui airshed also has elevated annual levels of nitrogen dioxide (NO<sub>2</sub>) relative to WHO guidelines.<sup>7</sup> As mentioned above, these guidelines provide quantitative limits for the protection of human health.
- While the application is assessed against Plan Change 13 as a discretionary activity, the application does not refer to the interim decision of the Environment Court on the Bay of Plenty Regional Natural Resources Plan at all. The application does not demonstrate how Lawter NZ will assist in reducing emissions of PM<sub>10</sub> to bring the Mount Maunganui airshed back into compliance with the NES.
- The application proposes no reduction in the maximum consented emissions of SO<sub>2</sub>, despite dispersion modelling predicting breaches of the NES for SO<sub>2</sub> offsite. This appears to conflict with Regulation 21 of the standards. I also note that the application neglects to address cumulative effects by not taking into account background levels of SO<sub>2</sub> from other sources in the airshed.
- The assessment does not appear to include a comprehensive or robust overview for some important contaminants to human health such as odour, VOCs, and NO<sub>2</sub> known to be emitted from the process. Treating all emissions at source is the most effective option for improving air quality and provides the best health protection.
- The odour assessment and mitigation contained in the application does not provide me with certainty that odour will be managed adequately to prevent impacts on health and wellbeing.

The sense of smell is important for ensuring health and wellbeing. The sensory system provides people with the opportunity to enjoy their environment and identify safe food. The detection of unpleasant or offensive odours alerts humans to harmful substances in the air, food, or water. Therefore, frequent exposure to unpleasant smells, even at low levels, means people are regularly on alert.

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<sup>7</sup> ESR, 2023. Mount Maunganui Air Quality Monitoring Review 2022. Prepared by ESR for Toi Te Ora. [\[Online\]](#)

The application indicates that the cause of the odour complaints received during 2017-2019 were largely due to fugitive emissions. Odour must be adequately managed which is why capturing and treating all emissions at source is the most effective option for improving air quality and provides the best health protection.

The odour assessment indicates a nuisance exists as a result of this activity and although the applicant proposed odour mitigation in 2019, I am uncertain whether these mitigation measures have been implemented and that odour is adequately managed in 2023.

- The applicant applied for a 35-year consent three years ago to retain the status quo. I consider that the duration of consent sought to be unreasonable.

The company will be aware of the polluted airshed status which presents several public health concerns. I would expect to see all emitters in the polluted airshed pre-empt regulatory requirements and 'do the right thing' by proactively implementing best practice emission controls to improve public health.

I am concerned that the applicant's expired consent enables this emitter to continue to contribute to a decline in air quality while this application is decided, and any appeal is determined. I am also uncertain that the applicant will make improvements within an acceptable timeframe considering the time already passed.

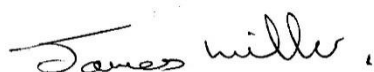
The applicant has a history of non-compliance along with abatement notices issued by the Regional Council. This reduces my confidence that the company's activity will not cause a nuisance in the future and have an adverse impact on public wellbeing.

The discharge of contaminants to air from this operation have the potential to impact public health and wellbeing. I am not satisfied from the information provided to me, that this activity will contribute to improving air quality to the degree that public health is protected.

For these reasons, **I oppose the application.**

I am willing to participate in formal prehearings with the consent authority and applicant to discuss this submission.

**I wish to be heard in support** of this submission and would not be prepared to consider presenting a joint case with others who make a similar submission.



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