

Memorandum

To: Michelle Ward
Copy to: Dhilum Nightingale
From: [REDACTED]
Date: 16 July 2019
Subject: Minor corrections to Ports of Auckland Limited marine dumping consent (EEZ400011)

Purpose

1. To seek your approval to issue, under section 84 of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (EEZ Act), an amended marine dumping consent to Ports of Auckland Limited (POAL) to correct minor errors in Condition 12, Appendix 1, and the symbol for cubic metres (m³) on pages iv, vi and square metres (m²) on page xii.

Background

2. On 27 June 2019, the decision-maker appointed to consider and decide the application for marine dumping consent EEZ400011 by POAL granted consent subject to conditions. The applicant was provided a copy of the decision on 5 July 2019. The decision was publicly released by the EPA on 9 July 2019.
3. On 8 July 2019, POAL identified minor corrections to Condition 12, Appendix 1, and EPA staff identified inconsistencies in the use of the symbol for cubic metres on pages iv, vi and square metres on page xii of the marine dumping consent pursuant to section 84 of the EEZ Act.

Proposed amendment to marine dumping consent

4. Section 84 of the EEZ Act enables a marine consent authority to issue an amended consent to correct minor omissions, errors, or other defects in a consent within 15 working days after the granting of the consent. Fifteen (15) working days after the granting of consent is 18 July 2019.
5. The amendments required to the marine dumping consent are set out below:

Condition 12

6. In Condition 12 of POAL's marine dumping consent, the applicant identified a spelling error on page vi. The incorrect spelling "cantered" has been corrected to "centred".

Appendix 1

7. In Appendix 1 of POAL's marine dumping consent, the applicant identified a typographical error on page x, paragraph 3. a), line 3. The incorrect reference to ANZECC DV-high has now been corrected to ANZECC GV-high. This is consistent with the definitions of the consent.
8. In Appendix 1, EPA staff identified an error on page x, under Methodology. The word "sediment" has been changed to "water" in paragraph 3 b), line 3. This change is in line with errors, outlined in paragraph 9, identified by the applicant.
9. In Appendix 1, the applicant identified two errors on page xiv, under Level 3 investigation, Elutriate testing. The applicant stated that these 'wording glitches' may have occurred when they were reviewing the draft conditions the EPA had proposed in its decision. The word "sediment" has been changed to "water" in lines 3 and 6. I agree with this change because the current reference to 'sediment' is inaccurate.
10. In Appendix 1, the applicant also identified an incorrect section of text on page xv, under Acute toxicity testing. The applicant's reason for requesting these changes is that the text contains inaccuracies.
11. The first paragraph under Acute toxicity testing on page xv of Appendix 1 of POAL's marine dumping consent decision read:

Acute toxicity testing (e.g., whole sediment marine tests or marine water tests) shall be undertaken on all contaminants listed in the Sampling Plan that were identified to have a concentration above the ANZECC 99% DGV concentration, or appropriate sediment quality guidance values (where an ANZECC 99% DGV is not available) after initial dilution.

12. The applicant asked that this be amended to read:

Acute toxicity testing (e.g., whole sediment marine tests or marine water tests) shall be undertaken on all contaminants listed in the Sampling Plan that were identified to have a concentration in sediment above the ANZECC DGV concentration (or appropriate sediment quality guidance values where an ANZECC DGV is not available) or have a concentration in elutriate above ANZECC 99% DGV (or appropriate water quality guidance value) after initial dilution.

13. I agree that the paragraph on acute toxicity testing needs to be amended but I disagree with the applicant's proposed wording. The proposed wording by the applicant would result in acute toxicity testing being required when elutriate contaminant thresholds are exceeded or when sediment contaminant thresholds are exceeded. The condition intends for acute toxicity testing to take place only when elutriate contaminant thresholds are exceeded.
14. I consider that the current wording does require amending because it refers to the sediment quality guidance values – which is inappropriate for elutriate testing.
15. I propose the wording on acute toxicity testing is amended to:

16. Acute toxicity testing (e.g., whole sediment marine tests or marine water tests) shall be undertaken on all contaminants listed in the Sampling Plan that were identified to have a concentration in elutriate above the ANZECC 99% DGV concentration, or above appropriate ~~sediment~~ water quality guidance values (where an ANZECC 99% DGV is not available) after initial dilution.

Correction of symbols

17. EPA staff identified that the symbols for cubic metres and square metres were used inconsistently in the consent conditions. The symbol for cubic metres has been corrected to m³ from m3 and the symbol for square metres has been corrected to m² from m2.
18. A copy of the amended marine dumping consent reflecting the various amendments above will be provided to the applicant and all those directly notified of the marine dumping consent, and posted on the EPA website.
19. Hard copies of the amended marine dumping consent will be publicly available at the EPA office in Wellington and Auckland Central City Library. Copies of the amended consent will also be provided to the decision-maker, Land and Oceans Compliance, Land and Oceans, and others who were notified directly of the original marine dumping consent decision through electronic service.

Delegation to exercise the function or power

20. On 3 November 2017, the Chief Executive of the EPA delegated his functions and powers to the General Manager Climate, Land & Oceans to issue under section 84 of the EEZ Act, an amended consent to correct minor mistakes or defects in a consent within 15 working days after the granting of the consent.

Recommendation

21. It is recommended that you:

<p>Agree to issue an amended marine dumping consent to Ports of Auckland Limited to correct minor errors to Condition 12, Appendix 1, and the symbol for cubic metres on pages iv, vi and square metres on page xii of EEZ400011 under section 84 of the EEZ Act.</p>	<p>Yes / No</p>
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16 July 2019

Signature

Date

Michelle Ward
Acting General Manager
Climate, Land & Oceans