

Record of Decision

Having taken into account all relevant information and considerations, and having exercised my powers to seek further information where appropriate, I agree with all recommendations outlined above and note that this memorandum (including Appendixes) provides the reasons for my decision to exercise my discretion under section 81 of the EEZ Act to change conditions 8 and 17 of consent EEZ400012 as shown in **Schedule 1**.

Pursuant to section 81(1) of the EEZ Act, the EPA provides DWNZ with changed conditions of consent EEZ400012 as shown in **Schedule 1**.

Approved on behalf of the Environmental Protection Authority under Delegated Authority.



21 May 2021

Michelle Ward
General Manager, Climate, Land & Oceans

Date

APPENDIX 1: Schedule 1: Conditions

Schedule 1: DW New Zealand Limited Marine Dumping Consent EEZ400012 Conditions

Definitions

Terms used in this Schedule of Conditions will have the meaning given in the EEZ Act 2012 and the Discharge and Dumping Regulations unless otherwise stated below.

Consent Holder	As defined in section 4 of the EEZ Act
Dump[ed]	As defined in section 4 of the EEZ Act
<u>ACM</u>	<u>Asbestos Containing material</u>
ADS	Means the Authorised Dump Site southeast of Otago Harbour and centred on position 46°00'S 171°13'E
DWNZ	DW New Zealand Limited
EEZ Act	Means the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012
EPA	Means the Environmental Protection Authority as defined in section 4 of the EEZ Act
GSB	Otago Great South Basin¹
LINZ	Land Information New Zealand¹
MMOP	Marine Mammal Observation Protocol as set out in Appendix 1 of Appendix I of the Impact Assessment
Observation Zone	600 m radius zone from the Dong Won 701 for the purposes of observing marine mammals
OCEL	Offshore and Coastal Engineering Limited¹
Qualified Marine Mammal Observer	Means a person who has completed specific training, provided by an appropriately qualified person, or has logged at least 12 weeks of marine

¹ Definitions as amended on 11 May 2020.

mammal observer experience in New Zealand waters, to the satisfaction of the EPA

Recognised Surveyor Means a person registered on the Maritime New Zealand website as a recognised surveyor, having experience in surveying large vessels against criteria and with an unlimited recognition category (e.g. Periodic 1)

The vessel Means the fishing vessel Dong Won 701

Working day As defined in Section 4 of the EEZ Act

Conditions

1. The Consent Holder shall notify the EPA as soon as practicable, but not later than 24 hours after the vessel is dumped, if the Consent Holder becomes aware, or should have become aware, of any non-compliance with any of the conditions of this marine dumping consent.
2. Subject to compliance with these consent conditions, the activity authorised by this marine dumping consent shall be undertaken in general accordance with the operational descriptions contained in the following:
 - a) The document entitled “Marine Dumping Consent Application and Impact Assessment – Scuttling of Dong Won 701 Fishing Vessel Within an Authorised Location South-east of Otago Harbour” (Report reference number 740.10102.00000-R01-v1.0) prepared by SLR Consulting NZ Limited, dated December 2019; and
 - b) The responses by DWNZ to further information requests issued by the EPA under section 54 of the EEZ Act received 25 March 2020 and 9 April 2020.

Where there is any actual or apparent conflict between the contents of any of the above documents and the conditions of this marine dumping consent, then the conditions shall prevail.

3. The Consent Holder shall ensure a copy of this marine dumping consent, and any variations of it, is available for inspection at the Consent Holder’s head office in New Zealand, and on the tow vessel during the dumping activity authorised by this marine dumping consent.
4. The Consent Holder shall advise the EPA, in writing, of the date that it intends to dump the vessel at least 10 working days beforehand, or at any other timeframe agreed to by the EPA.
5. The Consent Holder shall ensure that all personnel, including any contractors, involved in undertaking any of the activities authorised by this marine dumping consent are informed of their obligations and responsibilities in exercising this marine dumping consent.
6. The Consent Holder shall keep a record which must show that the personnel, including contractors, referred to in Condition 5 have been informed of their obligations under this marine dumping consent. The Consent Holder shall provide a copy of this record to the EPA upon request.
7. The Consent Holder shall, at least 5 working days prior to first commencing the activities authorised by this marine dumping consent, provide to the EPA, in writing, the name and

contact details of the person who has responsibility for compliance management, collating information, and reporting in accordance with the requirements of this marine dumping consent. In the event that the responsible person changes, the Consent Holder shall advise the EPA, in writing, of the name and contact details of the new person within 5 working days of the change.

8. ²The Consent Holder shall clean and prepare the vessel in accordance with the document entitled "FV Dong Won 701 – Proposed Disposal Brief" included as Appendix C of the document referred to in Condition 2(a), except that:
 - a) The fire suppressant cylinders containing NOVEC 1230 shall be removed from the vessel.
 - b) Except for the freezer room, where the door will be sealed closed, all asbestos containing materials (ACM) that remain on the vessel shall be non-friable, and/or encapsulated or sealed, and the encapsulation or sealant must be non-water soluble and non-toxic.
 - c) No ACM may be present within 1.5 m of locations where explosive are to be placed.
9. The vessel shall not be dumped at the ~~dump site~~ ADS³ until the EPA has certified that the vessel has been cleaned and prepared in accordance with the requirements of Condition 8.
 - a) To certify the vessel is suitable for dumping-the Consent Holder shall submit an independent assessment by a Recognised Surveyor that confirms the vessel has been cleaned and prepared in accordance with the requirements of Condition 8.
 - b) If within 10 working days of receiving the independent assessment under 10 (a), and the EPA has not certified that the vessel has been cleaned and prepared in accordance with the requirements of Condition 8, the independent assessment will be deemed to be certified by the EPA.
 - c) The EPA may, at any time, request further information from the Consent Holder following receipt of the independent assessment under Condition 9(a).
 - d) The 10 working day timeframe in Condition 9(b) will pause on a request for further information under Condition 9(c) and recommence from the date of receipt of the further information by the EPA.
10. The Consent Holder shall ensure that the vessel is dumped during day light hours.
11. The Consent Holder shall ensure the vessel is dumped within a circle of one nautical mile radius centred on position 46°00'S 171°13'E.
12. The Consent Holder shall ensure that a Qualified Marine Mammal Observer conducts visual observation of marine mammals for at least 2 hours after the vessel enters the ~~Authorised Dump Site (ADS)~~⁴ and prior to the proposed detonation time in accordance with Section 3 of the ~~Marine Mammal Observation Protocol (MMOP)~~³.

² Condition 8 amended on 21 May 2021 as a result of a review of conditions

³ Condition 9 as amended on 11 May 2020.

⁴ Condition 12 as amended on 11 May 2020.

13. The Consent Holder shall make available to personnel on the towing vessel a seabird species identification guide(s) to assist in the identification of seabird species. The Consent Holder shall record the number and species (where this is possible) of birds present at the ADS at the time of dumping. The Consent Holder shall provide that record to the EPA within 5 working days of the dumping activity.
14. The Consent Holder shall ensure that detonation of the explosives that will be used to dump the vessel are delayed if any marine mammal is visually observed within 600 m of the vessel (the observation zone) in the 30 minutes prior to the proposed detonation time.
15. In the event that a delay to detonation of the explosives is triggered by the presence of a marine mammal within 600 m of the vessel, detonation procedures shall only commence if:
- a) All the marine mammals that were visually observed within 600 m of the vessel have been confirmed, through visual observation by the Qualified Marine Mammal Observer referred to in Condition 12, to have moved beyond the 600 m observation zone; and
 - b) No marine mammals have been visually observed within the 600 m of the vessel for 30 minutes prior to the proposed detonation time.
- 16.⁵ The Consent Holder shall ensure that visual observation of marine mammals is undertaken at a height of no less than 6.7 m above sea level.
- 17.⁶ The vessel shall not ~~be put under tow from port for the purpose of being dumped in the ADS unless promulgation of a Notice to Mariners Coastal Navigation Warning has been sought from issued by Land Information Maritime New Zealand, no less than twelve hours prior to departure from Timaru, which informs mariners where and when the vessel dumping will take place, and which advises other vessels to keep clear of the tow and dumping activities imposes a temporary exclusion zone around the ADS throughout the period the tow vessel and the vessel are within the ADS.~~
18. The Consent Holder shall remain at the ADS for a minimum of 1 hour after the vessel is no longer visible on the sea surface in order to:
- a) Observe whether the activity has resulted in any floating debris; and
 - b) Retrieve all such floating debris which shall be taken onshore to a facility that is authorised to accept such material.
19. The Consent Holder shall keep photographic records of any floating debris, referred to in Condition 18 that is retrieved, and shall provide these records to the EPA within 5 working days of the dumping activity.
20. The Consent Holder shall record the time and date that the vessel is dumped and the position (latitude and longitude) of the vessel:
- a) When the explosives are detonated;
 - a) Where it is last visible on the sea surface; and
 - b) On the seabed.

⁵ Conditions 16-22 as amended on 11 May 2020.

⁶ Condition 17 amended on 21 May 2021 as a result of a review of conditions

A copy of these records shall be provided to the EPA, in writing, within 5 working days of the dumping activity.

21. The Consent Holder shall video record the dumping process from the start of the detonation sequence, until the vessel is no longer visible on the sea surface. This video record shall be provided to the EPA within 5 working days of the dumping activity.

22. This marine dumping consent EEZ400012 shall expire on 31 December 2021.

ENDS