

Memorandum

To: Michelle Ward, Acting GM Climate, Land & Oceans
Copy to: Teresa Calmeyer, Team Leader, Land & Oceans Applications
From: Gabby Storey, Advisor, Land & Oceans Applications
Date: 11 May 2020
Subject: Minor corrections to DW New Zealand Limited's non-notified marine dumping consent EEZ400012

Purpose

1. This memorandum seeks your approval to make minor corrections, under section 84 of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (the EEZ Act), to marine dumping consent EEZ400012.

Delegation to exercise the function or power

2. The power to issue an amended consent to correct minor defects in a consent under section 84 of the EEZ Act is within your statutory delegation as shown in the instrument of delegation from the Chief Executive of the EPA dated 6 March 2020 ¹. This power has been sub-delegated to the General Manager Climate, Land & Oceans.

Recommendation

3. It is recommended that you:

a.	Agree to the proposed minor corrections for non-notified marine dumping consent EEZ400012 in accordance with section 84 of the EEZ Act.	Yes / No
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11/5/2020

Signature

Date

Michelle Ward

Acting General Manager Climate, Land & Ocean

¹ Instrument of delegation, 6 March 2020: http://epa/edrms/acc/1/md/edmd/2020_3_06_EEZ_Delegation_CE_to_staff.pdf.

Environmental Protection Authority

Background

4. On 18 December 2019, DW New Zealand Limited (DWNZ) lodged an application with the Environmental Protection Authority (EPA) for a marine dumping consent (EEZ400012) under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (the EEZ Act).
5. On 30 April 2020, the Decision-maker under delegated authority from the Chief Executive Officer of the EPA granted consent, subject to conditions, to DWNZ. This consent authorises DWNZ to dump the 81 metre long New Zealand flagged fishing vessel named 'Dong Won 701' within one of the five 'authorised locations' specified in the Exclusive Economic Zone and Continental Shelf (Environmental Effects – Discharge and Dumping) Regulations 2015 (D&D Regulations).

Proposed amendments

6. Section 84 of the EEZ Act permits the EPA to issue an amended consent to address minor omissions, errors, or other defects of a marine consent within 15 working days after the granting of the consent.
7. On 4 May 2020, DWNZ contacted the EPA by email to propose five corrections be made to the conditions of consent (proposed corrections a. to e.). The EPA also picked up two additional corrections to the conditions of consent (proposed correction f. to g.).
8. The proposed corrections are:
 - a. Remove acronyms GSB and OCEL from the list of definitions;
 - b. Amend Condition 9 to refer to ADS defined as 'Authorised Dump Site' rather than 'dump site';
 - c. Amend Condition 12 to refer only to ADS as it is defined;
 - d. Correct numbering of the condition that appears beneath Condition 15 to be Condition 16 creating 22 conditions in total;
 - e. Correct Condition 18, which refers to itself (Condition 18), to be Condition 19;
 - f. Amend Condition 12 to refer only to MMOP as it is defined;
 - g. Remove the acronym LINZ from the list of definitions.
9. The proposed amended conditions can be viewed in the draft amended marine dumping consent attached as Appendix 1.

Proposed correction a.

10. DWNZ identified that the acronyms MMOP, GSB and OCEL have been included in the definitions section of the conditions, however they are not used in any condition. I note that GSB and OCEL have been erroneously included in the list of definitions, however MMOP is referenced in Condition 12.
11. I am satisfied that the proposed change to remove GSB and OCEL is appropriate. However, I find that, although it is only used in Condition 12, MMOP should remain on the list of definitions as the definition

includes where the 'Marine Mammal Observation Protocol' can be viewed. The list of definitions should be amended accordingly.

Proposed correction b.

12. DWNZ identified that Condition 9 should refer to ADS, defined as 'Authorised Dump Site', rather than 'dump site'.
13. I am satisfied that the proposed change to refer to ADS is appropriate and find that Condition 9 should be amended accordingly.

Proposed correction c.

14. DWNZ identified that Condition 12 should refer to ADS rather than 'Authorised Dump Site (ADS)' as this acronym is defined.
15. I am satisfied that the proposed change to refer to ADS is appropriate and find that Condition 12 should be amended accordingly.

Proposed correction d.

16. DWNZ identified that the condition that appears beneath Condition 15 incorrectly appeared as Condition 1 and indented. The number of this condition should be corrected to Condition 16.
17. I am satisfied with the proposed correction and that it will result in a change to the number of all subsequent conditions and 22 conditions in total rather than 21.

Proposed correction e.

18. DWNZ identified that Condition 18 referenced itself (Condition 18). This condition correctly references Condition 18, but should instead be Condition 19.
19. I am satisfied that the proposed correction will occur when 'proposed correction d.' changes Condition 18 to Condition 19.

Proposed correction f.

20. EPA identified that Condition 12 should refer to MMOP rather than 'Marine Mammal Observation Protocol (MMOP)' as this acronym is defined.
21. I am satisfied that the proposed change to refer to MMOP is appropriate and find that Condition 12 should be amended accordingly.

Proposed correction g.

22. EPA identified that 'LINZ', the acronym for Land Information New Zealand, should be removed from the list of definitions as it is only used once in Condition 17 (in the amended conditions). Additionally, the bracketed acronym '(LINZ)' can be removed from Condition 17.
23. I am satisfied that the proposed change to remove the acronym 'LINZ' from the list of definitions and Condition 17 is appropriate. The list of definitions and Condition 17 should be amended accordingly.

Appendix 1

MARINE DUMPING CONSENT EEZ400012

Pursuant to section 62 of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (the Act), the application for marine dumping consent under section 20G of the Act by DW New Zealand Limited (NZBN 9429041876800) to undertake the restricted activity of dumping of a vessel at the authorised dump site located 25 nautical miles south-east of Otago Harbour is GRANTED subject to conditions set out in Schedule 1 of this consent- as amended under section 84 of the Act on 4 May 2020.

Dated this day 30 April 2020.



Richard Johnson
Decision-maker, DWNZ Application

Under delegated authority of the Chief Executive of the Environmental Protection Authority

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
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 Basin
LINZ	Land Information New Zealand
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 Limited
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 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. The 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 the fire suppressant cylinders containing NOVEC 1230 shall be removed from the vessel.
9. The vessel shall not be dumped at the ~~dump site~~ ADS 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)~~ and prior to the proposed detonation time in accordance with Section 3 of the ~~Marine Mammal Observation Protocol (MMOP)~~.
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. 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. The vessel shall not be dumped in the ADS unless a Notice to Mariners has been issued by Land Information New Zealand (~~LINZ~~) which informs mariners where the vessel dumping will take place, and which 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;
 - b) Where it is last visible on the sea surface; and
 - c) On the seabed.
- 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