

UNDER

the Resource
Management Act 1991

AND

IN THE MATTER

of an application by
Mobil Oil New Zealand
Limited to the Otago
Regional Council for
discharge permits

MEMORANDUM ON BEHALF OF DUNEDIN CITY COUNCIL

25 JANUARY 2023

 **Simpson Grierson**
Barristers & Solicitors

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MAY IT PLEASE THE COMMISSIONER

Introduction

1. This memorandum is filed on behalf of Dunedin City Council (**DCC**) in relation to the application by Mobil Oil New Zealand Limited (**Mobil**) to the Otago Regional Council (**ORC**) for a permit authorising the passive discharge of hazardous substances (being petroleum hydrocarbons) onto or into land in circumstances that may result in those substances entering water (**Application**).
2. The purpose of this memorandum is to advise that DCC now withdraws its opposition to the Application, on the basis of specific (and agreed) amendments to the proposed conditions and the text of the Environmental Management Plan (**EMP**).
3. Given this updated position, DCC respectfully seeks leave to be excused from the hearing on 30 January 2023. DCC appreciates that it is the only submitter in opposition to the Application, and observes that ORC may be in a position to vacate the hearing, unless of course the Commissioner has specific questions for Mobil (or potentially DCC).

Relevant background

4. DCC received notice of the Application from ORC and made a submission on 28 September 2022.
5. The DCC submission opposed the Application as notified, on the basis of the following concerns:
 - 5.1 The risk that contaminants could leach into DCC's stormwater network, and result in potential or actual environmental effects; and
 - 5.2 The implications of the proposed conditions on DCC as the owner / operator of the stormwater network, and immediately adjacent land.
6. Since lodging the submission, and subsequent to the pre-hearing meeting convened by ORC on 25 October 2022, representatives and experts from DCC

and Mobil have been engaged in constructive (and without prejudice) discussions about certain aspects of the Application and its proposed conditions.

7. DCC has also had the benefit of reviewing the section 42A report prepared by ORC, and the further evidence filed by Mobil on 16 January 2023.
8. The outcome of those discussions and evidence review is that DCC's concern in relation to the contaminant issue has been addressed, and its concern about potential implications on DCC will be largely resolved by way of several amendments to the proposed conditions and EMP.
9. As its position has evolved from that set out in its submission, DCC chose not to file any expert evidence as directed by Minute 1. Instead, this memorandum confirms the proposed condition package that DCC has agreed with Mobil.

Updated DCC position

10. DCC withdraws its opposition to the Application on the following basis:
 - 10.1 That the review condition recommended by the section 42A report be retained as drafted;¹
 - 10.2 That the proposed EMP² be amended as follows:
 - (a) Section 1.3 to be amended to add contact details for Mobil, as the permit holder;
 - (b) Section 4 to be amended to capture the potential for works beyond the site to trigger the EMP, as follows:

4.0 Management Area Use

The current use of the area as a road reserve is not expected to present significant human health or environmental risks associated with petroleum hydrocarbon residues in soil, soil vapour and groundwater provided following conditions are adhered to:

- The usage of the Management Area remains as a road reserve.
- The procedures within this EMP are adhered to.
- All excavation activities are undertaken in accordance with the procedures outlined in Section 5.0 below.

¹ Section 42A report, section 10.3, at page 30; Recommended condition 9 for RM22.099.01.

² Attached to the Application, and initially prepared by Golder Associates (NZ) Limited and dated March 2020.

- No groundwater monitoring wells are disturbed/removed without the prior approval of the landowner.
- No groundwater bores are installed at the site for abstractive purposes unless further investigations are undertaken.

The provisions of this plan should be adhered to during any future redevelopment or subsurface maintenance activities, or infrastructure related activities off-site (for example, roading activities, utility service installation, etc).

- (c) Paragraph 4 of Section 5.3.4 to be updated to refer to “Worksafe March 2020 - Confined spaces: planning entry and working safely in a confined space”, as the reference to the “Occupational Safety and Health booklet – Safe Working in a Confined Space” is now a superseded document. Amended paragraph to read:

It is noted that where the work area will include a deep excavation this would effectively be a confined space. Any works carried out in a subsurface confined space should be done in accordance with the “Worksafe March 2020 - Confined spaces: planning entry and working safely in a confined space Occupational Safety and Health booklet – Safe Working in a Confined Space”.

- (d) Paragraph 7 of Section 5.3.4 to be updated to refer to the current workplace exposure standards (WES) for H₂S, as 10 ppm and 5 ppm respectively. Amended paragraph to read:

For H₂S, respiratory tract irritation and eye inflammation occurs at around 200 parts per million (ppm). National occupational exposure limits for H₂S are ~~15~~ 10 ppm for short term exposure (15-minute average) and ~~40~~ 5 ppm for long term exposure (8-hour average). However, H₂S, which can be smelt (rotten eggs) between 0.01 ppm and 1.5 ppm, can cause acute health problems between 2 ppm and 5 ppm; therefore, H₂S greater than 2 ppm should be used as the action level for stopping work and re-assessing conditions. Respirators are available to prevent exposure to H₂S

- (e) Paragraph 2 of Section 5.5 to be amended, in relation to disposal of surplus soil, so that more clarity is provided on the appropriate disposal facilities, based on levels of contamination at various depths. DCC is prepared to allow Mobil to prepare such new text for inclusion in Section 5.5.

11. To assist the Commissioner and ORC, counsel for Mobil confirmed on 25 January 2023 that the amended package outlined in paragraph 10 is acceptable to Mobil.

Request for leave to be excused

12. Given DCC's changed position, it respectfully seeks leave to be excused from the hearing set down for Monday, 30 January 2023.
13. Counsel, or representatives, for DCC can be available at short notice if that would assist the Commissioner or ORC.

DATED this 25th day of January 2023



M G Wakefield
Counsel for Dunedin City Council