



**Report** 05.33  
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**Committee** Environment Committee  
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## **Transit New Zealand - objection to consent conditions**

### **1. Purpose**

To inform the Committee of an objection to consent conditions and to request that the Committee accept alternative wording as agreed between Greater Wellington (GW) and the applicant, Transit New Zealand (Transit).

### **2. Background**

Transit was granted a non-notified resource consent on 29 October 2004 for the discharge of contaminants to land associated with State highway and motorway network maintenance and cleaning in the Greater Wellington region.

Transit made the application to discharge to land as a result of agreement reached with GW following Environment Court mediation over a Transit appeal on Plan change 1 to the Regional Freshwater Plan (December 2002) relating to the definition of stormwater. It was agreed at mediation that the issuing of this consent would allow for all outstanding issues surrounding the Transit's appeal on the Freshwater plan to be resolved.

A discharge to land consent was subsequently issued to Transit on 29 October 2004. A copy of the original consent and associated officer's report are attached.

On 23 November 2004 Transit formally objected to various conditions of consent via their solicitors Chapman Tripp.

### **3. Basis for the objection**

Transit objected to wording in conditions 2, 3, 4, 6, 7, 8 and 10 (a) on the basis that the conditions:

1. *Do not provide any flexibility in cleaning and maintenance operations;*
2. *Contain terms that are uncertain;*
3. *Are contrary to established resource management principles;*
4. *Will not achieve the purpose of the RMA; and*
5. *Are contrary to Part II and other provisions of the RMA.*

However, Transit did not object to the conditions imposed by consent *per se*, and provided alternative wording to satisfy their concerns.

#### **4. Statutory framework**

Section 357 of the Resource Management Act 1991 (the Act) provides the ability to object to certain decisions made by the Regional Council. Any objection must be lodged within 15 working days of the decision being notified to the applicant. In compliance with s357 of the Act, Transit lodged an objection with GW on 23 November 2004, 15 days after they were notified of the original decision.

#### **5. Mediation**

GW met with Transit representatives on 8 December 2004 where objections in relation to conditions 6, 7 and 10 (a) were resolved with the wording, as sought by Transit, agreed to. Proposed changes in wording sought to clarify terminology (such as changing the word "*possible*" to "*practicable*" and "*debris*" to "*material*").

At the same meeting, Transit withdrew its objection to the wording of condition 8 (with the original wording found in the consent retained).

Continued dialogue with Transit's lawyers has now also resolved all outstanding issues in relation to conditions 2, 3 and 4. As a result, conditions 2 and 3 were combined to resolve issues surrounding enforceability. Condition 4 has had the words "*as far as practicable*" inserted to ensure consistency of terminology throughout all conditions.

#### **6. Communication**

No further public communication is necessary for this report.

## 7. Recommendation

*It is recommended that the Committee agree to substitute the original wording of conditions 2, 3, 4, 6, 7 and 10 (a) with the wording below, as agreed to between GW and Transit:*

### **New condition 2 (as combined with the original condition 3)**

*“If material is dislodged, the consent holder shall adopt the best practicable option at all times to minimise the discharge of such material from the cleaning and maintenance operations. The best practicable option shall include:*

- (a) collecting (sweeping up) of large particles such as blast debris, paint, rust, grime, loose bitumen particles to be disposed of at an approved waste disposal site/landfill;*
- (b) ensuring as many contaminants (washdown water, dilute cleaning detergent, paint flakes) as practicable enter the sewer system during cleaning and maintenance of the Mt Victoria tunnel; and*
- (c) ensuring as much detritus and water is removed from the surface as practicable during water cutting.”*

### **New condition 4**

*“All work areas and the surrounding area shall be cleaned of accumulations of any large particles of material (such as blast debris, paint, rust, grime, loose bitumen particles) at the end of each cleaning session and by the end of each working day. Any debris shall be disposed of at an appropriate facility. If debris is to be stored before removal from the cleaning and maintenance site, it shall be removed to a storage contained and covered. As far as practicable, no debris shall be swept into a watercourse.”*

### **New condition 6**

*“The consent holder shall regularly inspect the equipment to ensure it is working efficiently so as to minimise as far as is practicable the level of contaminants in the washdown water being discharged.”*

### **New condition 7**

*“The consent holder shall take all practicable steps to ensure that all operators undertaking the cleaning and maintaining understand and comply with these consent conditions prior to commencing any work and shall pass a copy of this consent to any operator or contractor implementing the activities authorised by this consent”*

**New condition 10 (a)**

*“(10) The cleaning and maintaining equipment and containment system shall be operated and maintained such that:*

*(a) fugitive discharge of contaminants to land from these systems are minimised as far as practicable.”*

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**Attachment 1:** Discharge to land consent

**Attachment 2:** Officer's report