

Non-notified resource consent application report and decision

Summary of decision

Activity:	To discharge contaminants into air arising from the operation of a spray painting booth.
File Reference:	WGN090275
Date Granted:	17 April 2009
Commencement date:	17 April 2009
Applicant:	SPEL Limited C/- Trentham Army Camp Messines Avenue Trentham Upper Hutt 5018
	For: Pete Yule
Decision made under:	Sections 104B, 105 and 108 of the Resource Management Act 1991 (the Act).
Consent Granted:	[27501]: Discretionary Activity Discharge permit to discharge contaminants into air arising from the operation of a spray painting booth.
Location:	Trentham Army Camp, Messines Avenue, Trentham, Upper Hutt
Map Reference:	At or about map reference NZMS 260: R27; 2681401.6005163
Legal Description:	Pt Sec 624 Hutt District
Duration of Consent:	[27501]: 10 years

Subject to conditions: Attachment 1

Decision recommended by:	Malory Osmond	Resource Advisor, Environmental Regulation	
Decision peer reviewed by:	Ray Chang	Resource Advisor, Environmental Regulation	
Decision approved by:	Tracey Grant	Team Leader, Environmental Regulation	

Reasons for decision: resource consent WGN090275 [27501]

1. Background and proposal

SPEL Limited (the applicant) has been operating a spray painting operation at the Trentahm Army Camp in Upper Hutt for over 10 years. The applicant's current consent, WGN000043 [20107], is due to expire on 20 October 2009 and they have applied to Greater Wellington Regional Council (GW) for a new consent to continue discharging contaminants into air arising from the activity.

The applicant maintains the Army's fleet of vehicles and equipment and this work involves the repainting of the vehicles and equipment in two fully enclosed and extracted spray painting booths. The applicant proposes to undertake spray painting for up to 6 hours a day, 4 days a week, with up to two painters working at any one time. The applicant uses a variety of paint substances that contain solvents that are easily volatilised at low temperature. The applicant also uses a hardener that is mixed with the paint at a ratio of 3:1 that contains di-isocyanates, among other chemicals.

Air from the booths is extracted through exit filters and discharged to the atmosphere through three stacks approximately 20 metres in height on the roof of the building. The building housing the booths is located adjacent to the fence line between the Army Camp and the Trentham Race Course.

1.1 Resource consents required

Under section 15 of the Resource Management Act 1991 (the Act), no person may discharge any contaminant from an industrial or trade premise into air unless the discharge is expressly allowed by a rule in a regional plan or by resource consent or regulations.

As outlined in section 1.1.1 of this report the proposed discharge is not expressly allowed by a rule in a regional plan or by regulations, and therefore, a resource consent is required.

1.1.1 Rules

Rule 14 of the Regional Air Quality Management Plan for the Wellington Region (RAQMP) provides for the discharge of contaminants into air in connection with any process involving the use of substances containing di-isocyanates at a rate of less than 10 litres per day and less than 3 litres per hour, as a *permitted activity* provided a number of conditions are met.

Rule 15 of the RAQMP provides for the discharge of contaminants into air in connection with coating processes (including spray painting) at a rate of less than 30 litres per day and also less than 3 litres per hour as a *permitted activity* provided a number of conditions are met.

The proposed activity will involve the use of more than 10 litres per day of substances containing di-isocyanates and more than 3 litres of paint per hour; therefore, the activity cannot meet the requirements of both Rule 14 and 15.

The activity therefore falls under the ambit of Rule 23 which provides for all other discharges of contaminants into air which are either not provided for by other rules in the RAQMP, or cannot meet the requirements of those rules, and is considered as a *discretionary activity*.

2. Consultation

In accordance with Greater Wellington Regional Council's (GW) agreement with tangata whenua regarding consultation on non-notified consents, Te Runanganui O Taranaki Whanui Ki Te Upoko O Te Ika a Maui, Wellington Tenth's Trust and Ngati Toa Rangatira were provided with a copy of the application. Wellington Tenth's Trust had no concerns with the application and the other two iwi had no comment to make.

The applicant has consulted with the New Zealand Defence Force and the Wellington Racing Club who run the Trentham Race Course regarding the proposal. I consider both the New Zealand Defence Force and the Trentham Race Course to be potentially affected parties to the proposal. Both written approvals were provided with the application.

3. Reasons for waiver of notification

I consider that notification under Section 93(1)(b) of the Act is not required, as the effects of the proposed discharge on the environment will be minor, as outlined in section 4 of this report.

Section 94(2) of the Act provides that a consent authority is not required to serve notice of an application under subsection (1) if all persons who, in the opinion of the consent authority, may be adversely affected by the activity have given their written approval to the activity.

As written approval has been provided from the only parties, who in my opinion, are potentially affected by the proposal, GW is not required to serve notice of the application.

4. Environmental effects

4.1 Existing environment

The building which contains the spray painting facility is located on the northern boundary of the Trentham Army Camp adjacent to the Trentham Race Course. Trentham Army Camp is zoned for Special Activity Defence Purposes, in the Hutt City Council District Plan. The closest neighbours to the applicant, other than the Trentham Race Course, is Hutt International Boys School and General Motors Park, located approximately 390 metres north west and 450 metres south east of the applicant respectively. The nearest residential property is located approximately 580 metres north east from the applicant.

Generally, I consider the sensitivity of the immediate area to any adverse effects caused by the activity to be low due to the distance of the spray painting facility to any residential properties and the relatively flat nature of the site and surrounding area.

4.2 Contaminants

The various paints and hardener used by the applicant in the spray painting operation contain a number of contaminants including di-isocyanates, toluene and ethyl acetate. These contaminants, in high enough concentrations, have the potential to have deleterious health impacts on the public, or on people who are exposed to the discharge.

4.2.1 Di-isocyanates

The hardener used by the applicant contains between 30-60% Hexamethylene di-isocyanate. Processes involving di-isocyanates can result in significant discharges of vapours and aerosols that can irritate the membrane of the nose, throat, lungs and eyes. High concentrations of di-isocyanates have also been linked to asthma and other respiratory effects in humans.

4.2.2 Toluene

Toluene fumes can induce nausea if inhaled in large quantities. It is not water soluble, and thus, must be metabolised to be disposed of from the body. Long-term exposure to Toluene can have various chronic effects on human health, and bi-products of the metabolism of Toluene may damage cells in high volumes or concentrations.

4.2.3 Ethyl Acetate

Ethyl acetate fumes can irritate the eyes and respiratory tract is exposed to in high concentrations. Ethyl acetate can also occasionally causes sensitization, with inflammation of the mucous membranes and eczema of the skin.

4.2.4 Summary

The discharge will be extracted from the spray painting booths through filters and exit via three 20 metre high stacks on the roof of the building. I consider the contaminants will either be captured by the filter prior to discharge into the atmosphere, or if any contaminants are released into the atmosphere they will be of extremely low concentration at ground level due to the dispersion of contaminants via the stack. Therefore, given the volumes of paint hardener used, I consider that there will be no more than minor effects from the proposed discharge.

I consider that, provided the applicant undertakes activities in accordance with the application and adheres to the recommended conditions of consent, the health and environmental effects due to the discharge of these contaminants will be no more than minor. I have recommended conditions of consent that ensure that there are no noxious, dangerous, offensive or objectionable discharges beyond the site boundary.

4.3 Odour effects

Spray painting has the potential to generate odour. In poorly maintained and operated facilities, this can result in the generation of odour, and, in some wind conditions, this can mean that these odours are transported off site. The applicant has had a good compliance history under their current consent WGN000043, with no known noxious, dangerous, offensive or objectionable discharges going beyond the boundary of the site. There have also been no odour complaints attributed to the applicant while operating under permit WGN000043.

Also, given the surrounding land use, surrounding topography and distance to nearest residential property and considering the height of the stacks I consider that there will be no more than minor odour effects resulting from the proposed discharge.

5. Statutory assessment

5.1 Resource Management Act 1991

Part II (Section 5) of the Act defines its purpose as the promotion of the sustainable management of natural and physical resources. Sections 6, 7 and 8 of Part II define the matters a consent authority shall consider when achieving this purpose.

Section 104 of the Act outlines the matters a consent authority must have regard to. These matters include any actual and potential effects on the environment of allowing the activity, relevant objectives, policies and rules of a Regional Plan, the Regional Policy Statement, and any other matter considered relevant and reasonably necessary to determine the application.

Section 105 of the Act requires a consent authority to consider the following when considering an application for a discharge permit to do something that would contravene sections 15 or 15B of the Act. These require a consent authority to have regard to:

- a) *the nature of the discharge and the sensitivity of the receiving environment to adverse effects;*
- b) *the applicant's reasons for the proposed choice; and*
- c) *any possible alternative methods of discharge, including the discharge into any other receiving environment.*

The nature of the discharge and sensitivity of the receiving environment is discussed in section 4 of this report.

Given the nature of the activity, there are no practicable alternative methods of discharge and there is no alternative receiving environment to discharge the contaminants into in this case.

As a result, I consider that the site, location and operation of the facility in relation to the proposed discharge is appropriate.

5.2 Regional Policy Statement and Proposed Regional Policy Statement

The Operative Regional Policy Statement for the Wellington Region (RPS) contains several objectives and policies aimed at maintaining the quality of the atmospheric environment. These objectives and policies are intended to provide for the current and reasonably foreseeable needs of current and future generations. The relevant chapter of the RPS is Chapter 8 (Air). I consider that the proposed activity outlined in the application is consistent with the objectives and policies of this chapter.

The Proposed RPS was notified on 21 March 2009, and as such must also be considered pursuant to s104(1)(a)(iii). As the Proposed RPS is in its early stages, and yet to go through submissions and subsequent hearing processes, it carries less statutory weight than the operative RPS. Section 4.2 of the proposed RPS contains the relevant regulatory policies to be given particular regard when assessing and deciding on resource consent applications. I consider that the proposed activity is also consistent with the policies in Section 4.2 of the Proposed RPS.

5.3 Regional plans

5.3.1 Policies and objectives

The RAQMP has a number of objectives and policies that relate to the proposed activity. The most relevant objectives and policies to consider in assessing this application are listed below:

- Policy 4.2.4: To avoid, remedy or mitigate any adverse effects of the discharge of contaminants to air that is noxious, dangerous, offensive or objectionable.
- Policy 4.2.5: To avoid or minimise, where appropriate and practicable, the discharge of contaminants to air at their source.
- Policy 4.2.9: Lists the matters to which GW will have regard to when assessing an application to discharge contaminants to air.

Overall, I consider the application is consistent with the relevant policies and objectives of the RAQMP.

6. Main findings

1. The proposed activity is consistent with the Purposes and Principles of the Resource Management Act 1991.

2. The proposed activity is consistent with the relevant objectives and policies of the Regional Policy Statement and the RAQMP.
3. The actual or potential adverse effects of the proposed activity on the environment will be no more than minor.
4. Conditions of the consent will ensure that the adverse effects of the activity on the environment will be appropriately avoided, remedied or mitigated.
5. The proposal incorporates appropriate mitigation measures, to ensure the adverse effects are no more than minor.

6.1 Duration of consent

The applicant has not requested a specific duration for the consent. I recommend a duration of 10 years for permit WGN090275 [27501] as this is consistent with similar consents granted recently in the Wellington Region.

7. Monitoring

Inspections of the works will be undertaken once every two years in accordance with the *Resource Management Charging Policy (2008)*. Charges relating to this inspection are outlined in the cover letter enclosed with this report.

Application lodged:	23/02/09	Application officially received:	23/02/09
Application stopped:	26/02/09	Application started:	11/03/09
Application stopped:	27/03/09	Application started:	09/04/09
Applicant to be notified of decision by:	20/04/09	Applicant notified of decision on:	17/04/09
Time taken to process application:	19 working days		

8. Attachment 1 WGN090275 [27501]

General Conditions

1. The location, design, implementation and operation of the activity shall be in general accordance with the consent application and its associated plans, documents, emails and further information lodged with the Wellington Regional Council on 23 February 2009 and further information received on 11 March 2009.

For the avoidance of doubt, where information contained in the application is contrary to conditions of this permit, the conditions shall prevail. Where information supplied in additional information is contrary to the original application, the most recent information shall prevail.

Note: Any change from the location, design concepts and parameters, implementation and/or operation may require a new resource consent or a change of consent conditions pursuant to section 127 of the Resource Management Act 1991.

2. There shall be no discharges to air that in the opinion of an enforcement officer of the Wellington Regional Council are noxious, dangerous, offensive or objectionable at or beyond the legal boundary of the property from which the permit holder operates.

These discharges include, but are not limited to, discharges of odour and solvents.

Note: For the purposes of this permit, the boundary of the property from which the permit holder operates is the outer perimeter of land bearing the legal description Pt Sec 624 Hutt District.

Reporting Conditions

3. The permit holder shall keep a record of the daily consumption and the name of each paint, hardener or any other sprayed substances used in the spray booth, including those that contain solvents and diisocyanates.

This record shall be submitted to the Manager, Environmental Regulation, Wellington Regional Council on an annual basis by the 10 July each year for the duration of this permit.

Note 1: Records can be sent to notifications@gw.govt.nz. Please include the consent reference (WGN090275) and the name and phone number of a contact person for the permit.

Note 2: For the purposes of this permit a year will be deemed to run from 1 July to 30 June.

Complaints register and incidents reports

4. The permit holder shall maintain a written record of any complaints that are received relating to the exercise of this permit. This record shall include:
 - Name and address of the complainant;
 - Date and time of the complaint and of the alleged event;
 - Identification of the nature of the complaint;
 - Weather conditions at the time of the complaint; and
 - Any mitigation measures adopted.

The complaint record shall be made available to officers of the Wellington Regional Council on request.

5. The permit holder shall notify the Manager, Environmental Regulation, Wellington Regional Council, of any complaints relating to the exercise of this permit, within 24 hours of being received by the permit holder, or the next working day.

Operations and Maintenance Conditions

6. The permit holder shall, at all times, operate, maintain, supervise and control all processes and equipment on site to ensure compliance with all conditions of this permit.
7. All air extraction and air treatment systems used shall be maintained such that vents and discharge points remain substantively free of blockages and interruptions, and the filter material used is kept in effective working order.

Review conditions

8. Wellington Regional Council may review any or all conditions of this permit by giving notice of its intention to do so, pursuant to section 128 of the Resource Management Act 1991, at any time within six months of the second, fifth and eighth anniversaries of the commencement of this permit, for the following purposes:
 - a) To deal with any adverse effects on the environment which may arise from the exercise of this permit, and which is appropriate to deal with at a later stage;
 - b) To review the adequacy of the monitoring requirements, so as to incorporate into the permit any modification to the system or monitoring which may become necessary to deal with any adverse effects on the environment arising from the exercise of this permit;

- c) To alter the monitoring requirement(s) in light of the results obtained from any previous monitoring;
 - d) To ensure consistency with relevant Regional Plan(s) or National Environment Standards; or
 - e) To require the permit holder to adopt the best practicable option to remove or reduce any adverse effect on the environment.
9. Wellington Regional Council shall be entitled to recover from the permit holder the costs of the conduct of any review, calculated in accordance with and limited to its scale of charges in force and applicable at the time pursuant to section 36 of the Resource Management Act 1991.