

## ORC NOTIFICATION RECOMMENDATION REPORT

ID Ref: A1649056  
Application No: RM22.099  
Prepared for: Staff Consents Panel  
Prepared by: Shay McDonald – Consents Planner  
Date: 17 and 29 August 2022

**Subject: Notification recommendation for application RM22.099 by Mobil Oil New Zealand Limited to passively discharge hazardous substances onto or into land in circumstances that may result in those substances entering water from a contaminated site for the purpose of ongoing site management.**

### 1. Purpose

To report and make recommendations under sections 95A-G of the Resource Management Act 1991 (the Act) on the notification decision for the above application.

### 2. Background Information

**Applicant:** Mobil Oil New Zealand Limited (Mobil)

**Applicant's Agent:** Andrew Hart of Golder Associates (NZ) Limited

**Site address or location:** 199 Fryatt Street, Dunedin

**Legal description(s) of the site:** Lot 2 DP 482844, Road Reserve

**Record of title number and owner:** 679896 owned by Chalmers Properties Limited

**HAIL Reference:** HAIL.00496.01

**Map reference(s):** E1407362 N4916984

**Consent(s) sought:** Discharge Permit RM22.099.01 for the passive discharge of hazardous substances onto or into land in circumstances that may result in those substances entering water.

**Purpose:** Long-term site management

**Current consents:** None

**Section 124 timeframes:**

- This is an application for a new activity and so section 124 does not apply.

#### 2.1 Key issues/risks

The key issues/risks with the application are:

- Long-term passive discharge of contaminants into groundwater
- Long-term responsibilities imposed on site owner and local authority

At this stage there are no principal issues in contention that need to be raised.

#### 2.2 Summary

I recommend the application is processed on a limited notified basis. This is because:

- The adverse effects on the environment from the proposed activity will be less than minor;
- The mitigations proposed adequately avoid, remedy or mitigate the actual or potential adverse environmental effects; and
- The unconditional written approval of all affected parties could not be obtained.

### **3. Description of Activity**

Mobil Oil New Zealand Limited (**Mobil, the Applicant**) is applying for resource consent under the Regional Plan: Waste for Otago (**RPWaste**) and the Regional Plan: Water for Otago (**RPW**) to passively discharge hazardous substances onto or into land in circumstances that may result in those substances entering water. The location of this activity is at the former Mobil bulk oil terminal at 199 Fryatt Street, Dunedin.

The passive discharge of hazardous substances from 199 Fryatt Street has not previously been authorised by a resource consent.

#### **3.1 Historic Activities on Site**

Mobil operated a bulk storage terminal at 199 Fryatt Street, Dunedin from 1927 until 1995. During this time, a variety of hydrocarbon products were stored on site, including leaded and unleaded petrol, diesel, turpentine, kerosene, white spirits, and lubricant oils. The storage, use, or testing of Class B fire-fighting foams containing poly-fluorinated alkyl substances (PFAS) on the site is unlikely but cannot be discounted.

The bulk fuel storage facility was decommissioned from 1995 and aboveground infrastructure on site was progressively removed from site until 2007. Environmental site assessment (ESA) works at and around the site were completed between 1992 and 2017. The site has remained vacant since decommissioning. The usage and history of the site is discussed further in Section 4 of this report.

#### **3.2 Summary of Activities**

The operational use of the site resulted in discharges of petroleum hydrocarbons to land. These discharges occurred at least 27 years ago; however, the ESA works to determine the nature and extent of soil and groundwater contamination associated with the historic site activities have identified the presence of residual petroleum hydrocarbon impacts at the site. Light Non-Aqueous Phase Liquid (LNAPL) comprised primarily of diesel and diesel/petrol mixture is present in the ground beneath the site and extends to the southeast into Fryatt Street. Dissolved phase contaminants are present in groundwater up to 40 m to the south of the site.

Contaminants continue to partition from contaminated soil and LNAPL source areas into groundwater, which emanates from the site. It is for these passive discharges that Mobil seeks resource consent.

#### **3.3 Nature and Extent of Contamination**

Mobil has progressively undertaken ESA works at the terminal and surrounding area commencing in 1992, to assess the nature and extent of impacts associated with the historic bulk storage of petroleum hydrocarbons at the site.

The initial ESA investigations focused on establishing the nature of the on-site impacts to soil and groundwater. More recent investigations focussed on assessing the extent of LNAPL and characterising the presence, stability, and attenuation of dissolved phase

hydrocarbons both on-site and off-site. In a response to a s92 request for information, Mobil provided a report discussing the potential on-site storage, use, or testing of Class B foams containing PFAS for the purpose of firefighting. Conclusive evidence confirming on-site use, storage, or testing of these foams was not found; however, the usage of small quantities of such foam cannot be discounted given the historic use of the site for bulk fuel storage.

The application and supporting information present a summary of the environmental conditions on the site. This information is summarised below.

### 3.3.1 LNAPL

LNAPL is evident in a small number of monitoring wells across the southern half of the site. The LNAPL layer does not comprise one single continuous layer; rather, it is present as a series of smaller, discontinuous LNAPL pockets with varying LNAPL saturations. A vertical LNAPL smear zone ranges between 1.5 and 2.5 m below ground level (bgl), extending to 3 m bgl across the southeast area of the site. The smear zone extends up to 1.5 m below the water table during winter/high groundwater table conditions. LNAPL is present off-site on the western side of Fryatt Street. The inferred LNAPL extent is shown in Figure 1.

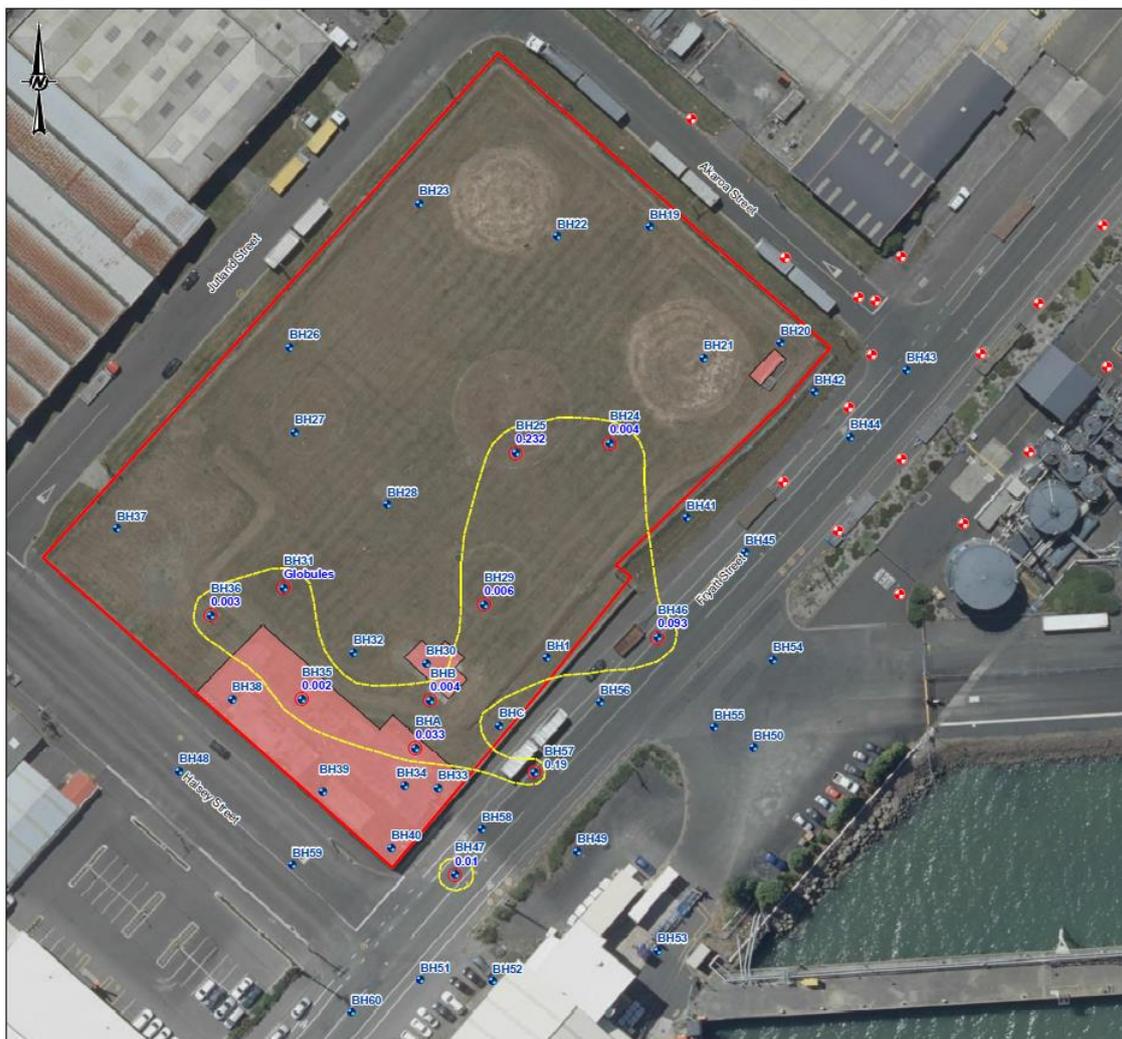


Figure 1 Inferred LNAPL extent shown in yellow. Source: RM22.099 application.

Mobil conclude that:

*“...Overall, the lateral extent of LNAPL appears to be contracting over time. This is supported by the apparent reduction in LNAPL thickness at many locations over the past decade. LNAPL bail down testing at the site indicates low LNAPL transmissivity, low recoverability and low mobility. The LNAPL is not considered to be mobile and does not pose a risk of migration towards or discharge into Otago Harbour.”*

### **3.3.2 Soil**

Hydrocarbon contamination of soil is present primarily in the southwest of the site. Hydrocarbon impacts to soil are generally characterised by C7-C9 total petroleum hydrocarbons (TPH), C10-C14 TPH, and total xylenes, with the highest concentrations present between 1.0 and 4.0 m bgl coinciding with the smear zone.

Metals and metalloids are present in shallow soils across the site. The impacts are primarily characterised by the presence of lead. Concentrations of metals/metalloids were below adopted applicable standards for a commercial/industrial land use.

There is a low probability of the presence of residual PFAS in soils.

### **3.3.3 Groundwater**

Subsurface LNAPL may provide an ongoing source for the dissolution of substances into groundwater resulting in a spreading dissolved phase plume. Following assessment of the stability of the dissolved phase hydrocarbon impacts, Mobil conclude that:

- Concentrations of ethylbenzene, C10-C14 TPH, and naphthalene, which are considered to be the key indicators of the dissolved phase petroleum hydrocarbon contamination, indicate that overall, there has been a decreasing trend over the past decade.
- Assessment of the ethylbenzene and naphthalene attenuation rates indicate that the dissolved phase contamination does not extend further than 40 m downgradient of the leading edge of the LNAPL.
- Given the decreasing trend, the relatively short extent for these dissolved phase contaminants, and the attenuation of concentrations to below ANZECC (2000) trigger values prior to discharging to Otago Harbour, they are unlikely to migrate beyond their present locations and are not considered to pose a future risk to Otago Harbour.

### **3.3.4 Soil Vapour**

Petroleum hydrocarbon residues in soil vapour are present on site with the highest concentrations detected in the southeast of the site. The presence of elevated soil vapour concentrations corresponds to the area of LNAPL impacts. With the exception of 1,2,4-trimethylbenzene, the detected concentrations of hydrocarbons in soil vapour are below MfE (2011) target soil gas concentrations and vapour intrusion screening levels.

Concentrations of primary contaminants of interest (benzene, toluene, ethylbenzene, xylenes, naphthalene) in soil gas collected on the adjacent HarbourCold property were below the laboratory limits of reporting and below MfE (2011) target soil gas concentrations and vapour intrusion screening levels.

### 3.4 Natural Attenuation

Natural source zone depletion is a term that describes the collective, naturally occurring processes of dissolution, volatilisation, and biodegradation that result in mass losses of LNAPL petroleum hydrocarbon constituents from the subsurface. Shallow soil vapour sampling has documented the presence of methane and elevated carbon dioxide in conjunction with oxygen depletion. This is qualitative evidence that natural source zone depletion is occurring. Estimates of source degradation rates have not been provided.

Monitoring undertaken between 2012 and 2017, as summarised in the Closure Report, generally indicate that LNAPL and dissolved phase plumes are stable or decreasing in extent.

A technical audit of the application material was undertaken by Simon Beardmore, Technical Director – Contaminated Land, of E3 Scientific. Mr Beardmore states:

*“...These investigations are comprehensive and adequately characterise contaminant conditions in soil, groundwater, and vapour. The closure report uses multiple lines of evidence to assess the stability of the LNAPL and the associated dissolved phase contaminant plume, and to assess the risk to human health and the environment, both on-site and off-site.”*

And that

*“...The diesel/petrol LNAPL identified in the southern part of the site is not mobile and has been shown to be contracting and reducing in thickness over time. There is qualitative evidence that natural source zone depletion is occurring, and we can confidently expect this trend to continue.”*

And that

*“...The extent of the dissolved phase plume (where ethylbenzene and naphthalene concentrations exceed the ANZECC 2000 95% species protection values) has been delineated, and this has also been shown to reduce in area over time. In the most recent monitoring rounds, the extent of plume does not reach the harbour, with natural attenuation processes working to degrade contaminants within 15-40 m of the LNAPL.”*

### 3.5 Conceptual Site Model

The ESA investigations have been used to produce a Conceptual Site Model (CSM), the purpose of which is to identify and document the source-pathway-receptor relationships for the site and to determine the potential risk to human health and the environment associated with the residual impacts from the former site activities.

For a risk to a receptor to occur, a complete pathway must exist between the source of contamination and the receptor. Where the contaminant pathway is incomplete, there is no exposure and no risk via that pathway.

The potentially complete pathways form the basis of the assessment of environmental effects provided by Mobil and discussed further in Section 6 of this report.

### 3.6 Environmental Management Plans

Mobil submits that natural attenuation processes will, over time, reduce the extent of the contamination and discharges, and that existing and ongoing risks are able to be sufficiently mitigated via environmental management plans (EMPs). The EMPs set out

procedures for the protection of human health and the environment in relation to the identified risks from petroleum hydrocarbon residues.

Golder on behalf of Mobil have prepared both an on-site and off-site EMP. The on-site EMP sets out management controls and procedures to address the potential risks to future users of the site. The off-site EMP sets out management controls and procedures to address the potential risks to future users of the Halsey Street and Fryatt Street to the south and southeast of the Mobil terminal. These risks are associated with the residual petroleum hydrocarbon impacts that extend outside of the Mobil site.

Mobil is not proposing to actively remediate the site, nor are they proposing any ongoing monitoring.

### 3.7 Information Provided by the Applicant

The applicant has provided the following documentation with the application:

- Resource Consent Application and Assessment of Effects on the Environment – Discharge of Contaminants, prepared by Golder Associates (NZ) Limited and dated February 2022
- Former Mobil Dunedin Terminal – 199 Fryatt Street, Dunedin – Closure Report, prepared by Golder Associates (NZ) Limited and dated November 2019
- Former Mobil Dunedin Terminal – 199 Fryatt Street, Dunedin – Environmental Management Plan, prepared by Golder Associates (NZ) Limited and dated March 2020
- Former Mobil Dunedin Terminal – 199 Fryatt Street, Dunedin – Environmental Management Plan – Fryatt Street Adjacent to Former Terminal, prepared by Golder Associates (NZ) Limited and dated March 2020
- Further information response dated 1 August 2022, including report titled *Phase 1 Review of Per- and Polyfluoroalkyl Substances (PFAS)* and dated July 2022.

## 4. Description of the Environment

The site is located at 199 Fryatt Street within an industrial area approximately 1.5 km from central Dunedin. The site covers an area of 1.12 ha and is bounded by Halsey Street to the southwest, Jutland Street to the northwest, Akaroa Street to the northeast and Fryatt Street to the southeast. The site is located approximately 60 m from the Otago Harbour. Contamination from on-site sources currently extends into the Fryatt Street and Halsey Street road reserves adjacent to the site.

The site is currently a grassed, vacant block of land and is owned by Chalmers Properties Limited on behalf of Port Otago Limited. A summary of elements associated with the former Mobil operations that remain on site is provided in the application and is reproduced below and shown in Figure 2:

- Concrete building foundations in the southeast corner of the site.
- Tank pads of the five former above ground storage tanks (ASTs).
- An earth bund, approximately 1.5 m in height, which formed the perimeter to the main bulk tank compound.
- Four fire hydrants and water lines associated with the former fire suppression system.
- Two separators formerly referred to as Separator 1 and Separator 3. Separator 1, a four-chamber separator, is in the eastern corner of the site and was connected to the stormwater system that collected water from the tank

compound. Separator 3, a three-chamber separator, is located mid-way along the Halsey Street (south-west) boundary. The source of water received by Separator 3 is not known. Separator 2, formerly located in the southern corner of the site, was not observed during site works and is assumed to have been removed.

- A set of decommissioned fuel lines are visible next to Separator 3 on the Halsey Street boundary. These pipelines historically connected the site to a tanker wagon fill station located on the property south across Halsey Street.

A network of underground services is present in the streets adjacent to the site. These are identified in Figure 2.

Adjacent land uses and owners are shown in Figure 3. These comprise a range of commercial and industrial land uses.



Figure 2 Aerial photograph of site showing locations of various elements remaining on site. Source: RM22.099 application.



Figure 3 Adjacent land uses and owners. Site extent in red. Source: RM22.099 application.

### Site History

A thorough site history is provided within the application supporting information and in the Closure Report prepared in 2019. This is not reproduced here.

### Site Contamination

The site is registered on the Otago Regional Council's HAIL Register as verified HAIL.00496.01 category A13: *Petroleum or petrochemical industries including a petroleum depot, terminal, blending plant or refinery, or facilities for recovery, reprocessing or recycling petroleum-based materials, or bulk storage of petroleum or petrochemicals above or below ground.*

Based on the site history, Mobil conclude that the key sources of hydrocarbon and solvent contamination are as follows:

- Bulk storage tank compound – bulk tanks and oil-water separator.
- Rail siding along Fryatt Street boundary.
- Drum filling plant approximately halfway along the Halsey Street boundary.
- Drum storage in the western corner of the site.
- Tanker wagon fill station in the southern corner of the site.

The specific contaminants and the extent of contamination were discussed in Section 3 of this report and are further discussed in Section 6.

### **Geology**

The application provides geological information for the site, and this is reproduced below:

Fill comprising:

- Gravel (sandy fine gravel) across the whole site predominately from surface to 0.7 m bgl; however, the fill extends to depths up to 2 to 3 m bgl beneath and between former Tank 1 and Tank 8, and the southern corner of the site.
- Sand (fine to medium coarse, often with shells and varying amounts of silt) with discontinuous layers of silt or gravels at varying thicknesses underlies the gravel fill unit. This sand unit extends to between 4.5 and 5 m bgl.

Marine sediments:

- Clayey silt and silty clay between 4.5 m and about 8.0 m bgl. Competent material (possibly bedrock) was encountered below about 8 m bgl.

### **Groundwater**

ESA investigations have identified a shallow, unconfined aquifer system within the fill material described above. Groundwater is present at depths between approximately 0.45 m and 3.0 m bgl. Groundwater levels are typically lower (0.5 m) in monitoring wells closer to Otago Harbour.

Groundwater flow is typically in a southeast direction toward the harbour. Tidal influence on the groundwater levels is up to 0.23 m in the Fryatt Street area, with little to no tidal influence within the confines of the site.

Golder on behalf of Mobil have referred to and provided an assessment against the MfE criteria for assessing groundwater sensitivity at petroleum hydrocarbon impacted sites. They conclude that the shallow aquifer is classified as not sensitive with respect to abstractive use and environmental discharges.

### **Surface Water**

The site is located approximately 60 m northwest of Otago Harbour. It is stated in the application that the upper harbour basin to which the site is adjacent is a highly modified environment as a result of reclamation, road works, and dredging activities, and that the upper harbour basin receives stormwater discharges from the Dunedin urban area. It is also stated that the tidal range in the harbour is approximately 2.2 m and the estimated harbour flushing times range from four to 15 days.

There are no other nearby surface waterbodies.

### **Site Visit**

A site visit was not undertaken during the processing of this application. This is because there was sufficient written and photographic evidence available to make a thorough assessment.

## **5. Status of the Application**

Rule 5.6.1 of the Regional Plan: Waste (RPWaste) states:

*5.6.1 Hazardous wastes at contaminated sites*

1. *The disturbance of land; or*
2. *The discharge of hazardous waste into water; or*
3. *The discharge of hazardous waste onto or into land in circumstances that may result in that hazardous waste (or any other hazardous waste emanating as a result of natural processes from that hazardous waste) entering water; or*
4. *The deposit of any hazardous waste, in, on or under land; or*
5. *The discharge of hazardous waste into air at or from a contaminated site;*

is a **discretionary** activity.

There are no permitted activity rules for these activities under the RPWaste.

The residual petroleum hydrocarbons would not be considered hazardous waste based on the definition in the RPWaste. However, they would be considered a hazardous substance as defined in Section 2 of the Hazardous Substances and New Organisms Act 1996 and adopted by the RPWaste. As such it is considered that the discharge would be incorporated by the overall intent of Rule 5.6.1(3) above. Therefore, RPWaste discretionary rule 5.6.1(3) applies.

Rule 12.B.4.2 of the Regional Plan: Water for Otago (RPW) states:

*The discharge of any hazardous substance to water or onto or into land in circumstances which may result in that substance entering water is a discretionary activity, unless it is:*

- (a) *Permitted by a rule in 12.B.1; or*
- (b) *Provided for by a rule in 12.B.2 or 12.B.3.*

The discharge of residual petroleum hydrocarbons to land in circumstances that they may enter water is not permitted by a rule in 12.B.1 and is not provided for by a rule in 12.B.2 or 12.B.3; therefore, RPW **discretionary** rule 12.B.4.2 applies.

#### **4.1 Section 87BB**

Mobil has requested that Council use its discretion under section 87BB(1)(d) to notify the activity as a 'deemed permitted' activity. However, there is no relevant permitted activity for a discharge of this type in any of the regional plans. Therefore, the discharge cannot meet the requirements of 87BB(1)(a) and this option is not available to Council.

#### **4.2 Overall Activity Status**

Overall, the application will be assessed as a **discretionary** activity.

### **6. Assessment of Adverse Environmental Effects**

As noted in Section 3.5 of this report, a Conceptual Site Model (CSM) has been developed, the purpose of which is to identify and document the source-pathway-receptor relationships for the site and to determine the potential risk to human health and the environment associated with the residual impacts from the former site activities.

For a risk to a receptor to occur, a complete pathway must exist between the source of contamination and the receptor. Where the contaminant pathway is incomplete, there is no exposure and no risk via that pathway. The CSM developed by Golder on behalf of Mobil has identified the following potentially complete exposure pathways:

#### **Human Health**

- On-site inhalation of petroleum hydrocarbon vapours during excavation works in shallow soils and/or close to the groundwater table undertaken in central and southern areas of the site, likely to be associated with LNAPL and soil impacts.
- Off-site inhalation of petroleum hydrocarbon vapours during deep excavation works, particularly those that intersect the groundwater along Fryatt Street adjacent to the site.
- Occupiers of poorly ventilated workspaces located across the southern half of the site via the vapour intrusion pathway due to the presence LNAPL.
- On-site inhalation, ingestion, or dermal contact of PFAS during maintenance or excavation works.

### **Environment**

- Migration of impacted groundwater from the site towards Otago Harbour and associated marine ecosystems.
- Leaching of PFAS into groundwater and then into aquatic ecosystems within Otago Harbour.

These potentially complete pathways, associated adverse effects, and proposed mitigation measures are assessed below.

### **6.1 Effects on Human Health**

Four potentially complete source-receptor pathways relevant to human health have been identified. These are summarised and grouped into on-site and off-site risks and are discussed below.

#### **On-site**

- Intrusion of vapour into indoor air of any future buildings constructed over areas of residual LNAPL
- Risks to workers undertaking sub-surface excavation works on site

The presence of LNAPL in the southeast of the site is a source of soil vapour which may present a risk to indoor air quality of newly constructed buildings over areas where the LNAPL is present. Occupiers of poorly ventilated buildings over areas of residual LNAPL have a potential exposure risk.

Soil petroleum hydrocarbon exceedances have been identified primarily below 1 m bgl, below the groundwater table. The potential exposure route is through volatilisation and inhalation of petroleum hydrocarbon vapours during soil excavation. Workers conducting excavations near or below the water table would potentially be exposed to these vapours. The risk of dermal contact or ingestion during works also exists.

Golder on behalf of Mobil have prepared an Environmental Site Management Plan (EMP) for 199 Fryatt Street that outlines appropriate soil and groundwater management controls to address the potential risk to future users of the site.

#### **Off-site**

- Risks to workers undertaking subsurface excavation works or working within underground voids in the area of Fryatt Street

Workers undertaking sub-surface works within Fryatt Street immediately south of the site have a potential exposure risk to petroleum hydrocarbon vapours and dermal contact/ingestion.

Golder on behalf of Mobil have prepared an Environmental Site Management Plan (EMP) for Fryatt Street adjacent to the Former Terminal that outlines appropriate soil and groundwater management controls to address the potential risk to future users of the site. The area covered by this EMP is shown in Figure 4.



Figure 4 The area covered by the off-site EMP is the dashed pink area. This is the Mobil Management Area. The dashed green area is the Z Energy Management Area. Source: Off-site EMP contained within application RM22.099.

### Effectiveness of mitigation measures

Both EMPs describe controls related to dust management, soil handling, stockpiling, off-site soil disposal, groundwater management, imported material, accidental discovery, worker health and safety, and management responsibilities.

A technical audit of the application material, including both EMPs, was undertaken by Simon Beardmore, Technical Director – Contaminated Land, of E3 Scientific. Mr Beardmore states:

*“...The contents of the EMPs generally cover the topics for a Long-term Site Management Plan outlined in Contaminated Land Management Guideline No 1. Reporting on Contaminated Sites in New Zealand (Ministry for the Environment, 2021). The controls outlined in the EMP are comprehensive and appropriate for the site.”*

In the report prepared in response to the s92 request for information, Golder on behalf of Mobil state that the potential presence of PFAS impacts to soil and groundwater is not considered to alter the management approach adopted for the petroleum hydrocarbon impacts.

In a review of the s92 response, Mr Beardmore states:

*“...The Phase 1 Review including the s92 response provides a thorough desk-top review of firefighting infrastructure and PFAS use at the site and adjacent bulk fuel storage facilities. The report is effectively a contaminant-specific Preliminary Site Investigation (PSI) which includes a review and summary of all relevant sources of information outlined in Contaminated Land Management Guideline Nos 1: Reporting on Contaminated Sites in New Zealand. The conclusions in the report and summarised in the s92 response letter are reasonable and supported by the available information.”*

This expert opinion is accepted and adopted for the purpose of this adverse effects assessment.

The use of EMPs to manage future risks to users and occupiers of the site and the off-site Mobil Management Area is considered to be appropriate. Adverse effects on the health of future users, occupiers, and workers will be less than minor.

## **6.2 Effects on Water Quality**

Two potentially complete source-receptor pathways relevant to water quality have been identified.

- Migration of impacted groundwater from the site towards Otago Harbour and associated marine ecosystems.
- Leaching of PFAS into groundwater and then into aquatic ecosystems within Otago Harbour.

Subsurface LNAPL may provide an ongoing source for the dissolution of substances into groundwater resulting in a spreading dissolved phase plume.

In the Closure Report it is concluded that Natural Source Zone Depletion is likely occurring across the entire LNAPL footprint at the site, and hence ongoing degradation of the LNAPL can be expected overtime. The following statement is taken from the Closure Report:

*“...Overall, the lateral extent of LNAPL has contracted over time. This is supported by the apparent reduction in LNAPL thickness at many locations over the past decade, which indicates it is not mobile and does not pose a risk of migration towards or discharge into Otago Harbour. This is supported from testing of wells which indicate a low LNAPL transmissivity suggesting low recoverability and low mobility.”*

The extent of the dissolved phase plume has been delineated and shown to reduce in area over time. In the most recent monitoring rounds, the extent of the plume does not reach the harbour and does not extend further than 40 m downgradient of the leading edge of the LNAPL.

In the Closure Report it is concluded:

*“...Therefore, given the decreasing trends and the relatively short extent of impacts, the dissolved phase hydrocarbons are unlikely to migrate beyond the current extent and are unlikely to pose a future risk to Otago Harbour.”*

As noted in section 6.1 of this report, it is the expert opinion of Mr Beardmore that the controls outlined in the two EMPs are appropriate to mitigate adverse effects on the environment, including on water quality. This opinion is accepted and adopted for the purpose of this adverse effects assessment.

The extent of the contamination within and adjacent to groundwater is decreasing over time through natural attenuation processes and is unlikely to present future contamination risk of Otago Harbour. The use of EMPs to manage future risks to the environment associated with any use or disturbance of the site or adjacent Mobil Management Area on Fryatt Street is considered to be appropriate. Therefore, adverse effects on water quality will be less than minor.

### 6.3 Cumulative Effects

Adverse cumulative effects can arise due to ongoing impacts of a particular activity or as a result of several similar activities occurring within the same catchment.

In the technical audit of the application material, Mr Beardmore provided the following comment:

*“...Based on the demonstrated attenuation of contaminant concentrations, it is unlikely that measurable concentrations of contaminants are entering the receiving water and the contribution to cumulative effects within the harbour would be negligible.”*

This expert opinion is accepted and adopted for the purpose of this report. The contribution to cumulative effects within Otago Harbour is considered to be less than minor.

### 6.4 Effects on Cultural Values

The Applicant has not provided an assessment of adverse impacts on cultural values. However, adverse effects on water quality, including water within Otago Harbour which is a waterbody of cultural significance to Kāi Tahu, will be less than minor. No new discharges are proposed, and the extent of the contamination has been shown to be decreasing over time via natural attenuation processes.

Overall, adverse effects on cultural values are expected to be less than minor.

### 6.5 Conclusion

Overall, the adverse effects of the proposed activities are considered to be less than minor and will continue to decrease over time.

## 7. Notification and Written Approvals

### 7.1 Section 95A Public Notification

**Step 1: Is public notification mandatory as per questions (a) – (c) below?**

**(a)** Has the applicant requested that the application be publicly notified? **No**

**(b)** Is public notification required by Section 95C? **No**

Has further information been requested and not provided within the deadline set by Council? **No**

Has the applicant refused to provide further information? **No**

Has the Council notified the applicant that it wants to commission a report but the applicant does not respond before the deadline to Council's request? **No**

Has the applicant refused to agree to the Council commissioning a report? **No**

- (c) Has the application been made jointly with an application to exchange recreation reserve land under section 15AA of the Reserves Act 1977? **No**

**Step 2: Is public notification precluded as per questions (a) – (b) below?**

- (a) Is public notification precluded by a rule in the plan or a NES? **No**

- (b) Is the application for one or more of the following activities but no other activities:

(i) A controlled activity? **No**

(iii) A restricted discretionary, discretionary or non-complying activity but only if the activity is a boundary activity? **No**

**Step 3: Does the application meet either of the criteria in (a) or (b) below?**

- (a) Is the application for a resource consent for one or more activities, and any of those activities is subject to a rule or national environmental standard that requires public notification? **No**

- (b) Will the activity have or be likely to have adverse effects on the environment that are more than minor in accordance with Section 95D? **No**

The adverse environmental effects on the environment from the proposal are discussed in elsewhere of this report. Based on this review, I consider that there will not be more than minor adverse effects on the environment (discounting the site and adjacent sites).

**Step 4: Do special circumstances exist in relation to the application that warrant the application being publicly notified? No**

## 7.2 Section 95B Limited Notification

### Step 1

**Section 95B(2)** Are there any affected groups or persons identified under Section 95B(2):

- (a) Protected customary rights groups? **No**

- (b) Customary marine title groups? **No**

**Section 95B(3)(a)** Is the proposed activity on or adjacent to, or may it affect, land that is the subject of a statutory acknowledgement made in accordance with an Act specified in Schedule 11? **Yes** - adjacent to Otago Coastal Marine Area/Te Tai o Arai Te Uru

**Section 95B(3)(b)** Is a person to whom a statutory acknowledgement is made an affected person under Section 95E? **No**

### Step 2

**Is Limited Notification precluded under Section 95B(6)?**

- (a) Is the application for a resource consent for one or more activities, and each activity is subject to a rule or national environmental standard that preclude limited notification? **No**

- (b) Is the proposal a Controlled Activity that requires consent under the District Plan (other than a subdivision of land)? **No**

### Step 3

**Having regard to Section 95E of the Resource Management Act, identify persons who would be adversely affected by the proposed activity by effects that are minor or more than minor, but not less than minor and give reasons why affected**

**parties were identified.**

The following parties have been identified to be affected parties due to effects on them that are minor or more than minor for the reasons stated below.

<b>Affected Party</b>	<b>How they are affected</b>	<b>Why effect is minor or more than minor</b>
Dunedin City Council (DCC)	Petroleum hydrocarbon impacts extend into the Fryatt Street Road Reserve. As the local authority for the Fryatt Street Road Reserve, DCC will be responsible for implementing the off-site EMP.	Although the controls within the off-site EMP are reasonable, this arrangement imposes on DCC an ongoing responsibility which indicates a level of effect that is considered to be minor. Therefore, DCC are considered to be an affected party to this application.

The following parties were not considered to be affected parties to the application as effects on them will be less than minor or they are not considered to be affected parties:

<b>Party</b>	<b>Why they are not affected</b>
Chalmers Properties Limited	Chalmers Properties Limited is the owner of 199 Fryatt Street. As the owner of the site, Chalmers Properties Limited will be responsible for implementing the on-site EMP.  Although the controls within the on-site EMP are reasonable, this arrangement imposes on Chalmers Properties Limited an ongoing responsibility which indicates a level of effect that is considered to be minor.  However, Chalmers Properties Limited provided unconditional written approval to this application on 27 July 2022. As such, Chalmers Properties Limited is not considered to be an affected party to this application.
Aukaha on behalf of mana whenua	Adverse impacts on water quality, including water quality within Otago Harbour, will be less than minor. The extent of contamination is decreasing over time via natural attenuation processes. Therefore, Aukaha are not

	considered to be an affected party to this application.
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**Have all persons identified as affected under Step 3 provided their written approvals? No, and the Applicant has requested limited notification**

**Step 4 Further notification in special circumstances**

Do special circumstances exist in relation to the application that warrant notification of the application to any other persons not already determined to be eligible for limited notification under this section (excluding persons assessed under Section 95E as not being affected persons)? **No**

**If Notification or limited notification is required, then has the applicant paid the additional notification fee? Deposit not required**

**7. NOTIFICATION RECOMMENDATION:**

In accordance with the notification steps set out above, it is recommended that the application proceed on a **non-notified<sup>1</sup>** basis.



Shay McDonald  
**Consents Planner**  
**17 August 2022**

In accordance with the notification steps set out above, it is recommended that the application proceed on a limited notified basis. The Application is to be limited notified to DCC only.



Shay McDonald  
**Consents Planner**  
**29 August 2022**

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<sup>1</sup> Once all identified affected parties have provided their unconditional written approval to the application. If these approvals are not provided then the application will proceed by limited notification.

## DECISION ON NOTIFICATION

### *Sections 95A to 95G of the Resource Management Act 1991*

**Date:** 17 August 2022

**Application No:** RM22.099

**Subject:** *Decision on notification of resource consent application under delegated authority*

### **Decision under Delegated Authority**

The Otago Regional Council decides that this resource consent application is to be processed on a **non-notified**<sup>2</sup> basis in accordance with sections 95A to 95G of the Resource Management Act 1991.

The above decision adopts the recommendations and reasons outlined in the Notification Recommendation Report above in relation to this application. I have considered the information provided, reasons and recommendations in the above report. I agree with those reasons and adopt them.

This decision is made under delegated authority by:



.....  
Peter Christophers  
Principal Consents Planner

17 August 2022

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<sup>2</sup> Once all identified affected parties have provided their unconditional written approval to the application. If these approvals are not provided then the application will proceed by limited notification.

## DECISION ON NOTIFICATION

### *Sections 95A to 95G of the Resource Management Act 1991*

**Date:** 29 August 2022

**Application No:** RM22.099

**Subject:** *Decision on notification of resource consent application under delegated authority*

### **Decision under Delegated Authority**

The Otago Regional Council decides that this resource consent application is to be processed on a **limited notified** basis in accordance with sections 95A to 95G of the Resource Management Act 1991.

The above decision adopts the recommendations and reasons outlined in the Notification Recommendation Report above in relation to this application. I have considered the information provided, reasons and recommendations in the above report. I agree with those reasons and adopt them.

This decision is made under delegated authority by:



.....  
Natasha Pritchard  
Principal Consents Planner

29 August 2022