

Item 409

Party: Transpower

Date:

21-10-08

Response to issues raised by WDC in relation to conditions

BOI UNICUP

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1. **MR** Gray suggested extensive amendments to the conditions Transpower had lodged with the Board, as well as additional conditions. Transpower has given consideration to the suggested amendments. The suggested amendments are opposed for a number of reasons.
2. **IN** relation to the amendments proposed to condition 16 (Construction Management Plan), WDC appeared to want to influence Transpower's contractual arrangements. It is for Transpower to ensure that its contractual arrangements are flexible enough to ensure that all designation conditions can be complied with.
3. **THE** end of proposed designation condition 16 states that "*Nothing in this condition allows the Council, or any other party, to require more onerous controls than contained in the designation.*" The purpose of this provision was to avoid issues at the certification stage of the CMP process as to the level of control that was to be imposed, in order to avoid situations where the certifying Council wished to impose controls beyond those set out in the designation conditions. The intention is that the controls be certain, and set out in the designation conditions.
4. **MR** Gray sought to amend this comment in two ways. Firstly, my adding a comment about duplication of conditions. This change is unnecessary. It would be best to avoid duplication of conditions at the outset. Secondly, to allow more onerous controls to be imposed with the consent of Transpower. It is submitted that such a change is not appropriate. It suggests that there may be situations where the controls in the designation conditions are not seen by a certifying Council as being appropriate, and it could therefore seek to impose a different level of control on Transpower. This was the very situation that the comment at the end of condition 16 sought to avoid.
5. **MR** Gray then sought a new condition 19A, in relation to the preparation of a Traffic Management and Mitigation Strategy. The intention appeared to be that this strategy would set out background information that would contribute to the Traffic Management Plan (see Mr Gray's suggested amendments to condition 19). It is submitted that such an approach is unnecessary – the TMP contains the detail of the approach to traffic management – there is no need to have a

strategy that sets out what the TMP will cover. All detail should be contained within condition 19.

6. **TO** the extent that this condition refers to pavement life issues, Transpower's earlier submissions are repeated. It is submitted that the remainder of Mr Gray's condition 19A would result in unnecessary duplication of matters covered by this condition and the amended condition 19 in relation to the preparation of a Traffic Management Plan for Road Crossings and Local Roads (WDC district specific conditions 19-21).
7. **AS** has been indicated, the consolidated conditions lodged with the Board have been broadened to relate to use of local roads – this is in recognition of the issues raised by WDC and MCC (picking up on issues raised by WDC).
8. **MR** Gray sought minor amendments to condition 20 – it is submitted that these amendments do not change the intent of the conditions, and unnecessarily increase the number of words in the condition.
9. **MR** Gray sought an advice note be added in relation to the time for submitting the TMP for certification with the Council – to the effect that additional time would be required if a road closure was required. This note has been added to condition 20 of the Waikato District specific condition.
10. A minor amendment was sought in relation to condition 21 – to state that the TMPs "*shall be prepared and implemented in accordance with the Traffic Management and Mitigation Strategy*". Our earlier comments are repeated in relation to these amendments being unnecessary.
11. **MR** Gray proposes a new condition 21B. The condition proposed is lengthy, and sets out details and mitigation measures that WDC wish to have covered. It is submitted that this condition is not necessary. Condition 21 sets out the matters that are to be included in the TMP. The additional condition sought by Mr Gray largely duplicates matters that are covered in the condition proposed by Transpower.
12. **SOME** of the matters raised by Mr Gray in his condition 21B have been inserted into condition 21 – these become 21(aa), (ab), (ac) and (ad).

13. **MR** Gray sought amendments to conditions 22 and 23 in relation to the repair of damage to roads. It is submitted that the changes sought should not be made – they would result in Transpower being required to monitor all roads in the District that it used, and then be responsible for the repair of damage to all of those roads. As was addressed in Transpower’s evidence, Transpower can only be responsible for damage caused by its heavy vehicles, not other heavy vehicles that are using the roads. It is for this reason that the conditions requiring repair of the damage have been limited to the area in the vicinity of the entranceways – areas where the damage could be directly attributable to Transpower’s heavy vehicles.

14. **MR** Gray also proposed a new condition 23A which set out his formula for calculating loss of pavement life. The loss of pavement life issue has been addressed earlier. In addition, it is submitted that the condition proposed by Mr Gray is vague and invalid due to uncertainty. It proceeds on the basis that agreement will be reached as to an appropriate formula. However, in the event that agreement cannot be reached, the loss of pavement life is calculated on the basis of five listed assumptions – which may or not be the case (as is specifically noted in condition 23A(d)).

15. **MR** Gray seeks that a new condition 23B be imposed in relation to monitoring and administration costs. This condition is not necessary. Section 36 of the RMA sets out the procedure for imposing such costs. There is no need for this statutory procedure to be repeated as a designation condition.