

**Before the Board of Inquiry of the
Environmental Protection Authority
OMV New Zealand Ltd 2018 Marine Discharge Consent Application**

IN THE MATTER OF

**the Exclusive Economic Zone and
Continental Shelf (Environmental
Effects) Act 2012**

AND

**An application by OMV New Zealand
Ltd for a marine discharge consent
to discharge harmful substances
from the deck drains of a mobile
offshore drilling unit associated with
an exploration and appraisal drilling
programme**

Submission by Climate Justice Taranaki Incorporated

4 July, 2018

www.climatejusticetaranaki.info

Introduction

- 1) Climate Justice Taranaki Inc. (CJT) is a community group dedicated to environmental sustainability and social justice. This includes issues of inter-generational equity, notably in relation to climate change, which will impact future generations' inalienable rights to safe water, food and shelter, crucial to sustaining livelihoods and quality of life. CJT became an incorporated society on 26 February 2015.

Submission

- 2) Under its Exploration and Appraisal Drilling (EAD) Programme over the next six years, OMV plans to drill 12 exploration / appraisal wells across six licensed areas off the Taranaki coast, and discharge undetermined quantities of un-identified harmful substances at sea. International experience has demonstrated that there can be devastating environmental and socio-economic impacts across huge areas from exploratory drilling.
- 3) The Environmental Protection Authority (EPA) is seeking public submissions only on OMV's application for a marine discharge consent for the 'discharge of trace amounts of harmful substances, as offshore processing drainage, from the deck drains of one or more Mobile Offshore Drilling Units' as part of the EAD. This application (EEZ100017) listed 10 related documents 'still to be lodged' for activities associated with the EAD, including applications for a marine consent and another marine discharge consent.
- 4) CJT strongly objects to such a disjoint processing of closely related applications; i.e. all the marine consent and discharge consent applications (notified and non-notified) associated with OMV's EAD programme.
- 5) Disjoint processing of related applications prevents proper assessment of cumulative effects on the environment and existing interest, as required by the EEZ Act s 39(1)(d) and 59(2)(a)(i). The cumulative effects of the EAD programme, of which the discharge of harmful substances is only part, cannot possibly be assessed independently of the effects from other activities in the programme.
- 6) The North and South Taranaki Bights are of critical importance to marine mammal conservation, notably the Maui's dolphin, Blue whale¹ and numerous other cetaceans², as we have noted in our previous submissions^{3, 4}. The recent unexplained deaths at sea, and subsequent beaching, of 13 male Sperm whales^{5, 6} in the area highlights both the lack of knowledge and perilous status of these threatened species. New Zealand has the international obligation to protect and promote the recovery of threatened species under the UN Convention of Biological Diversity which is enabled by the EEZ s 11(b) and 59(2)(e).
- 7) We are particularly concerned with the impacts of cumulative effects from industrial activities combined with rapidly changing physical, chemical and biological oceanography of the Tasman Sea on these and other threatened species in the area.
- 8) The impact assessment (IA), being confined to discharges from deck drains on a Mobile Offshore Drilling Unit (MODU), does not provide sufficient detail to enable EPA and persons whose existing interests are or may be affected, to understand the nature of the activities and their effects on the environment (including cumulative effects) and existing interests (including human health). The level of details provided in the IA fails to correspond to the scale and significance of the effects, as required under the EEZ Act s 39(3)(a) & (b).

- 9) The information provided is uncertain, inadequate, and not the 'best available information' as defined in the EEZ Act s 61(5). The consent authority must make full use of its powers to request information from the applicant and favour caution and environmental protection (EEZ s 61(1) & (2)).

Decision sought

- 10) Considering the scale of the EAD programme, the inadequacy of information, lack of proper cumulative effects assessment, and the risks on human health, marine biodiversity, integrity of marine ecosystems and processes, and New Zealand's international obligation to protect threatened species, CJT submit that the application be declined outright or deferred till all related applications are tabled and assessed jointly as enabled by EEZ s 44.
- 11) If EPA or the Board of Inquiry insists that s 44 only applies if it receives at the same time more than 1 application in relation to the same proposal, then it would appear to present an easy loophole for applicants to submit related applications separately to avoid joint processing and joint hearings (s 44 (1)(c)(i)). It would also compromise the purpose of s 44 which presumably would include enabling the assessment of cumulative effects from activities of related applications.

Non-notified activities

- 12) We are well aware that exploratory drilling for petroleum (including exploratory and appraisal wells) is classified a non-notified activity under the EEZ-CS (Environmental Effects-Non-notified activities) Regulations 2014. The regulations arose following the EEZ Amendment Act 2013 which was rushed through by way of a Supplementary Order Paper, thereby avoiding the select committee process and public submissions. The Ministry for Environment Regulatory Impact Statement⁷ argued that the amendment would reduce costs to businesses and improve incentives to invest – a classic demonstration of how business interest trumps public interest and democracy^{8,9}.
- 13) However, EEZ Act s 50(2) enables the EPA to conduct hearings in respect of applications for non-notified activities, even if the applicant does not request one, if the EPA considers it necessary or desirable. Schedule 2(2) allows EPA to hold a hearing for a marine consent for a non-notified activity in public or in private. In view of the scale of the drilling and discharge activities proposed by OMV and the potential impacts, we ask EPA to conduct public hearings of OMV's applications for all non-notified activities associated with the proposed EAD programme.

Climate change

- 14) New Zealand has the obligation to deliver its commitment to the Paris Agreement¹⁰ under the UNFCCC – keep a global temperature rise this century well below 2 degrees Celsius above pre-industrial levels and to pursue efforts to limit the temperature increase even further to 1.5 degrees Celsius. Still, ocean temperatures have been rising at unprecedented rates¹¹, threatening marine ecosystems, fisheries, and the life-supporting capacity of our environment as a whole. Temperature anomalies¹² as high as 6 degrees Celsius above average was recorded in the Tasman Sea last December.
- 15) The EEZ Act must be amended to include considerations of the effects of emissions on climate change and be brought in line with the forthcoming Zero Carbon Act¹³.
- 16) Fossil fuel exploration and mining must end while just transition to more sustainable energy, agriculture, transport and economic systems begins in earnest. Natural gas is not a bridge fuel to low carbon economy¹⁴, it is a bridge to nowhere!

References

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- ⁹ Law will hit deep-sea drilling protesters, 17 Feb 2014. <http://www.stuff.co.nz/national/politics/9771417/Law-will-hit-deep-sea-drilling-protesters>
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