

OMV Marine Discharge Consent Application

Hearing Statement by Catherine Cheung, 4 September 2018

In my written submission, I asked that OMV's discharge consent application be refused outright or deferred until all related applications associated with the Exploration and Appraisal Drilling (EAD) program were lodged and could be assessed together.

Having read some of the OMV and EPA commissioned reports, and seeing that EPA is unwilling or unable to defer processing of the current application, I am asking that the current application be refused in full.

Reasons for the Application to be Refused

1. Fossil fuel exploration, mining and consumption is a key driver of climate change. The environmental, social and economic costs of climate change are enormous. New Zealand must fulfil its commitment to the Paris Climate Agreement and go beyond that, to be a progressive and responsible nation.
2. The uncertainty and lack of information is so serious that the application should be refused. Neither the Mobile Oil Drilling Unit/s (MODU) nor the names and amounts of chemicals and harmful substances to be used and discharged have been identified. I cannot accept the assessment presented in the Stantec report¹ that the uncertainty *"is not of itself a barrier to granting consent to this application."*
3. Under the EEZ-CS Act section 61(2), the DMC must favour caution and environmental protection if the information available is uncertain or inadequate. Under s 61(4)(a)(ii), the adaptive management approach cannot be considered for marine discharge consent. These legal requirements are clearly stated in the EPA key issues report².
4. The EEZ-CS (Discharge and Dumping) Regulations s 24(5)(s) requires that the Emergency Spill Response Plan (ESRP) be submitted to the EPA for approval at least 2 months before operations begin. Section 24(6) requires the applicant to *"consult any person with an interest in the vicinity of the installation that is likely to be affected by a spill into the sea..."*
5. However, I cannot accept the assessment in the Stantec report³ that *"the required ESRP procedures, could provide key mitigation or control mechanisms around the storage and use of harmful substances on the MODU(s)."* I cannot buy into the *"as low as reasonably practicable"* (ALARP) approach to reducing environmental risks and providing mitigation or control mechanisms around managing uncertainties and harmful substances, as advocated by OMV witness Matiu Park⁴.
6. Having done research for Climate Justice Taranaki focussing on the fossil fuel industry for almost eight years, I have absolutely no faith in the ESRP process or indeed any government oversight on this industry. On the latter, the Parliamentary Commissioner for the Environment (PCE, 2014)⁵ warned, *"Even without the potential for rapid growth, I have not found it to be adequate."*
7. Most recently, I have been shocked by the news concerning toxic chemicals in firefighting foam that have contaminated our groundwater, aquatic species, and threatened people's health^{6,7}. It's outrageous for Shell to be using, for years, foam containing PFOS chemicals that have been banned in NZ since 2006. Two streams in Taranaki are known to be contaminated^{8,9}. The level of PFOS contamination in eels in the Oaonui Stream, which receives waste discharge from Shell's Maui production station, was reported to be 80 times the food safety trigger¹⁰. Wood Group Training, another company that discharges wastes into the stream refused to reveal test results to the public,

quoting requirement of confidentiality¹¹. The groundwater at five Taranaki sites, at least, is also known to be contaminated. Radio NZ reported the EPA as unaware of any banned chemicals being used in the country and EPA had no comment as to whether Shell could or should be prosecuted¹². Is this level of government oversight and transparency sufficient to ensure that people and the environment are not harmed by oil companies and other industrial corporations?

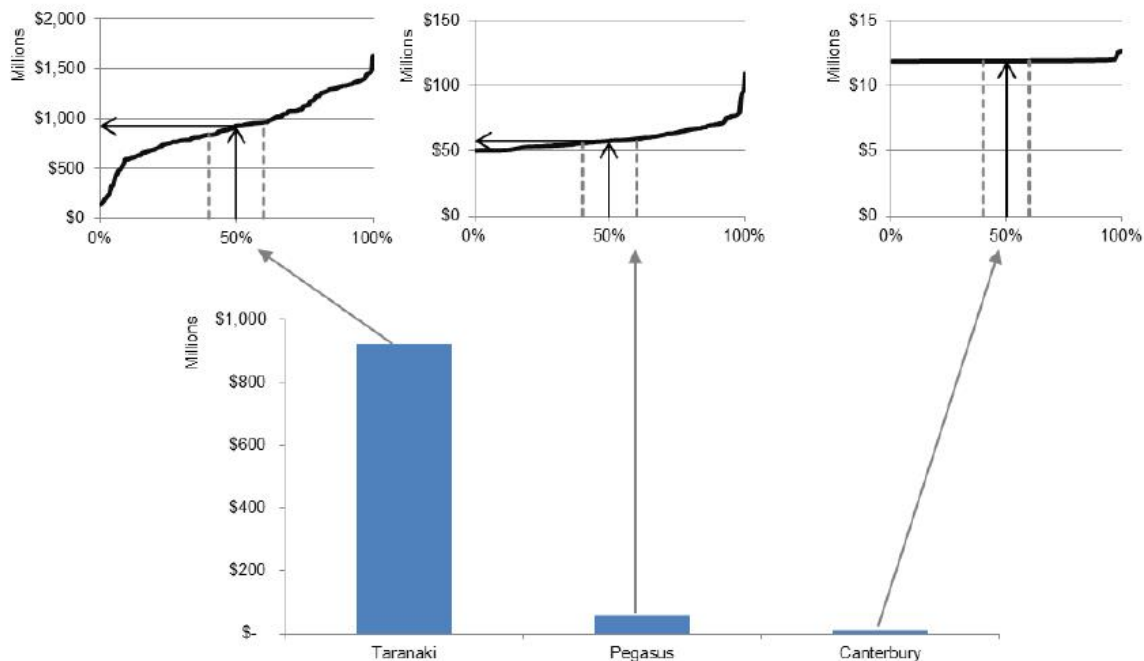
8. I am dismayed by some of the statements made by OMV witness Gabriel Selischi. The witness wrote that *“OMV has an excellent track record in HSSE compliance”* and that OMV has a vision of *“ZERO Harm – NO Losses”*. But in 2010, OMV had two oil spills¹³ from its Raroa vessel at the Maari field in just over a month (Oct-Nov), affecting areas as far as the Kapiti coast – the cause reported¹⁴ to be *“a faulty joint on a pipe”*. And in February 2015, another spill occurred while transferring oil from the Raroa to a tanker, due to a leak in the transfer hose^{15, 16}. Then in November 2016, the Maari oil field had to be closed down and staff evacuated as a crack was found on the wellhead platform. OMV reported that the crack was caused by *“fatigue”* and *“combined action of wind and wave”*, although it was also unable to reject the possibility of damage from the 7.8 earthquake that hit the country the week before¹⁷. No investigation was conducted by WorkSafe or Maritime NZ¹⁸. In the year that followed, at least four other dangerous occurrences and incidents were notified during OMV operations (WorkSafe OIA response, Nov 2017).
9. Rather than earmarking huge money on drilling more wells in unknown territories all over the Taranaki Basin and discharging toxic chemicals into our ocean, OMV should be spending real money in maintaining its aging infrastructure, with climate extremes in mind, and not just for Maari but all the assets that it has bought from Shell¹⁹. The PCE explained²⁰, *“The bigger challenge comes once a well has been abandoned. The likelihood of an abandoned well leaking increases with its age.”* If OMV is truly *“committed to responsible and sustainable business behaviour and building trustful stakeholder relations”*, it would also offer to pay for the full costs of decommissioning these installations²¹. Such installations overseas cost between NZ\$100 million and NZ\$1 billion to decommission²². The NZ government is liable for tax and royalty rebates equivalent to 42-48 per cent of the total cost while it tries to play catch up with the regulations²³.
10. In terms of accountability, OMV has a dubious reputation overseas, notably in Pakistan, where it allegedly misappropriated billions of Ruppees in 2014²⁴.

The Inconvenient Truth

11. Fossil fuel companies are known to undertake the ‘divide and conquer’ strategy when trying to gain access into communities and their land to drill for oil and gas²⁵. A similar strategy seems to be happening here as companies like OMV divide up their proposed activities on paper and apply for individual consents for related activities separately.
12. OMV has this huge drilling programme, but it only has to go through a single notified discharge consent application, for some *“trace amounts of harmful substances from the deck drains of a Mobile Offshore Drilling Unit”*. Consent applications for the dangerous drilling activities and other toxic discharges are non-notified – the public won’t know and has no say in these. Still I ask that these non-notified applications be heard in public, as allowed by the EEZ Act. You’ll probably tell me that it’s not up to this DMC which is only concerned with the current discharge consent and what I ask is irrelevant here. But if I don’t ask now, when do I get that chance?
13. It is common knowledge that exploratory drilling is the most risky stage of all upstream petroleum activities. The Navigatus Financial Assurance Review (2015)²⁶ commissioned by MBIE and the Ministry of Transport emphasized: *“Drilling activity presents more risk than ongoing production activities. Given this, it is imperative that the required levels of assurance are increased before drilling commences to better reflect the potential financial implications of clean-up and compensation costs.”*

14. The Review (2015), based on 200 spill trajectories (and using Maari crude proxy as oil type), also concluded: *“Deepwater Taranaki has the highest assessed damages. This reflects the more persistent nature of the modelled oil for this well, the estimated spill volume, and the estimated volume of oil reaching the shore. Due to the persistence of the oil, the oil remains on the sea surface for longer, leading to larger fisheries closures, which is reflected in larger damages.”* The estimated median damage is \$926 million (See figure 1.1).

Figure 1.1 Modelled median and probability distribution of total damages for Taranaki, Pegasus and Canterbury



15. The fact is that the environmental and socio-economic costs of drilling²⁷ a dozen exploratory/appraisal wells across six licensed areas spanning almost 9,000 sq km, and the associated discharges of drill fluids²⁸ and production water²⁹, are unavoidable and hugely significant. The safer strategy for the company and a government under industry pressure is to make sure that applications for these activities are lodged separately and processed quietly without public scrutiny, as allowed for by EEZ regulations. The law and regulations have been written and/or amended to cut out the public. The EPA process we get to partake in now is nothing more than a token of public involvement and a rubber-stamping exercise for big oil. This is the inconvenient truth.

16. I am utterly disillusioned by the law and how government agencies kowtow to industries and corporations rather than follow the true principles of greater good and serve the people. I believe such disillusion is the reason why there are so few submitters here today to speak against the application, not because they are supportive of it. I speak here on behalf of them also, to plea that you refuse OMV's current application.

17. Taranaki has been the sacrificial zone for the oil and gas industry for far too long. We are now facing an unprecedented crisis – dangerous climate chaos that is threatening our lives and livelihoods, and those less privileged. It is time to do things differently, responsibly and sustainably for the sake of our future and next generations' future.

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- ¹ <https://www.epa.govt.nz/assets/FileAPI/proposal/EEZ100017/External-advice-and-reports-EPA-reports/Stantec-Uncertainty-Report-3-07-18-EEZ100017.pdf>
- ² <https://www.epa.govt.nz/assets/FileAPI/proposal/EEZ100017/External-advice-and-reports-EPA-reports/EPA-Key-issues-report-13-07-18-EEZ100017.pdf>
- ³ <https://www.epa.govt.nz/assets/FileAPI/proposal/EEZ100017/External-advice-and-reports-EPA-reports/Stantec-Uncertainty-Report-3-07-18-EEZ100017.pdf>
- ⁴ <https://www.epa.govt.nz/assets/FileAPI/proposal/EEZ100017/Evidence-Applicants-evidence/OMV-Matiu-Park-EIC-July-2018-EEZ100017.pdf>
- ⁵ <http://www.pce.parliament.nz/publications/all-publications/drilling-for-oil-and-gas-in-new-zealand-environmental-oversight-and-regulation>
- ⁶ <https://www.radionz.co.nz/national/programmes/morningreport/audio/2018655078/toxic-firefighting-foam-victims-speak-out>
- ⁷ <https://www.radionz.co.nz/national/programmes/morningreport/audio/2018658159/toxic-foam-officials-back-down-allow-blood-testing>
- ⁸ <https://www.radionz.co.nz/national/programmes/morningreport/audio/2018657293/shell-contaminates-taranaki-streams-with-toxic-foam>
- ⁹ <https://www.radionz.co.nz/news/national/363769/eaten-contaminated-eel-taranaki-health-authorities-want-to-know>
- ¹⁰ <https://www.radionz.co.nz/news/national/363756/firefighting-foam-eel-contamination-80-times-greater-than-food-safety-level>
- ¹¹ <https://www.radionz.co.nz/news/national/363889/firefighting-foam-multinational-won-t-release-results>
- ¹² <https://www.radionz.co.nz/news/national/363802/epa-not-aware-of-any-current-use-of-firefighting-foams-with-banned-chemicals>
- ¹³ https://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=10689364
- ¹⁴ <http://www.stuff.co.nz/national/4422392/Kapiti-beaches-on-alert-for-oil-spill-residue>
- ¹⁵ <https://www.stuff.co.nz/environment/66524920/oil-spill-off-taranaki-coast>
- ¹⁶ <https://www.stuff.co.nz/manawatu-standard/news/67078915/oil-spill-heading-towards-beaches-in-manawatu>
- ¹⁷ <https://www.stuff.co.nz/business/86814391/Maari-oil-field-closed-after-wellhead-platform-crack-discovered>
- ¹⁸ <https://climatejusticetaranaki.files.wordpress.com/2013/03/cjt-submission-on-stos-2017-application-final.pdf>
- ¹⁹ <https://www.stuff.co.nz/business/industries/106197206/austrian-oil-company-given-permission-by-watchdog-to-takeover-shells-nz-business>
- ²⁰ <http://www.pce.parliament.nz/publications/all-publications/drilling-for-oil-and-gas-in-new-zealand-environmental-oversight-and-regulation>
- ²¹ <https://www.stuff.co.nz/taranaki-daily-news/news/90952440/Government-faces-multi-million-dollar-bill-to-decommission-oil-rigs>
- ²² <http://taxpolicy.ird.govt.nz/publications/2017-ris-areirm-bill/petroleum-mining-decommissioning>
- ²³ <http://www.mfe.govt.nz/publications/marine/proposed-policy-regulating-decommissioning-under-eez-continental-shelf-act-2012>
- ²⁴ <https://nation.com.pk/23-Jan-2017/massive-corruption-by-oil-gas-companies-unearthed>
- ²⁵ <https://jury.co.nz/2012/09/15/living-in-petrochemical-heartland/>
- ²⁶ <https://www.transport.govt.nz/assets/Uploads/Sea/Documents/2015-11-30-Financial-Assurance-Review-Main-Report.pdf>
- ²⁷ http://www.legislation.govt.nz/regulation/public/2014/0043/latest/DLM5935407.html?search=ts_act%40bill%40regulation%40deemedreg_non-notified_resele_25_a&p=1
- ²⁸ <http://legislation.govt.nz/regulation/public/2015/0228/latest/DLM6593960.html>
- ²⁹ http://legislation.govt.nz/regulation/public/2015/0228/latest/DLM6593956.html?search=sw_096be8ed816d21a5_production_25_se&p=1&sr=2