

**Before the Decision-making Committee
appointed by the**

Environmental Protection Authority

**OMV GSB Limited application for Marine
Discharge Consent (EEZ100018)**

**IN THE MATTER OF the Exclusive Economic Zone and Continental Shelf
(Environmental Effects) Act 2012**

**AND An application by OMV GSB Ltd for a marine discharge consent
to discharge trace amounts of harmful substances from deck drains of
a Mobile Offshore Drilling Unit as offshore processing drainage**

Presentation by Climate Justice Taranaki Incorporated, 31 July, 2019

Oppose

Cumulative Effects

The discharges relevant to this notified consent application cannot occur without the installation of significant infrastructure.

Hence those activities should be considered as cumulative effects of the present application under EEZ Act s 39(1)(d) and 59(2)(a)(i) and also EEZ-CS Act s10.

There are many other cumulative effects relevant under the EEZ-CS Act.

EEZ-CS Act 'cumulative effects'

6 Meaning of effect

(1) In this Act, unless the context otherwise requires, *effect* includes—

(a) any positive or adverse effect; and

(b) any temporary or permanent effect; and

(c) any past, present, or **future** effect; and

(d) any cumulative effect that arises **over time or in combination** with other effects; and

(e) any potential effect of high probability; and

(f) any potential effect of low probability that has a **high potential** impact.

(2) Subsection (1)(a) to (d) apply regardless of the scale, intensity, duration, or frequency of the effect.

EEZ-CS Act 'cumulative effects'

33 Matters to be considered ...

(3) The Minister must take into account—

(a) any effects on the environment or existing interests of allowing an activity with or without a marine consent, including—

(i) **cumulative effects**; and ...

(i) the **effects of activities that are not regulated under this Act**; and

(ii) ...

(d) the importance of **protecting the biological diversity and integrity of marine species, ecosystems, and processes**;

(e) the importance of **protecting rare and vulnerable ecosystems and the habitats of threatened species**; and

(f) **New Zealand's international obligations**; and

(i) the nature and effect of other marine management regimes; ...

National and International Obligations

The Great South Basin and adjacent Otago coastline are of critical importance to marine mammal and seabird conservation, boasting abundant species diversity and providing habitats for endangered, threatened and endemic species.

OMV's exploratory drilling programme threatens all these.

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).

Threatened cetaceans from NZ waters

Species	IUCN Red List / NZ (if different)	Species	IUCN Red List / NZ (if different)
Antarctic Minke Whale	DD (NT)	Risso's Dolphin	LC
Common Minke Whale	LC	Short-finned Pilot Whale	DD
Southern Right Whale	LC (NV) ***	Long-finned Pilot Whale	DD (NT)
Bryde's Whale	DD (NC) *	Spectacled Porpoise	DD
Sei Whale	En	False Killer Whale	DD (NT)
Humpback Whale	LC	Killer Whale	DD (NC) *
Fin Whale	En	Pygmy Sperm Whale	DD (NT)
Blue Whale	En	Southern Bottlenose Whale	LC (DD)
Pygmy Blue Whale (subspecies)	En	Hector's Beaked Whale	DD
Hector's Dolphin	En (NE) **	Shepherd's Beaked Whale	DD
Maui's Dolphin (subspecies)	En (NC) *	Cuvier's Beaked Whale	LC (DD)
Dusky Dolphin	DD	Ginkgo Toothed Beaked Whale	DD
Pan Tropical spotted Dolphin	LC	Gray's Beaked Whale	DD (NT)
Indo-Pacific Bottlenose Dolphin	DD	Arnoux's Beaked Whale	DD
Common Bottlenose Dolphin	LC (NE) **	Andrew's Beaked Whale	DD
Striped Dolphin	LC	Strap-toothed Whale	DD
Southern Right Whale Dolphin	DD (NT)	Sperm Whale	Vu (NT)

DD: Data Deficient; LC: Least Concern; Vu: Vulnerable; En: Endangered.

- **6 spp. Endangered**
- **1 sp. Vulnerable**
- **18 spp. Data Deficient**

*** 3 spp. Nationally Critical (NC)**

**** 2 spp. Nat. Endangered (NE)**

***** 1 sp. Nat. Vulnerable (NV)**

NT – Not Threatened

Threatened NZ sea and shore-birds

Nationally Critical

Most severely threatened, facing an immediate high risk of extinction:

- Antipodean wandering albatross/toroa
- [Black-billed gull/tarāpuka](#)
- [Chatham Island oystercatcher/tōrea tai](#)
- Chatham Island shag
- [Chatham Island tāiko](#)
- Gibson's wandering albatross/toroa
- Kermadec white-faced storm petrel
- [New Zealand fairy tern/tara iti](#)
- Pacific white tern
- Pitt Island shag
- Salvin's albatross/toroa
- [Shore plover/tuturuatu](#)
- South Georgian diving petrel
- [Southern New Zealand dotterel/tūturiwhatu](#)
- [White heron/kōtuku](#)

Source: <https://www.doc.govt.nz/nature/conservation-status/threatened-birds/>

Nationally Endangered

Facing high risk of extinction in the short term:

- [Black-fronted tern/tarapirohe](#)
- Kermadec petrel "Summer"
- King shag
- Masked (blue-faced) booby
- Reef heron/matuku moana
- White-bellied storm petrel

Nationally Vulnerable

Facing a risk of extinction in the medium term:

- Auckland Island shag
- Banded dotterel/tūturiwhatu
- Black petrel/tāiko
- Campbell Island mollymawk
- Caspian tern/taranui
- [Chatham petrel/ranguru](#)
- Eastern rockhopper penguin
- [Fiordland crested penguin/tawaki](#)
- Flesh-footed shearwater/toanui
- Foveaux shag
- Grey-headed mollymawk
- [Hutton's shearwater](#)
- New Zealand storm petrel

The Future: A 'Perfect Storm' of cumulative effects

The physical, chemical and biological oceanography of earth's oceans are changing, not just from local industrialization, but also from climate disruption. Rising sea temperature, storms, ocean acidification, deoxygenation and associated impacts on productivity and food webs will all increase in coming decades.

Sir Peter Gluckman (2013): *“For New Zealand, the resulting impact of changes in wind patterns, precipitation, and the chemistry of our oceans can be expected to be at least as significant as the changes in temperature itself.”*

'Cumulative effects' under Sections 6, 28, 33 and 59 of EEZ Act

Eg. see: Babcock et al. (2019) Severe Continental-Scale Impacts of Climate Change Are Happening Now: Extreme Climate Events Impact Marine Habitat Forming Communities Along 45% of Australia's Coast. *Front. Mar. Sci.* <https://doi.org/10.3389/fmars.2019.00411>

Disjoint processing of related consents

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 Statement 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.

Cumulative effects and disjoint processing

EEZ Act s 39(1)(d) and 59(2)(a)(i) require proper assessment of cumulative effects on the environment and existing interest.

But disjoint processing of closely related consent applications involved in the OMV GSB EAD programme (most non-notified and hence not subject to public input / scrutiny) is not consistent with proper assessment of cumulative effects.

This approach risks failing to achieve the purpose of the EEZ-CS Act s10, notably safeguarding the life-supporting capacity of the environment; and avoiding, remedying, or mitigating any adverse effects of activities on the environment.

Cumulative Effects – ‘reductio ad absurdum’ or holism?

Cumulative effects of O&G mining applications under the EEZ-CS Act have all been deemed by industry consultants and EPA to be ‘low or negligible’, taking a reductionist view.

In the present case, sig. infrastructure must be put in place, and serviced, before the trace amounts of harmful substances that this hearing is deliberating over will be produced. In a holistic, rather than reductionist, view, placement and operation of that infrastructure are all cumulative effects of the application, with major attendant risks, not just the discharge itself, irrespective of ‘notification’ status.



Deepwater Horizon photos courtesy Wikipedia



▲ This undated photo provided by the Institute for Marine Mammal Studies shows lesions on a dolphin at a shoreline. At least 279 dolphins have stranded across much of the US Gulf Coast since February. Photograph: Moby Solangi/AP

At least 279 dolphins have become stranded across much of the US Gulf Coast since the start of February, triple the usual number, and about 98% of them have died, scientists from the National Oceanic and Atmospheric Administration (Noaa) said.

Scientists will investigate whether lingering effects from the 2010 BP oil spill and more immediate effects from low salinity because of freshwater flowing from high rivers and a Louisiana spillway contributed to the deaths, said Teri Rowles, coordinator for Noaa fisheries' marine mammal health and stranding response program.

Spill risks (EEZ-CS Act Sections 6 and 33)

BP spill effects included problems with lungs and adrenal glands, which produce stress-related hormones; blood abnormalities; and general poor condition, the spill contributed to the Gulf of Mexico's largest and longest dolphin die-off.

<https://www.theguardian.com/environment/2019/jun/15/dolphins-stranded-deaths-gulf-coast> (Accessed 15 June 2019)

Disjoint processing of related consents

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.

Additional considerations for the DMC & OMV

Is it wise to:

- continue to explore when we cannot burn most known reserves?
- continue this 'divide and conquer' approach of piece-meal applications, contingent on premeditated omissions / amendments to the EEZ-CS Act on non-consideration of emissions and notification of exploratory drilling
- continue to enable an industry that is changing, rapidly, the very nature of our biosphere, a major driver of this mass extinction?

Ecocide is an international crime against nature and the future of humanity. Its future inclusion on the Rome Statute should result in prosecution of the Carbon Majors and those that fostered O&G 'business as usual' in full knowledge of the consequences.

Decision sought by CJT

Considering the scale of OMV's proposed programme, uncertainty in the application, risks to 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.

Any approval of the current application, and other applications associated with the OMV GSB EAD program, would make a mockery of our climate emergency and the government's supposed commitments and just transition to a net zero carbon economy.