

**Before the Decision-making Committee
appointed by the
Environmental Protection Authority**

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

**AND An application by Beach Energy Resources NZ (Holdings) 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**

CLIMATE JUSTICE TARANAKI Inc.

Oppose.

Decision sought by Climate Justice Taranaki

Considering the scale of the proposed programme, uncertainty in the application, risks to marine biodiversity, integrity of marine ecosystems and processes, and New Zealand's international obligations, including under UNCLOS and UNCBD, Climate Justice Taranaki submit that the application be declined outright.

Any approval of the current application, and other applications associated with the program, would be contrary to the government's supposed commitments to environmental protection and just transition to a net zero carbon economy.

National and International Obligations

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

This and other exploratory drilling programmes threaten all these.

New Zealand has the **international obligation to protect and promote the recovery of threatened species under several international conventions**, including the UN Convention of Biological Diversity which is enabled by the EEZ s 11(b) and 59(2)(e).

Court of Appeal TTRL case

The Court of Appeal *Trans-Tasman Resources Ltd v Taranaki-Whanganui Conservation Board and Others* [2020] NZCCA 86 Judgement (April 2020) states:

“[269] The international law framework is relevant to the interpretation of the EEZ Act, as we have explained above. In particular, the EEZ Act can and must be interpreted to give effect to the instruments referred to in s 11: the LOSC, the Biodiversity Convention, MARPOL and the London Convention (including the 1996 Protocol). The approach we have adopted to s 10(1)(b) is informed by these instruments, and is designed to ensure that the EEZ Act will secure compliance with New Zealand’s obligations under those instruments, as s 11 confirms it was intended to do.”

Court of Appeal TTRL case and UNCLOS

The court ruled the protections in the EEZ Act are environmental bottom lines, and if there is a real prospect of material pollution, a marine discharge or dumping consent should not be granted.

Justice Goddard in the Court of Appeal in the 3 April 2020 Judgement:

*"[1] The United Nations Convention on the Law of the Sea (LOSC) [1994] provides that **New Zealand has a duty to protect and preserve the marine environment**. New Zealand has the sovereign right to exploit the natural resources of its exclusive economic zone (EEZ) pursuant to New Zealand's environmental policies, and in accordance with that duty. The Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (the EEZ Act) provides for the use of the natural resources of New Zealand's EEZ **in a manner that is consistent with New Zealand's international law obligations, including the LOSC duty to protect and preserve the marine environment.**"* [CA573/2018 \[2020\]](#)

[NZCA 86](#)

Processing of related consents

In the present case, although Beach Energy requires multiple consents before it can carry out exploration drilling, **only the discharge activity laid out in the current application is publicly notified and subject to public scrutiny.** The public has no ability to submit on other activities associated with the EAD program, such as impacts on the marine environment and threatened species from the drilling and movement of the MODU(s) and from the far greater amounts of associated harmful discharges, all of which are cumulative effects under the EEZ-CS Act.

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.

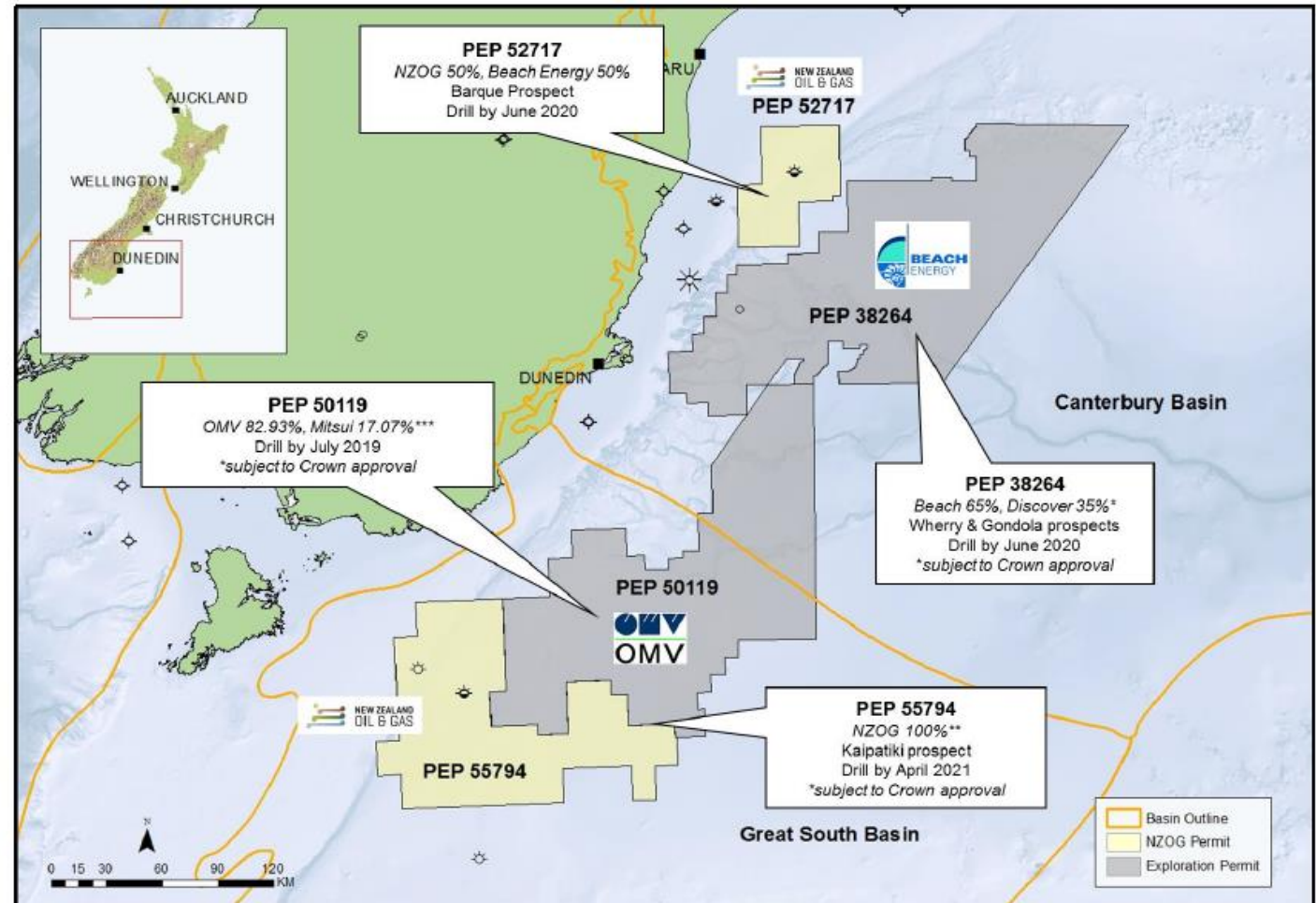
In view of the scale of the drilling and discharge activities proposed, and the potential impacts, we again ask **EPA to conduct public hearings of applications for all non-notified activities associated with the proposed EAD programme, and in full cognisance of other permits in the region.**

New Zealand's Great Southern Drilling Opportunity

CJT Alternate Title: Let's play Monopoly

South Islands upstream landscape is evolving

- PEP 52717 Change of Conditions granted
 - Drill or Drop extended to April 2019
 - Woodside withdrawing from PEP 55794 *
 - NZOG to acquire 100% (and Operatorship) (subject to regulatory approval)
 - Shell exiting New Zealand & PEP 50119 **
 - Commitment well currently planned to be drilled in early 2019 (now by OMV?)
 - Anadarko exiting Wherry (PEP 38264) ***
 - Leaving Beach & Discover
 - Extension situation being worked through
- Main slide by Dr. Chris McKeown
VP Exploration & Production, May 2018



* Assumes Woodside withdraw from permit
 ** Assumes OMV acquire Shell's interest in PEP50119
 *** Assumes Lattice Energy Deal is granted Section 41 consent and Beach and Discover resting interest 65:35

Additional considerations

Is it wise to:

- continue this 'divide and conquer' approach of disjoint assessments, contingent on premeditated omissions / amendments to the EEZ-CS Act on non-consideration of emissions and non-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 the biosphere and future of humanity. Its future inclusion on the Rome Statute should result in prosecution of those that conducted O&G 'business as usual' in full knowledge of the consequences.