

Greenpeace New Zealand, Inc.

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Environmental Protection Authority
Private Bag 63002
Wellington 6140

Submission on OMV GSB Ltd deck drainage application

Application for a marine discharge consent to discharge harmful substances from deck drains associated with exploration and appraisal drilling in PEP50119 within the Great South Basin.

Reasons to accompany online submission.

INTRODUCTION

OMV Great South Basin Limited (OMV) is applying to the Environmental Protection Authority (EPA) to discharge trace amounts of harmful substances from the deck drains of a Mobile Offshore Drilling Unit (MODU) as offshore processing drainage. This discharge will take place within Petroleum Exploration Permit (PEP) area PEP50119 as part of the Great South Basin Exploration and Appraisal Drilling (EAD) Programme. This EAD programme could involve the drilling of up to three exploration wells and seven appraisal wells. The duration of the consent is until the end of 2030.

This application should be declined because the risks are unknown, the effect on ocean acidification are unknown, the location is unknown, the platform is unknown, the vulnerable species are unknown, the management and mitigation methods are unknown and the application has failed to account for economic costs associated with the proposed activity.

GENERAL COMMENT ON SCOPE OF THE CONSULTATION

We have strong objections to the frame within which this consultation is taking place. Changes to the EEZ/CS Act in 2013 and 2014 have made it impossible for the public to express their legitimate concerns about climate change, oil spills and other harmful impacts of exploratory offshore drilling, which are deliberately excluded from this process.

The restriction of public consultation to the narrow issue of deck drainage is highly problematic, masking significantly greater impacts. The legislation means that experts, civil society and the wider public are not permitted, through formal process, to review, scrutinise or be heard on these impacts, let alone cross-examine applicants on their ability to manage them.

Under the EEZ/CS Act, the previous government in 2013 and 2014 specifically eliminated necessary controls to protect marine mammals, and

excluded public notification for oil drilling. These should be repealed, and transparency and environmental protection restored.

Specifically in 2013, a number of potentially damaging activities were gazetted as permitted activities under the Exclusive Economic Zone and Continental Shelf (Environmental Effects—Permitted Activities) Regulations 2013: these seismic testing, and marine scientific research, prospecting and exploration, with no effective controls over damage that may be thereby caused, no public scrutiny, no possibility to add necessary controls and no transparency.

Then in 2014, the government passed regulations covering exploratory oil and gas drilling: the Exclusive Economic Zone and Continental Shelf (Environmental Effects—Non-notified Activities) Regulations 2014 made exploration drilling for petroleum in the EEZ or continental shelf non-notified activities so an application for a marine consent for any of those activities may not be publicly notified.

These regulations not only undermined the important procedural steps built into the EEZ/CS Act but mean that potentially damaging activities in the EEZ can be carried out, out of sight of the public and beyond regulatory controls, specifically to enable oil and gas exploration.

This regulatory framework is inconsistent with the latest climate science, which confirms that we cannot afford to burn known fossil fuel reserves, let alone search for more.¹ It is also inconsistent with the current Government's stated aim of keeping global warming to 1.5 degrees.

We also object at the complete failure of OMV to consult with environmental organisations and experts.¹

For all of these reasons, we consider this consultation process to be inadequate.

Greenpeace requests that the EPA hold hearings into the future non-notified activities (including exploratory and appraisal wells) as it has the power to do so under section 50(2) of the EEZ/CS Act, since it is both necessary and desirable. Due to the clear public interest and concern at OMV's drilling programme, and due to both the impacts of drilling and potential spills on the marine environment and the public concern at offshore oil exploration and exploitation, it is without doubt both necessary and desirable.

¹ The Completeness Memorandum states that "63. Section 5.3 of the IA describes the stakeholder engagement process and includes the groups that OMV have engaged with, advised or sent a request to meet with. These included:

- a. iwi and Hapū;
- b. fisheries;
- c. shipping;
- d. central government agencies;
- e. regional councils; and
- f. territorial authorities"

COMMENTS SPECIFIC TO THE DECK DRAINAGE APPLICATION

Risks are Unknown

This application is premature and should be declined. The application should not have been determined as complete under section 40 of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (EEZ/CS Act). As noted in the EPA's completeness memorandum, a number of critical details are still unconfirmed. For example, the memorandum states:

- 29. As a MODU[s] is yet to be contracted, the harmful substances that will be used for the EAD are unconfirmed.
- 23. The exact locations of the wells are yet to be confirmed.

The memorandum notes that the risk assessment results are largely based on the results of the harmful substance dilution calculation. However,

1. the substances which may be discharged are unknown;
2. the MODU is unknown. It may not even be a MODU but it may be a drill ship (page 36); and
3. the location of the wells are unknown.

Therefore the level of risk is unknown. They are not "yet to be confirmed" and they are not "unconfirmed". They are unknown.

This is established in OMV's application which states that: "OMV has not yet contracted a MODU and does not have the final well designs. Therefore, the final list of harmful substances is not currently available." (3.4.2) This is bureaucratic nonsense. It is not a "final list" that is not "currently available". The harmful substances are not known.

In other words, (1) the MODU has yet to be contracted, so spillage risks and containment techniques cannot be assessed; (2) OMV does not know the substances which may be used (and therefore which may be released); and (3) the location is not known, so vulnerable areas cannot, by definition, be assessed.² Nor has an attempt been made to identify vulnerable areas.

This information is not sufficient under the Act, which prescribes as follows: under section 61(1)(c), the EPA must (c) take into account any uncertainty or inadequacy in the information available, and under section 62(2), if, in relation to making a decision under the Act, the information available is uncertain or inadequate, the EPA must favour caution and environmental protection.

Furthermore, the assessment of the zone of influence of any potential harmful substance discharge is problematic. While it has been identified as 200 m, this is based on plume modelling of discharges from the FPSO in the Maari field (section 3.7 of the EIA, p.52). As stated in section 3.7, "This modelling has been undertaken in a different region in New Zealand than the AOI and for a different activity." In other words, there has been no plume modelling done for this application. Plume modelling from completely different discharges in a different receiving environment with different assumptions – and probably a different MODU or even a drilling ship - is instead used. The 200 metre estimate is pure guesswork, based on assessments for a different

² See map at page 37.

location, different activity and potentially a different vector (a ship vs. a MODU).

Impacts of any spill on coldwater coral and other vulnerable ecosystems and species are unknown. For all these reasons and, given the uncertainties inherent in the application, the impacts are unknowable. The assessment has failed to, as required by s 39 (1) “f) identify the effects of the activity on rare and vulnerable ecosystems and habitats of threatened species”.

Economic Costs are Unknown

Economic benefits from the application are cited to be over \$2 billion (p. 125), yet nowhere are the economic costs from the OMV drilling programme taken into account. Economic costs of climate change and adaptation are also relevant. The economic benefit section of the EIA reads as follows:

Since OMV New Zealand began operating in New Zealand in 2002, OMV New Zealand has invested over NZ\$2 billion into the New Zealand economy. In addition, more than NZ\$1 billion has been paid to the New Zealand government in taxes and royalties up to December 2018. These figures provide an indication of what economic benefits the country can receive from a producing offshore field such as the Maari Field.

This Discharge Consent application is for a minor component of the total activities related to the GSB EAD Programme proposed by OMV. There will be no economic benefit with regards to the discharge of trace amounts of harmful substances from the deck drains of a MODU.

However, the overarching GSB EAD Programme may provide substantial economic benefits to New Zealand if drilling results in a hydrocarbon discovery and future development. This will be assessed in subsequent Marine Consent applications related to the GSB EAD Programme.

Here, the applicant attempts to (1) have the EPA consider \$2 billion in economic benefits but at the same time (2) consider there are no economic benefits from the current application and then (3) at a later unspecified point of time, some unspecified future marine consent applications will provide an assessment of substantial economic benefits. This effort at ‘cutting and dicing’ economic benefits fails. OMV cannot dangle a carrot in front of EPA, but say they cannot eat the carrot now but may be able to eat a lot more carrots later, and expect this to be taken into account.

The economic benefits, and costs, must equally be taken into account. The \$2 billion in claimed economic benefits from the oil drilling programme must be balanced against the costs of adapting to climate change, the costs of climate change from adverse weather events such as the increased intensity of storms, floods and drought, sea-level rise and the many other costs of climate change. While section 59(5) provides that EPA cannot take into account “the effects on climate change of discharging greenhouse gases into the air” (we note that this is a highly problematic and outdated restriction in itself), it can and should take into account the broader effects of oil drilling on the New Zealand economy, such as the costs of oil spills, the costs of buying carbon credits, the deleterious effects on New Zealand’s obligation to deliver its commitment to the Paris Agreement to 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, the consequent shifting of costs to other sectors of the economy and the costs of adaptation to climate change necessitated by fossil fuels. It can

and should also take into account the potential costs to the New Zealand economy of oil drilling at a time the world has become aware that oil drilling will impose as yet unknown costs on the New Zealand economy.

Future costs from ocean acidification, a direct effect of the absorption of carbon dioxide from the burning of fossil fuels, must also be taken into account and are not exempted under section 59(5) of the Act. Nowhere have these been assessed.

The World Economic Forum has reported on the cost of delayed action worldwide. The report² reviewed 16 studies that compare 106 pairs of policy simulations based on integrated climate mitigation models. It found that costs increase with the length of the delay, and showed that the cost of achieving a given target would rise by about 40%. A delay that results in warming of 3° Celsius above preindustrial levels, instead of 2°, could increase economic damages by approximately 0.9% of global output. Climate catastrophes, such as rapid melting of Antarctic ice, and severe sealevel rise, would have even more severe economic consequences.

Closer to home, a recent Westpac report³ pointed out that timely climate action could benefit the economy by \$30 billion. Conversely, a delay in decarbonizing the economy, which oil drilling exacerbates, increases the likelihood of costly economic shocks. The report, commissioned by Westpac and carried out by Ernst and Young, found that a decade of inaction would cost New Zealand \$30 billion in GDP through 2050 than an early and smooth transition. That is 25 times the \$2 billion estimate provided by the Applicant. Drought, wildfires and glacial retreat will likely increase in frequency and cause economic loss and operational disruption for agriculture and tourism.

The EIA states that (2.3):

This application is for discharge of trace amounts of harmful substances from the deck drains of a MODU. As described in Section 3 of this document, this activity is for the incidental discharge from deck drains that will occur as a consequence of having a MODU in the EEZ. The MODU will be in the EEZ as part of the GSB EAD Programme. Other approvals under the EEZ Act will be required for the GSB EAD Programme, including Marine Consent for activities restricted by section 20, Marine Discharge Consent for activities restricted by section 20B, and an Emergency Spill Response Plan (ESRP).

The content of these related applications is outside the scope of this application. This application is exclusively for the discharge of trace amounts of harmful substances from deck drains of a MODU. Assessments of effects associated with mobilising and demobilising a MODU, drilling in the EEZ, or emergency response plans will be addressed through applications to the EPA at a later date.

OMV acknowledges that the activity that is the subject of this application cannot commence in the EEZ unless all other approvals are in place. Without Marine Consent for the MODU to be used to drill an exploration or appraisal well in the EEZ, this activity will not be carried out. Similarly, all the processes and practices to avoid or mitigate any adverse effects from a loss of containment of harmful substance on the MODU will be the subject of the ESRP, which must also be approved by the EPA before any activities can commence.

OMV specifically acknowledges that the activity that is the subject of this application cannot commence in the EEZ unless all other approvals are in place. Therefore its scope of effects must include all aspects of its exploration programme.

Cumulative Impacts have not been properly considered

The assessment in the EIA of cumulative impacts is woefully inadequate. It does not even assess the impacts of multiple spills in one location.

All alternatives have not been considered

The Completeness Memorandum states that:

67. As the locations of the wells are not known, alternatives cannot be provided. It is likely that there will be no alternative locations where this activity could take place, as the location of a drill site will be determined by the expected location of hydrocarbons.

Section 39(1)(i) of the EEC/CS Act requires the application “specify any possible alternative locations for, or methods for undertaking, the activity that may avoid, remedy, or mitigate any adverse effects.” The Memorandum engages in circular argument which discloses the underlying, fatal, uncertainty in the application: in essence, it is stating that alternative locations and methods must be undertaken, but we do not know the actual locations or methods so we cannot specify the alternative locations or methods.” Obviously this circumvents the Act’s requirements, and lays bare the consequences under section 61(3) of the Act: “If, in relation to making a decision under this Act, the information available is uncertain or inadequate, the marine consent authority must favour caution and environmental protection.”

Determination of OMV Application EEZ100017

For the following reasons, the “Record of consideration and decision on joint processing and decision making – 27 September 2018” (earlier decision) was deficient and should not lead the EPA to grant the requested consent for this application.

1. Ocean acidification, one of the most devastating threats to the ocean, was not addressed and was completely ignored.
2. Climate change was completely disregarded (“Given the limitation on considering climate change, we have not addressed this matter further in this decision except to note that we cannot have regard to it.”)
3. The EPA found that “However, as the Applicant has sought this marine consent separately from the other marine consents it needs to be able to undertake the EAD Programme, we find there is little or no economic benefit to New Zealand from this consent itself.”
4. This finding failed to take into account the economic costs and risks we have described above.
5. Faced with the same uncertainty that is presented with the current application, the EPA found that:

“We accept there was uncertainty with respect to some of the information in the OMV New Zealand application. It was acknowledged by all parties that there were two key information uncertainties - not knowing the deck drainage system as the MODU(s) had not been contracted, and what harmful substances would be used on the MODU(s). However, the IA, and OMV’s

evidence (and that of Dr Lieffering), was based on a typical deck drainage system and a 'worst case scenario' discharge of harmful substance use. 115. On the basis of the above, and for the reasons that follow, we are satisfied that we have made our decision based on the best available information in accordance with section 61(1)(b) of the EEZ Act."

6. A 'typical' deck drainage system and a 'worst case scenario' cannot be known when not only does the EPA not know the MODU but doesn't know whether it will be an underwater MODU or a drilling ship. As with this application, the reasonable thing to do would be to wait until the MODU or ship is known and the actual substances, risks and mitigation techniques are actually known, not matters for speculation. Instead, in terms of s 61, the EPA should "(1)(b) take into account any uncertainty or inadequacy in the information available" and "(2) If, in relation to making a decision under this Act, the information available is uncertain or inadequate, the marine consent authority must favour caution and environmental protection."
7. Nor were alternatives properly addressed. The EPA found that "The only identified alternative was to require that all drainage be captured, stored, and brought to shore for disposal. We were advised this was not practicable and that, based on the evidence, any adverse effects would be de minimis (trivial)." This ignored the option of alternative sites ("specify any possible alternative locations for, or methods for undertaking, the activity that may avoid, remedy, or mitigate any adverse effects"), alternative platforms or any other alternatives.

Conclusion

This application should be declined because the risks are unknown, the effect on ocean acidification are unknown, the location is unknown, the platform is unknown, or indeed it is unknown whether it will be a platform or a ship, the vulnerable species are unknown, the management and mitigation methods are unknown and the application has failed to account economic costs associated with the proposed activity. Quite simply, the application should be declined and OMV should make an application when it has the necessary information.

It is time for the EPA to wake up to the climate emergency and take the environment seriously.

¹ The most [recent report](#) by the Intergovernmental Panel on Climate Change (IPCC) confirms that we must limit the world's temperature increase to 1.5 degrees if we are to avoid the impacts of catastrophic climate change. Furthermore, it outlines that achieving this life-saving target requires us to reduce global emission by half by 2030.

It has long been understood that we cannot afford to burn most of the fossil fuels currently held in reserves, let alone search for more, if we're to avoid catastrophic climate change. The [most recent study on this](#), carried out by Global Witness, has found that oil and gas production from active fields is already more than we can burn if we're to limit warming to 1.5°C, yet the industry is set to spend another \$4.9 trillion on new fossil fuels.

² World Economic Forum. What is the cost of delaying climate action? February 2015. At <https://www.weforum.org/agenda/2015/02/what-is-the-cost-of-delayingclimate-action/>

³ Westpac NZ. Climate Change Impact Report. April 2018. At <https://www.westpac.co.nz/rednews/business/30-billion-benefit-for-fasterclimate-change-action/>

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