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24 March 2017

Mr Richard Johnson  
Manager EEZ Applications  
Environmental Protection Authority  
Private Bag 63002  
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Dear Richard

**The Ministry of Business, Innovation and Employment's response to the Third Memorandum of Counsel for Origin Energy Resources Kupe NZ Ltd on behalf of the Kupe Joint Venture Parties: Questions for Witnesses.**

On 16 March 2017, the Ministry of Business, Innovation and Employment (MBIE) received a series of written questions from counsel for Origin Energy Resources Kupe NZ Ltd via the Decision Making Committee (DMC) in follow up to a response from MBIE to an information request from the DMC under s44 of the Exclusive Economic Zone Act 2012 and the MBIE submission on Trans-Tasman Resources Limited's application for a marine consent currently before the DMC.

This response addresses each of those eight questions in turn below.



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**Question 1: Do the conditions attached to Minerals Mining Permit 55581 (MMP 55581) require the permit holder to consult and coordinate its activities under that permit with other users of the area?**

*MBIE's response*

In matters relating to navigation and safety, yes (Condition 12 in Schedule 1 of MMP 55581; *"While conducting activities under the permit, the permit holder must consult and coordinate its activities with other users of the area for navigation and safety purposes"*). Outside of matters relating to navigation and safety, no.

**Question 2: Are there any conditions attached to PML 38146 that specifically require the licensee or operator of PML 38146 to engage or cooperate with, or otherwise accommodate, any mining operations associated with an overlapping MMP?**

*MBIE's response*

No, but there is an implicit expectation that the operator of PML 38146 will engage with other operators in their permit area *"in accordance with good industry practice"*.

**Question 3: Is it the scheme of the Crown Minerals Act 1991 that a second in time permit holder can *de facto* exclude, or otherwise restrict a first in time permit or licence holder from accessing the minerals that the first in time holder has rights to?**

*MBIE's response*

In the case of overlapping permits for different mineral groups the CMA does not recognise a 'first in time' or 'second in time' permit holder. Both permit holders hold all rights for the minerals named in their permits. MBIE would expect, where these cases occur, that the two parties cooperate and coordinate activities to the maximum mutual benefit of both.

**Question 4: Were the conditions attached to MMP 55581 *specifically* designed at the time they were imposed to address the *effects* of any mining operation associated with MMP 55581 on *existing interests*?**

*MBIE's response*

Conditions 13 to 17 (in Schedule 1 of MMP 55581) were specifically designed in response to concerns raised by Origin Energy Resources Kupe NZ Ltd. Only condition 14 directly addresses an effect of an associated mining operation as stated:

*"14. If given reasonable notice by the licensee of PML 38146, the permit holder shall conduct its operations (including timing and location) in a manner that will reasonably avoid, or minimise, any impact on visual clarity within the waters close to any infrastructure associated with PML 38146 so as to enable visual inspection of that infrastructure by the licensee of PML 38146."*

**Question 5: Did MBIE consider the safety critical matters such as anchor size and vessel classification when granting MMP 55581?**

*MBIE's response*

No specific consideration was given to anchor size. Consideration of vessel classification was provided by TTR in the form of a guide for *"Marine Health, Safety, Quality, Environment and*



Energy Management” as outlined by the American Bureau of Shipping (ABS), which is recognised by Maritime New Zealand (MNZ). The intent is that TTR will abide by this classification system.

General consideration of safety, sufficient to satisfy the requirements of the Crown Minerals Act 1991 (CMA), included:

1. Provision of documents from TTR outlining their intent to put in place the required health, safety and environment systems (HSE) and capabilities likely to be required to meet the HSE requirements for the types of activities proposed to be undertaken;
2. Communication and consultation with MNZ and the High Hazard Unit (HHU) of MBIE in respect to the TTR mining permit application, in particular in respect to material supplied by TTR; and
3. The marine risk review workshop held by TTR, facilitated by Transfield Worley and attended by HHU, MNZ, EPA and regional government representatives.

MBIE is required to consider applications within the extent of the CMA. It is not the regulator for any other legislation or regulations.

**Question 6: In his evidence, Mr Iain Currill estimates TTR’s operation may add an additional \$10-17 million NZD to the costs of drilling a new well within the area of PML 38146 following mining by TTR. Has MBIE considered that these additional costs may make it uneconomic for the licensee and operators of PML 38146 to fully develop their resource and / or that this additional cost could sterilise the hydrocarbon prospects within PML 38146?**

*MBIE’s response*

MBIE has not independently verified Mr Currill’s cost estimate. MBIE has formed no view on the impact of the cost of TTR’s operations on the continued operation of PML 38146.

**Question 7: Can Dr Pelenur explain his statement that “I do think that the interests of the permit holder is [sic] aligned to avoid large environmental impacts or running into the Kupe Platform. They will be ultimately liable for it so their incentives are aligned to try and minimise any potential impact or effects”? Who is “they”, and will MBIE hold them liable.**

*MBIE’s response*

“They” are the permit holders (as described in the preceding sentence) of MML 55581. MBIE has no power under the Crown Minerals Act 1991 to hold TTR liable for environmental effects or damage to the Kupe Platform. Environmental impacts are regulated by the EPA under the EEZ Act.

**Question 8 (in two parts): Mr Stevenson-Wallace agreed the Crown is “ultimately responsible” for the plugged and abandoned well heads such as KS-4, not Origin.**

**Question (a): Can MBIE define what this “ultimate responsibility” involves and provide written confirmation that it accepts this ultimate responsibility?**

*MBIE’s response*

The Crown has no legal responsibility for any plugged or abandoned well heads but may choose to accept responsibility for undertaking that work as a matter of last resort if the



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permit holder has failed to meet its obligations. Any such decision would be for the government of the day.

**Question (b): Can MBIE provide an undertaking confirming that it accepts ultimate responsibility for plugged and abandoned well heads including KS4, and that Origin, the Kupe Joint Venture parties or any licensee of PML 38146 are not liable or otherwise responsible to address any effects on that well head arising from TTR's mining operations?**

*MBIE's response*

No. MBIE is not prepared to give an undertaking in such terms.

Yours Sincerely

Dr Marcos Pelenur

**Acting National Minerals Manager**

**Energy Resources & Markets Group – MBIE**