



TAMARIND TARANAKI LIMITED

**MARINE CONSENT AND MARINE
DISCHARGE CONSENT
APPLICATION - CONDITIONS
REPORT**

Prepared for the Tamarind Board of Inquiry

September 2018

TABLE OF CONTENTS

List of Abbreviations

1.	Introduction	1
2.	Background	2
3.	Purpose and scope of this Conditions Report	3
4.	EEZ100016 – Tamarind applications for marine consent and marine discharge consent	3
5.	Statutory considerations and principles in relation to conditions	4
5.1	Statutory Considerations	4
5.2	Marine Consent	5
5.3	Marine Discharge Consent	5
5.4	Sections 63 to 67 of the EEZ Act	5
5.5	Principles relating to conditions	6
5.6	Information Principles – Section 61	7
6.	Analysis of Conditions	8
6.1	Introduction and General Comments	8
7.	Submissions	12
7.1	Submitter: Te Kāhui o Taranaki	12
7.2	Submitter: Te Korowai o Ngāruahine Trust	13
8.	Additional Conditions – Marine Consent and Marine Discharge Consent	15
8.1	BOI Technical Advisors	15
9.	Recommended Changes to Conditions	15
10.	Conclusion	43
	Appendix 1 – Supplementary Information Reviewed in Preparing the Conditions Report	
	Appendix 2 – Terms of Reference	
	Appendix 3 - Statutory Provisions	



LIST OF ABBREVIATIONS

AOI	Area of Interest
BOI	Board of Inquiry
BOP	Blow-out preventer
EEZ Act	Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012
EEZ	Exclusive Economic Zone
EPA	Environmental Protection Authority
ESRP	Emergency Spill Response Plan
FIR	Tamarind, Tui Development Drilling Application (EEZ100016) Response to the Board's Request for Further Information under section 54 EEZ Act and Other Further Information – Notified Marine Consent and Marine Discharge Consent Applications July 2018.
IA	Impact Assessment
KIR	Key Issues Report
MMR	Marine management regimes
OGS	Oil and Gas Solutions Pty Ltd
RFI	EPA's s54 Request for Further information dated 10 July 2018
RMA	Resource Management Act 1991
SBM	Synthetic Based Drilling Fluids / Mud
Tamarind	Tamarind Taranaki Limited
TKT	Te Kahui o Taranaki
TKONT	Te Korowai o Ngāruahine Trust



1. INTRODUCTION

1. My name is Luke Faithfull. I am a Technical Advisor to the Board of Inquiry (**BOI**) and was engaged in September 2018 to prepare this Analysis of Conditions Report (**Conditions Report**).
2. I hold a Bachelors' degree in Geography and Environmental Science from the University of Auckland.
3. I have practiced in the field of resource management for the past 11 years and am currently employed as an Associate by Mitchell Daysh Limited, an environmental consultancy practice with offices in Auckland, Hamilton, Tauranga, Taupo, Napier, Wellington and Dunedin, established in October 2016. Previously, I was a Senior Consultant at Mitchell Partnerships Limited and a Senior Consents Officer at both the Greater Wellington and Bay of Plenty Regional Councils.
4. My primary areas of work are the preparation and assessment of resource consent applications under the Resource Management Act 1991 (**RMA**) and the preparation of marine consent applications under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (**EEZ Act**). This work includes providing strategic resource management advice, and the preparation of due diligence reports, environmental effects assessments, consent conditions, and planning evidence to a wide range of public and private sector clients.
5. I was previously engaged by the Environmental Protection Authority (**EPA**) to provide expert planning advice on Shell Taranaki Ltd.'s marine consent and marine discharge consent application under the EEZ Act in September 2017.
6. I was also previously engaged by Trans-Tasman Resources Limited as part of their planning team for their marine consent and marine discharge consent application to extract and process iron sand within the South Taranaki Bight. This role included co-authoring the Impact Assessment and the proposed marine consent and marine discharge consent conditions.
7. My qualifications as an expert witness are set out above. I confirm that I have read the Expert Witness Code of Conduct set out in the Environment Court's Practice Note 2014. I have complied with the Code of Conduct in preparing this report. Except where I state that I am relying on the report of another person, this report is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed in this report.
8. I have read Tamarind Taranaki Limited's (**Tamarind**) application forms, the Impact Assessment (**IA**) and appendices, and the supplementary information identified in **Appendix 1**.



2. BACKGROUND

9. In March 2017, Tamarind purchased all of the shares of the companies Shell Taranaki Limited, Tamarind New Zealand Pty Limited, Stewart Petroleum Company Limited and WM Petroleum Limited, to become the sole operator in the Tui field, which lies within Petroleum Mining Permit (**PMP**) 38158.
10. Activities associated with the extraction and production of oil and the operation of the Floating Production Storage and Offloading Umuroa (**FPSO Umuroa**) within the Tui Field are currently covered by Marine Discharge Consent EEZ300006 (granted 27 September 2017, and expires 24 November 2025). EEZ300006 replaced Deemed Marine Consent EEZ300009 which covered operations from 30 October 2014 until 27 September 2017.
11. Marine Discharge Consent EEZ300006 authorises a range of activities within the Tui Field associated with the FPSO Umuroa and the extraction, production and transport of crude oil.
12. On 8 March 2018, Tamarind lodged application EEZ100016. This application seeks consent to carry out restricted activities associated with the use of a semisubmersible drilling rig to carry out development drilling in the Tui Field and also seeks marine discharge consent to discharge harmful substances from the offshore processing drainage system of the chosen drilling rig (**the Project**). These activities require both a marine consent under sections 20(2), 20(4) of the EEZ Act, and a marine discharge consent under section 20B(1).
13. If consent is granted, the marine discharge consent will provide for discharges from the offshore processing drainage from the chosen drilling rig during the exploration campaign in the Tui Field however, the exploration campaign itself will be subject to a separate marine consent.
14. The activities that Tamarind has described in its IA, for which marine consent and marine discharge consent are sought, include:
 - a. Installation, operation and removal of a drill rig, including all placement of all equipment, well drilling and commissioning activities, and rig removal;
 - b. Logistic support activities;
 - c. Environmental monitoring activities; and
 - d. Unplanned discharge of harmful substances from the drill rig deck drains into the sea.
15. This application does not seek consent to authorise any restricted activities associated with decommissioning of a structure, pipeline or submarine cable as these activities are not provided for in the application.

16. Additionally, Tamarind’s application does not seek to authorise the use and storage of hazardous substances onboard any drill rig as this activity will be addressed through a further non-notified consent process prior to the commencement of the drilling programme.

3. PURPOSE AND SCOPE OF THIS CONDITIONS REPORT

17. This Conditions Report has been requested by the BOI¹ and provides a review of Tamarind’s proffered conditions and subsequent advice on:
- a. Best-practice in relation to drafting of conditions;
 - b. The conditions proffered by Tamarind, including any new conditions and/or changes to the proffered conditions proposed by its experts in their statements of evidence;
 - c. The conditions requested by submitters; and
 - d. Recommended conditions that I consider should be imposed and/or changes to Tamarind’s proffered conditions in the event the BOI decides to grant the marine consent and marine discharge consent application.
18. It is important to note that the preparation of this Conditions Report should not be interpreted by any party as the author recommending that Tamarind’s application be granted. I have not been asked to consider such matters and have not done so.

4. EEZ100016 – TAMARIND APPLICATIONS FOR MARINE CONSENT AND MARINE DISCHARGE CONSENT

19. The EPA’s Key Issues Report (**KIR**) provides a high-level description of the Tamarind proposal based on the description from Tamarind’s IA and the findings of the Board’s technical expert reports, and identifies the activities for which marine consent and marine discharge consent have been sought.
20. Further clarification of the activities for which consent has been sought is provided in the evidence of Mr Jason Peacock and Mr Iain McCallum on behalf of Tamarind, and in Tamarind’s response to further information² (**FIR**) dated July 2018.

¹ Refer to the Terms of Reference provided as Appendix 2 to this Report.

² Tamarind, Tui Development Drilling Application (EEZ100016) Response to the Board’s Request for Further Information under section 54 EEZ Act and Other Further Information – Notified Marine Consent and Marine Discharge Consent Applications July 2018

21. I concur with Tamarind's list of activities for which consent has been sought and I have not repeated these activities, nor the description of the Tamarind proposal, here in order to avoid unnecessary repetition.
22. I also note that in response to the EPA's KIR and the s54 Request for Further information dated 10 July 2018 (**RFI**), Tamarind have further progressed the Project design and, as part of their FIR, and also within their corporate and technical evidence, they have now confirmed:
 - a. The type of drill rig to be used;
 - b. The nature of the harmful substances that have the potential to discharge from the drill rig's drainage system;
 - c. That only synthetic based drilling fluids / muds (**SBM**) will be used in the drilling activities;
 - d. The number of anchors to be used to secure the drill rig in place; and
 - e. The area of seabed disturbance per rig installation as well as the total area of disturbance.
23. This information has been assessed by the BOI's technical advisors who have each issued further reports (**Review Report**) on the updated information. These parties are:
 - a. Mr Ian Baxter of Seapen Marine Environmental Services (**Seapen**);
 - b. Mr Frank Broomhead of Oil and Gas Solutions Pty Ltd (**OGS**); and
 - c. Mr Justin Rogers, Ms Aurelien Hospital and Dr James Stronach of Coffey Tetra Tech (**Coffey**).
24. Where relevant, these matters have been discussed in further detail later in this report.

5. STATUTORY CONSIDERATIONS AND PRINCIPLES IN RELATION TO CONDITIONS

5.1 STATUTORY CONSIDERATIONS

25. Section 4 of the EEZ Act defines marine consent and marine discharge consent as:

Marine consent means -

- a) A marine consent (including marine discharge consent or marine dumping consent) granted under section 62, or
- b) An emergency dumping consent

Marine discharge consent means a marine consent granted under section 62 for the discharge of harmful substances



26. Tamarind has applied for both a marine consent and marine discharge consent for the activities associated with the Project.

5.2 MARINE CONSENT

27. If the marine consent is granted, section 62(3) of the EEZ Act states that the consent may be issued subject to conditions under section 63.

28. The ability to impose conditions on the marine consent is governed primarily by sections 63 – 67 of the EEZ Act. These sections of the EEZ Act are discussed in more detail below and are set out in full in Appendix 3.

29. As part of the consideration of Tamarind’s application, section 59(2)(j) of the EEZ Act requires the BOI to take into account the extent to which imposing conditions under section 63 might avoid, remedy, or mitigate the adverse effects of the activity.

30. Further, under section 61(2), if the information available is uncertain or inadequate, the BOI must favour caution and environmental protection. Also, if the application is likely to be refused, the BOI must, under section 61(3), first consider whether taking an adaptive management approach would allow the activity to be undertaken. Marine consent conditions allow such an approval under section 64(3).

5.3 MARINE DISCHARGE CONSENT

31. If the marine discharge consent is granted, section 62(3) of the EEZ Act is also relevant. states that the consent may be issued subject to conditions.

32. One key difference between marine consents and marine discharge consents is that the BOI may issue the marine discharge consents subject to conditions under section 63, with the exception of section 63(2)(b) which precludes the provision of conditions that together amount to, or contribute to, an adaptive management approach being imposed.

33. I do not consider that this issue arises here as Tamarind is not proposing an adaptive management approach as part of their proposed conditions, nor have I recommended an approach of this nature.

5.4 SECTIONS 63 TO 67 OF THE EEZ ACT

34. Section 63(1) provides the BOI with a very wide scope to impose conditions on marine consents and marine discharge consents, including those specified in section 63(2). However, there are two restrictions specified in sections 63(3) and 63(4) that the BOI needs to be aware of which respectively prohibit:

- a. the imposition of conditions which are inconsistent with the EEZ Act or any regulations (section 63(3)); or

- b. the imposition of a condition to deal with an effect if the condition would conflict with a measure required in relation to the activity by another Marine Management Regime (**MMR**), or the Health and Safety at Work Act 2015 (section 63(4)).
35. Section 63(4) does not prevent the BOI imposing conditions which duplicate requirements in relation to the activity by another MMR where such a condition relates to a matter (including environmental effects or effects on existing interests) that the BOI must take into account under section 59. However, I consider that the imposition of conditions which duplicate other MMR requirements should generally be avoided, provided the BOI is satisfied that the processes and approvals under those MMRs adequately deal with the relevant environmental effects or effects on existing interests. In such situations, requiring the EPA to provide additional regulatory oversight and administration is, in my opinion, unnecessary.
36. Regarding the Tamarind application, I consider that this includes matters related to unplanned spills or discharges, Emergency Spill Response Plans (**ESRP**), well closure / abandonment and health and safety matters.
37. Sections 63(2)(a)(i) and (ii) allow the BOI to impose a condition which requires the consent holder to provide a bond for the performance of any one or more conditions of the consent and to obtain and maintain public liability insurance of a specified value, respectively. Section 65 provides additional guidance on bond conditions.
38. Given the magnitude of any effects associated with the Project, and their temporary and short-term nature, I do not consider that the provision of a bond is necessary.
39. Sections 63(2)(a)(iii) and (v) allow the BOI to impose conditions that require a consent holder to undertake monitoring, and to provide information to the EPA for audit, respectively. Section 66 provides additional guidance on monitoring conditions.
40. Section 63(2)(a)(iv) allows the BOI to impose conditions that require the consent holder to appoint an observer to monitor the activity and the effects on the environment. Section 67 provides additional guidance on such conditions and requires that the observer's duties are specifically addressed. Any observer must be 'approved' by the EPA for that purpose and section 67 outlines the circumstances under which such approval is to be given by the EPA.
41. Sections 63 – 67 of the EEZ Act are stated in full in **Appendix 3** to this report.

5.5 PRINCIPLES RELATING TO CONDITIONS

42. There are a number of important principles relevant to drafting conditions. While there is an absence of case law in relation to conditions imposed under the EEZ Act, there is extensive case law established under the RMA, both in respect of legal principles and best practice guidelines that provide helpful context.

43. In my opinion, a number of key principles apply here when developing consent conditions, including that conditions must:
- a. Be within the EPA’s powers under the EEZ Act;
 - b. Be for an EEZ Act purpose, particularly to promote sustainable management of the natural resources of the EEZ or protection of the environment from pollution (section 10 of the EEZ Act);
 - c. Be certain so the consent holder, the EPA, and any layperson viewing the consent can be clear about what is required by the conditions and the obligations the consent holder has. It is important conditions are drafted in plain English and can be readily interpreted and understood by EPA officers monitoring the consents, and the consent holder;
 - d. Fairly and reasonably relate to the subject matter of the consent;
 - e. Be fair, reasonable, and practical;
 - f. Be exclusively between the consent holder and the EPA, in that they are capable of compliance by the consent holder without relying on actions of third parties; and
 - g. Not result in a future reservation of power to the EPA to later approve conditions (secondary approval). Any condition which requires something (e.g. a management plan) to be submitted to the EPA for certification should not result in the EPA fulfilling the role of an arbitrator on any matter.
44. It is also common practice to place advice notes on consents to provide a useful notice to consent holders of other standards and/or requirements relating to the activity. Advice notes must be clearly labelled as advice notes to ensure they are not misinterpreted as consent conditions and should therefore not be worded as though they are conditions – that is, they should not use words to the effect that a consent holder “shall” or “must” do something.

5.6 INFORMATION PRINCIPLES – SECTION 61

45. Sections 61 of the EEZ Act address the information principles for both marine consents and marine discharge consents.
46. The above sections of the EEZ Act require that the BOI base its decisions on the ‘*best available information*’ (section 61(1)(b)) and ‘*take into account any uncertainty or inadequacy in the information available*’ (section 61(1)(c)).
47. Table 2.5 (section 61 analysis) of the IA provides Tamarind’s analysis of the applications against the ‘information principles’. A general summary for both the marine consent and marine discharge consent activities is that Tamarind consider that they had provided the EPA with the ‘*best available information*’ at the time of lodging the application.

48. Noting the above, Tamarind acknowledged that the full details of the deck drainage design and the harmful substances that may be discharged were not known at the time of lodgement. However, this information has since been provided as part of Tamarind's FIR and in Tamarind's suite of evidence.
49. Provision of this information has enabled me to understand the scale and scope of the activities and in turn the nature and extent of the adverse effects associated with the Project and any commentary on the activity for which consents have been sought are have been made in light of Tamarind's updated information on the drill rig drainage system and the hazardous substances that may be discharged from the drill rig.

6. ANALYSIS OF CONDITIONS

6.1 INTRODUCTION AND GENERAL COMMENTS

50. Tamarind is seeking consent to discharge trace (residual) amounts of harmful substances that may be entrained within discharges from Tamarind's drill rig deck drains from occasional drips and other minor spills.
51. Tamarind are also seeking consent for activities associated with the installation and removal of their drill rig, including seabed disturbance.
52. The IA included a set of proffered conditions. At the time of lodgement, Tamarind considers its proffered conditions adequately deal with the uncertainties of the application and, if complied with, the adverse effects on the environment, including effects on existing interests and cumulative effects, will be *minor* or *negligible* (refer to Section 12 of the IA).
53. I provide an assessment and commentary on Tamarind's proffered conditions in Section 9 of this report, however in the following paragraphs I discuss the six key issues, as identified in the KIR (and the RFI) as follows:
 - a. Uncertainty regarding drill rig specifications;
 - b. The unknown effects of discharges;
 - c. The effects of installation and removal of a drill rig;
 - d. Effects on existing interests; and
 - e. The unplanned events associated with the proposed activities; and
 - f. The cumulative effects of the proposal.

6.1.1 Drill Rig Specifications

54. Tamarind have confirmed (Section 3.1.2 of the FIR) that it is to use the *Hai Yang Shi You 982 Rig (HYSY982 Rig)* or a suitably comparable alternative rig. This has been also confirmed in the evidence of Mr McCallum (paragraph 3.11).



55. Section 3.3 of the FIR, and paragraphs 2.12 – 2.15 and Section 3 of Mr McCallum’s evidence, provide further details of the drill rig and drainage system.
56. Tamarind has also confirmed that the drill rig’s drainage system will consist of three separate drainage collection systems (as shown in Annexure A of the RFI, and described in paragraph 3.1 – 3.23, and Appendix 2 of Mr McCallum’s evidence) being:
 - a. Non – Hazardous Drain System – general rig drainage outside of hazardous substance storage and use areas;
 - b. Hazardous Drain System – drainage system specifically designed to handle hazardous substances and solids; and
 - c. Enclosed Drain System – closed loop drilling fluids system.

6.1.2 Effects of Discharges

57. With regard to the effects of the discharge, Tamarind have now confirmed (Section 5 of the RFI and paragraph 3.18 – 3.23 of Mr McCallum’s evidence) that only SBM is to be used in the drilling operations and all cuttings will be captured within the Enclosed Drain System and returned to the surface. Tamarind has also confirmed that there will be no discharges occurring from this part of the drilling process, solids / cuttings will be disposed of to land (at an authorised facility), and the SBM fluids will be recycled within the enclosed system.
58. Tamarind has also now confirmed (Paragraph 3.24 – 3.25 of Mr McCallum’s evidence and Section 6 of the FIR, specifically Table 6.1) the specific hazardous / harmful substances that are to be used on the drill rig and therefore, have the potential to discharge in trace amounts through the drill rig drainage system.
59. Tamarind’s technical evidence (including Dr Alison Lane and Dr Sharon De Luca) has considered the effects of the discharges. The evidence³ of Dr Lane has drawn the overall conclusion *‘that the risk of any impact on marine environmental receptors or existing users would be negligible’*.
60. In his further review of Tamarind’s FIR, and corporate and technical evidence, undertaken on behalf of the EPA, Mr Ian Baxter⁴ confirmed that the additional information provided *‘has strengthened Tamarind’s position that the risk of significant adverse impacts on the marine environment have been reduced to as low as reasonably practicable.’* Additionally, Mr Baxter confirmed that there are no further areas, with regard to the marine environment, that further information is required.

³ Statement of Evidence of Alison Lane for Tamarind Taranaki, paragraph 12.1

⁴ Seapen Marine Environmental Services. EEZ100016: Tamarind Taranaki Limited marine consent and marine discharge consent applications – Tui Field Review of further information, applicant evidence and submissions pertaining to the marine environment 31 August 2018, paragraph 23

6.1.3 Installation and removal of the drill rig

61. Tamarind has provided additional information on the methodology for the installation and removal of the drill rig in Section 3 of the FIR and paragraphs 2.18 – 2.78 of Mr McCallum’s evidence. The key points of clarification are:
- a. A maximum of 12 anchors (8 rig anchors and 4 blow-out preventer (**BOP**) anchors) per rig placement are required – paragraph 2.16 of Mr McCallum’s evidence and Section 3.1.2 of the RFI;
 - b. A total of four drill rig placements will occur as part of the Project with a maximum area of disturbance from each drill rig anchor spread placement being approximately 13,000m² and a total of 52,000m² which equates to a total area of disturbance of 0.01% the Tui Field (approximately 467km²) (Section 3.1.3 and Figure 3.2 of the RFI);
 - c. No contingency drill rig placements in adverse weather conditions will be necessary (Section 3.2 of the RFI);
 - d. Once the rig is in place, Tamarind will notify Maritime New Zealand and Land Information New Zealand which will trigger the issuing of a *Notice to Mariners* outlining the drill rig location, including the anchor placement (Section 3.1.1 of the RFI);
 - e. Prior to removal of the drill rig, there will be the ‘pre-lay’ of four rig anchors in the new well location to allow anchoring to occur as soon as the drill rig arrives (paragraph 2.73 – 74 of Mr McCallum’s evidence);
 - f. Overall, there could be a total of 12 rig anchors and 8 BOP anchors on the seabed at any one time (Section 3.1.2 of the RFI); and
 - g. The maximum duration of operations is nine months (paragraph 2.78 of Mr McCallum’s evidence).
62. With regard to b) and c) above, I note that the identification of four drill rig placements and no contingency placements are inconsistent with the paragraphs 2.9 and 2.79 of Mr McCallum’s evidence respectively. I recommend that the BOI seeks clarification on these matters as part of the hearing process.

6.1.4 Effects on Existing Interests

63. Based on the confirmation of the drill rig and hazardous substances that may be discharged from the drill rig, the potential effects on the existing interests are now better understood. The primary existing interests, as identified in the IA, that have the potential to be affected by the proposal are:
- a. Commercial Fisheries;
 - b. Other vessels within the Area of Interest (**AOI**); and

c. Cultural interests.

64. In terms of the effects on commercial fisheries, Mr Baxter states⁵ that his position on the fisheries is addressed in his conclusions on the other potential impacts on the marine environment. In that regard, Mr Baxter's overall position is that which is identified in paragraph 60 of this report.
65. Tamarind, specifically paragraph 8.3 and 8.4 of the corporate evidence of Mr Jason Peacock, provides an update on the progress made with regard to cultural matters, including the proposed conditions, which were contained within the submissions from iwi / hapū. These matters have been further discussed in Section 7 of this report.

6.1.5 Cumulative Effects

66. The matter of cumulative effects has been addressed in Tamarind's technical evidence, particularly that of Dr Lane (Section 8), Dr De Luca (paragraph 5.9 – 5.12 (seabed disturbance), Dr Simon Childerhouse (paragraph 5.42 – 5.44 & 7.2 (marine mammals), Ms Nicola Gibbs (paragraph 4.31 – 4.32 (fisheries)), Dr MacDiarmid (paragraph 6.9 and 8.3 (marine fauna), and Dr Thompson (paragraph 4.16 (seabirds)). All parties have concluded that any cumulative effects of the proposal are *negligible to minor*.
67. In response to Tamarind's position, Mr Baxter has confirmed throughout the Seapen Review Report that he concurs with the cumulative effects' conclusions of Tamarind's technical experts.

6.1.6 Unplanned events

68. Tamarind has provided further information on unplanned events through both the RFI and its evidence. This information has been reviewed by Coffey and OGS in their Review Reports provided in addition to their primary reviews of the IA.
69. While there are some minor matters than Tamarind may need to respond to as part of the hearing (referenced in Section 4 of both the Coffey and OGS Review Report), the position of Coffey and OGS is that there is sufficient information now provided by Tamarind on unplanned events.
70. Further, I consider that these unplanned events are outside of the scope of the consented activities and therefore, other than notification to the EPA and the appropriate parties of unplanned spill events, no specific conditions are necessary for these events as they are control by other marine regulations.

⁵ Seapen Marine Environmental Services EEZ100016: Tamarind Taranaki Limited marine consent and marine discharge consent applications – Tui Field Review of further information, applicant evidence and submissions pertaining to the marine environment 31 August 2018, paragraph 16

6.1.7 Summary

71. Acknowledging the further information provided by Tamarind and the conclusions of Tamarind's and the BOI's technical advisors, the BOI will need to be satisfied that there has been sufficient information provided by Tamarind, either under the IA, the RFI and evidence or further provided as part of the hearing process, to allow the granting of the consents.

7. SUBMISSIONS

72. A total of 124 submissions were received by the EPA during the notification period.

73. Of those received, two of the submissions include references to 'conditions', both of which requested that specific conditions be imposed should consent be granted. These have been discussed below.

7.1 SUBMITTER: TE KĀHUI O TARANAKI

74. The submission of Te Kāhui o Taranaki (**TKT**) identified (paragraph 15) that specific measures were required to ensure that the effects of the Project on cultural values were appropriately mitigated:

- a) *Tamarind makes a commitment to working with the Taranaki Iwi to develop environmental indicators using both the Te Ao Māori perspective and western science, and integrating these environmental indicators into existing operational documents for the Tui Field;*
- b) *Tamarind makes a commitment to cultural training, facilitated by the Trust, for all senior management staff and staff involved with operations in the Tui Field on the importance of the Te Ao Māori perspective and operating in accordance with the environmental indicators discussed above;*
- c) *Tamarind makes a commitment to holding an annual meeting with Taranaki Iwi to outline the general scope of activities to be undertaken under this Marine Consent and Marine Discharge Consent;*
- d) *During this annual meeting, Tamarind makes a commitment to provide funding of an agreed amount to Taranaki Iwi for the training specified in (a) and (b) above, and environmental resourcing; and*
- e) *In future applications, Tamarind commits to holding scoping exercises with Taranaki Iwi to understand the Te Ao Māori perspective, our cultural values and work together to assess the potential significance of the interaction between the proposed activities and these values. The outcomes of this exercise, including any mitigation measures and agreed consent conditions, can be incorporated into future impact assessments. This exercise will also offer capacity building - whilst Tamarind and advisors and specialists will benefit from local cultural specialists, the local cultural specialists will gain expertise from their exposure to impact assessment methodologies.*



75. Further, paragraph 18 of the TKT submission requests that the following conditions be included in the marine consent if granted:
- a) *Tamarind makes a commitment to plug and abandon any wells drilled or re-entered under this Marine Consent; and*
 - b) *Tamarind makes a commitment to removing all structures that are placed or deposited on the seabed under this Marine Consent.*
76. Paragraph 8.3 of Mr Peacock’s evidence on behalf of Tamarind responds to the matters contained within the TKT submission. Of note Tamarind confirms its commitment to:
- a. Working with TKT to ‘*develop and integrate environmental indicators...*’
 - b. Provide for cultural training and awareness for Tamarind Staff;
 - c. Hold annual meetings with TKT;
 - d. Provide funding to TKT to facilitate the processes above;
 - e. Returning unused or faulty cement to shore for disposal to land;
 - f. Removal of any structures on the seabed at the completion of works;
 - g. Close any abandoned wells in accordance with industry best practice and standards; and
 - h. Working with TKT for any future projects.
77. While noting that it is not my role to speak on behalf of mana whenua, it is my opinion that Tamarind’s responses will go some way to addressing matters raised in TKT’s submission and in turn providing for the potential adverse effects on cultural values to be provided for. Therefore, where relevant, I have provided for the above matters within the conditions in Section 9 below.
78. Notwithstanding my recommendations, the BOI should further explore the adequacy of Tamarind’s response and the appropriateness of any cultural conditions proposed with TKT directly as part of the hearing process.

7.2 SUBMITTER: TE KOROWAI O NGĀRUAHINE TRUST

79. The submission of Te Korowai o Ngāruahine Trust (**TKONT**) requests (paragraph 35) that the following conditions be included in the marine consent if granted:
- a) *Tamarind Taranaki develop an Engagement Agreement with Ngāruahine iwi and hapū who identify as having an interest in this application, for the reasons stated in this submission.*
 - b) *The applicant’s spill management plan shall be revised with the involvement of iwi and hapū, and engagement protocols that include TKONT are devised accordingly (noting that spill modelling clearly shows that Ngāruahine are likely to be most adversely affected).*



- c) *All structures that are placed on the sea bed are removed at the cessation of their use.*
- d) *Wells are plugged and abandoned at the end of the consent period, and in consultation with iwi and hapū.*
- e) *The applicant shall develop and implement a noise monitoring programme to understand the effect of marine species and seek to deploy mitigation methods on the operation that reduce noise. TKONT are kept fully informed about this work, noting the close proximity to the activities to our rohe.*
- f) *The consent holder agree to fund, over the course of the consent period, marine mammal and fish population surveys to robustly assess the direct, indirect and cumulative impacts of the programme on potentially affected marine species.*
- g) *The consent holder shall develop and introduce a comprehensive 5 year post-activity monitoring programme.*
- h) *The applicant, as a voluntary condition, agrees to invest in environmental action within Taranaki that can support the restoration and improvement to the waiora of the marine and coastal environment.*
- i) *The applicant makes a commitment to all of its senior management team and all staff involved in Tui operations undertaking cultural training to develop an understanding of a Te Āo Māori viewpoint as it relates to the marine and coastal environment and be able to demonstrate to iwi how this is embedded into operations*

80. Paragraph 8.4 of the evidence of Mr Peacock on behalf of Tamarind responds to the matters contained within the TKONT submission. Tamarind confirms its commitment to:

- a. Working with TKONT to develop an Engagement Plan but Tamarind consider this is outside of conditions;
- b. Updating the Spill Management Plan and communication protocol to include TKONT;
- c. Removal of any structures on the seabed at the completion of works;
- d. Investigate the practicable options for empirical noise monitoring;
- e. Reporting marine mammal sightings and interactions to the relevant government agencies;
- f. Ongoing environmental monitoring in the Tui Field; and
- g. Consider supporting any regional environmental programmes suggested by TKONT.

81. Noting my position in paragraph 77 above, where relevant, I have provided for the above matters within the conditions in Section 9 below.

82. As with TKT, I recommend that the BOI further explore the adequacy of Tamarind's response and the appropriateness of any mana whenua focused conditions however, I do note that TKONT has stated that they will not be attending the hearing.

8. ADDITIONAL CONDITIONS – MARINE CONSENT AND MARINE DISCHARGE CONSENT

8.1 BOI TECHNICAL ADVISORS

83. In the Seapen Review Report⁶, Mr Baxter identifies that additional mitigation measures should be adopted to ensure that the effects of the Project are appropriately provided for in regard to effects on:

- a. Marine mammals (paragraph 15(l) and (m); and
- b. Seabirds (paragraph 18(b)).

84. I note that these additional mitigation measures are based on those provided in Tamarind's technical evidence from its respective seabird (Dr Thompson) and marine mammal (Dr Childerhouse) advisors. As there is agreement between the experts, I support the inclusion of the mitigation measures as consent conditions and have included them in the amended conditions in Section 9 below.

9. RECOMMENDED CHANGES TO CONDITIONS

85. Section 6 of this report provides a high level discussion on the key issues identified within the KIR and Tamarind's response to these matters. I concluded, based on the statements provided in the BOI technical advisors reports, that Tamarind's response adequately address the uncertainties identified in the KIR. Based on the additional information provided by Tamarind, I have recommended that some additional conditions be included.

86. In addition to the KIR matters discussed, I consider that a number of minor changes should be made to Tamarind's proffered conditions to ensure consistency with the EPA's preferred drafting style. These change do not change the intent of the condition.

87. My analysis of Tamarind's proffered conditions, including my recommended changes and addition conditions, are presented in Table 1 and 2 below.

88. The first column of the tables presents Tamarind's condition number and the second column presents Tamarind's proposed wording together with any changes that I am

⁶ EEZ100016: Tamarind Taranaki Limited marine consent and marine discharge consent applications – Tui Field, Review of further information, applicant evidence and submissions pertaining to the marine environment, 31 August 2018

recommending. Deletions are shown as strikethroughs and underlines show recommended additions. In the third column I provide comments regarding the condition and my recommended amendments.

89. Where I consider additional conditions should be included, I have inserted them where I think they best fit within Tamarind's numbering and have given the new conditions suffixes (e.g. 2A) rather than attempting to renumber the entire set of conditions.



Table 1 – Marine Consents Conditions

DRAFT EEZ100016 Conditions - marine consent		
Condition Number	Tamarind Proffered Condition and Recommended Amendments	Comments
1	<p>The consent holder shall ensure that the activities authorised by this marine consent are undertaken in general accordance with the application for marine consent and the IA dated xxxx, and further information dated xxxxx as provided by Tamarind Taranaki Limited, except as modified by the conditions below.</p> <p><u>Subject to compliance with these consent conditions, the activities authorised by this Marine Consent shall be undertaken in general accordance with:</u></p> <p>a) <u>The application document entitled “Tui Field Drilling Activities – Impact Assessment to Support Notified Marine Consent and Marine Discharge Consent Applications” (dated March 2018) prepared by ERM New Zealand Limited and supporting documents submitted as part of the application lodged on 8 March 2018; and</u></p> <p>b) <u>The response to further information document entitled “Tamarind, Tui Development Drilling Applications (EEZ100016), Response to the Board’s Request for Further Information under section 54 EEZ Act and Other Further information – Notified Marine Consent and Marine Discharge Consent Applications” (dated July 2018) prepared by ERM New Zealand Limited.</u></p> <p>All activities shall also be undertaken in accordance with the latest certified management and monitoring plan(s) required by these conditions. Where information contained in the</p>	<p>Changes reflect EPA preferred drafting – no change in intent of Tamarind’s condition.</p> <p>Deletion of the reference to ‘<i>certified management plan ..</i>’ as there are no management plans provided for as part of the Marine Consent, nor is the monitoring programme (proposed in Condition 10) to be certified.</p>

	application documents is contrary to the conditions of this M marine C consent the conditions shall prevail.	
2	This M marine C consent shall expires on 31 November 2024 .	Changes reflect EPA preferred drafting – no change in intent of Tamarind’s condition. Note: the BOI will need to update the expiry date to reflect the 5 year term requested by Tamarind.
3	This marine consent shall lapse 5 years after the date of commencement unless it has been given effect to prior to that date.	Tamarind has requested a 5 year term of consent. This duration is consistent with the lapse duration specified in section 85(1) of the EEZ Act. Therefore, there is no need to specify a lapse period of 5 years as the consent would expire on this date and no longer be active. The condition should be deleted.
4	The C consent H holder shall ensure that a copy of this M marine C consent, and any variations to it, are available for inspection at the C consent H holder’s head office in New Zealand, and on any drill rig undertaking activities authorised by this marine consent.	
5	The consent holder shall ensure that personnel directly involved in the exercise of this marine consent are informed of their obligations and responsibilities in exercising this marine consent. <u>The Consent Holder shall ensure all personnel, including any contractors, involved in undertaking any of the activities authorised by this Marine Consent fully understand and comply with these conditions.</u>	Changes reflect EPA preferred drafting – no change in intent of Tamarind’s condition. Second part of the condition is provided to enable the EPA to monitor how Condition 5 has been complied with.



	<u>The Consent Holder shall keep a record to show that the personnel, including contractors, have been informed of their obligations under this consent. The Consent Holder shall provide a copy of this record to the EPA upon request.</u>	
6	<p>a) The consent holder shall, within 20 working days of the date of commencement of this marine consent, provide the EPA with the name and contact details of the delegated experienced person(s) responsible for collating and reporting information on compliance management in relation to this marine consent.</p> <p>b) The consent holder shall advise the EPA of any changes to the name and contact details of this person(s) within 5 working days of any changes being made.</p> <p><u>The Consent Holder shall, at least 20 working days prior to first commencing the activities authorised by this Marine Consent, or any other timeframe agreed to by the EPA, provide to the EPA, in writing, the name and contact details of the person who has delegated responsibility for compliance management, collating information, and reporting in accordance with the requirements of this consent. In the event that the responsible person changes, the Consent Holder shall advise the EPA, in writing, of the name and contact details of the new person within five (5) working days of the change.</u></p>	Changes reflect EPA preferred drafting – no change in intent of Tamarind's condition.
7	The Consent Holder shall notify the EPA in writing within 24 hours of any Tier 2 or 3 spill, as defined in the New Zealand Oil Spill Response Strategy 2015 – 2019 or subsequent editions.	Condition deleted as the requirement to notify the EPA has been added to Condition 21 below.
8	a) At least annually the C consent H holder shall extend an invitation to Te Kāhui o Taranaki, <u>Te Korowai o Ngāruahine</u> and Ngāti Tara and their successors, to meet	The addition of Te Korowai o Ngāruahine to the condition is based on the recognition of the iwi as having an interest in the AOI.



	<p>to discuss the planned works including the installation, operation, and removal of any drilling-rig authorised by this <u>Marine Consent</u>.</p> <p>b) The <u>Consent Holder</u> shall extend an invitation to meet Te Kāhui o Taranaki Trust, <u>Te Korowai o Ngāruahine</u> and Ngāti Tara and their successors no less than three months prior to the commencement of the pre - installation / installation of a drilling rig authorised by this <u>Marine Consent</u>.</p> <p>c) Where any meeting in accordance with Condition 8 a) takes place, <u>the Consent Holder shall meet all fair and reasonable costs associated with parties fulfilling their roles in the meeting(s)</u>.</p> <p>d) <u>The Consent Holder shall also</u> take minutes of each meeting and distribute these minutes to the meeting attendees within 10 working days of the meeting. These minutes shall be provided to the EPA upon request.</p>	<p>The inclusion is also consistent with the matters of confirmation by Tamarind in paragraph 8.4.2 of Mr Peacock's evidence.</p> <p>The inclusion of the '<i>meet all fair and reasonable costs ...</i>' to c) has been added to record the commitment in paragraph 8.3.3 of Mr Peacock's evidence in response to the submission from TKT.</p> <p>Note: The proposed cultural conditions and any amendments I have made are based on my understanding of cultural matters from the submissions and the response from Tamarind through the evidence of Mr Peacock. I recommend that the BOI discusses the proposed cultural conditions with iwi / hapū parties to determine if they are sufficient to ensure that any effects of the proposal are avoided, remedied or mitigated.</p>
9	Intentionally Blank	No Condition 9 was provided in Tamarind's proposed marine conditions.
10	<p>a) The <u>Consent Holder</u> shall, prior to the commencement of the <u>first drilling rig</u> installation works, consult with Te Kāhui o Taranaki Trust, <u>Te Korowai o Ngāruahine</u> and Ngāti Tara and their successors to develop a monitoring programme for the installation, operation and removal of the drilling rig, which incorporates Te Ao Māori where possible and provides opportunities for iwi and/or hapū representatives to assist in the implementation of that programme.</p> <p>b) The <u>Consent Holder</u> shall provide a report to the EPA of the steps undertaken to comply with condition 10 a) by 30 June on the year following the consultation.</p>	<p>The Advice Note has been deleted as I have recommended the monitoring programme condition (condition 8) of the Marine Discharge Consent be deleted as it simply duplicates the requirements of this condition.</p> <p>As the requirement for what the monitoring programme is to provide for is quite broad, additional requirements of the monitoring programmes that the BOI may wish to explore with iwi / hapū are:</p>



	<p><i>Advice note – The monitoring programme required by this Condition, and Condition xxx of the marine discharge consent xxxxx, can be fulfilled through the provision of a single monitoring programme.</i></p>	<ol style="list-style-type: none"> 1. Identification of the key matters that the monitoring programme is to address, primarily matters related to taha wairua; 2. Identification of the roles of the tangata whenua parties in the monitoring programme; 3. The methodology, locations and frequency of the monitoring; and 4. Reporting requirements to both the iwi and the EPA. <p>I recommend that the BOI explore this further with TKT at the hearing.</p>
10A	<p><u>Prior to the commencement of the activities authorised by this Marine Consent, the Consent Holder shall provide Te Kāhui o Taranaki Trust an opportunity to provide cultural training and awareness training to the parties who will be undertaking physical works within the Area of Interest.</u></p>	<p>The give effect to the commitment made by Tamarind in paragraph 8.3.2 and 8.4.9 of the evidence of Mr Peacock.</p> <p>The BOI should confirm with TKT as to the appropriateness of this condition and if the offer should be extended to any other iwi / hapū.</p>
11	<p>a) The Consent Holder shall notify the EPA of:</p> <ol style="list-style-type: none"> i. the intended date of the commencement of the drilling rig installation works; ii. the date that the drilling rig is anchored its final location <u>each time it is installed</u>, including latitude and longitude of the location of the drilling rig; iii. the date when the drilling unit rig is released from the Consent Holder's last well and is on tight tow at a distance of one (1) nautical mile from the last well (the "completion date"). 	<p>The change to ii) is to clarify that notice should be provided to the EPA for each instance of installation.</p> <p>The deletion in iii) is due to the HYSY 982 being fully self-propelled.</p> <p>Advice Note 1 has been included to record Tamarind's commitment in the FIR (Section 3.1.1) that notification will be provided to the relevant parties to trigger the issuing of a Notice to Mariners by LINZ.</p>

	<p>b) Notification in accordance with Condition 11(a)(i) shall be provided at least 24 hours prior to the intended date.</p> <p>c) Notification in accordance with Condition 11(a)(ii) and (iii) shall be provided within five working days of completion of the specified activity.</p> <p><u>Advice Note 1: Following the completion of anchoring of the drill rig in its final location as outlined in b) above, the Consent Holder will notify Maritime New Zealand and Land Information New Zealand of the final latitude and longitude of the drill rig to allow Land Information New Zealand to issue the required 'Notice to Mariners'.</u></p> <p><u>Advice Note 2: Where the EPA undertakes drill rig inspections, the Consent Holder will facilitate communication between EPA inspector and crew and, where necessary, will provide an interpreter to assist this process.</u></p>	<p>Advice Note 2 has been included on request of the EPA's Compliance Team as there has been communication issues in the past when undertaking inspections of the installations.</p>
11A	<p><u>This Marine Consent authorises a maximum of four (4) drill rig placements. For the purpose of this Marine Consent, each drill rig placement shall consist of no more than:</u></p> <p>a) <u>Eight (8) drill rig anchors;</u></p> <p>b) <u>Four (4) blow out preventer anchors,</u></p> <p><u>on the seabed at any one time as shown in Appendix 1 of this Marine Consent.</u></p>	<p>New condition included to limit the maximum number of drill rig placements authorised and to restrict the number of anchor placements. The number of rig placements and anchors required has been taken from the evidence of Mr McCallum (paragraph 2.9 and 2.16 respectively). Appendix 1 should be Appendix 4 of Mr McCallum's evidence.</p> <p>NOTE: I recommend that the BOI confirms the number of rig placements with Tamarind as part of the hearing as there is some inconsistencies between the numbers identified in Mr McCallum's evidence and the FIR.</p> <p>While the evidence of Mr McCallum (paragraph 2.27 and Appendix 4) specifies a maximum area of bed disturbance, it is not considered appropriate to provide</p>

		<p>this as a condition as there would be significant difficulties in trying to record the area of disturbance with any accuracy. I consider that providing for a condition restricting the number of rig placements and anchors for each site will be sufficient to minimise any adverse effects.</p>
11B	<p><u>Where cement is used for any works authorised by this Marine Consent, the Consent Holder shall ensure that, to the greatest extent practicable, any faulty or unused cement product is collected on the drill rig and disposed of at an authorised land based facility.</u></p> <p><u>In the event that cement is encountered within an existing well, and drilled during the construction of new wells, the Consent Holder shall, to the greatest extent practicable, capture this cement, separate it from the drilling fluids and dispose of it to an authorised land based facility.</u></p> <p><u>The Consent Holder shall keep records of the volume, nature, location and dates of all cement product disposed of to land and deposited on the seabed. These records shall be made available to the EPA upon request.</u></p>	<p>New condition included to record Tamarind's commitment to appropriately dispose of cement products in paragraph 8.3.5 of Mr Peacock's evidence.</p> <p>The second part of the condition is to ensure that any existing cement material is disposed of in an appropriate manner and not deposited on the sea floor as outlined in Mr McCallum's evidence (paragraph 3.28).</p> <p>The words '<i>to the greatest extent practicable...</i>' have been included to acknowledge that there will be some cement discharged and deposited on the seabed as identified in paragraphs 3.29 and 3.30 of Mr McCallum's evidence.</p>
11C	<p><u>The Consent Holder shall ensure that only synthetic based drilling fluids are used in the drilling activities authorised by this Marine Consent.</u></p> <p><u>All cuttings from the drilling process shall be returned to the surface and disposed of to an authorised land based facility.</u></p> <p><u>The Consent Holder shall keep records of the volume, location and dates of all drilling cuttings disposed of to land. These records shall be made available to the EPA upon request.</u></p>	<p>New condition to address Tamarind's used of SBM fluids in the drilling process and the disposal of drilling cuttings to land as outlined in the evidence of Mr McCallum (paragraphs 2.51 – 2.59).</p>

11D	<u>Following the cessation of the drilling works authorised by this Marine Consent, the Consent Holder shall provide the EPA with documentation demonstrating that no structures, objects or items remain on the seabed.</u>	New condition requiring that no structures authorised by this consent will remain on the seabed following the completion of the works as stated in paragraph 8.3.6 of Mr Peacock's evidence.
12	<p>a) The <u>C</u>onsent <u>H</u>older shall maintain a log of all marine mammal (except for fur seals) sightings from any drill rig and support vessels associated with the drilling operations within the Tui Field authorised by this <u>M</u>arine <u>C</u>onsent, including the following information where available:</p> <ul style="list-style-type: none"> i. the date and location of all marine mammal sightings from the consented operations ii. the species of marine mammal(s) (where known) and the number of individuals (including the presence of juveniles) associated with each sighting iii. the behaviour of marine mammal(s) sighted including their direction of travel iv. any marine mammal injuries or mortalities observed v. the approximate size in metres of each marine mammal vi. any physical interaction (including but not limited to vessel strike or entanglement) between any marine mammals and any equipment, vessels, or other inanimate objects. vii. <u>the collection and provision of photos shall be provided where practically possible and that these photos shall be submitted to the Department of</u> 	Addition of vii) based on the recommendation from Dr Childerhouse (paragraph 8.2.1) on behalf of Tamarind and further supported by Mr Baxter (paragraph 15(l)(i) of the Seapen Review Report) on behalf of the EPA.

	<p><u>Conservation and the EPA along with the data from marine mammal sighting.</u></p> <p>b) A digital copy of the log referred to in clause a) of this condition shall be available on request and provided to the Department of Conservation and the EPA by 1 December every year or on an alternative date as otherwise agreed by the Department of Conservation and the EPA.</p>	
13	<p>The <u>C</u>onsent <u>H</u>older shall make available to the offshore personnel undertaking the drilling activities authorised by this <u>M</u>arine <u>C</u>onsent, a New Zealand marine mammal species identification guide to assist in the accurate identification of species. <u>A copy of the guide shall be made available on each vessel used as part of activities authorised by this Marine Consent.</u></p>	<p>Addition to Condition 13 is based on the recommendation from Dr Childerhouse (paragraph 8.2.2) on behalf of Tamarind and further supported by Mr Baxter (paragraph 15(l)(ii) of the Seapen Review Report) on behalf of the EPA.</p>
13A	<p><u>All personnel undertaking airborne, seagoing and watch-keeping duties are informed of their obligations under the Marine Mammals Protection Act 1978 and Marine Mammals Protection Regulations 1992 or any subsequent Regulations.</u></p>	<p>New Condition based on the recommendation from Dr Childerhouse (paragraph 8.2.4) on behalf of Tamarind and further supported by Mr Baxter (paragraph 15(l)(iv) of the Seapen Review Report) on behalf of the EPA.</p>
14	<p>The <u>C</u>onsent <u>H</u>older shall ensure that all nocturnal (night-time) lighting utilised on the drill rig and associated support vessels is minimised to the greatest practicable extent while still meeting operational and safety requirements <u>and any nocturnal lighting shall be directed or shielded so that light spill outwards and upwards from the drill rig, and support vessels, is minimised to the greatest extent practicable.</u></p>	<p>Addition to Condition 14 is based on the recommendation from Dr Thompson (paragraph 7.2) on behalf of Tamarind and further supported by Mr Baxter (paragraph 18(b) of the Seapen Review Report) on behalf of the EPA.</p>
15	<p>a) The <u>C</u>onsent <u>H</u>older shall maintain a log of any seabird collisions with any drilling rig or any support vessels undertaking the drilling activities authorised by this</p>	

	<p><u>M</u>arine <u>C</u>onsent within the Tui Field including the following information where available:</p> <ul style="list-style-type: none"> i. date and time of collision ii. weather conditions iii. species (where known) iv. condition of the bird (dead, released alive and unharmed, or injured) v. photographs (where practicable). <p>b) A digital copy of the log referred to in clause a) of this condition shall be provided to the Department of Conservation and the EPA by 1 December every year or on an alternative date as otherwise agreed by the Department of Conservation and the EPA.</p> <p>Advice Note – <i>Records of any seabird collisions may be included as part of a log of seabird collisions recorded as part of another marine consent held by the <u>C</u>onsent <u>H</u>older.</i></p>	
16	The <u>C</u> onsent <u>H</u> older shall make available to the offshore personnel undertaking the drilling activities authorised by this <u>M</u> arine <u>C</u> onsent, a New Zealand seabird species identification guide to assist in the accurate identification of species.	
17	While undertaking the drilling activities authorised by this <u>M</u> arine <u>C</u> onsent, the <u>C</u> onsent <u>H</u> older shall maintain a log, to be kept on the relevant drilling rig and provided on inspection or request by the EPA, of the following:	This condition has been amended to reflect the updated drilling methodology of only using SBM (deletion of condition d)) and disposing of all drill cuttings to land (deletion of condition e) and amendment to condition c)).



	<p>a) The name and location of the wells drilled;</p> <p>b) The total volume of cement used per well drilled, estimated by dry weight <u>and the volume of faulty or unused cement disposed of to land and / or to the sea;</u></p> <p>c) The total volume of milling swarf <u>and drill cuttings</u> taken onshore for disposal; <u>and</u></p> <p>d) The <u>method and materials used in the closure or abandonment of each well. total volume of water based muds used in each well;</u></p> <p>e) The in situ volume of drill cuttings removed from each well.</p>	A new condition d) has been included to provide for information on well closure methods and material.
18	<p>The Consent Holder shall notify the EPA of the conclusion of its drilling campaign within 5 Working Days of the campaign's completion date. Within three months after the completion date, the Consent Holder shall provide a report to the EPA that summarises the information collected in the log required in accordance with Condition 17. This report shall include the combined total in-situ volume of drill cuttings removed since the granting of this Marine Consent.</p> <p>Advice Note – <i>A drilling campaign includes all drilling activities authorised by this marine consent and associated activities, commencing when the drilling rig arrives and is installed within Permit Area PMP31858 and concluding on the completion date.</i></p>	Deletion of the requirement to provide details of in-situ drill cuttings as all cuttings will now be disposed of to land.
19	The combined total in-situ volume of drill cuttings discharged as a result of drilling authorised by this marine consent shall not exceed 600 cubic metres.	Delete condition as all cuttings will now be disposed of to land.
20	Pursuant to sections 76 and 77 of the EEZ Act, the EPA may serve notice on the C consent H holder of its intention to review the conditions of this marine consent <u>during the month(s) of</u>	Amendment to the timeframe for review of the consent to better reflect the 5 year term applied for.

	<p><u>January, April, July, and/or October each year for the duration at five-yearly intervals from the grant</u> of this consent for the following purposes:</p> <p>a) to deal with any adverse effects on the environment that may arise from the exercise of the consent and with which it is appropriate to deal with after the consent has been granted</p> <p>b) to deal with any practical issues arising from the implementation of the conditions of consent.</p>	
21	<p>In the event of an unplanned spill that triggers a Tier 2 or 3 spill response as defined in the New Zealand Oil Spill Response Strategy 2015 – 2019 or subsequent editions, the Consent Holder shall:</p> <p>a) <u>Notify the EPA in writing within 24 hours of any Tier 2 or 3 spill:</u></p> <p>b) Seek advice from the relevant regional councils, <u>Te Kāhui o Taranaki Trust, Te Korowai o Ngāruahine and Ngāti Tara and their successor</u> relevant iwi entities, the Department of Conservation, Maritime New Zealand and the EPA about whether monitoring is likely to detect any environmental effects and, if so, design and implement an appropriate monitoring programme as soon as practicable; and</p> <p>c) Provide the EPA with the results of the monitoring undertaken in response to Condition 9 <u>10(a)</u>.</p> <p>Advice Note: The Consent Holder should seek advice from the EPA as to who the relevant iwi entities are in the event of an unplanned spill.</p>	<p>New condition a) provides for the notification to the EPA that was previously provided for in Condition 7 above.</p> <p>Amendment to Condition b) to identify the relevant iwi / hapū and consequential deletion of the Advice Note.</p>

Table 2 – Marine Discharge Consent Conditions

DRAFT EEZ100016 Conditions – marine discharge consent		
Condition Number	Tamarind Proffered Condition and Recommended Amendments	Comments
1	<p>The consent holder shall ensure that the marine discharge consent is exercised in general accordance with the application for marine discharge consent and the IA dated xxxxx, and further information dated xxxxx as provided by Tamarind Taranaki Limited, except as modified by the conditions below.</p> <p>All discharge activities shall be undertaken in accordance with the latest certified offshore processing drainage management plan required by Condition xx. Where information contained in the application documents is contrary to the conditions of this marine discharge consent the conditions shall prevail.</p> <p><u>Subject to compliance with these consent conditions, the activities authorised by this Marine Discharge Consent shall be undertaken in general accordance with:</u></p> <ul style="list-style-type: none"> a) <u>The application document entitled “Tui Field Drilling Activities – Impact Assessment to Support Notified Marine Consent and Marine Discharge Consent Applications” (dated March 2018) prepared by ERM New Zealand Limited and supporting documents submitted as part of the application lodged on 9 March 2018; and</u> b) <u>The response to further information document entitled “Tamarind, Tui Development Drilling Applications (EEZ100016), Response to the Board’s</u> 	<p>Changes reflect EPA preferred drafting – no change in intent of Tamarind’s condition. The reference to the operate in accordance with management plans has also been removed as I have recommended that the management plan condition be deleted as there is now sufficient detail on harmful substances and the proposed drainage system available to provide specific conditions.</p>

	<u>Request for Further Information under section 54 EEZ Act and Other Further information – Notified Marine Consent and Marine Discharge Consent Applications” (dated July 2018) prepared by ERM New Zealand Limited.</u>	
2	This M marine D ischarge C onsent shall expires on 31 November 2024 .	Changes reflect EPA preferred drafting – no change in intent of Tamarind’s condition. Note: the BOI will need to update the expiry date to reflect the 5 year term requested by Tamarind.
3	This marine discharge consent shall lapse 5 years after the date of commencement unless it has been given effect to prior to that date.	Delete the lapse conditions - See previous comment in the marine consent
4	The C onsent H older shall ensure that a copy of this M marine D ischarge C onsent, and any variations, are available for inspection at the C onsent H older’s head office in New Zealand, and on any drilling rig undertaking activities authorised by this marine discharge consent.	
5	The consent holder shall ensure that personnel directly involved in the exercise of this marine discharge consent are informed of their obligations and responsibilities in exercising this marine discharge consent. <u>The Consent Holder shall ensure all personnel, including any contractors, involved in undertaking any of the activities authorised by this Marine Discharge Consent fully understand and comply with these conditions.</u>	Changes reflect EPA preferred drafting – no change in intent of Tamarind’s condition. Second part of the condition is provided to enable the EPA to monitor how Condition 5 has been complied with.

	<u>The Consent Holder shall keep a record to show that the personnel, including contractors, have been informed of their obligations under this consent. The Consent Holder shall provide a copy of this record to the EPA upon request.</u>	
6	<p>a) The consent holder shall within 20 working days of the date of commencement of this <u>M</u>marine <u>D</u>discharge <u>C</u>consent provide the EPA with the name and contact details of the delegated experienced person(s) responsible for collating and reporting information on compliance management in relation to this marine discharge consent.</p> <p>b) The consent holder shall advise the EPA of any changes to the name and contact details of this person(s) within five working days of any changes being made.</p> <p><u>The Consent Holder shall, at least 20 working days prior to first commencing the activities authorised by this Marine Discharge Consent, or any other timeframe agreed to by the EPA, provide to the EPA, in writing, the name and contact details of the person who has delegated responsibility for compliance management, collating information, and reporting in accordance with the requirements of this consent. In the event that the responsible person changes, the Consent Holder shall advise the EPA, in writing, of the name and contact details of the new person within five (5) working days of the change.</u></p>	Changes reflect EPA preferred drafting – no change in intent of Tamarind’s condition.
7	<p>a) At least annually the <u>C</u>consent <u>H</u>holder shall extend an invitation to Te Kāhui o Taranaki, <u>T</u>Te Korowai o Ngāruahine <u>T</u>Trust and Ngāti Tara and their successors, to meet to discuss the discharge of any harmful substances from offshore processing drainage as authorised by this <u>M</u>marine <u>D</u>discharge <u>C</u>consent. This</p>	The addition of Te Korowai o Ngāruahine to the condition is based on the recognition of the iwi as having an interest in the AOI.

	<p>shall include information on the deck drains and selection process of chemical substances to be used.</p> <p>b) The <u>C</u>onsent <u>H</u>older shall extend the invitation in accordance with Condition 7 a) to meet to Te Kāhui o Taranaki Trust, <u>Te Korowai o Ngāruahine Trust</u> and Ngāti Tara and their successors, no less than three months prior to the commencement of any <u>activities that have the potential to discharge</u> of harmful substances into offshore processing drainage as authorised by this <u>M</u>arine <u>D</u>ischarge <u>C</u>onsent.</p> <p>c) Where any meeting in accordance with Condition 7 a) takes place, the <u>C</u>onsent <u>H</u>older shall take minutes of each meeting and distribute these minutes to the meeting attendees within 10 working days of the meeting. These minutes should be provided to the EPA upon request.</p>	<p>The inclusion is also consistent with the matters of confirmation by Tamarind in paragraph 8.4.2 of Mr Peacock’s evidence.</p> <p>The addition to b) has is provided for clarification as it is not the intention of the Consent Holder to discharge substances.</p> <p>As previously stated, any cultural conditions should be discussed with the respective iwi / hapū to confirm the adequacy of the conditions.</p>
8	<p>a) The consent holder shall, prior to the commencement of the drilling rig installation works, consult with Te Kāhui o Taranaki Trust, <u>Te Korowai o Ngāruahine Trust</u> and Ngāti Tara and their successors to develop a monitoring programme for the installation, operation and removal of the drilling rig, which incorporates Te Ao Māori where possible and provides opportunities for iwi and/or hapū representatives to assist in the implementation of that programme.</p> <p>b) This consent holder shall provide a report to the EPA of the steps undertaken to comply with condition 8(a) by 30 June on the year following the consultation.</p>	<p>The monitoring programme is already provided for in the Marine Consent above (Condition 10). Therefore, I consider that this condition is an unnecessary duplication as both conditions provide for the same monitoring requirements.</p> <p>If it the BOI deemed it necessary to provide a monitoring plan which also focused on discharge activities then this condition could be reinstated to require Tamarind <i>‘to develop a monitoring programme for the installation, operation and removal of the drilling rig <u>and any discharges from the authorised activities...</u>’</i> However, based on the evidence provided by Tamarind and the further reports provided by the BOI’s technical advisors, I do not consider that specific monitoring is required in relation to the discharge aspects of the activity.</p>

	<p>Advice note – The monitoring programme required by this condition, and Condition x of the marine consent xxxxx, can be fulfilled through the provision of a single monitoring programme.</p>	
<p>8</p>	<p>a) <u>The Consent Holder shall ensure that the discharges authorised by this Marine Discharge Consent shall only occur from a drill rig with a drainage system that as a minimum:</u></p> <ul style="list-style-type: none"> i. <u>Consists of separate hazardous deck drain, non-hazardous deck drain, and enclosed drain systems (enclosed drain system refers to a closed loop drilling fluids system which is designed to contain all the drilling fluid and cuttings);</u> ii. <u>Fully contains deck drainage runoff that is directed to settlement tank(s) that shall have a minimum combined capacity of at least 5m³;</u> iii. <u>Directs hazardous deck drainage runoff through a solids removal system;</u> iv. <u>Directs hazardous and non-hazardous deck drainage runoff through an oil-in-water separator system;</u> v. <u>Constantly monitors, by the use of an oil in water analyser that is calibrated and maintained in accordance with the manufacturer's specifications, hazardous and non-hazardous deck drainage to ensure that discharges do not have an oil content in exceedance of 15ppm.</u> 	<p>New condition 8 a) to ensure that any drill rig used provides for a drainage system that has been described in the evidence of Mr McCallum (paragraph 2.15, Section 3 and Appendix 2) and in turn used to determine the extent and severity of effects of the discharges on the environment.</p> <p>Advice note added to record the requirements of the Consent Holder to provide a record book and ESRP under the EEZ Discharge Regs.</p>

	<p>Advice Note – <i>The drill rig should also have an oil record book and an approved Emergency Spill Response Plan (ESRP) in accordance with Regulation 23 and 24 of the Exclusive Economic Zone and Continental Shelf (Environmental Effects – Discharge and Dumping) Regulations 2015.</i></p>																					
8A	<p>The Consent Holder shall, to the greatest extent practicable, ensure that the harmful substances that have feasible potential for discharge into the hazardous deck drains on the drill rigs are restricted to the following:</p> <table border="1" data-bbox="297 580 1225 1278"> <thead> <tr> <th data-bbox="297 580 501 692">Product</th> <th data-bbox="501 580 705 692">Use</th> <th data-bbox="705 580 958 692">Constituents / Core Content</th> <th data-bbox="958 580 1225 692">HSNO Aquatic Toxicity Classifications</th> </tr> </thead> <tbody> <tr> <td data-bbox="297 692 501 847"><u>Saraline 185V</u></td> <td data-bbox="501 692 705 847"><u>Synthetic Based Muds (SBM) (Planned)</u></td> <td data-bbox="705 692 958 847"><u>Distillates, C8-C26. Branched and Linear (99-100%)</u></td> <td data-bbox="958 692 1225 847"><u>9.1B</u></td> </tr> <tr> <td data-bbox="297 847 501 959"><u>Lime</u></td> <td data-bbox="501 847 705 959"><u>SBM (Planned)</u></td> <td data-bbox="705 847 958 959"><u>Calcium hydroxide (100%)</u></td> <td data-bbox="958 847 1225 959"><u>9.1D</u></td> </tr> <tr> <td data-bbox="297 959 501 1129"><u>Adacide G</u></td> <td data-bbox="501 959 705 1129"><u>Inhibited Seawater (Planned)</u></td> <td data-bbox="705 959 958 1129"><u>Glutaraldehyde (10-30%) Methanol (0.1-1%)</u></td> <td data-bbox="958 959 1225 1129"><u>9.1A (algal, crustacean) 9.1D (fish) Not a harmful substance</u></td> </tr> <tr> <td data-bbox="297 1129 501 1278"><u>Baraklean Dual</u></td> <td data-bbox="501 1129 705 1278"><u>Wellbore Cleanup (Contingency)</u></td> <td data-bbox="705 1129 958 1278"><u>Ethylene glycol monobutyl ether (30-60%)</u></td> <td data-bbox="958 1129 1225 1278"><u>Not a harmful substance 9.1D</u></td> </tr> </tbody> </table>	Product	Use	Constituents / Core Content	HSNO Aquatic Toxicity Classifications	<u>Saraline 185V</u>	<u>Synthetic Based Muds (SBM) (Planned)</u>	<u>Distillates, C8-C26. Branched and Linear (99-100%)</u>	<u>9.1B</u>	<u>Lime</u>	<u>SBM (Planned)</u>	<u>Calcium hydroxide (100%)</u>	<u>9.1D</u>	<u>Adacide G</u>	<u>Inhibited Seawater (Planned)</u>	<u>Glutaraldehyde (10-30%) Methanol (0.1-1%)</u>	<u>9.1A (algal, crustacean) 9.1D (fish) Not a harmful substance</u>	<u>Baraklean Dual</u>	<u>Wellbore Cleanup (Contingency)</u>	<u>Ethylene glycol monobutyl ether (30-60%)</u>	<u>Not a harmful substance 9.1D</u>	<p>New condition – to identify the harmful substances that have the potential to discharge into the drill rig drainage system and therefore, may be discharged under the consent. These substances are those which are identified in the evidence of Dr Lane (Table 1 - paragraph 4.12) and Mr McCallum (paragraph 3.25 and 3.32).</p> <p>The second part of the condition requires the 'least harmful substance' to be used in the event that those identified in the table are not. This is consistent with Tamarind's proposed approach as outlined in Tamarind's FIR (Part A, Section 2.1).</p> <p>The third part of the condition identifies that the HSNO Classification System is the appropriate one to use.</p>
Product	Use	Constituents / Core Content	HSNO Aquatic Toxicity Classifications																			
<u>Saraline 185V</u>	<u>Synthetic Based Muds (SBM) (Planned)</u>	<u>Distillates, C8-C26. Branched and Linear (99-100%)</u>	<u>9.1B</u>																			
<u>Lime</u>	<u>SBM (Planned)</u>	<u>Calcium hydroxide (100%)</u>	<u>9.1D</u>																			
<u>Adacide G</u>	<u>Inhibited Seawater (Planned)</u>	<u>Glutaraldehyde (10-30%) Methanol (0.1-1%)</u>	<u>9.1A (algal, crustacean) 9.1D (fish) Not a harmful substance</u>																			
<u>Baraklean Dual</u>	<u>Wellbore Cleanup (Contingency)</u>	<u>Ethylene glycol monobutyl ether (30-60%)</u>	<u>Not a harmful substance 9.1D</u>																			

			<u>Alcohols, C9-11, ethoxylated (10-30%)</u>	
	<u>NF-6</u>	<u>Cement (Planned)</u>	<u>Vegetable oil (60-100%)</u> <u>Aluminum stearate (1-5%)</u>	<u>Not a harmful substance</u> <u>9.1D</u>
	<u>Cleanbore B</u>	<u>Cement (Contingency)</u>	<u>Mixture of C9-C11 alcohol ethoxylate (60-100%)</u> <u>Isopropanol (10-30%)</u>	<u>Not a harmful substance</u> <u>9.1D</u>
<p><u>In the event that the products above are not used, the Consent Holder will select and use the least harmful (ecotoxic) substance available that is technically capable of performing the specific role for which it is intended. The Consent Holder shall provide records of any alternative substances used to the EPA upon request.</u></p> <p><u>For the purpose of this Marine Discharge Consent, the New Zealand Hazardous Substances and New Organisms (HSNO) Act 1996 classification system shall be used for the classification of harmful substances.</u></p>				
9	a) The <u>C</u> onsent <u>H</u> older shall take all practicable steps to avoid harmful substances entering the hazardous and non-hazardous deck drains. In the event that any harmful substance(s) enters the hazardous and non-hazardous			Addition to b) to clarify what constitutes an event.

	<p>deck drains, the <u>C</u>onsent <u>H</u>older shall ensure that the quantities released are minimised as far as practicably possible.</p> <p>b) The <u>C</u>onsent <u>H</u>older shall maintain an electronic record of the estimated volumes of harmful substances that enter the hazardous and non-hazardous deck drains for each <u>harmful substance spill</u> event. These records shall be maintained while the drilling activities authorised by this consent are being undertaken. These records shall be submitted to the EPA for each three month period (or any part thereof) ending 31 March, 30 June, 30 September, and 31 December each year and shall be submitted within 15 working days of these dates.</p>	
40	<p>a) The <u>C</u>onsent <u>H</u>older shall prepare an offshore processing drainage management plan for the management of harmful substances that enter the hazardous and non-hazardous deck drains at each drilling rig installation.</p> <p>b) The purpose of the offshore processing drainage management plan is to provide for the appropriate management of harmful substances that have the potential to enter the hazardous and non-hazardous deck drains of the drilling rig and to identify the measures to be put in place to ensure that any discharge of offshore processing drainage from the drilling rig does not result in adverse effects beyond the scope described in the application.</p> <p>c) This offshore processing drainage management plan shall include:</p>	<p>As it is not Tamarind's intention to discharge any harmful substance (except where there is an accidental spill, etc) I have recommended that the management plan condition be deleted.</p> <p>I note that the EEZ Discharge Regs (Regulation 24) requires the provision of an ESRP which captures the matters set out in the proffered condition (e.g. the ESRP requires all harmful substances to be stored on board the drill rig have Safety Data Sheets, record of maximum volumes to be stored on the rig, HSNO ecotox classifications, HSNO approval numbers, associated HSNO group standard storage and handling protocols, list of specific activities that could lead to spills, spill response procedures, and escalation procedures in the event of larger spills). If any of the criteria of the ESRP are not met, the EPA will not</p>

	<p>i. details of each harmful substance that has a reasonable potential to be discharged through the hazardous and non-hazardous deck drains. The detail to be provided is:</p> <ol style="list-style-type: none"> 1. a Safety Data Sheet for the harmful substance, including any available ecotoxicological information on the substance 2. confirmation of the CHARM or non-CHARM category, as determined by the Offshore Chemical Notification Scheme, for each harmful substance (if applicable the maximum volume of the harmful substance likely to be stored on a drilling rig. <p>ii. methods and measures to minimise and control the discharge of harmful substances from hazardous and non-hazardous deck drains, including as a minimum:</p> <ol style="list-style-type: none"> 1. the maximum designed rate of discharge from hazardous deck drains; 2. the specific details of the treatment system prior to discharge from hazardous deck drains including design capacity 3. operational procedures and controls. <p>d) The offshore processing drainage management plan shall be prepared by a suitably qualified and experienced person(s) and submitted to the EPA at least 2 months prior to the commencement of any discharges for certification that the requirements of this condition have been met. Where the EPA does not have</p>	<p>approve the plan, and operations cannot commence until it is up to standard and approved.</p>
--	--	--



	<p>the relevant expertise in house, it may engage a suitably qualified expert to review the offshore processing drainage management plan for certification.</p> <p>e) If within 20 working days the EPA has not certified the offshore processing drainage management plan it will be deemed to be certified.</p> <p>f) No discharge of harmful substances as offshore processing drainage from hazardous and non-hazardous deck drains shall commence until the offshore processing drainage management plan has been certified by the EPA or is deemed to be certified.</p> <p>g) The consent holder shall provide a copy of the certified offshore processing drainage management plan to Te Kāhui o Taranaki Trust, Ngāti Tara and their successors within 10 working days of it being certified by the EPA.</p>	
10	<u>This Marine Discharge Consent does not authorise the discharge of any drilling fluids to the sea.</u>	New condition included to confirm that no drilling fluids are to be discharges as part of the authorised discharges as confirmed in the evidence of Mr McCallum (paragraph 2.57).
44	Intentionally Blank	No Condition 11 was provided in Tamarind's proposed conditions.
12	<p>Any deck drain system on a drilling rig from which offshore processing drainage may discharge to the sea shall, as a minimum, include the following design requirements:</p> <p>a) both a hazardous and non-hazardous deck drain;</p> <p>b) the ability to close the non-hazardous deck drains in the event of a spill;</p>	Deleted as Condition 8 provides the minimum technical requirements for the drainage system of the drill rig.

	<p>e) an oil in water separator system prior to discharge from the hazardous deck drains; and</p> <p>d) a mechanism for analysing oil in water content prior to discharge from the oil in water separator system.</p> <p>Advice note — Every offshore installation is also required to have an oil record book and meet the relevant Emergency Spill Response Plan (ESRP) as required the Exclusive Economic Zone and Continental Shelf (Environmental Effects Discharge and Dumping) Regulations 2015.</p>	
13	<p>a) Any amendments to the offshore processing drainage management plan specified in Condition xx shall be prepared by a suitably qualified and experienced person and be submitted to the EPA for certification. The amended plan shall only be implemented following certification from the EPA that the amendments meet the requirements of Condition xx.</p> <p>b) If within five working days the EPA has not certified the amended plan it will be deemed to be certified.</p> <p>c) Following certification from the EPA, the consent holder shall provide a copy of the amended plan to Te Kāhui o Taranaki Trust and Ngāti Tara and their successors within 10 working days of the amended plan being certified by the EPA.</p> <p>d) The amended plan shall only be implemented if the plan is certified by the EPA or is deemed to be certified.</p>	Condition 13 has been deleted as the management plan condition has been deleted

14	<p>In the case of emergency situations, where activities need to be undertaken outside of those provided for in the management plan, the consent holder shall advise the EPA, as soon as reasonably practicable but not later than 24 hours after the activities have been undertaken, of the details (including location) of the activity undertaken and / or any other departures from matters provided for in the management plan.</p>	<p>This condition has been deleted as it provides the Consent Holder with an exemption to operate outside that standards of the consent. In the event that there is an emergency situation the EEZ Discharge Regs 2015 already provide a mechanism for which the Consent Holder can manage emergency situations (Regulation 24 – ESRP for spills of harmful substances described in regulation 4(a)).</p>
15	<p>The <u>C</u>onsent <u>H</u>older shall ensure that any harmful substances that have a reasonable potential for discharge from hazardous and non-hazardous deck drains onboard the drilling rig are stored within a secondary containment system. <u>For the purposes of this condition a 'secondary containment system' means a system or systems:</u></p> <ul style="list-style-type: none"> a) <u>in which pooling substances held in the workplace will be contained if they escape from the container or containers in which they are being held; and</u> b) <u>from which they can, subject to unavoidable wastage, be recovered.</u> 	<p>Changes to reflect EPA preferred drafting.</p>
15A	<ul style="list-style-type: none"> a) <u>In the event of a spill of any harmful substances described in Condition 8A and / or regulation 4(a) of the Discharge and Dumping Regulations into the sea, the Consent Holder shall liaise with the EPA to determine whether monitoring is necessary and is likely to detect any environmental effects and, if so, agree on appropriate monitoring (if any) and timeframes and whether any other relevant authorities should be notified. Other relevant authorities may include Maritime New Zealand, regional councils, iwi entities, the Ministry for Primary Industries, and/or the Department of Conservation.</u> 	<p>New condition added to provide for a mechanism to enable effects to be considered in greater detail in the event that there is a discharge of harmful substances. The wording is consistent with that which the EPA has used in previous marine discharge consents.</p>



	<p>b) <u>The results of the monitoring shall be provided to the EPA on request and a written summary report shall be provided to the EPA within three months of the Consent Holder receiving the results of testing from the laboratory.</u></p>	
15A	<p><u>The Consent Holder shall notify the EPA immediately upon becoming aware of any adverse effects on the environment or existing interests that arise that:</u></p> <p>a) <u>were not anticipated when these consents were granted; or</u></p> <p>b) <u>are of a scale or intensity that were not anticipated when these consents were granted.</u></p> <p><i><u>Advice Note: In the event that such adverse effects occur the EPA may, pursuant to section 76(1)(c) of the EEZ Act, serve notice on the Consent Holder of its intention to review the duration or conditions of these consents.</u></i></p>	<p>New condition which has been used on other consents issued by the EPA used to control any unforeseen effects of the activities authorised by the Marine Discharge Consent.</p>
16	<p>Pursuant to sections 76 and 77 of the EEZ Act, the EPA may serve notice on the Consent Holder of its intention to review the duration or conditions of this Marine Discharge Consent at five-yearly intervals from the grant of this consent for the following purposes at any of the following times:</p> <p>a) <u>during the month(s) of January, April, July, and/or October each year; and/or</u></p> <p>b) <u>within 20 working days of the receipt of any notification of a spill of harmful substances into the sea under Condition 8A.</u></p> <p><u>The review of conditions may be for any of the following purposes:</u></p>	<p>Amendment to the timeframe for review of the consent to better reflect the 5 year term applied for.</p> <p>The recommended wording now allows the EPA to review the conditions and duration of the Marine Discharge Consent quarterly or within 20 working days of notification of any spill.</p>

	<ul style="list-style-type: none"> a) to deal with any adverse effects on the environment that may arise from the exercise of the consent and which it is appropriate to deal with after the consent has been granted; b) to impose discharge quality and/or receiving water quality monitoring requirements if the quantities or frequencies of discharges of harmful substances are shown to be greater than anticipated; or c) to deal with any practical issues arising from the implementation of the conditions of consent. 	
--	--	--

10. CONCLUSION

90. Tamarind has proposed a range of conditions for both the marine consent and marine discharge consent with the key conditions enabling the provision of detailed information that was not available when the application was lodged or during the preparation of evidence.
91. Tamarind has since provided further Project details through their FIR and in their evidence in support of their application.
92. While the conditions proposed by Tamarind were generally appropriate based on the available information at the time they were prepared, the proffered conditions have been amended to reflect the updated Project information.
93. Overall, in the event that the BOI decides to grant the marine consent and marine discharge consent applications, subject to confirmation from iwi / hapū groups on the appropriateness of the cultural conditions, I consider that the conditions provided in Table 1 and Table 2 of this report are appropriate to ensure that any effects of the proposal are avoided, remedied and mitigated.



Luke Faithfull

Technical Advisor

Date: 26 September 2018



APPENDIX 1 – SUPPLEMENTARY INFORMATION REVIEWED IN PREPARING THE CONDITIONS REPORT

Date	Author	Document Title
26 May 2018	Seapen Marine Environmental Services	EEZ100016: Tamarind Taranaki Limited marine consent and marine discharge consent applications – Tui Field. Review of marine environmental impact assessment
June 2018	Oil and Gas Solutions Pty Ltd	Assessment Report, Application Ref No.: EEZ100016. Technical Review & Analysis of Operational Activities associated with Sidetrack Development Drilling & Marine Discharge Consent
June 2018	Coffey Services (NZ) Ltd	Technical Review of Oil Spill Modelling, Tamarind Taranaki Ltd. Application EEZ100016
July 2018	Jack O'Carroll	EPA Key Issues Report, Applications for marine consent and marine discharge consent for development drilling activities in the Tui Field Tamarind Taranaki Ltd - EEZ100016
20 July 2018	Dr Simon Childerhouse	Statement of Expert Evidence of Simon John Childerhouse for Tamarind Taranaki Limited
20 July 2018	Fraser Colegrave	Statement of Expert Evidence of Fraser James Colegrave for Tamarind Taranaki Limited
20 July 2018	Dr Sharon De Luca	Statement of Expert Evidence of Sharon Betty De Luca for Tamarind Taranaki Limited
20 July 2018	Nicola Gibbs	Statement of Expert Evidence of Nicola Gay Gibbs for Tamarind Taranaki Limited
20 July 2018	Dr Brian King	Statement of Expert Evidence of Brain Alfred King for Tamarind Taranaki Limited
20 July 2018	Dr Alison Lane	Statement of Expert Evidence of Alison Lane for Tamarind Taranaki Limited
20 July 2018	Dr Alison MacDiarmid	Statement of Expert Evidence of Alison Bronwyn MacDiarmid for Tamarind Taranaki Limited
20 July 2018	Iain McCallum	Statement of Non-Expert Evidence of Iain Alastair McCallum for Tamarind Taranaki Limited



20 July 2018	Dr David Thompson	Statement of Expert Evidence of David Richard Thompson for Tamarind Taranaki Limited
20 July 2018	Jason Peacock	Statement of Non-Expert Evidence of Jason Lee Peacock for Tamarind Taranaki Limited
July 2018	ERM New Zealand Ltd	Tamarind Tui Development Drilling Applications (EEZ100016). Response to the Board's Request for Further Information under section 54 EEZ Act and Other Further Information – Notified Marine Consent and Marine Discharge Consent Applications
13 August 2018	Ngā Kaihautū Tikanga Taiao	Ngā Kaihautū Tikanga Taiao Report - EEZ 100016, Applications from Tamarind Taranaki Limited for a marine consent and a marine discharge consent for drilling activities in the Tui Field.
August 2018	Coffey Services (NZ) Ltd	Review of Oil Spill Modelling Expert Evidence Tamarind Taranaki Ltd. Application EEZ100016
13 August 2018	Ministry of Business, Innovation and Employment	Response to request for advice under section 56 of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 regarding the Tamarind Taranaki Limited applications – EEX1000016
30 August 2018	Oil and Gas Solutions Pty Ltd	Review of Evidence Statements against Key Questions Application Ref No.: EEZ100016. Technical Review & Analysis of Operational Activities associated with Sidetrack Development Drilling & Marine Discharge Consent
31 August 2018	Department of Conservation	Response to request for advice under section 56 of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 regarding the Tamarind Taranaki Limited applications – EEX1000016
31 August 2018	Seapen Marine Environmental Services	EEZ100016: Tamarind Taranaki Limited marine consent and marine discharge consent applications – Tui Field. Review of further information, applicant evidence and submissions pertaining to the marine environment.
19 September 2018	Frank Broomhead and Iain McCallum	Joint Statement of Experts – Drilling Operations
20 September 2018	Dr Brian King and Justin Rogers	Joint Statement of Experts in the Field of Oil Spill Modelling



APPENDIX 2 – TERMS OF REFERENCE

The following Terms of Reference are taken from the EPA Specific Contract 1906 dated August 2018:

Specific Services

To assist the Board with its decision-making on what are complex marine consent applications, the EPA wishes to source planning expertise in the area of offshore oil and gas operations, and/or regional council discharge consenting, in order to evaluate and provide advice on potential consent conditions that are in accordance with Subpart 2E – Consents of the EEZ Act.

The Supplier will provide the Board with planning expertise and perform an evaluation of, comment on, and recommend to the Board of Inquiry a suite of draft conditions for consideration in the event the Board is minded to grant consent.

The supplier will attend the hearing and answer questions (from any party) on the report and recommended conditions as required by the Board of Inquiry. The hearing is due to commence on 6 November 2018 in New Plymouth (hearing dates will be subject to change).

Deliverable 1: *Review of the marine consent and marine discharge consent applications, including any conditions proposed by Tamarind, and any technical advice sought on behalf of the EPA on the Tamarind applications. This will also involve consulting with the EPA Key Issues Report writer and EPA staff from EEZ Compliance.*

Deliverable 2: *Provision of a report, which will entail:*

- a) Consideration and comment on draft conditions proffered by Tamarind or other parties in the application documents, evidence or submissions in relation to its application for marine consent and marine discharge consent (identifying which parties proposed which conditions),*
- b) Recommended additional conditions, or changes to those put forward by Tamarind or other parties and,*
- c) Technical input to ensure conditions are clear, certain, enforceable and not in conflict with a measure required in relation to the activity by another marine management regime.*



APPENDIX 3 - STATUTORY PROVISIONS

63 Conditions of marine consents

- 1) *A marine consent authority may grant a marine consent on any condition that it considers appropriate to deal with adverse effects of the activity authorised by the consent on the environment or existing interests.*
- 2) *The conditions that the marine consent authority may impose include, but are not limited to, conditions—*
 - a. *requiring the consent holder to—*
 - i. *provide a bond for the performance of any 1 or more conditions of the consent:*
 - ii. *obtain and maintain public liability insurance of a specified value:*
 - iii. *monitor, and report on, the exercise of the consent and the effects of the activity it authorises:*
 - iv. *appoint an observer to monitor the activity authorised by the consent and its effects on the environment:*
 - v. *make records related to the activity authorised by the consent available for audit:*
 - b. *that, if section 64 applies, together amount or contribute to an adaptive management approach.*
- 3) *However, the marine consent authority must not impose a condition on a consent if the condition would be inconsistent with this Act or any regulations.*
- 4) *To avoid doubt, the marine consent authority may not impose a condition to deal with an effect if the condition would conflict with a measure required in relation to the activity by another marine management regime or the Health and Safety at Work Act 2015.*

66 Monitoring conditions

- 1) *A condition imposed under section 63(2)(a)(iii) may require the consent holder to do 1 or more of the following:*
 - a. *make and record measurements:*
 - b. *take and supply samples:*
 - c. *carry out analyses, surveys, investigations, inspections, or other specified tests:*
 - d. *carry out the procedures in paragraphs (a) to (c) in a specified manner:*
 - e. *provide information to the EPA or a person specified by the EPA at a specified time or times:*
 - f. *provide information to the EPA or a person specified by the EPA in a specified manner:*
 - g. *comply with the condition at the consent holder's expense.*
- 2) *This section does not limit section 63(2)(a)(iii).*

67 Observers

- 1) *A condition imposed under section 63(2)(a)(iv) that requires the holder of a consent to appoint an observer must specify in detail the observer's duties in relation to the activity.*



- 2) *The consent holder may appoint a person to be an observer only if the person is approved by the EPA for that purpose.*
- 3) *The EPA must approve a person to be an observer in relation to a consent if—*
 - a. *the person has the appropriate training, skill, and experience to perform the duties; and*
 - b. *the EPA is satisfied that the person is able to perform the duties independently of the consent holder.*

71 When marine consent commences

- 1) *A marine consent that has been granted commences—*
 - a. *when the time for lodging an appeal against the grant of the consent expires and no appeal has been lodged; or*
 - b. *when the High Court determines the appeal or all persons who lodged appeals withdraw their appeals.*
- 2) *Subsection (1) does not apply if the marine consent specifies that the consent commences on a later date.*

73 Duration of marine consent

- 2) *The duration of a marine consent is—*
 - a. *35 years after the date of the granting of the consent; or*
 - b. *a period less than 35 years that is specified in the consent.*
- 1A) *The duration of a marine discharge consent or a marine dumping consent is—*
 - a. *the term specified in the consent, which must not be more than 35 years; or*
 - b. *if no term is specified, 5 years after the date of the granting of the consent.*
- 3) *When determining the duration of the consent, the Environmental Protection Authority must—*
 - a. *comply with sections 59 and 61; and*
 - b. *take into account the duration sought by the applicant; and*
 - c. *take into account the duration of any other legislative authorisations granted or required for the activity that is the subject of the application for consent.*

76 Environmental Protection Authority may review duration and conditions

- 1) *The Environmental Protection Authority may serve notice on a consent holder of its intention to review the duration of a marine consent or the conditions of the consent—*
 - a. *at any time or times specified for that purpose in the consent for any of the following purposes:*
 - i. *to deal with any adverse effect on the environment that may arise from the exercise of the consent and with which it is appropriate to deal after the consent has been granted:*
 - ii. *any other purpose specified in the consent:*
 - b. *if regulations take effect that prescribe standards, to ensure that the conditions are consistent with the standards, methods, or requirements:*
 - c. *to deal with any adverse effects on the environment or existing interests that arise and that—*



- i. were not anticipated when the consent was granted; or
 - ii. are of a scale or intensity that was not anticipated when the consent was granted:
 - d. if the information made available to the EPA by the applicant for the consent for the purposes of the application contained inaccuracies that materially influenced the decision made on the application and the effects of the exercise of the consent are such that it is necessary to apply more appropriate conditions:
 - e. if information becomes available to the EPA that was not available to the EPA when the consent was granted and the information shows that more appropriate conditions are necessary to deal with the effects of the exercise of the consent.
- 2) The EPA must serve notice on a consent holder of its intention to review the conditions of a marine consent if required by an order made under section 133(5)(b).
 - 3) A notice of review must comply with section 77.

77 Contents of notice of review

- 2) A notice of review must—
 - a. specify that the duration of the consent is to be reviewed, if that is the case; and
 - b. identify the conditions to be reviewed; and
 - c. give reasons for the review; and
 - d. specify the information that the Environmental Protection Authority took into account in deciding to review the conditions, if the review is under section 76(1)(d) or (e); and
 - e. tell the consent holder whether a charge is payable and, if so, the estimated amount of the charge.
- 3) A notice of review may—
 - a. propose new consent conditions; or
 - b. propose a change in the duration of a consent; or
 - c. invite the consent holder to propose new consent conditions within 20 working days after service of the notice.

85 Lapsing of consent if not exercised

- 1) A marine consent lapses on the date specified in the consent or, if no date is specified, 5 years after the date of commencement of the consent unless, before the consent lapses,—
 - a. the consent is given effect to; or
 - b. an application is made to the Environmental Protection Authority to extend the period after which the consent lapses, and the EPA decides to grant an extension after taking into account—
 - i. whether substantial progress or effort has been, and continues to be, made towards giving effect to the consent; and
 - ii. whether the applicant has obtained approval from persons who may be adversely affected by the granting of an extension; and
 - iii. relevant enactments.



- 2) *The consent holder may object, under section 101, to a decision of the EPA under subsection (1)(b) not to extend the period after which the consent lapses.*

87 Change or cancellation of consent conditions on application by consent holder

- 1) *The holder of a marine consent may request the Environmental Protection Authority to change or cancel a condition of the consent.*
- 2) *Sections 38 to 71 apply, with all necessary modifications, as if—*
 - a. *the request were an application for a marine consent; and*
 - b. *the references to a marine consent and to the activity were references only to the change or cancellation of a condition and the effects of the change or cancellation respectively.*
- 3) *However, if the EPA considers that the requested change or cancellation is likely—*
 - a. *to affect the existing interests of only some of the persons described in subsection (4), it may notify those persons and may, but need not, give public notice of the request under section 46; or*
 - b. *to be limited to minor matters, it may deal with the request under section 83.*
- 4) *For the purposes of determining who is adversely affected by the change or cancellation, the EPA must consider, in particular, every person who—*
 - a. *made a submission on the original application; and*
 - b. *has an existing interest that may be affected by the change or cancellation.*
- 5) *If the EPA decides, under subsection (3)(a), not to give public notice of the request, the EPA may, but need not, give public notice of its decision under section 70.*
- 6) *The consent holder may object, under section 101, if the EPA refuses to change or cancel the condition as requested by the consent holder.*

