

EXCLUSIVE ECONOMIC ZONE AND CONTINENTAL SHELF (ENVIRONMENTAL EFFECTS) ACT 2012 (the Act)

OMV application for marine discharge consent (EEZ100017)

Record of consideration and decision on joint processing and decision making – 27 September 2018

Joint processing and decision making on related applications

1. This record of consideration and decision relates to the publicly notified application by OMV New Zealand Limited (OMV) dated 27 March 2018 for marine discharge consent to discharge trace amounts of harmful substances (offshore processing drainage) through the deck drains of any Mobile Offshore Drilling Unit (MODU) to the sea as part of an Exploration and Appraisal Drilling (EAD) Programme. OMV's application seeks marine discharge consent for activities that are restricted under section 20B of the Act.
2. On 17 August 2018, OMV lodged a non-notified application EEZ200010 for a marine consent seeking to undertake restricted section 20 activities associated with exploration and appraisal drilling as part of an EAD programme.
3. Section 44(1) of the Act provides the EPA with the discretion to decide whether related applications should be heard at the same time and place and if decisions on related applications should be made on the same date.
4. Section 44(2) provides the EPA with the power to extend a time period to ensure that the related applications are heard at the same time and place or to ensure that decisions on the related applications are made on the same date.
5. As both applications relate to the EAD drilling programme and the application for marine discharge consent is publicly notified, both sections 44(1)(a) and (b) are satisfied and the applications are eligible to be decided (and heard) at the same time.
6. The Act allows for an applicant to make applications for marine consent and marine discharge consent separately. The EPA considers that this approach is acceptable and not an unlawful approach to take.
7. The EPA considers the application for marine discharge consent and the later application for marine consent should be decided separately and that section 44 should not be used to

extend a time period that applies to the processing of related applications for the following reasons:

- a. the significant period of time in between when the applications are due to be decided;
 - b. the significant inefficiencies in terms of time, cost and effort to parties that would be created from combining the two applications at this late stage in the process;
 - c. the fact that the hearing of the marine discharge consent application has now closed; and
 - d. the fact that there is no prejudice to parties given that evidence on effects put forward in the marine discharge consent application will appropriately form part of the factual material available for consideration and determination of the later application.
8. While I note the hearing for the marine discharge consent closed on 12 September 2018, for completeness, it is appropriate that the application for marine discharge consent and the later application for marine consent be heard separately for the following reasons:
- a. the significant period of time in between when the applications were lodged;
 - b. the fact that the marine discharge consent application was scheduled for hearing soon after the receipt of the later marine consent application; and
 - c. the fact that there would be no prejudice to parties given the evidence on effects put forward in the marine discharge consent application will appropriately form part of the factual matrix available for consideration and determination of the later application

Decision on joint processing and decision making

9. On this basis, I am of the view that it is appropriate, based on the information available at this point in time, for the application for marine discharge consent and the later application for marine consent to be heard and decided separately and therefore that the EPA should not exercise its discretion under section 44 to extend a time period that applies to the processing of the related applications.



Doug Jones

Acting Chief Executive, Environmental Protection Authority

2 October 2018