

EPA Conditions Report

Beach Energy Resources Limited

EEZ100019

04 August 2020



**Environmental
Protection Authority**
Te Mana Rauhi Tōiao

New Zealand Government

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Glossary of terms

Beach	Beach Energy Resources NZ (Holdings) Limited
CMA	Crown Minerals Act 1991
D&D Regulations	Exclusive Economic Zone and Continental Shelf (Environmental Effects - Dumping and Discharge) Regulations 2015 (D&D Regulations)
DMC	Decision-making Committee
EAD	Exploration and Appraisal Drilling
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
HSNO Act	Hazardous Substances and New Organisms Act 1996 (HSNO Act)
IA	Impact Assessment: "Impact_Assessment_Marine_Discharge_Consent-Deck_Drainage_20200325"
IAA	Impact Assessment Area
KIR	Key Issues Report, Beach Energy Resources Limited EEZ100019, 10 July 2020
MMR	Marine management regimes
MODU	Mobile Offshore Drilling Unit
OGS	Oil & Gas Solutions Pty Limited
OIW	Oil-in-water
OPD	Under regulation 3 of the D&D Regulations Offshore Processing Drainage (OPD) (a) means water from hazardous and non-hazardous deck drains; but (b) does not include oil mixed with water from machinery spaces
PEP	Petroleum Exploration Permit
SDS	Safety Data Sheets

Introduction

1. My name is Tim Roser. I am a Senior Advisor with the Land & Oceans Applications team at the Environmental Protection Authority. I have been tasked with preparing this report.
2. I have technical and regulatory experience in the resource development sector including environmental monitoring, research and stakeholder engagement. I have BSc degrees in Geology and Physical Geography from the University of Otago and have worked as an exploration geologist across Australia and Europe. Before joining the EPA, I provided technical and regulatory advice for the Ministry of Business, Innovation and Employment and New Zealand Petroleum and Minerals.
3. In March 2020, Beach Energy NZ (Holdings) Limited (Beach) applied for a Marine Discharge Consent under section 38 of the Exclusive Economic and Continental Shelf (Environmental Effects) Act 2012 (EEZ Act). The application (EEZ100019) is seeking authorization to discharge small (trace) amounts of harmful substances from the deck drains of a Mobile Offshore Drilling Unit (MODU) associated with the Canterbury Basin Exploration and Appraisal Drilling (Canterbury Basin EAD) program within Petroleum Exploration Permit (PEP) 38264. The Key Issues Report, Beach Energy Resources Limited EEZ100019, 10 July 2020 (KIR) provides a description of the application. I do not repeat this here.
4. I have read Beach's application forms, its impact assessment (IA) and its appendices, the commissioned external technical reviews of the IA, and Beach's responses to requests for further information. This report is based on the information contained in these documents.
5. The application is supported by an Impact Assessment (IA) which contains the information required by section 39 of the EEZ Act, which includes a set of proffered conditions (Appendix B to the IA).

Purpose and structure of report

6. The Decision-making Committee (DMC) commissioned the EPA, under section 56 of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (EEZ Act), to provide advice on conditions proffered by Beach, should the DMC be of a mind to grant consent.
7. Table 1 (Appendix 2) provides an overview of Beach's proffered conditions, my recommended changes to those conditions, and additional recommended conditions to avoid, remedy or mitigate adverse effects, should the DMC be minded to grant consent.
8. This report is based on the assessment of the application by myself, other EPA staff and experts engaged by the EPA as well as advice received from other government agencies including:
 - a. Oil and Gas Solutions – Technical Review and Analysis of Operational Activities associated with Beach Energy's Marine Discharge Consent Application – Canterbury Basin Exploration & Appraisal Drilling
 - b. Advice from Buddle Finlay – 8 July 2020

- c. Advice from Worksafe New Zealand – 12 June 2020
 - d. Advice from Maritime New Zealand – 26 June 2020
 - e. Advice from Fisheries New Zealand (Ministry for Primary Industries) – 8 July 2020
 - f. Advice from Biosecurity New Zealand (Ministry for Primary Industries) – 26 June 2020
 - g. Advice from Department of Conservation – 26 June 2020
9. Please note that I have not reviewed the advice provided to the DMC by Ngā Kaihautū Tikanga Taiao (NKTT). As a result, any recommendations made by NKTT have not been incorporated into Table 1 (Appendix 2).

Statutory framework

10. Beach has applied for a marine discharge consent for the activities associated with the discharge of trace (residual) amounts of harmful substances from the deck drains of any Mobile Offshore Drilling Unit (MODU) used for their exploration and appraisal drilling programme within the Canterbury Basin.
11. Section 4 of the EEZ Act defines a marine discharge consent as:
- “Marine discharge consent” means a marine consent granted under section 62 for the discharge of harmful substances.”*
12. Should the DMC be minded to grant this application, the DMC may issue the consent subject to conditions under section 63 of the EEZ Act. However, under section 63(2)(b), it may not impose conditions on the marine discharge consent that together amount or contribute to an adaptive management approach.
13. I do not consider that this issue arises here as Beach is not proposing an adaptive management approach in their proposed conditions, nor have I recommended an approach of this nature.
14. Section 63(1) of the EEZ Act states:
- “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.”*
15. While the wording of section 63(1) appears to provide the DMC with a very wide scope in terms of conditions it may impose on marine discharge consents, there are two restrictions specified in sections 63(3) and 63(4) that the DMC needs to be aware of. These sections prohibit:
- a. the imposition of conditions which are inconsistent with the EEZ Act or any regulations made under the EEZ Act (section 63(3)); and
 - 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 (HSWA) (section 63(4)).
16. Section 63(4) does not prevent the DMC imposing conditions which duplicate requirements in relation to the activity by another MMR or HSWA where such conditions relate to an adverse effect

on the environment or existing interests and where it considers there is value in doing so, for example, to allow the EPA to enforce compliance with the requirement.

17. However, I consider that the imposition of conditions which duplicate other MMR requirements should generally be avoided, provided the DMC is satisfied that the processes and approvals under those MMR's adequately deal with the relevant environmental effects or effects on existing interests. The DMC should be mindful, whether or not requiring the EPA to provide additional regulatory oversight and administration is necessary.
18. Regarding this application from Beach, 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.
19. Sections 63(2)(a)(i) and (ii) specifically allow the DMC to impose conditions which require 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.
20. Section 63(2)(a)(iii) and (v) specifically allow the DMC to impose conditions that require a consent holder to undertake monitoring, and make records available to the EPA for audit, respectively. Section 66 provides additional guidance on monitoring conditions.
21. Section 63(2)(a)(iv) allows the DMC 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 observer conditions and requires that any such condition must specify in detail the observer's duties in relation to the activity. 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.

Principles applied in preparing conditions

22. The following advice in relation to the principles to be applied when preparing conditions was provided to the DMC for marine consents EEZ100016, EEZ100017 and EEZ100018. I concur with that advice and have repeated the principles here for completeness.
23. A number of key principles must be adhered to when developing consent conditions, including that conditions must:
 - a. Be within the EPA's powers to make under the EEZ Act;
 - b. Be for an EEZ Act purpose, particularly to promote sustainable management of the natural resources of the EEZ and the continental shelf, or protect 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 scope of the application and the type of consent being sought;
 - 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.
24. Other conditions volunteered by Beach, including those that may be outside those that the DMC can lawfully and fairly impose, may also be imposed and become enforceable. Such conditions are often referred to as ‘Augier’ conditions (which are based on the ‘Augier Principle’) and often reflect undertakings that an applicant is putting forward to address concerns of third parties. The Augier Principle requires the DMC to be satisfied that the following four elements have been established:
- a. A clear and unequivocal undertaking is given to the EPA and/or other parties by the applicant;
 - b. Receipt of the grant of consent is reliant on that undertaking;
 - c. The imposition of a condition on the consent which broadly encompasses the undertaking; and
 - d. Detriment to the EPA or other parties if the undertaking is not complied with.
25. 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 to ensure they are not misinterpreted as consent conditions. Therefore, they should 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.

General Condition Comments

26. Beach is seeking consent to discharge trace (residual) amounts of harmful substances that might remain on MODU decks following the clean-up of an unplanned spill of harmful substances and become entrained within discharges from the MODU deck drains (section 3.2 of the IA).
27. At the time of lodgement, Beach 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 *negligible* (refer to section 7 of the IA).
28. I provide an assessment and commentary on Beach’s proffered conditions in Table 1 (Appendix 2) of this report. However, I note that the KIR discusses the two key issues with the application as follows:
- a. Uncertainty arising from the specific MODU not being known at the time of lodgement; and
 - b. Uncertainty regarding the harmful substances that could be discharged to the marine environment.
29. Regarding the MODU specification, I note paragraphs 54 and 55 of the KIR state:

"54. While there is some uncertainty within Beach's applications, in Appendix B of the IA, Beach commits to a number of minimum MODU standards that will reduce and mitigate the risk of harmful substances being discharged to the marine environment. These standards incorporate a minimum standard of deck drain system design requirements of any MODU which, inter alia, must be of a specification that can ensure the oil content of deck drain discharges will not exceed 15 ppm. Beach also commits to standard operational procedures that control harmful substance handling and storage practices on-board any MODU.

55. OGS was commissioned to review the operational aspects of MODU systems and procedures relating to deck drains and harmful substances, detailed in Beach's IA. The OGS report found that the standard of the deck drain system, harmful substance storage and handling protocols, and emergency response procedures outlined in Beach's IA align with industry best practice."

30. Regarding the discharge volumes, paragraphs 60 and 61 of the KIR state:

"60. As outlined in the Buddle Finlay advice, when assessing the significance of potential environmental effects of an activity, a worst case scenario can be considered. The worst case scenario presented in section 3.6 of the IA is that 250 ml of a 9.1A substance (Sodium Hypochlorite Potable Grade HSR003698) becomes entrained in the deck drains system. The 250 ml of the 9.1A substance then flows to the deck drain settlement tank and becomes diluted in 2500 L of water, prior to being discharged to the marine environment. Once discharged into the marine environment the concentration of any of the 9.1A harmful substance will be rapidly diluted to below ecotoxic levels within a highly localised area around the point of discharge.

61. When considering this worst case scenario it should be noted that the measure of aquatic ecotoxicity that is used to classify a substance as 9.1A is representative of the effects on an aquatic organism after a minimum of 48 hours exposure to that substance at a given concentration. In reality, any 9.1A substance discharged into the marine environment will immediately undergo rapid dilution, significantly reducing the exposure time for any marine species that come into contact with the discharge."

31. Based on the statements provided in the OGS and KIR reports, I have concluded that the uncertainties have been adequately addressed.

32. Acknowledging the conclusions of KIR and the DMC's technical advisors, the DMC will need to be satisfied that there has been sufficient information provided by Beach, either under the IA, and / or in the evidence and / or further provided as part of the hearing process, to allow the granting of this consent.

Submissions

33. A total of seven submissions were received during the notification period. None of these make recommendations to amend or add to the proffered conditions.

34. Only one of the submissions received refers to 'conditions' and was neutral in its position. Waitaha Taiwhenua o Waitaki Trust Board's submission states they are "guided in good faith" by the IA prepared by SLR Consulting NZ Limited for Beach Energy and makes several observations, one of which notes:

"the proffered conditions outlined in Appendix B, include the following:

- i. *That any harmful substances that have a reasonable potential for discharge from hazardous and/or non-hazardous deck drains on-board any MODU are stored within a secondary containment system;*
- ii. *That deck drainage runoff is directed to a settlement tank; and*
- iii. *That there is reporting of any incidents to EPA within 24 hours of a spill (with follow-up measures)”.*

Technical & Monitoring Advice

35. Technical advice regarding the effects of the proposed marine discharge and recommended conditions, and other internal advice received from the EPA Compliance Team about monitoring and reviewing consent conditions, is summarised below.

Technical Advice to DMC

36. Based on the existing proffered conditions, OGS concludes there is little concern with the activities for which this application relates. The OGS Review Report notes an approved ESRP and Oil Spill Contingency Plan in conjunction with the proffered conditions, is practical and will assist in ensuring any adverse effects from residual contaminants of hazardous substances are minimised in accordance with the IA.
37. The OGS Review Report did not identify the need for changes to any proffered conditions or any additional conditions for this application. However the OGS Review Report did identify four points the DMC may wish to seek clarification on (Appendix 4 - Clarification Register). Point four in particular concerns the provision of MODU deck plans to the EPA to establish the extent of the deck drainage areas identified as hazard or non-hazard areas. I note this could be addressed by including an additional condition to those proffered by the applicant. Accordingly, I have included the additional draft condition 7 within Table 1 (Appendix 2) for the DMC’s consideration.

EPA Compliance Team

38. The EPA Compliance Team has reviewed the proffered conditions and has advised that they are generally appropriate and consistent with other recently granted discharge consents (i.e. EEZ100018). However, the Compliance Team recommends the following additions:
- a. a clear definition of a hazard area and non-hazard area; and
 - b. a condition that allows for the spatial extent of the hazard and non-hazard areas to be easily established.
39. The specific inclusion of the proffered condition 13 within Table 1 (Appendix 2) was also requested by the EPA Compliance team. An ESRP is installation specific and required under Regulation 24 of the D&D Regulations to include:
- “(c) measures to prevent the occurrence of a spill; and*
- (d) information to help personnel at the installation deal with a spill by detailing the actions necessary to stop, minimise, or mitigate the effects of a spill, including procedures for—*
- (i) determining what action to take in response to a spill; and*
 - (ii) preventing escalation of the spill; and*
 - (iii) stopping the discharge at its source, if possible; and“*

40. Following an approved ESRP provides critical measures to help avoid and mitigate unanticipated discharges from OPD. The compliance team considers the inclusion of the proffered condition 13 is important as it provides the key mechanism to ensure the measures within an approved ESRP are adhered to.
41. The worst case scenario outlined within the IA is based on the premise that these ESRP measures will be followed, so that only residual trace amounts of harmful substances are left to enter a hazard area's deck drainage. The assumption is that the appropriate storage, spill prevention and response measures would have occurred (section 3.2 of the IA). The inclusion of condition 13 helps provide certainty that any OPD discharge of hazardous substances is no worse than what has been outlined within the IA.
42. I note the views from the EPA compliance team are in line with the comments and concerns raised within the OGS review report.

Recommended Changes to Proffered Conditions

43. Taking into consideration the two submissions received, the technical advice received from **OGS**, and the advice received from the EPA Compliance Team, I consider that some changes should be made to Beach's proffered conditions. Changes are recommended to address issues raised by the EPA Compliance Team and OGS and to ensure consistency with the EPA's preferred drafting style.
44. In making these recommendations to amend and add new conditions, I have considered the scope of potential consent conditions available under sections 63-67 and sections 73 and 76 of the EEZ Act and whether conditions are necessary to respond to the adverse effects of the proposed marine discharge.
45. I have made recommendations regarding the following matters:
 - a. Definitions for both hazard and non-hazard areas
 - b. For MODU Deck plans to be available to the EPA which define the spatial extent of the hazard and non-hazard areas.
46. I have also considered the need for conditions requiring bonds, public liability insurance and observers which are able to be included under section 66 (2) (a) of the EEZ Act. Given the magnitude of any effects associated with the Project, and their temporary and short-term nature, I do not consider that conditions requiring a bond, public liability insurance or observers are necessary.
47. Beach's proffered conditions, including my recommended changes and additional conditions after considering submissions, technical advice and advice from the EPA Compliance Team, is presented in Table 1 (Appendix 2) below.
48. The second column of Table 1 (Appendix 2) presents Beach's proposed wording together with recommended changes. Deletions are shown as strikethroughs and underlines show recommended additions. In the third column I provide comments regarding the condition and my recommended amendments.
49. Where I consider additional conditions should be included, I have inserted them where I think they best fit within the proffered conditions and renumbered the conditions accordingly.

Conclusion

50. Beach's proffered conditions are relatively comprehensive, are generally consistent with EPA practice and appropriate to deal with the adverse effects of the activity. However, I have identified definitions and an additional condition around the hazard and non-hazard areas that would improve clarity and opportunities for a greater degree of mitigation of potential adverse effects of the proposed marine discharge. I also note it is important to include a condition that ensures the mitigation and prevention measures within the ESRP are adhered to.

Overall, in the event that the DMC decides to grant the marine discharge consent application, I consider the conditions provided in Table 1 (Appendix 2) of this report are appropriate to ensure that any effects of the proposal are avoided, remedied and mitigated with the recommended changes.



04 August 2020

Tim Roser

Senior Advisor - Land & Oceans Applications

Environmental Protection Authority

Appendix 1 - 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.*

65 Bonds

- 1) *A bond required under section 63(2)(a)(i) may be given for the performance of any 1 or more conditions of a marine consent that a marine consent authority considers appropriate and may continue after the expiry of the consent to secure the ongoing performance of conditions relating to long-term effects, including—*
 - a. *a condition relating to the alteration, demolition, or removal of structures:*
 - b. *a condition relating to remedial, restoration, or maintenance work:*
 - c. *a condition providing for ongoing monitoring of long-term effects.*
- 2) *A condition of a consent that describes the terms of the bond may—*
 - a. *require that the bond be given before the consent is exercised or at any other time:*
 - b. *provide that the liability of the holder of the consent be not limited to the amount of the bond:*
 - c. *require the bond to be given to secure performance of conditions of the consent, including conditions relating to any adverse effects on the environment or existing interests that become apparent during or after the expiry of the consent:*
 - d. *require the holder of the consent to provide such security as the marine consent authority thinks fit for the performance of any condition of the bond:*
 - e. *require the holder of the consent to provide a guarantor (acceptable to the marine consent authority) to bind itself to pay for the carrying out of a condition in the event of a default by the holder or the occurrence of an adverse environmental effect requiring remedy:*

- f. provide that the bond may be varied, cancelled, or renewed at any time by agreement between the holder and the marine consent authority.*
- 3) If the marine consent authority considers that an adverse effect may continue or arise at any time after the expiration of a marine consent, the marine consent authority may require that a bond continue for a specified period that the marine consent authority thinks fit.*

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.*

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

- 1) *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.*
- 2) *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 holde*

Appendix 2 – Draft Marine Discharge Consent Conditions

Table 1: Draft Conditions for marine discharge consent EEZ100019

Condition Number	Beach Proffered Condition and Recommended Amendments	EPA Compliance Team Comments
1	Subject to compliance with these consent conditions, the activities authorised by this Marine Discharge Consent shall be undertaken in general accordance with the IA and supporting documents submitted as part of the application lodged on 25 March 2020. Where there is any actual or apparent conflict between the IA and supporting documents and any of the conditions of this consent, the conditions shall prevail.	The wording of this condition is consistent with standard EPA practice and is considered appropriate under section 63(1).
2	This Marine Discharge Consent shall expire on 7 November 2029.	The proposed expiry date is consistent with section 73 (1) (b) of the EEZ Act which provides for a period of less than 35 years consent duration if specified in consent conditions. An alternative to including the expiry date as a condition would be to list it on the front of the consent document.
3	The Consent Holder shall ensure that a copy of this Marine Discharge Consent, and any variations of it, are available for inspection by the EPA at the Consent Holder's head office in New Zealand, and on any MODU undertaking activities authorised by this Marine Discharge Consent.	The wording of this condition is consistent with standard EPA practice and is considered appropriate under section 63(2)(a)(iii).
4	The Consent Holder shall ensure that all personnel, including any contractors, involved in undertaking any of the activities authorised by this Marine Discharge Consent are fully informed of their obligations and responsibilities in exercising this Marine Discharge Consent.	The wording of this condition is consistent with standard EPA practice and is considered appropriate under sections 63(1) and 63(2)(a)(iii).
5	The Consent Holder shall keep a record to show that the personnel, including contractors, referred to in Condition 4 have been informed of their obligations under this consent. The Consent Holder shall provide a copy of this record to the EPA upon request.	The wording of this condition is consistent with standard EPA practice and is considered appropriate section 63(2)(a)(iii).
6	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 20 working days of the change.	The wording of this condition is consistent with standard EPA practice and is considered appropriate under section 63(2)(a)(iii).
7	<u>The Consent Holder shall, for any MODU undertaking activities authorised by this Marine Discharge Consent, hold deck plans that show the extent of the non-hazard areas and hazard areas on board. The Consent Holder shall provide a copy of these deck plans to the EPA upon request.</u>	The wording of this condition is consistent with conditions which may be imposed on marine discharge consents outlined in section 63 (2) (a) (iii) of the EEZ Act which enables conditions requiring monitoring and reporting on consented activities. The need for this condition has been highlighted within the OGS report and specifically requested by the EPA compliance team.

8	The Consent Holder shall ensure that no harmful substances are stored or handled within non-hazard areas which drain directly to the sea.	To limit misinterpretation, I have removed “which drain directly to the sea” and included a definition for non-hazard areas. The wording of this condition is consistent with standard EPA practice and considered appropriate under section 63(1). The wording is also consistent with the statements made within the IA (section 3.2.2.1.2).
9	The Consent Holder shall ensure that any harmful substances that have a reasonable potential for discharge from hazard and/or non-hazard area deck drains on-board any MODU are stored within a secondary containment system. For the purposes of this condition a ‘secondary containment system’ means a system or systems: a. 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 b. From which they can, subject to unavoidable wastage, be recovered.	The wording of this condition is consistent with standard EPA practice and is considered appropriate under section 63(1).
10	All deck drains from hazard areas shall, as a minimum, include the following design requirements: a. Full containment of deck drainage runoff directed to a settlement tank(s); b. Settlement tanks shall have a minimum combined capacity of at least 5 cubic metres; and c. All deck drainage runoff from hazard areas shall pass through an oil-in-water separator system prior to discharge to the sea.	The wording of this condition is consistent with standard EPA practice and is considered appropriate under section 63(1).
11	The Consent Holder shall notify the EPA, as soon as reasonably practicable but within 24 hours, after a spill into the sea of any harmful substances, described in regulation 4(a) of the Exclusive Economic Zone and Continental Shelf (Environmental Effects – Discharge and Dumping) Regulations 2015, first becomes known, or should have become known, to the Consent Holder.	The wording of this condition is consistent with standard EPA practice and has been applied to other recent marine discharge consents (i.e. EEZ100017 & EEZ100018) under section 63(2)(a)(iii).
12	In the event of a spill of any harmful substances, described in regulation 4(a) of the Exclusive Economic Zone and Continental Shelf (Environmental Effects – Discharge and Dumping) Regulations 2015, into the sea the Consent Holder shall: a. Seek advice from the EPA as to whether monitoring is necessary and is likely to detect any environmental effects, applicable timeframes of any monitoring necessary, 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; and b. Provide the results of the monitoring to the EPA on request; and c. Provide a written summary report to the EPA within 24 hours of the Consent Holder receiving the results of testing from the laboratory.	The wording of this condition is consistent with standard EPA practice and has been applied to other recent marine discharge consents (i.e. EEZ100017 & EEZ100018) under section 63(2)(a)(iii) and section 66.
13	Subject to compliance with these consent conditions, the activities authorised by this Marine Discharge Consent shall be undertaken in accordance with the ESRP as required by Regulation 24 of the Exclusive Economic Zone and Continental Shelf (Environmental Effects – Discharge and Dumping) Regulations 2015. Where there is any actual or apparent conflict between the ESRP and any of the conditions of this consent, the conditions shall prevail.	The wording of this condition is consistent with standard EPA practice and has been applied to other recent marine discharge consents (i.e. EEZ300004, EEZ100017 & EEZ100018) under section 63(1). This condition provides the key mechanism for which the consent holder must follow the hazardous substance handling and storage procedures outlined within the MODU’s approved ESRP. This condition is important to help avoid and mitigate unanticipated volumes of hazardous substances entering the MODU deck drains which ensures the adverse effects are no worse than what has been outlined within the IA.

Definitions

Terms used in this Schedule of Conditions shall have the following meanings:

Consent Holder: has the meaning given in section 4 of the EEZ Act.

EEZ Act: means the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012, as amended from time to time.

EPA: means the Environmental Protection Authority or any equivalent Authority having an equivalent role under the EEZ Act. Where any condition requires notification, reports, or any other material to be provided to the EPA or where a plan is required to be submitted to the EPA 'for certification' this shall be addressed to the EPA's "General Manager – Climate, Land & Oceans" in the first instance.

IA: means the Impact Assessment (Marine Discharge Consent Application – Discharge of Harmful Substances from Deck Drains, Canterbury Basin) document dated 25 March 2020 prepared by SLR Consulting NZ Limited for Beach Energy Resources NZ (Holdings) Limited as part of its marine consent application.

Hazard Area: Any MODU deck drainage area whose drains are routed to a closed drainage water treatment system.

MODU: Mobile Offshore Drilling Unit

Non-Hazard Area: A MODU deck drainage area whose drainage feeds directly into the sea.

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**Environmental
Protection Authority**
Te Mana Rauhi Taiao