



## Decision-making criteria for EEZ marine consent applications

### Introduction

This information sheet provides the statutory criteria by which a marine consent authority will assess each marine consent, marine dumping consent, and marine discharge application and decide, on a case by-case basis, whether it is granted or refused. The criteria that apply in respect of marine consents, marine dumping consents, and marine discharge consents are similar but not identical, and are set out below.

This information sheet is not intended to be an exhaustive list. A marine consent authority will draw on other sections of the *Exclusive Economic Zone and Continental Shelf (Environment Effects) Act 2012* (EEZ Act) to guide its decision-making process.

### Decision-making criteria under the EEZ Act

#### Section 59 – Environmental Protection Authority’s consideration of application

- (1) This section and section 60 and 61 apply when a marine consent authority is considering an application for a marine consent and submissions on the application.
- (2) If the application relates to a section 20 activity (other than an activity referred to in section 20(2)(ba)), a marine consent authority must take into account—
  - (a) any effects on the environment or existing interests of allowing the activity, including—
    - (i) cumulative effects; and
    - (ii) effects that may occur in New Zealand or in the waters above or beyond the continental shelf beyond the outer limits of the exclusive economic zone; and
  - (b) the effects on the environment or existing interests of other activities undertaken in the area covered by the application or in its vicinity, including—
    - (i) the effects of activities that are not regulated under this Act; and
    - (ii) effects that may occur in New Zealand or in the waters above or beyond the continental shelf beyond the outer limits of the exclusive economic zone; and
  - (c) the effects on human health that may arise from effects on the environment; and
  - (d) the importance of protecting the biological diversity and integrity of marine species, ecosystems, and processes; and
  - (e) the importance of protecting rare and vulnerable ecosystems and the habitats of threatened species; and
  - (f) the economic benefit to New Zealand of allowing the application; and
  - (g) the efficient use and development of natural resources; and

- (h) the nature and effect of other marine management regimes; and
  - (i) best practice in relation to an industry or activity; and
  - (j) the extent to which imposing conditions under section 63 might avoid, remedy, or mitigate the adverse effects of the activity; and
  - (k) relevant regulations (other than EEZ policy statements); and
  - (l) any other applicable law (other than EEZ policy statements); and
  - (m) any other matter the marine consent authority considers relevant and reasonably necessary to determine the application.
- (2A) If the application is for a marine discharge consent, the EPA must take into account—
- (a) the matters described in subsection (2), except paragraph (c); and
  - (b) the effects on human health of the discharge of harmful substances if consent is granted.
- (2B) If the application is for a marine dumping consent or relates to an activity referred to in section 20(2)(ba), the EPA must take into account—
- (a) the matters described in subsection (2), except paragraphs (c), (f), (g), and (i); and
  - (b) the effects on human health of the dumping of waste or other matter, or the abandonment of the pipeline, if consent is granted; and
  - (c) any alternative methods of disposal of the waste, other matter, or pipeline that could be used; and
  - (d) whether there are practical opportunities to reuse, recycle, or treat the waste, other matter, or pipeline.
- (3) The marine consent authority must have regard to—
- (aa) EEZ policy statements; and
  - (a) any submissions made and evidence given in relation to the application; and
  - (b) any advice, reports, or information sought under this Part and received in relation to the application; and
  - (c) any advice received from the Māori Advisory Committee.
- (4) When considering an application affected by section 74, the marine consent authority must also have regard to the value of the investment in the activity of the existing consent holder.
- (5) Despite subsection (3), the marine consent authority must not have regard to—
- (a) trade competition or the effects of trade competition; or
  - (b) the effects on climate change of discharging greenhouse gases into the air; or
  - (c) any effects on a person's existing interest if the person has given written approval to the proposed activity.
- (6) Subsection (5)(c) does not apply if the person has given written approval but the person withdraws the approval by giving written notice to the marine consent authority—
- (a) before the date of the hearing, if there is one; or
  - (b) if there is no hearing, before the marine consent authority decides the application.

## Section 60 - Matters to be considered in deciding extent of adverse effects on existing interests

In considering the effects of an activity on existing interests under section 59(2)(a), a marine consent authority must have regard to—

- (a) the area that the activity would have in common with the existing interest; and
- (b) the degree to which both the activity and the existing interest must be carried out to the exclusion of other activities; and
- (c) whether the existing interest can be exercised only in the area to which the application relates; and
- (d) any other relevant matter.

## Section 61 - Information principles

- (1) When considering an application for a marine consent, a marine consent authority must—
  - (a) make full use of its powers to request information from the applicant, obtain advice, and commission a review or a report; and
  - (b) base decisions on the best available information; and
  - (c) take into account any uncertainty or inadequacy in the information available.
- (2) If, in relation to making a decision under this Act, the information available is uncertain or inadequate, the marine consent authority must favour caution and environmental protection.
- (3) If favouring caution and environmental protection means that an activity is likely to be refused, the marine consent authority must first consider whether taking an adaptive management approach would allow the activity to be undertaken.
- (4) Subsection (3) does not—
  - (a) apply to an application for—
    - i a marine dumping consent; or
    - ii a marine discharge consent; or
    - iii a marine consent in relation to an activity referred to in section 20(2)(ba); or
  - (b) limit section 63 or 64.
- (5) In this section, **best available information** means the best information that, in the particular circumstances, is available without unreasonable cost, effort, or time.

## Further information

Please contact the EPA for further information

**Email:** [eez.info@epa.govt.nz](mailto:eez.info@epa.govt.nz)

**Freephone (within New Zealand):** 0800 426 843

**Phone from overseas:** +64 4 916 2426