

19 March 2021

Submission on the second exposure draft of the Exclusive Economic Zone and Continental Shelf (Environmental Effects—Decommissioning Plans) Regulations 2020

Ministry for the Environment

via e-mail: Matt.Adams@mfe.govt.nz

Energy Resources Aotearoa Submission: Second Exposure Draft of the Exclusive Economic Zone and Continental Shelf (Environmental Effects—Decommissioning Plans) Regulations 2020

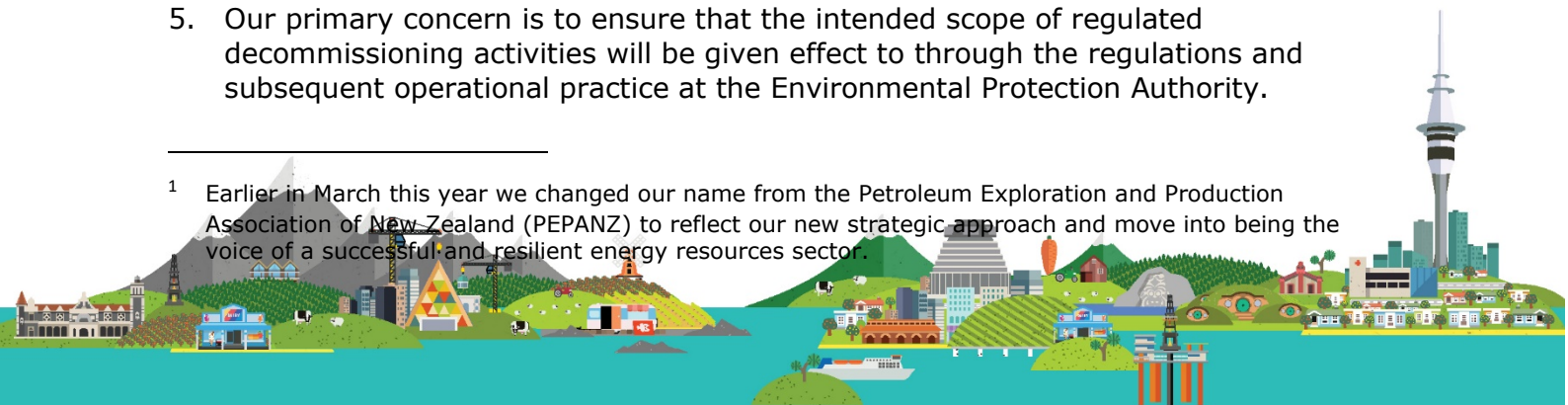
Introduction

1. Energy Resources Aotearoa represents firms in the energy resources sector from explorers and producers to the distributors and users of natural resources like oil, LPG and natural gas.¹
2. This document constitutes our submission to the Ministry for the Environment on its second exposure draft of the Exclusive Economic Zone and Continental Shelf (Environmental Effects—Decommissioning Plans) Regulations 2020.
3. We appreciate the opportunity to comment. We have closely engaged in this policy process since our submission on the first discussion document in September 2018 and first exposure draft in June 2020. We are available to help ensure the regulations are workable and suitable for all parties.
4. We have seen the submission that OMV submitted and support the points raised therein.

Submission

5. Our primary concern is to ensure that the intended scope of regulated decommissioning activities will be given effect to through the regulations and subsequent operational practice at the Environmental Protection Authority.

¹ Earlier in March this year we changed our name from the Petroleum Exploration and Production Association of New Zealand (PEPANZ) to reflect our new strategic approach and move into being the voice of a successful and resilient energy resources sector.



Wells

6. As stated in our submission on the first exposure draft, it is important that wells are not captured in the requirements for decommissioning plans. It is especially important that wells do not require a decommissioning plan where their decommissioning occurs during field life (i.e. earlier than general decommissioning after cessation of production).
7. We understand that officials now consider that wells decommissioned before end of life will not require a decommissioning plan:

“We do not anticipate Section 38(3) of the EEZ Act will trigger the need for a decommissioning plan for plugging and abandonment of wells unless it is undertaken in connection with the decommissioning of an offshore installation used in connection with petroleum production. We consider that the wording such an installation within s38(3) refers to an installation that is being decommissioned.”²
8. This interpretation of “such an installation” appears to be positive progress and potentially addresses half of our concern (by excluding decommissioning of wells during normal field life). It also appears to be a new interpretation, as this approach was not presented in the Cabinet papers, so the veracity of this new interpretation should be carefully tested.
9. However, this interpretation does not address the other half of our concern, as regardless of the carve-out (as delivered through the interpretation of “such an installation”) a decommissioning plan is *still* needed for the decommissioning of wells at the end of field life. We do not understand this to be consistent with the policy intent and recommendations agreed to by Cabinet:
 - a. The Cabinet ENV Committee policy paper³ made the following specific statement:

22. Installations include fixed steel, concrete gravity, floating and subsea installations (eg, well heads, production manifolds, drilling templates) but for the purposes of these regulations, I propose it does not include any part of an offshore installation which is located below the surface of the seabed (eg, wells and well casings).

23. This distinction is necessary to ensure that the plugging and abandonment (P&A) of wells does not in itself require a decommissioning plan. Given the risk that poorly maintained wells pose to the environment, it is desirable that P&A occurs as soon as reasonably possible. I propose the decommissioning plan must include information about all active, suspended and previously abandoned wells, to ensure the EPA (and other relevant marine management agencies) have a complete picture of the infrastructure that is to be decommissioned, and any wells that may still be active and therefore subject to a future process.

24. I do not propose to set out a list of activities for the decommissioning of an offshore installation in the regulations as it is not possible to know what all of these might be in the future. However, I propose that the regulations are drafted in such a way as to be clear about the activities that the decommissioning plan requirements apply to. If there is no decommissioning plan requirements for P&A, then this activity will not be caught by these regulations.

² E-mail entitled *Feedback sought on the exposure draft of the Exclusive Economic Zone and Continental Shelf (Environmental Effects- Decommissioning Plans) Regulations 2021* from MfE to stakeholders on 29 January 2021.

³ <https://www.mfe.govt.nz/more/briefings-cabinet-papers-and-related-material-search/cabinet-papers/final-policy>

b. Cabinet ENV recommendation was as follows:

- 4 **Agree** these regulations will not include requirements for:
- 4.1 any activities to be undertaken at an offshore petroleum installation or on its associated structures, cables and pipelines while that installation is still being used for petroleum production
 - 4.2 activities already considered and granted under a marine consent (eg, deposit of drill cuttings)
 - 4.3 any activities associated with reusing the offshore petroleum installation to serve a purpose other than that for which it was originally intended

10. We would therefore ask officials to again carefully consider whether the regime delivers on the policy intent clearly directed in the Cabinet paper, which intends that decommissioning plans are not required for wells.

Topside equipment and anchors

11. We also seek clarification on whether topside equipment and anchors were also deemed to be outside of the applicable scope of decommissioning plans under the latest exposure draft, as sought in our submission of the discussion document in 2018.⁴

12. In addition to wells, it is possible that a decommissioning plan is required for other activities that the legislation and Cabinet do not intend. For example:

- removing topside equipment such as pressure vessels or an accommodation block while the field or asset is still in production; or
- abandoning anchors as per Maritime New Zealand's 2006 decision about the departure of the floating production storage and offloading unit (FPSO) Whaakaropai from the Maui field.

13. Uncertainty about what will be included in scope of the regulations would undermine the very intention of the decommissioning plan, which is to provide confidence that decommissioning can smoothly take place at end of life. Without clear exclusions, it is possible that the Environmental Protection Authority will apply the general dictionary definition of 'decommission' and require decommissioning plans for activities not intended to be captured. This risk is covered in our earlier submissions.

Conclusion

14. We wish to constructively and collaboratively work with officials on this matter and would like to meet with you to discuss the next iteration of policy thinking before the Ministry finalises its advice to Ministers. We are available to discuss any aspect of this submission.

⁴ The point was raised in paragraph 5 of our submission, which can be found here: <https://www.energyresources.org.nz/dmsdocument/88>.