



Cabinet Economic Growth and Infrastructure Committee

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Minute of Decision

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Transfer of Discharge and Dumping Functions in the Exclusive Economic Zone and Extended Continental Shelf to the Environmental Protection Authority

Portfolio: Environment

On 28 September 2011, the Cabinet Economic Growth and Infrastructure Committee:

Background

1 noted that:

- 1.1 on 22 August 2011, Cabinet approved for introduction the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Bill (the EEZ Bill) [CAB Min (11) 31/12];
- 1.2 the EEZ Bill was introduced into the House on 24 August 2011;

Management of discharges and dumping

- 2 noted that the environmental effects of dumping and discharges in the Exclusive Economic Zone (EEZ) and extended continental shelf (ECS) are currently managed by Maritime New Zealand (MNZ) under the Maritime Transport Act (MTA);
- 3 noted that with enactment of the EEZ Bill, it is likely that both the Environmental Protection Authority (EPA) and MNZ will be regulating the environmental effects of activities associated with the same operation in the EEZ and ECS;
- 4 noted that the existing fragmentation of the management of environmental effects in the EEZ and ECS may result in:
 - 4.1 difficulty in taking a whole-of-life approach, or in managing cumulative environmental effects of activities in the EEZ and ECS;
 - 4.2 inefficiencies for industry which need to engage with both the EPA and MNZ to gain the necessary environmental approvals for their activities;
 - 4.3 inefficiencies for government by duplicating processes;

- 4.4 continued lack of public and iwi participation in the assessment and decision-making process associated with discharge and dumping activities;

Proposed transfer of discharge and dumping functions

- 5 **agreed** to transfer responsibility for discharge and dumping functions in the EEZ and ECS from MNZ to the EPA via legislative amendments to the MTA and the EEZ Bill;
- 6 **agreed** to transfer from the MTA to the EEZ Bill the regulation of dumping and the regulation of the following discharges within the EEZ and ECS:
- 6.1 production and displacement water, and offshore processing drainage;
 - 6.2 chemicals involved in drilling, production and maintenance activities;
 - 6.3 machinery space oily waste (set by MARPOL);
 - 6.4 garbage (set by MARPOL);
- 7 **agreed** that discharge functions that will not be transferred to the EEZ Bill and that will remain with the MTA are:
- 7.1 discharges associated with ships (except as noted in paragraph 12 below);
 - 7.2 the issue of International Oil Pollution Prevention Certificates (this includes warrants for oil filtering equipment, bilge water holding tanks);
 - 7.3 the requirement to maintain an oil record book for machinery space operations;
 - 7.4 marine oil spill response planning, preparedness and response;
 - 7.5 reporting of events, such as oil spills;
- 8 **agreed** that for the mining and processing of seabed minerals undertaken by ships:
- 8.1 discharges associated with onboard operations which are currently regulated under the MTA remain regulated under the MTA;
 - 8.2 mining specific discharges which are not currently regulated (although provision is made for them in the MTA) be transferred to the EEZ Bill;
- 9 **agreed** that the necessary legislative amendments be made to the MTA (in particular Parts 18-21) and Rules (Parts 180 and 200) in order to transfer the discharge and dumping functions;
- 10 **agreed** that amendments be made to the EEZ Bill to restrict discharge and dumping activities in the EEZ;
- 11 **agreed** that amendments be made to the EEZ Bill to ensure monitoring, enforcement, and cost recovery provisions are workable;
- 12 **agreed** that, if required, the Environmental Protection Authority Act 2011 be amended to enable the EPA to take on dumping and discharge consenting functions;

- 13 **agreed** to amend the regulation making powers in the EEZ Bill to ensure regulations can be made for all the matters in the MNZ Rules that will be transferred to the EEZ regime;
- 14 **agreed** to amendments to the MTA and the EEZ Bill to allow MNZ Rules to become regulations;
- 15 **noted** that the transfer of functions is not intended to impact the roles and responsibilities for local government in respect of assessing discharge and dumping functions;
- 16 **noted** that the transfer of discharge and dumping functions will not result in an overlap of enforcement actions by the EPA and MNZ, as:
- 16.1 provisions relating to liability for clean-up costs, preventative measures, and third party pollution damage will be retained in the MTA;
- 16.2 under the EEZ Bill, it will be an offence to contravene the legislation, the regulations, the requirement to hold a consent or consent conditions, or other requirements of the legislation;
- 17 **noted** that the costs for the EPA associated with the transferred functions will be funded through cost recovery from applicants and from within the EPA's existing baselines;
- 18 **authorised** the Minister for the Environment and the Minister of Transport to approve any transitional arrangements necessary to provide a smooth transfer of discharge and dumping functions from the MTA to the EEZ Bill;
- 19 **agreed** that the Ministry for the Environment, in conjunction with relevant agencies, inform operators likely to be affected by the transfer of functions of the decisions made;

Legislative implications

- 20 **agreed** that the legislative amendments referred to above be progressed via a Supplementary Order Paper to the EEZ Bill;
- 21 **invited** the Minister for the Environment to report back to the Cabinet Legislation Committee with a Supplementary Order Paper;
- 22 **invited** the Minister for the Environment to issue drafting instructions to the Parliamentary Counsel Office to implement the above paragraphs;
- 23 **agreed** that the Ministry for the Environment can share drafts and instructions with the EPA and MNZ as is necessary to facilitate the drafting process;
- 24 **agreed** that the Ministry for the Environment can share consultation drafts with Local Government New Zealand, as appropriate.