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Improving the financial security regime for offshore oil and gas installations views

A submission by Local Government New Zealand to the Ministry of Transport

1 August 2017

We are. LGNZ.

LGNZ is the national organisation of local authorities in New Zealand and all 78 councils are members. We represent the national interests of councils and lead best practice in the local government sector. LGNZ provides advocacy and policy services, business support, advice and training to our members to assist them build successful communities throughout New Zealand.

This submission is endorsed under delegated authority by Malcolm Alexander, Chief Executive, Local Government New Zealand (LGNZ).

Introduction

It is understood that the Ministry of Transport is proposing to improve the financial security regime for offshore oil and gas exploration by amending the existing regulatory framework. More specifically, there is an effort to ensure that operators ensuring that operators have the financial capacity to cover the costs of managing spills and compensating for damage. It is understood that in parallel with this framework, multiple agencies oversee a financial security regime which aims to ensure operators are able to meet the costs of their proposed activities and their legal obligations.

LGNZ acknowledges there has been considerable time and effort invested into this investigation and it is near culmination. In its review, it is assumed that the noted insurance is for all off shore drilling and is not impacted by any existing or anticipated Exclusive Economic Zone (EEZ) or Resource Management Act legal issues.

LGNZ strongly supports any move to ensure that financial assurances exist, are in place and are substantiated by permit holders. Further, that those financial assurances are appropriately aligned with the risk associated with planned or existing drilling activity. It is noted that there are specific regions that are immediately affected for existing and future offshore frontier basins. Presently, the existing Part 102 minimum financial assurance of \$27 million requirement is grossly inadequate for potential worst-case scenarios.

We have assessed whether the scheme is fit for purpose by comparing the proposed scoring scheme with actual spills with the banded assessment system. Please note the following table that outline outcomes and costs of three small spills between 2000 and 2011. It appears in initial analysis that the scoring and remediation costs align comfortably within the actual costs for clean up. It should be noted, however, that the noted costs have increased with inflation, and, though all activities have a different risk profile, the risk level does change with the type of activity undertaken. Most activities can result in a “significant” spill. Beyond this initial review, LGNZ has the following recommendations.

Noted recommendations

LGNZ notes that, though permit holder liabilities under Part 26A MTA still exist, so they may be sued by a third party, a third party loss of income from impairment of the environment has been removed from insurance provision. Loss of income can be a significant cost in a major incident, and if large enough, would mean victims would have the daunting task of engaging with major corporate entities in a civil action.

Recommendation: Include third party loss of income as part of the insurance package and provide the appropriate insurance to meet the public assurance requirement.

LGNZ notes the current pay-out is predicated on several criteria (eg hydrocarbon type, length of shoreline oiled and volume of oil reaching shore). However, the length of shore is not a good indicator as areas of significant natural habitat may require more clean up effort and therefore greater financial resources. Spill response plans in New Zealand have significant natural areas consistently identified, so it would be more appropriate to identify compensation based on the value of habitat type and sensitivity in conjunction with other criteria. For example, within coastal marine areas, and within particular regions there are long sand and shingle beaches, mudflats and rocky shores. Clearly, the costs of clean up are likely to vary across these, and this should be allowed for within the scaled framework.

Recommendation: Combine the “length of shoreline” criteria with mapping criteria that identifies areas of significant or unique quality natural habitat to more accurately reflect the cost of clean up.

It is unclear if insurance is intended to cover the cost of clean up and well containment. If it covers both, there may not be enough funds for relief wells and capping stacks. Approval of a spill plan by Maritime New Zealand, under Part 130, could be the mechanism to address this but this is not an ideal response.

Recommendation: Clarify if insurance is to cover both clean up and well containment, and confirm that there will be adequate financial resources for relief wells and capping stacks. Further, well containment should be referred to in proposed rule 102.8(2)(b), similar to dealing with pollution damage.

It has been noted that there are no references to the actual regulations as they pertain to their operational efficiency in the sector. It is unknown if there has been any testing for a range of situations to ensure they are fit-for-purpose.

Recommendation: Confirm gap analysis and fit-for-purpose analysis review for operational efficiency for implementation of regulations.

Clarity of the scope of insurance coverage is paramount. To date, insurance costs are higher than costs in most of the noted bands in the referenced table. However, there are instances worldwide that indicate a catastrophic event would not necessarily be covered. Insurance should be developed with an approach to adequately plan for a worst case scenario to ensure the tax payer involvement is not required (eg arising from the Rena grounding on Astrolabe Reef). By way of example, some off shore oil fields in Taranaki, at their peak, were producing 55,000 barrels per day for extended periods from a number of wells. If a spill occurred and under certain conditions, it wouldn't take long to exceed a cost more than the \$600 million maximum for clean up.

Recommendation: Ensure the scope of insurance covers a catastrophic event so the tax payer does not have to contribute.

The local government sector has some concerns regarding the proposed methods of marine restoration post a spill event. There are various ways to restore the shore environment (eg national colonisation, artificial colonisation). These different methods have not been specifically determined or outlined, yet do have different costs associated with them.

Recommendation: Explicitly recognise the preferred approach to marine restoration and remediation, noting influences of determination, including cost, time and administration. Additionally, for greater clarity, remediation costs should also be specifically included in proposed rule 102.8(2)(b).

Thank you for the time and opportunity to submit.

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SUBMISSION

Proposed Scoring from Past Spills

Spill and year	Description	Score A	Score B	Score C	Band	Insurance required (\$ NZ)	Estimated cost (\$ NZ)	Comment
Pohokura Exploration Well (2000)	5 small spills of un-combusted liquid hydrocarbons from a flare (estimated at 50 litres condensate) affecting about 0.8 km beach Tier 2 regional response	1	1	1	2	\$100 million	\$50,000	Condensate evaporated/broke down and left with fine waxy spirals in water column which washed up on beach and reefs important to community and Maori . Spill had an amenity/cultural rather than biological impact. Company did some clean up.
Tui Field FPSO (2007)	FPSO discharge of produced water (32 tonnes of oily water and 23 tonnes recovered) affecting 13 km of beach Tier 2 regional response	1	1	1	2	\$100 million	\$187,000	TRC costs of the clean up (\$87,000) recovered from spiller. Spiller had other costs (\$100,000 estimate). Spill had an amenity/cultural rather than biological impact.
The Rena (2011)	Rena went aground and leaked 350 tonnes of HFO. Tier 3 MNZ response	1	1	7	5	\$450 million	\$55 million	A shipping incident but useful context for clean up costs.