

Trust us – we know what we’re doing

by Gary Taylor

A recent *Herald* editorial supporting Shell’s proposals to drill for oil and gas off Southland’s east coast, said “subject only to appropriate environmental protection” New Zealand “should relish this show of confidence by a major exploration company.”

Putting aside the opposition of many to any oil and gas extraction for a moment, it’s worth exploring that caveat: do we have appropriate environmental protection in place or not?

To make this assessment, we need to understand just how the environmental consenting regime might work for Shell’s project.

Until quite recently, there was no proper environmental regulation on our ocean waters. The National-led government, which created the Environmental Protection Authority, has given the EPA the consenting role for offshore oil, gas and mining. The Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act was passed into law in 2012.

It created 3 consenting classes for activities in our oceans: permitted, discretionary and prohibited. Oil and gas exploration would be treated as discretionary. Applications would be publicly notified, submissions called for, a hearing held with rights of cross-examination and a decision made. An approval would have conditions.

Since then the international petroleum industry has lobbied intensively and has obtained a troubling concession from Government: a special consenting class called non-notified discretionary has been inserted into the Act and will be activated by proposed regulations that will remove any public involvement in exploration consenting.

This will mean that Shell’s project in the Great South basin would not be notified, there would be no opportunity for public comment and no hearing. Environmental approvals for deep-sea exploration drilling would be processed in-house by the new EPA.

The government is saying that regulations should be proportionate to the risks being managed. It says the risk of a major oil spill is low and so the regulatory oversight should be light. But risk has 2 key dimensions: probability and consequences.

A low probability / high consequences event should be treated as a high risk and red-flagged. International best practice should be brought to bear, first to reduce the likelihood of a catastrophic event to the absolute minimum and secondly to ensure that well-formulated conditions and contingency plans are in place to deal with a spill if it happens.

However much the petroleum sector and cheer-leading Ministers proclaim to the contrary, the fact remains that deep-water oil and gas exploration is a high risk activity. The Deepwater Horizons well in the Gulf of Mexico, which led to the worst oil industry spill in history, was an exploration well. It caused around US\$100 billion of damage and devastated wildlife and communities.

The chances of such a catastrophe occurring here may be low; but the consequences if it did happen would be huge for our economy and our environment. There is a sound public policy case for a fully transparent and robust process that enables sensible public comment and scrutiny.

The alternative, of approvals all being dealt with in-house, opens up the possibility of regulator capture by the industry and the kind of laissez-faire oversight that led to the Deepwater Horizons incident and in the New Zealand context, the Pike River disaster. "Trust us – we know what we're doing" just doesn't cut the mustard.

A public hearing with rights of cross-examination would be a way of testing whether an applicant has an acceptable track record, is properly resourced; that drilling in the proposed location will not of itself harm the environment; that it is applying best practice drilling techniques; that it is taking all possible measures to avoid a spill; that contingency plans to mitigate an incident are all in place; that well-capping devices are readily accessible within an acceptable timeframe; and that adequate monitoring will be undertaken by the authorities. A hearing would examine whether consent should be given and if so, what conditions should apply.

We are all aware that the Government is keen to encourage oil and gas exploration. Indeed, the Minister of Energy has been embarrassingly effusive in his advocacy for the sector. The *Herald's* editorial was itself very gung-ho. Meantime the Green Party and Greenpeace argue the opposite position, largely on climate change grounds.

It is important that the polarized nature of the debate about the wider merits of oil and gas doesn't distract us from making sound decisions about environmental regulation. We should not lose our senses in the rush for a gusher.

New Zealand has 14,000 km of coast and the fourth largest ocean area in the world, habitat to many precious birds and marine mammals. The Minister for the Environment has a duty of care to protect the environment. She has called for submissions on the EEZ regulations by the end of January.

Those who support oil and gas exploration subject to adequate environmental safeguards should make their voices known. A secretive, in-house approvals regime is unacceptable and dangerous. New Zealanders expect strong, effective and transparent oversight of the petroleum industry.

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