



Cabinet Economic Development Committee

Minute of Decision

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Strengthening the Financial Assurance Regime for Offshore Oil and Gas Installations

Portfolios **Energy and Resources / Associate Transport (Hon Julie Anne Genter)**

On 22 May 2019, the Cabinet Economic Development Committee (DEV):

Background

1 **noted** that on 19 September 2018, DEV:

1.1 noted that due to the concerns about the insurability of the offshore financial assurance regime, the Associate Minister of Transport had decided not to bring either the 2017 amendment to the Marine Protection Rules Part 102, or the proposed 2018 amendments to the Marine Protection Rules Part 102, which had been publicly consulted on, into force;

1.2 noted that in September 2018, the Associate Minister of Transport directed officials to scope changes to the Maritime Transport Act 1994 and the offshore financial assurance regime, with the objective of ensuring an insurable regime is in place for the commencement of the 2019/20 drilling season;

[DEV-18-MIN-0208];

Policy decisions

2 **agreed** that owners of offshore oil and gas installations require a certificate of insurance for each of their installations for at least the estimated cost of a credible worst-case spill, based on a scaled framework which takes account of factors that influence the pollution damage resulting from an oil or gas spill, including geology, depth of water, and type of hydrocarbon;

3 **noted** that the proposal that was consulted on with stakeholders had an upper limit for clean-up and compensation costs of \$800 million, which is lower than the \$1.2 billion upper limit proposed in the paper attached under DEV-19-SUB-0116;

4 **agreed** that the upper limit for the scaled framework referred to in paragraph 2 will be \$1.2 billion;

- 5 **agreed** that the Crown and affected third parties can bring a direct claim under an insurance policy, or other financial assurance, against the party providing financial assurance to an owner of an offshore installation by effectively standing in the shoes of the insured;
- 6 **agreed** to empower the making of marine protection rules:
- 6.1 specifying the liabilities and amounts for which insurance or other financial security that must be held for a certificate of insurance to be issued;
 - 6.2 requiring insurance or other financial security to be held in respect of the costs of implementing a marine oil spill contingency plan;
- 7 **agreed** that owners offshore oil and gas installations will be able to meet assurance obligations using insurance policies that cover the key risks associated with their operations and are consistent with internationally available best practice policy wording;
- 8 **agreed** that owners of offshore oil and gas installations must hold financial assurance for the cost of well-control measures, with the level of assurance required based on an assessment of the cost associated with implementing their oil spill contingency plans;
- 9 **agreed** that insurance policies and other financial security provided by offshore oil and gas installations must be subject to New Zealand law and the jurisdiction of New Zealand courts;
- 10 **agreed** that new installations have up to three months to comply with the new regime, and that existing installations have up to 31 July 2020 to transition to the new regime;
- 11 **noted** that all other elements of the current financial assurance regime for offshore oil and gas installations remain the same, including the retention of unlimited liability on owners of regulated offshore installations;
- 12 **noted** that to deliver an insurable financial assurance regime at the significantly higher limits recommended above, officials have not been able to identify a credible method of including pure economic loss claims into the assurance requirements;

13

Withheld due
to active
consideration



Primary and secondary legislation changes

- 14 **noted** that amendments are required to the Maritime Transport Act 1994 to give effect to paragraphs 5 and 6 above;
- 15 **noted** that the Maritime Transport (Offshore Installations) Amendment Bill (the Bill) holds a priority of category 2 (must be passed in the calendar year) in the 2019 Legislation Programme;
- 16 **approved** the Maritime Transport (Offshore Installations) Amendment Bill [PCO 21600/3.0] for introduction, subject to the final approval of the government caucuses and sufficient support in the House of Representatives;
- 17 **agreed** that the Bill be introduced in May 2019;

- 18 **agreed** that the government propose that the Bill be:
- 18.1 referred to the Transport and Infrastructure Select Committee for consideration;
- 18.2 enacted, if possible, by November 2019;
- 19 **noted** that to give effect to paragraphs 2, 4, 7, 8, 9 and 10 above, amendments are required to the marine protection rules, which are made by the relevant Minister under the Maritime Transport Act 1994;
- 20 **noted** that the Marine Protection (Parts 102 and 131) Amendment Rules 2019 (the Rules) will make the necessary changes in the marine protection rules;
- 21 **noted** that the Bill and the Rules are a package of measures and that:
- 21.1 consultation on the draft Rules needs to occur in parallel to the Parliamentary process for the Bill so that the Rules are able to be brought into force as soon as practicable after the Bill is enacted;
- 21.2 submitters to the Select Committee and the Select Committee will want to have access to the draft Rules when they consider the Bill;
- 22 **authorised** the Associate Minister of Transport (Hon Julie Anne Genter) to carry out public consultation on the Rules alongside the progress of the Bill;
- 23 **agreed** that, following public consultation, the Associate Minister of Transport (Hon Julie Anne Genter) bring the finalised Rules to Cabinet for consideration.

Janine Harvey
Committee Secretary

Present:

Hon Grant Robertson (Chair)
Hon Phil Twyford
Hon Dr Megan Woods
Hon Nanaia Mahuta
Hon Stuart Nash
Hon Iain Lees-Galloway
Hon Jenny Salesa
Hon Kris Faafoi
Hon James Shaw
Hon Julie Anne Genter

Officials present from:

Office of the Prime Minister
Officials Committee for DEV

Hard-copy distribution:

Minister of Energy and Resources
Associate Minister of Transport (Hon Julie Anne Genter)