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Feedback on draft Guidance for Decommissioning Offshore Oil and Gas Infrastructure in the Exclusive Economic Zone

Introduction

1. Energy Resources Aotearoa is New Zealand's peak energy sector advocacy organisation. We represent participants from across the energy system, providing a strategic sector perspective on energy issues and their adjacent portfolios. We enable constructive collaboration to bring coherence across the energy sector through and beyond New Zealand's journey to net zero carbon emissions by 2050.

2. This submission provides feedback on the Environmental Protection Authority's (EPA) draft *Guidance for Decommissioning Offshore Oil and Gas Infrastructure in the Exclusive Economic Zone* (the 'Guidance'). We have collated feedback from our members, focussing on matters that are of most relevance to oil and gas operators with offshore assets. This feedback, and our associated recommendations, is presented in two sections – the first providing general commentary on the approach taken to issues, and the second suggesting specific changes to parts of the document.

General feedback on the Guidance

3. We consider the Guidance to be a valuable initiative and commend the EPA for its development. It is helpful for industry to have the EPA's thinking laid out in a clear and practical framework, rather than each regulated party struggling to interpret requirements. We support the direction of travel and agree with much of what is being suggested.

4. We support the objective of providing clarity as to what the statutory requirements are for decommissioning of offshore oil and gas infrastructure and what approaches the EPA recommends, without prescribing what has to happen. We also support the emphasis in the Guidance on early engagement, sound technical information and

transparency throughout the process and in decision-making. The Guidance helpfully lays out a pathway for presenting the case for exceptions, with significant detail around deciding the Best Practicable Environmental Option (BPEO) and guidance for the development of Comparative Assessments (CA).

5. We agree with the logical sequencing of stages and the weighting of effort between them. The Guidance foresees two stages:

    1) acceptance of a Decommissioning Plan (DP); followed by

    2) the granting of marine consents.

6. The bulk of the work (e.g., technical analysis, comparative assessment, stakeholder engagement, expert review, public notification etc.) is concentrated in the first stage with a very much simplified second stage and a commitment to shorter processing times. There may be scope for further simplification, particularly given the small number of offshore facilities that New Zealand has.

7. We consider, however, that there are some aspects of the general approach that need to be adjusted and that some specific elements of the document need to be amended.

Distinction between statutory requirements and EPA expectations

8. Throughout the draft Guidance, a number of procedural and methodological expectations are expressed in mandatory terms, including statements as to what applicants are required to undertake or demonstrate. While the EPA can appropriately identify practices that assist applicants to comply with their obligations, the Guidance should distinguish between binding statutory requirements, recommended good practice, and illustrative assessment methods. Operators need to reliably determine whether departing from the stated process would merely require explanation or would put acceptance of the DP at risk.

9. This distinction is particularly important in Part III in relation to undertaking the comparative assessments. Some elements seem to go beyond explaining the requirements of the *Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012* ('EEZ Act') and *Exclusive Economic Zone and Continental Shelf (Environmental Effects—Decommissioning Plans) Regulations 2021* ('Decommissioning Regulations') and move towards prescribing a particular methodology. For example, the Guidance directs applicants to apply a sequential screening system (see pages 35–41), suggests that equal effort must be devoted to evidence gathering for all options (see page 43), and identifies mandatory sensitivity testing and reporting for certain methodologies (see page 47). These statements risk being understood as additional minimum requirements, irrespective of the nature of the particular proposal.

10. There are a number of instances where "must" is used for matters that appear to reflect the EPA's preferred approach, rather than an express regulatory requirement. Several aspects of the Guidance warrant clarification to ensure that it accurately reflects the statutory framework, preserves appropriate flexibility for operators and does not inadvertently introduce requirements beyond those imposed by legislation.

We recommend that the final Guidance:

a reserves mandatory language for requirements imposed by legislative instruments;

b clearly identifies assessment tools, data-gathering methods and screening approaches that are recommendations rather than prescriptions; and

c confirms that applicants may adopt an alternative, proportionate methodology where they can demonstrate compliance with the statutory requirements.

Consideration of cost in determining practicability

11. We consider that the Guidance's proposed treatment of cost in the screening process requires amendment. Regulation 3 defines "practicable" as reasonably practicable, having regard to the current state of technical knowledge, total cost and the risk of injury to personnel. These factors should be capable of being considered together. The Regulations do not prescribe that one consideration must only be applied after the others, nor that each must carry equal weight. The weight afforded to each will depend on the circumstances of the particular option.

12. An option may be technically achievable using available technologies, vessels and contractors, yet still not be reasonably practicable when total cost, personnel safety exposure and the anticipated environmental effects are assessed together. Requiring extensive technical assessment of such an option before its cost can be taken into account risks unnecessary expenditure without a corresponding environmental benefit. This would be wasteful and unnecessary.

13. This does not mean that the least-cost option should prevail or that a more expensive option can be excluded simply because it is more expensive. We consider that cost must simply be considered transparently alongside the other statutory factors, with a reasoned and evidence-based explanation of any decision to exclude an option. The statutory test is reasonable practicability, not proof that implementation is economically impossible. The latter would be much stricter and point towards an affordability test, which the Decommissioning Regulations do not contain.

We recommend that the final Guidance:

a removes the proposed requirement that cost be considered only at the final screening stage and replaces the references to economic achievability. The Guidance should instead recognise that total cost, technical knowledge and personnel safety may be considered together at any appropriate stage in identifying and comparing reasonably practicable options, provided the approach and supporting evidence are clearly documented;

b suggests that the services of an impartial subject matter expert (SME) represent the EPA during the consultation period to provide consistent and factual guidance to proposals; and

c references the relevant legislation in regard to prohibited materials that cannot be left on the seabed to provide a consistent reference for all users.

Complete removal and alternative decommissioning approaches

14. The Guidance appears to treat complete removal as the default, even where it may not be practicable. Complete removal should be considered as one of many options to determine the BPEO. The Guidance seems to be putting more weight on a particular outcome where the Decommissioning Regulations allow for a more neutral comparison including considerations of cost and practicability.

15. Where Regulation 12(5) applies, the applicant must describe the practical limitations, personnel safety risks and estimated total cost of complete removal even if complete removal is not practicable. That information requirement should not be conflated with an obligation to undertake the same detailed evaluation for a genuinely impracticable option.

We recommend that the final Guidance:

a recognises alternative options where justified under the Decommissioning Regulations;

b should distinguish the Regulation 12(5) information requirement from detailed engineering of an impracticable option;

c include wording distinguishing a complete-removal baseline description from detailed comparative assessment of practicable alternatives; and

d provides greater clarity on the circumstances and considerations relevant to determining when partial removal or retention in situ may constitute the BPEO.

Proportionality of assessments and information requirements

16. The 'equal effort' requirement in the Guidance raises a practical question about the use of existing evidence. The Guidance should clarify how applicants may rely on existing surveys, scientific data and reliable historical information when determining the assessment effort required for each option.

17. The Guidance now refers to undertaking equal effort across all options and requiring current, scientifically validated, site-specific baseline information. This arguably implies new field surveys and engineering assessments would be required even where existing information should be adequate. This would translate to additional costs without materially improving the assessment.

We recommend that the final Guidance:

a clarify that applicants may rely on existing, fit-for-purpose technical and environmental information, with further investigations directed towards material information gaps or uncertainties (consistent with the principle of proportionality recognised in Regulation 14(1)(a)(i)).

Consultation and engagement requirements

18. We consider that the government should contemplate a one-stop-shop approach. The proposed consultation approach seems unnecessarily complex. The requirements also appear to imply that there is an obligation to achieve agreement with all participants and/or consult afresh on every technical iteration of an option. The distinction between operator-led preliminary consultation and the EPA's separate consultation obligations when assessing the BPEO is also not always clear.

19. It is apparent, particularly from the table on page 15, that the consultation requirements are complex and involve a wide range of government agencies/regulators and affected parties. Our recommended approach need not involve any structural changes – it could simply be an electronic/web-based shop front that operators could use to interface with all the consultees. It could also track progress by showing for example when parts of the process/key miles have been completed/tests satisfied etc.

We recommend that the final Guidance:

a simplify and reduce the apparent burden of the consultation requirements, making it clear that agreement or even consensus may not be reached and clarify the scope of obligations. Additional advice on how conflicting views are to be considered and how consultation outcomes influence the assessment would also improve clarity and certainty;

b clarify the respective consultation obligations of the applicant and the EPA, including the distinction between applicant-led preliminary consultation and consultation undertaken by the EPA when assessing the BPEO; and

c in a practical sense, achieve the bulk of these improvements by having a one-stop-shop approach through which regulated parties can track the process and connect with agencies, regulators and other stakeholders. This would enhance efficiency and timeliness and have benefits for everyone involved.

Decision timeframes, planning and staged decommissioning

20. In terms of the timeframes for decisions on the DP, the Guidance states:

> "…based on the minimum consultation and engagement, the EPA anticipates that a decision will take approximately 9 months from lodgement of the plan to a decision by the EPA".[1]

21. As a minimum, this seems excessively lengthy and the absence of indicative timeframes creates uncertainty. It would help if the EPA could offer a more definitive target window (best/worst case) as procurement of vessels/rigs is often occurring in parallel and managing uncertain EPA timeframes has the potential to complicate negotiations with suppliers. This was the experience on the Tui Decommissioning project.

[1] See page 20.

22. In addition, ten-year planning and five-year regulator engagement recommendations should be expressly identified as indicative[2], particularly where the predicted end of field life changes.

We recommend that the final Guidance:

a reduces the minimum timeframes for decisions on the DP and sets them out more clearly as a target range; and

b is clear that planning and regulator engagement activity timeframes are indicative only.

Wells and the scope of DPs

23. The Guidance is very light in terms of advice on the plugging and abandonment (p&a) of wells. Given that well p&a is typically the most complex/costly part of field decommissioning, the document could have more references and linkages to the activity. Whilst well p&a is primarily overseen by other regulators, a little more detail on their approval processes, and how they integrate under this Guidance, would be appropriate.

24. We also note that the Guidance states that:

> "The EPA considers that all wells within the relevant Petroleum Mining Permit or Licence are associated with the offshore installations."[3]

25. A “well inventory” covering every well in the permit area is listed as a minimum requirement for a DP.[4] In our view, this stretches the term "associated" beyond its ordinary meaning, pulling in historic and unconnected wells. The Guidance also accepts that wells not connected to a production installation can be dealt with separately.

26. In addition, section 38(3) of the EEZ Act requires an accepted DP where the relevant activity is undertaken in connection with the decommissioning of an offshore installation or associated infrastructure. However, well p&a activities undertaken independently of that wider decommissioning may be authorised through a separate marine consent process, where applicable.

27. The Guidance should seek to preserve operational flexibility and avoid unnecessarily requiring operators to prepare or amend a wider DP each time an individual well is permanently abandoned. It should also provide further clarification that initial flushing and cleaning and subsequent lighthousing do not need an approved DP.

We recommend that the final Guidance:

a has more advice on how well p&a integrates with wider field decommissioning;

[2] See the table on page 13.
[3] See Appendix 1.
[4] Ibid.

b only requires an inventory of wells directly connected to a production installation in the DP;

c expressly recognises that individual wells may be p&a separately from the decommissioning of the offshore installation, including during the operational life of a producing field; and

d clarify that initial flushing and cleaning and subsequent lighthousing do not need an approved DP.

We note the Guidance is written primarily for Operators

28. The Guidance seems to be written primarily for operators, but decommissioning obligations and financial security requirements under the Crown Minerals Act 1991 also apply to non-operating permit participants. Following the Crown Minerals Amendment Act 2025, outgoing permit holders may also be required to provide outgoing guarantees.

29. We would welcome guidance on the role of non-operating participants in the DP process.

We recommend that the final Guidance:

a covers the possible roles and responsibilities of other permit participants in decommissioning;

Placeholders and reviewing further iterations

30. Several sections remain placeholders, including the process for re-submitting a plan that does not meet the pre-conditions for public notice, the engagement and recalibration loop, the treatment of uncertainty, the sensitivity log appendix and the description of assessment methods.

31. It is important that we review and provide feedback on these missing elements of the Guidance and also that we see how our feedback has been reflected in the final draft.

32. We therefore request that industry be given a last opportunity to provide further comment once these sections are complete and the Guidance has been amended to address our initial feedback. This will also allow us to do a final check on workability and ensure that there are no technical or legal issues.

We recommend that the final Guidance:

a is subject to another round of consultation once the final draft is complete and ready to be reviewed.

Specific feedback on the Guidance

Area	Issue/Context	Guidance approach/text	Recommendation
Definitions, acronyms and abbreviations			
Definitions	Definition for "Decommissioning" includes flushing and cleaning systems.	Page 12 states that: "DPs can be submitted and accepted by the EPA prior to preparatory activities for decommissioning taking place and those plans can be updated as the cessation of production [CoP] approaches".	It needs to be made clear that flushing and cleaning that occurs after CoP in preparation for decommissioning can be done under existing operational consents that are already in place and that this activity does not automatically trigger the need for a DP. Also clarify the pre-decommissioning activities that do not require a DP even if the DP refers to those activities to provide a bridge from those activities to the full decommissioning process.
Definitions	The definition of 'Offshore Installation'	The definition in the Guidance is the same as provided in the EEZ Act.	It would be helpful for the EPA to provide clarity on whether a Floating Production Storage and Offloading (FPSO) is classed as an offshore installation or a ship so that it is clearly understood what approvals are required for an FPSO to be disconnected and demobilised. It would also be beneficial to provide some clarity on how drill cuttings mounds should be managed within the process.
Definitions	The definition of 'Decommissioning - Complete removal'	The definition in the Guidance means nothing remains in or on the seabed	Use the definition in the Decommissioning Regulations (see the 'Interpretation' section) which is: "...to remove the whole or a part of the offshore installation or infrastructure from— (a) the exclusive economic zone; or (b) in, on, or above an area of the continental shelf that is

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			beyond the outer limits of the exclusive economic zone." This provides some practical optionality about the outcome.
DP and marine consents			
Decommissioning Plan - Public notification	It is not clear how operators should address submissions and their approach to them.	The Guidance states: "Upon receiving the submissions, the operator must, for each submission, either: • amend the DP in response to the submissions, or • explain to the EPA why the operator does not propose to amend the plan in response to the submission."	Practical guidance should be included on how to present these explanations, as there may be a significant number of responses (e.g., can responses be collated by topic? how are the amendments to the DP demonstrated to the EPA? and, if the decision is made not to amend the DP, what form does the explanation to the EPA take?
Decommissioning Plan - Acceptance criteria and possible outcomes	The Decommissioning Regulations (see Regulation 27) state that: "The EPA may advise an applicant that the acceptance of the DP is likely to be refused (and of the reasons why) at any time before deciding whether to accept the plan".	The Guidance states: "The EPA can accept the DP or refuse to accept it. The EPA must accept a DP if it is satisfied the plan meets the criteria set out in the 2021 Decommissioning Plan Regulations."	We would like to see more detail provided in the Guidance to demonstrate the EPA's commitment to engaging with the applicant and providing an opportunity for the DP to be amended prior to refusal.
Marine consent for decommissioning activities - Joint processing of consenting in territorial sea and EEZ	The language regarding 'joint processing' could be strengthened	The Guidance discusses joint processing of the consenting in the territorial sea (under regional councils) and the EEZ (under EPA). The wording is rather loose and suggests a 'best endeavours' approach rather than a robust process.	There could be more practical guidance on how the process alignment and co-ordination could work. For example, could the EPA and regional council have one decision-making committee to make the process as efficient as possible? We would prefer to see a better structured approach, and preferably a one-stop shop for this interface (see above).

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			This would be particularly helpful when considering the offshore pipelines within the coastal marine area.
Marine consent for decommissioning activities - After a marine consent approval	The Decommissioning Regulations clearly contemplate monitoring, inspection/maintenance after decommissioning (see Regulation 11 *Information about post-decommissioning monitoring and maintenance*), including an inspection/maintenance programme and estimated cost where infrastructure is left above/on the seabed.	The Guidance states: "After the expiry of the marine consent, the operator still retains liability of the decommissioned infrastructure if any future post-decommissioning work is required." (see page 25)	EPA should identify the statutory basis for the proposed continuing liability and clarify its nature, scope and duration.
Comparative Assessments			
Comparative Assessment (Part III)	The Decommissioning Regulations define "practicable" (see the 'Interpretation' section) by reference to the current state of technical knowledge, total cost and risk of injury to personnel. These factors should therefore be capable of being considered together when determining whether an option is practicable.	The proposed requirement for all technically achievable options to progress through the assessment irrespective of cost, with cost only applied as the final screening criterion, appears more restrictive than the approach contemplated by the Decommissioning Regulations.	Consider amending the Guidance to allow technical feasibility, cost and personnel risk to be considered together when establishing which options are practicable and should progress to detailed comparative assessment.

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Comparative Assessment (Part III) - Framework for determining the BPEO	Regulation 12 *Comparative assessment required if decommissioning involves dumping, abandonment, or submarine pipeline*) requires a comparative assessment in the prescribed circumstances and specifies information that is to be provided for the approaches being compared. It does not appear to prescribe a particular sequential screening methodology.	The Guidance states that applicants: "…must pass all initial decommissioning options through a structured, multi-tier screening system" involving sequential regulatory, technical, environmental, social and financial filters. (see page 34) AND "The order in which options are screened must ensure that the greatest number of options are preserved…" (see page 40) BUT "EPA does not mandate a single assessment methodology…" (see page 46)	The proposed process for selection and justification of the preferred option looks over-engineered, is not well aligned with the Regulations, and raises concerns over the economic efficiency of the process. The process could be simplified considerably. The intent of the Decommissioning Regulations is better expressed as a 'staged approach' with the first stages more qualitative in nature and not requiring the depth of engineering and cost analysis as suggested – this detail should only come in at the Comparative Assessment stage. If, as stated, the EPA does not intend to mandate a particular methodology, the structured multi-tier screening process should be presented as an illustrative or recommended approach, rather than a mandatory requirement. The Guidance should clarify the level of comparative assessment required where proportionate initial screening demonstrates that only one genuinely practicable option remains.

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Comparative Assessment (Part III) - Stage 3: Preparation and Evidence-Gathering for CA	Evidence gathering for CA should be distinguished carefully from post-decommissioning monitoring. Regulation 11 *(Information about post-decommissioning monitoring and maintenance)* expressly contemplates activities such as seabed sampling for hydrocarbons, heavy metals and contaminants when describing proposed monitoring operations. But that does not automatically establish a requirement for a new comprehensive site-specific pre-decommissioning field campaign merely to undertake the CA. An operator may already hold years of environmental monitoring, Remotely Operated Vehicle (ROV) records, bathymetry, operational information and previous environmental assessments. The Guidance should not drive a new benthic/sediment/water campaign merely because the newest information isn't considered 'current' enough.	The Guidance says baseline information "must be current, scientifically validated, and site-specific" (see page 43) and calls for the following: • physical oceanography; • bathymetry/dynamic seabed information; • habitat mapping; • biodiversity baselines; • **recent field sampling**; • benthic surveys or ground-truthed data; • vessel traffic/fishing-effort spatial analysis; • cultural baselines; and • **empirical sediment and seawater contamination information** for hydrocarbons, heavy metals and hazardous substances.	The Guidance wording should be based on sufficient information to differentiate materially between practicable options, with new data acquisition undertaken where an identified information gap could materially affect the BPEO determination. That is much more consistent with proportionality. The Guidance could be clearer on what "current" and "recent" mean in this context and encourage the reuse of existing data, studies, and assessments, with updates undertaken only where necessary, to avoid duplication of effort that does not materially improve decision-making.

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Comparative Assessment (Part III) - Stage 3: Preparation and Evidence-Gathering for CA	There is no obvious justification for requiring equivalent engineering maturity, market enquiries, vessel studies, ecology work and cost definition for every option before differentiation becomes apparent.	The Guidance requires: "Equal effort should be undertaken across all options to collect the necessary data and information..." (see page 43)	We propose instead that the Guidance state: "...a proportionate level of information sufficient to permit fair comparison of practicable options." This retains the principle of fair comparison without implying that every option needs to be developed to equivalent technical or commercial maturity.
Comparative Assessment (Part III) - Stage 1: Framing and Scoping AND *Part II Decommissioning plan and marine consents - What the plan must contain*	Some asset-condition information matters to practicability. But requiring recent inspection evidence for each/every piece of infrastructure regardless of whether its condition could influence option selection appears disproportionate. For a mature offshore field, this is potentially a very significant exercise.	The Guidance states that DP descriptions must be based upon "verified, as-is data", supported by appropriate surveys/studies. (see page 14) Part III goes appreciably further. For the CA, it requires an evidence-based assessment supported by recent photographic, video or engineering inspection data of the as-is state and integrity of each piece of infrastructure, including its history and current state.	The requirements should be changed to: “Current condition information should be provided where the condition of the infrastructure could materially affect the practicability, risks, effects or selection of a decommissioning option.”

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Comparative Assessment (Part III) - Comparative assessment methodology	The Decommissioning Regulations unquestionably contain substantial consultation requirements. But what the Guidance proposes is appreciably more prescriptive than requiring meaningful preliminary consultation as envisioned in the Decommissioning Regulations. There is an important practical distinction between: a) consult sufficiently early for stakeholders to influence the proposal; and b) continuously consult stakeholders through engineering option generation, screening, criteria setting and recalibration.	The Guidance accurately identifies the preliminary consultation required with marine management agencies, people with relevant existing interests and relevant iwi authorities. But later the Guidance effectively turns consultation into a continuous parallel engineering workstream, saying it "must run concurrently" (see page 35) throughout filtering, with stakeholder feedback refining options, screening criteria and assumptions. It goes further by expecting active engagement "...throughout the development of the comparative assessment" (see page 37), including development of options, screening and CA factors.	The EPA should consider making active engagement “throughout the development of the comparative assessment" recommended good practice, proportionate to the proposal, rather than an implicit acceptance requirement. Otherwise, there is a risk of adding a significant time and cost burden which will need to be met by the applicant.

Area	Issue/Context	Guidance approach/text	Recommendation
Comparative Assessment (Part III) - Selecting an Assessment Methodology to run a CA: The Principle of Proportionality	Sensitivity analysis is good practice where a weighted numerical model is used. But if an operator uses a defensible qualitative/semi-quantitative CA, it makes little sense to require mathematical sensitivity testing. This section sends mixed messages.	EPA says it does not mandate a single methodology. Yet its matrix says moderate/high complexity projects should use Multi-Criteria Decision Analysis (MCDA) or Analytic Hierarchy Process (AHP) (see the table on page 47) with: • Standardised 0–100 preference scaling; • Transparent co-designed weighting profiles; and • Mandatory execution and submission of a Sensitivity Log. Earlier it states that all CA outcomes should be subjected to sensitivity testing (see page 43).	We suggest that: 1) Where quantitative weighting or numerical decision-support models are used, sensitivity analysis should be undertaken where necessary to demonstrate the robustness of the result. 2) The reference to "co-designed weighting profiles" should also be clarified. In particular, the Guidance should explain who is expected to participate in the co-design and whether this is intended as a requirement or recommended practice.
Appendix 3 - Suggestion of Structure of the CA Report (Table of Contents)	The relationship between CA and DP	This section states that: "Applicants must submit their finished CA as a standalone, comprehensive document."	This statement should be reworded to better reflect that a CA will be incorporated into the DP, as stated on page 45. Appendix 3 should then provide a suggested structure for the DP rather than a stand-alone CA. However, the preference would be for a reporting framework, developed in consultation with the EPA, that would ensure that documentation remains proportionate to the complexity and significance of the decision.

Conclusion

33. We support the initiative to produce this Guidance and the overall direction of travel. As set out above, we consider that there are aspects of the advice that should be further refined (e.g., a clear distinction between statutory requirements and recommended approaches) and specific text amended.

34. We would welcome the opportunity to work further with EPA officials on the development of the Guidance, particularly to further review the complete final draft before it is published.