

Checks and balances: responsible development of petroleum and minerals in New Zealand

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Over the last few months the regulation of the petroleum and minerals sector has been a subject of some debate. Attention has been on the Environmental Protection Authority (EPA), and what recent marine consent decisions mean for the fledgling seabed mining industry.

The outcome of marine consent applications for Trans-Tasman Resources and Chatham Rock Phosphate surprised some, and others expressed concern about the long term implications.

Recently, we heard concerns at the Advantage Petroleum Summit in March, about the potential implications of these decisions for future exploratory petroleum drilling in our frontier basins.

New Zealand's regulatory system decouples the decision to grant an exploration or mining permit on the one hand, from the decision to grant a marine consent on the other. It is timely to reflect on why our regulatory system is engineered the way it is.

In response to events such as the Gulf of Mexico oil spill, the Pike River mine tragedy, and the Rena spill, the Government rightly strengthened our regulatory framework – including the regulation of activities in our Exclusive Economic Zone, through the EEZ Act, for the first time. The changes also reflect technological innovations that have opened up new frontiers and society's changing expectations.

Fundamentally our regulatory regime recognises that economic growth must be balanced by our responsibility to protect our people and the environment. It sends a clear signal that New Zealand wants sustainable development – but not at any cost.

Through it specialised agencies consider complex topics such as prospectivity, health and safety, and the environmental effects of activities, each supported by different technical skills and knowledge.

Each agency involved - from the EPA and local authorities, to Worksafe NZ, Maritime NZ and the Department of Conservation – has a distinct role to play and makes decisions independently, based on very different criteria that are specified in different legislation.

That is why, while NZP&M may grant an exploration or mining permit, separate permissions are required from other regulators for the activity taking place (resource or marine consent) and, if onshore, land access to the permit area.

And it's why those permissions are not guaranteed. This separation of decision-making removes the risk of regulatory capture - and that is very much the strength of our regulatory regime. It offers series of checks and balances which, ultimately, provides greater clarity and transparency because the relevant expertise is employed at each stage of the process. Having robust regulation also helps build public trust here in New Zealand.

The system can seem complex. So communication between the various regulators and with industry and the public is vital to the system working effectively. If we work to understand and communicate our perspectives, then all of us are better placed to manage the roles we play in developing responsible economic opportunities.

I think NZP&M has a key role to play by offering proactive leadership (as the first point of contact for most operators) to help operators and the wider public to understand the regulatory system. For example, we now hold annual review meetings with selected permit holders, and we invite other regulators, like WorkSafe, councils or the EPA to attend. This means we can all take part in the conversation, better understand where each party (regulators and industry) is coming from, and work through opportunities and challenges. NZP&M also works behind the scenes with our regulatory counterparts to ensure industry and the public receive consistent information about how the regulatory process works.

Ultimately the debate we've seen over the last few months has raised awareness of various aspects of New Zealand's regulatory regime. And that can only be a good thing.

In some quarters we've heard commentators declare that the system is broken or that New Zealand is "closed for business" – but that is not the case. Marine consents have been granted to OMV and Shell Todd Oil Services, for producing petroleum assets. The EPA has said that the past 20 months have been a steep learning curve for regulators and industry alike. It is now looking forward to a period of consolidation for the EEZ regime. And the fact that both Trans-Tasman Resources and Chatham Rock Phosphate have indicated they intend to put in fresh applications is positive.

Broadly the consensus from industry and others is that our regulatory regime is working well. There will always be a need for refinement but one of New Zealand's strengths in the market is the stability of this regime.

New Zealand's consistent and transparent approach to regulatory frameworks is reflected in our high international rankings in measures of ease of doing business, regulatory transparency and world-leading low level of corruption. It's something we should take pride in.

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