

House of Representatives  
Supplementary Order Paper

Tuesday, 24 July 2012

Exclusive Economic Zone and Continental Shelf  
(Environmental Effects) Bill

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*Proposed amendments*

Eugenie Sage, in Committee, to move the following amendments:

*Clause 10*

Replace *clause 10(1)* (line 31 on page 19 to line 10 on page 20) with:

- (1) The purpose of this Act is to provide for the use and development of natural resources in the exclusive economic zone and in or on the continental shelf in a way that protects and preserves the marine environment by—
  - (a) requiring decision makers to recognise and provide for the matters in **section 11A** in making decisions under **sections 27, 30, and 61**; and
  - (b) requiring decision makers to take the matters in **sections 33(3) and 59(3)** into account in making decisions under **sections 27, 30, and 61**; and
  - (c) requiring the adverse effects of activities on the environment to be avoided where possible, and otherwise remedied or mitigated.

*New clause 11A*

After *clause 11* (after line 33 on page 20), insert:

- 11A Matters to be recognised and provided to achieve purpose**  
In achieving the purpose of this Act, all persons exercising functions, duties, and powers under this Act must recognise and provide for the following matters:
- (a) the relationship of Māori and their culture and traditions with the marine environment, including taonga species and kaitiakitanga:
  - (b) the protection of recognised customary activities:

- (c) the maintenance of the integrity of marine ecosystems (including ecosystem complexity, structure, function, productivity, dynamism, natural viability, and boundaries):
- (d) the maintenance of biological diversity, including the physical features and biogenic structures that support biological diversity:
- (e) the maintenance of diverse and heterogenous marine habitats and connectivity between different habitats and populations:
- (f) the protection and preservation of unique, rare, or fragile populations, communities, habitats, ecosystems and geomorphological features from adverse environmental effects:
- (g) the protection and preservation of threatened species, keystone species, and the habitats of those species from adverse environmental effects:
- (h) the avoidance where possible, and otherwise remediation or mitigation of, the adverse effects of activities:
- (i) the management of the cumulative effects of all activities on the receiving environment.

*Clause 33*

After *clause 33(2)* (after line 26 on page 37), insert:

- (2A) The Minister must recognise and provide for the matters in **section 11A**.

In *clause 33(3)*, delete paragraphs (d) and (e) (lines 9 to 13 on page 38).

*Clause 59*

After *clause 59(1)* (after line 15 on page 50), insert:

- (2) The EPA must recognise and provide for the matters in **section 11A**.

In *clause 59(3)*, delete paragraphs (d) and (e) (lines 3 to 7 on page 51).

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### **Explanatory note**

This Supplementary Order Paper amends the purpose clause and provides a set of environmental principles to guide decisions makers as to how the Bill's purpose is to be achieved in decisions on regulations and marine consent applications. The purpose clause is fundamental because the entire Bill is interpreted in the light of its purpose. Under the United Nations Convention on the Law of the Sea, New Zealand's right to develop and exploit resources in the EEZ is subject to a general overriding obligation to "preserve and protect the marine environment". The proposed amendment to the purpose clause recognises that irrespective of any economic benefits that may be derived from exploiting the marine environ-

ment, the health and viability of natural ecosystems must be sustained for future generations. This is a well-established principle of environmental sustainability. It seeks to ensure that the Bill's decision makers (the Minister and the Environmental Protection Authority) apply the purpose and associated environmental principles to their decisions on regulations and marine consent applications.

Under the proposed amendments to *clauses 33* and *59*, decision makers would be required to prioritise matters to be “recognised and provided for” above matters to be “taken into account” under *clauses 33(3)* and *59(3)*. This would assist the Bill's implementation by reducing uncertainty as to how conflicts between different matters should be resolved. The principles complement the information principles in *clauses 33A* and *60A*.

These are consequential amendments which ensure that the Minister in making regulations, and the EPA in making decisions on marine consent applications recognise and provide for section 11A matters.

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