



25 September 2013

Ministry for the Environment  
Submission on Proposed EEZ Regulations 2013  
PO Box 10362  
WELLINGTON 6143

By email: [EEZregulations@mfe.govt.nz](mailto:EEZregulations@mfe.govt.nz)

***Activity classifications under the EEZ Act – A Discussion Document on the Regulation of Exploratory Drilling, Discharges of Harmful Substances and Dumping of Waste in the Exclusive Economic Zone and Continental Shelf, August 2013***

The New Zealand Law Society (Law Society) welcomes the opportunity to make a submission on the Ministry for the Environment's *Discussion Document on the Regulation of Exploratory Drilling, Discharges of Harmful Substances and Dumping of Waste in the Exclusive Economic Zone and continental shelf, August 2013* (Discussion Document).

The Law Society wishes to respond to Question 1 in the Discussion Document.

Question 1 asks whether the submitter agrees with the proposal that exploratory drilling for oil and gas be classified as a non-notified discretionary activity, and if not, how that activity should be classified or regulated. It also asks whether there are any issues which the submitter thinks have not been considered.

It is the view of the Law Society that it is not appropriate to classify all activities which might come within the category of "exploratory drilling" as non-notified discretionary activities.

The term "exploratory drilling" is wide, undefined, and could encompass activities which may have a wide range of effects, from less than minor to significantly adverse.

The Law Society submits that only those activities which are likely to have effects which are no more than minor should be classified as non-notified discretionary activities.

This approach would be consistent with the approach which has been taken under the Resource Management Act since 1991 (RMA), and would also be in accordance with New Zealand's obligations under international law.

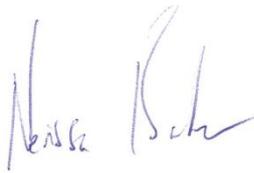
The very broad category of "exploratory drilling" should be refined to enable only those activities which are likely to have effects which are no more than minor to proceed on a non-notified basis, while retaining the requirement to notify applications for activities which will have or are likely to have more than minor effects.

For example, exploratory drilling which is simply seeking information about geological structures and is not penetrating to source, or exploratory drilling to a source which is not under pressure, are activities which may be considered as not likely to create more than minor adverse environmental effects. If that is the case, then non-notified discretionary status is likely to be appropriate.

On the other hand, some activities within the broad category of "exploratory drilling" may have the potential to cause significant adverse effects. Even where the likelihood of such effects is low, it would not be appropriate for such activities to be classified as non-notified discretionary activities. Such classification would be inconsistent with the purpose of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (section 10), the notification of activities under the RMA, and the precautionary approach in New Zealand's obligations under international law.

This submission was prepared with the assistance of the Law Society's Environmental Law Committee. If you would like to discuss the submission, please contact the convenor of the Environmental Law Committee, Margo Perpick, through the committee secretary, Jo Holland by phone (04) 463 2967 or by email [jo.holland@lawsociety.org.nz](mailto:jo.holland@lawsociety.org.nz).

Yours sincerely

A handwritten signature in blue ink, appearing to read "Nerissa Barber". The signature is fluid and cursive, with the first name "Nerissa" and the last name "Barber" clearly distinguishable.

Nerissa Barber  
**Vice President**