

# PROTECTING OUR OCEANS FROM OIL SPILLS

THE  
GREENS



*In the light of the August 2009 Montara oil spill off the North West Coast of Australia and the daily horror as the world watching the Deepwater Horizon oil well spew thousands of barrels of oil into the Gulf of Mexico daily, the Greens are proposing a 6 point plan to protect Australian waters from oil spills.*

**The Greens 6 point plan addresses the risks associated with offshore oil and gas exploration and drilling in the following ways:**

## **1. A moratorium on offshore exploration and drilling of new wells**

The Australian Greens repeat our call to the federal Government to place a moratorium on offshore petroleum exploration and the drilling of new wells until the Montara Commission of Inquiry report has been publicly released and action taken to protect our marine environment. The Government must act urgently to strengthen the regulatory regime, including the environmental regulations, governing the offshore petroleum industry.

President Obama acted quickly in the face of the disastrous Deepwater Horizon spill to place a 6 month moratorium on the drilling of new deepwater wells. He also acted quickly to ensure compliance audits of all similar projects in the Gulf of Mexico were undertaken. Similarly, we call on the government to provide assurances to the Australian people that all offshore petroleum wells have been subject to a physical compliance audit and meet the standards necessary to ensure none of these current wells or drilling operations will release uncontrolled oil or gas into the environment.

## **2. Regulatory overhaul of the offshore petroleum industry**

It is obvious from the evidence provided to the Montara Commission of Inquiry that the regulation of Australia's offshore petroleum industry is in need of a major overhaul. There were clear regulatory failures from the relevant government authorities and the companies involved. The Government must publicly release the Report from the Commission of Inquiry as a matter of urgency.

Australians, and in particular the workers who were working on the oil rig, need to know why the incident occurred and who was responsible and what must now happen to ensure similar incidents do not put worker safety and the environment at risk in the future.

## **3. Push for a comprehensive international regime for offshore activities**

The Greens call on the Government to take the lead in campaigning for a comprehensive international regime for offshore activities including oil exploration, drilling and production. Although there is a comprehensive system of international laws governing shipping, covering technical standards, worker safety and pollution, and the Law of the Sea Convention

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contains broad obligations to protect the marine environment, there is no comprehensive international regime covering oil rigs. Offshore drilling for oil and gas is a global industry and the marine environment has long been recognised as a common good. It is incumbent on the international community to ensure high standards of safety and environmental protection across the world. An international regime is also important to better regulate the industry in developing countries.

#### **4. Environmental protection - Comprehensive environmental impact assessments, baseline data and monitoring**

The Deepwater Horizon spill has caused untold environmental damage to the Gulf of Mexico and the southern coast of the United States. We will never know the extent of the environmental damage caused by the Montara spill because we don't have adequate baseline data nor was there monitoring of the environmental impact from the beginning of the spill.

The incident has demonstrated the need for all oil drilling operations to ensure comprehensive baseline data on the marine and coastal environment potentially affected by the operation of drilling and oil production and the risk of oil spillages. Environmental impact assessments must be required to take into account the combined and cumulative impacts of offshore drilling and petroleum producing activities. There must also be on-going monitoring of the environmental impacts of oil spills as they are occurring. Without adequate baseline data, we do not know the impact of offshore activities on our marine environment and in the event of an incident like the Montara spill we can not measure environmental remediation efforts.

#### **5. Polluter pays - statutory liability regime for offshore petroleum activities**

The polluter pays principle is a key element of good environmental practice. In Australia, the company in charge of the Montara well accepted responsibility for reimbursing the Australian government for the costs of the clean up, limited environmental monitoring and rehabilitation. However, the current law places no specific liability on the owners of oil wells to pay for the clean up or environmental damage caused by spills. Companies are only legally required to have insurance to cover the costs of complying with directions relating to the clean-up or other remediation of the effects of the escape of petroleum. The Australian government has relied on the goodwill of the company in the Montara incident to recover costs.

The Australian Greens believe that Australia must have a robust statutory liability regime for offshore petroleum activities. We should not be relying on the goodwill of companies to pay the costs of the damage from oil spills to our precious marine environment and resources. We propose a legislative scheme that includes strict liability for:

- the full costs of removing the oil and clean up,
- environmental remediation and on-going environmental monitoring,

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- damage to our shared natural resources, including assessment of such damage, and
- economic losses, including destruction of property and loss of income.

The liability would be uncapped. Such a scheme will ensure that the companies, who seek to profit from offshore petroleum activities, rather than the community, are required to pay the costs of oil spills. An uncapped statutory liability regime will also act as an incentive to meet strict operating standards to minimise the risk of oil spilling in to our oceans.

Other nations have statutory liability regimes in place for offshore oil facilities covering liability and compensation in the event of discharges of oil. In the United States under the Oil Pollution Act, responsible parties (owners/operators of facilities and lease holders) are strictly liable for:

- the cost of removing the oil and clean up;
- injuries to natural resources including land, air, water, fish, wildlife and plants, and the reasonable costs of assessing the damage;
- injury to or economic loss resulting from destruction of property; and
- loss of profits or earning capacity due to destruction of property.

Currently, liability for clean up is uncapped but liability for damages is limited to US\$75 million which has been shown to be manifestly inadequate in light of the Deepwater Horizon spill. There is a robust debate occurring about lifting the limit to at least \$10 billion or removing the cap altogether. The United Kingdom also has a strict liability regime in the form of the Offshore Pollution Liability Agreement, capped at \$120 million.

## **6. Regional marine planning - suspend recently opened areas for exploration until the marine planning process is completed**

The regional marine planning process currently being undertaken around Australia is an opportunity to strengthen the protection of our marine environment. The process should be driven by science and underpinned by a policy focused on conserving our oceans for future generations. Essential to appropriate marine planning is ensuring large areas are free from extractive use, including oil and gas exploration. The Great Barrier Reef Marine Park is world's best practice in providing marine protected areas where there is no fishing or oil and gas exploration or production. These protected areas have been demonstrated to play a crucial role in protecting fisheries, building the tourism industry, and supporting Australia's unmatched coastal lifestyle.

### **Oil and gas exploration around Australia**

Unfortunately we don't have a similarly robust marine planning process for the rest of Australia's unique marine environment. In spite of the planning process that does exist

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the Government has recently released new areas for oil and gas exploration including in the South-West of Western Australia, just 83km off the coast of Margaret River, while the regional marine plan for the area is yet to be finalised. In fact the areas in which the government wants to allow oil and gas exploration are areas previously flagged for assessment as a marine sanctuary.

The South-West coast of Western Australia would be devastated by an oil spill. The marine environment would be irreparably damaged, the unique biodiversity of the area, tourism and fishing industries would be decimated, local residents, surfers and agriculture would all suffer.

Another region recently released for exploration is the South Australian end of the Great Australian Bight, off Kangaroo Island. However, extracting any oil and gas from this area will mean overcoming significant challenges, including heavy seas and wells deeper than any in operation around the nation making it a very high risk operation.

In addition to the Bight, strong indications of petroleum in basins near the Lord Howe Rise, 800km east of Brisbane, and on the Wallaby Plateau, 500km off the West Australian coast next to the existing North West Shelf gas zone. All three areas are at the deepwater edge of Australia's vast maritime zone - an area almost twice the size of the continent.

While there is a prohibition on exploration and drilling activities in the Great Barrier Reef Marine Park, the Greens are calling for a similar prohibition for the whole of the Coral Sea. The offshore areas off the coast of Queensland are relatively unexplored for petroleum but there remains the potential for exploration activities into the future.

There is also an exploration release off the coast of Sydney in the Offshore Sydney Basin with gas and condensate potential in the area. An application has been made to start drilling operations later in 2010 in a tenement offshore south of Sydney to north of Newcastle. Up until now has been no drilling in the Offshore Sydney Basin.

There are already extensive oil and gas operations in the Bass Strait and in the Gippsland Basin off the East coast of Victoria as well as in the Timor Sea off the North West coast of Australia.

The Government must prioritise long term environmental protection and not threaten Australia's natural environment. It must suspend all recently released exploration areas for re-consideration until after the marine planning process is complete.