

SUBMISSION ON APPLICATION FOR VARIATION OF RESOURCE

CONSENT

Stratford District Council

21st November 2012

Submitters: David Morrison, Sarah Roberts, Hugh Morrison, Ruth Morrison
(Owners)

Applicant: TAG Oil (Cheal Petroleum Limited)

Proposed Activity:

Proposal to vary condition 5 of the existing Cheal A Consent 20/66 to read:

“Flaring is only permitted at the site in response to an emergency situation, including instances where third party processors are unable to take Cheal gas, until such time as permanent gas processing facilities are completed at Cheal A-site, after which flaring will only be permitted at the site in response to an emergency situation”.

1. Flaring from oil and gas wells at Cheal A and B at Cheal A

1.1 The following evidence affects the application for variation of consent for flaring. We believe this application only applies to 11 wells for Cheal A and the wells at Cheal B. Any other wells that have been drilled and produced from or planned for in the future will need to be applied for in a separate application for consent as well as the production station and the gas processing facilities.

1.2 A single **oil** well was consented for in 1995.

“The applicant seeks land use consent from interim and long term oil production and tankering from a single producing oil well contained on land described as Section 24 Blk Ngaere SD”.

(Report to General Manager from Planning and Regulatory Manager Stratford District Council, 26th June 1995)

On 5th July 1995 the land use consent was granted to New Zealand Oil& Gas “for interim and long term oil production and tankering from a single producing oil well...”.

(Letter to Oil and Gas Services Ltd from BK Mosley, Planning and Regulatory Manager, Stratford District Council, 5th July 1995)

1.2 The Stratford District Council confirmed in 2005 six wellheads could proceed under the existing 1995 consent for one single oil well.

A series of letters and emails passed between Mr Avery, the Planning and Regulatory Manager of Stratford District Council and Austral Pacific Energy (NZ) Ltd.

In a letter (19th March 2007) Mr Avery confirms “on 03 September 2005, that the proposed multiple wellhead production activities at the Ngaere Cheal-1 site are covered by the consent granted to NZ Oil and Gas Services on 4th July 1995 pertaining to that site”.

- 1.3 For clarification a wellhead is the top of a well.

<http://en.wikipedia.org/wiki/Wellhead>

- 1.4 We asked Mr Avery in an email (11th October, 8.56am) how he had lawfully consented to six well-heads from a land-use consent allowing for “interim and long term production and tankering from a single producing oil well”. He stated in an email on 11th October (2.03pm) “agreement was given for six wellheads off the one well that was drilled on the site with production being from that one well (six well heads from it).”

- 1.5 Of note are previous reports to the Chief Executive Stratford District Council regarding Cheal A (31st October 2011; 12th July 2012) referring to “Confirmation given in 2005 for the consent holder to drill up to six well heads” . The Officer’s Report prepared 29th October 2012 for this hearing states “Confirmation given in 2005 for the consent holder to drill up to six well heads from the one well”.

- 1.6 Taranaki Regional Council Environmental Monitoring Reports document the drilling of Cheal A 3 well during April to June 2004 and Cheal 4 well in late 2004 (prior to the confirmation of drilling up to 6 wellheads in 2005);

<http://www.trc.govt.nz/assets/Publications/technical-reports/oil-and-gas-compliance-monitoring-reports/175314.pdf> (p.3)

“exploration activities of Cheal A 6 and 7 wells”;

<http://www.trc.govt.nz/assets/Publications/technical-reports/oil-and-gas-compliance-monitoring-reports/495648.pdf> (p.1)

and the Cheal Production Station commissioned in 2007.

<http://www.trc.govt.nz/assets/Publications/technical-reports/oil-and-gas-compliance-monitoring-reports/701220.pdf> (p.3)

1.7 Maps held on Stratford District Council files for Cheal A clearly show several wells that have been drilled and a production station. There is also an extended area showing the development of the gas processing facilities. This latter map is not included in the applicant’s Assessment of Environmental Effects for Variation of Consent.

1.8 It is our conclusion there are not six wellheads drilled from one well. A further six wells have been drilled and produced from and a production station built unlawfully from the 1995 landuse consent. One of these wells Cheal A7 was fracked in 2010.

Stratford District Council was incorrect to confirm the drilling and producing from six wellheads could proceed under the 1995 consent.

Section 9 (3) of the Resource Management Act provides no person may use land in a manner that contravenes a district rule unless the use is expressly allowed by a resource consent, is allowed by section 10, or an activity allowed by section 10A.

In 2005, the Stratford District Plan 1997 was in force. Under this District Plan petroleum exploration was a controlled activity and petroleum production was a discretionary activity. Therefore resource consent would be required unless the use was expressly allowed by the existing resource consent.

A use which is 'expressly allowed' includes uses ancillary to the principle purpose for which a consent was granted (*Queenstown Lakes District Council v McAulay* [1997] NZRMA 178). The issue is whether the six wellheads are within the true scope of the 1995 consent (*Gillies Waiheke Ltd v Auckland City Council* HC Auckland A131/02, 20 December 2002).

On the basis of the information provided it appears that the six wellheads are not within the scope of the 1995 consent as they are not associated with the one existing well.

- 1.9 According to TAG Oil's published Annual Report (2012) they have two wells producing (A3x and A7) and four wells (A1, A8, A9, A10) from Cheal A behind pipe currently waiting testing and infrastructure expansion. It is our understanding they have drilled a total of 12 wells from Cheal A.
- We believe they only have lawful consent to produce from one single oil well (1995 land use consent) and 10 oil and gas exploration wells and production from those wells (2011 land use consent).

By granting drilling and producing from these "wellheads" in this manner there is no legal consent and Assessment of Environmental Effects for six

wells, or for the Production Station, or the gas processing facilities or gas stripping plant referred to in the Annual report 2012.

http://www.tagoil.com/pdf/TAG_Annual-Report-2012.pdf

In an email (12th November 2012) we requested “copies of the engineers’ reports and monitoring by Stratford District Council of the construction of the production station and the construction of the gas processing facilities and gas stripping plant”. According to Mr Avery in response (email, 13th November 2012) “the Stratford District Council has yet to receive the final plans and specifications under the terms of the resource consent(s). There is no requirement under the Building Act 2004 for a building consent in respect of the plant”. The Cheal Production Station is already built and TAG Oil are currently constructing the gas processing facilities.

For clarification, TAG Oil was in a joint venture ownership with Austral Pacific at Cheal A. Austral Pacific was the consent holder. They both were the owners with interest in Cheal. TAG Oil and Austral Pacific had a disagreement regarding the building of the Cheal Production Station. Austral Pacific was declared bankrupt in 2009 and as settlement TAG Oil took 100% ownership.

We believe if this variation of flaring consent is granted it should be specifically for 11 wells at Cheal A and the wells at Cheal B. We believe the drilling and producing (including flaring) from a further six wells, the

commissioning of a production station and gas processing facilities should be investigated.

2. Flaring is only permitted in an emergency situation at Cheal A and B

- 2.1 Condition 5 of the landuse consents for Cheal A and B (2011) states “flaring is only permitted at the site in response to an emergency situation”. This was granted by the Hearing Commissioner on 23rd November 2011. TAG Oil have been flaring continuously from Cheal A (both Cheal A and B wells).

We complained continuously to both Stratford District Council and Taranaki Regional Council. Eventually an abatement notice was served by Stratford District Council. Information provided to Stratford District Council indicated the infrastructure would be completed by June 2012. This has been extended to March 2013.

- 2.2 Taranaki Regional Council (TRC) provided information regarding the amount they were flaring. The documentation will show they have flared continuously for several months (beginning of December 2011 almost immediately after being granted SDC land-use consent). Air quality data was provided by TRC and according to TRC showed there was no concern. However it was data from one of the days when there was less gas flared. There were many days when it was at least doubled and a number of times quadruple the amount. On 25/02/12 there were 10554 cubic metres flared. This amount was exceeded on 134 days according to the documentation. The maximum amount flared was 51445 cubic metres on 8th March 2012.

2.3 We believe if this variation of flaring consent is granted then this allows for all the oil and gas behind pipe will be flared. According to TAG Oil Annual Report there are 7 wells (A1, A8, A9, A10, B1, B2 and B6) in this situation let alone anything else that will be drilled and produced from in the interim.

3. Third party processors of Cheal Gas

3.1 As part of the 2011 application for 10 oil and gas wells and subsequent hearing it was indicated any gas which was produced could be supplied to third party processors such as Waihapa Production Station. The issue with Waihapa production Station not being able to take excess gas occurred immediately. TAG Oil in their evidence (November 2012) indicates it was because Origin was not willing to start up their production station.

3.2 However Waihapa Production Station had been purchased by New Zealand Energy Corporation (NZEC). Origin is processing gas on behalf of NZEC. It is our understanding there is currently dissension between TAG Oil and NZEC as one of TAG Oil former employees is now working for NZEC. We believe in this situation it is very unlikely excess gas will be taken from TAG Oil.

3.3 Electricity co-generation was suggested as a means of mitigation for the gas. This was only introduced in the Officer's Report through reporting a discussion on-site with the consent holder. This is not included in the AEE. We believe this has not been appropriately presented as a viable alternative option.

3.4 We are of the opinion if the variation of the consent to flare is allowed and there are no suitable third party processors available all the wells behind pipe will be brought on line. We believe this variation should not be granted and TAG Oil should wait until the infrastructure is in place and has addressed the unlawfully consented wells/wellheads, production station and gas processing facilities. We believe the only reason TAG Oil is pushing ahead with this is because the oil is more valuable to them than the gas. Currently they have no adequate means of dealing with this by-product and staying within their consent limits. We believe TAG Oil knows suitable third party processors are not available.

4. Permanent gas processing facilities

4.1 Permanent gas processing facilities are currently being constructed without appropriate consent for several wells relating to it. The original single well was specifically for the production of oil not gas according to the 1995 landuse consent.

4.2 The Officer's Report states the "1991 consent allows for both oil and gas production". This is incorrect in the context of 1995 when this consent was granted. The 1995 land use consent specifically states producing from a single oil well. The approval of production of oil and gas from six wellheads in 2005 associated with the well consented in 1995 approved in 2005 was unlawful. Six wells were actually drilled and produced from. Refer to Section 1.

4.2 There should be no flaring from these wells. The construction of the gas processing facilities should cease until this matter has been investigated.

5. Water quality

5.1 Water quality was included in the applicant's Assessment of Environmental Effects for variation of consent. This is outside of the jurisdiction of the Stratford District Council.

6. Positive impacts to the community

6.1 The gas is a by-product of the oil production. We believe there is only one reason TAG Oil are seeking a variation of consent. We feel they cannot produce oil without excessively flaring. Oil is where their money is made. They have shareholders to report to.

TAG Oil state they employ between 100-200 people building the gas infrastructure. If there are no 'checks and balances' in place, that is appropriate regulation and monitoring, the health and safety of the community and workers are at risk.

7. Potential significance adverse environmental effects and noise and light disturbance.

7.1 It is potentially possible given the amount of flaring that has occurred there have been adverse environmental effects. Air quality data (Taranaki Regional

Council) provided for one day does not give a clear picture of the issue considering it was one of the 'lower' emission days chosen (Section 2.2).

There has been significant light disturbance for many months. It has taken many months of continuous complaints for the Stratford District Council to deal with this issue. We do not believe it is appropriate to allow them to flare continuously for several more months. We believe the oil and gas should stay in the ground or behind pipe until the consenting issues and health and safety mechanisms regarding the infrastructure relating to the flaring and production are appropriately resolved.

Decision sought:

The submitters are seeking the following decisions in relation to the application:

1. Flaring should only occur in emergency situations for the existing wells appropriately consented for. This should not include lack of third party processors.
2. The further 6 wells should be applied for under their own landuse consent with relevant Assessment of Environmental Effects.
3. Future drilling and producing (including flaring) should cease until the consenting process for these wells, the production station and gas processing facility has been completed appropriately.
4. Further drilling and producing (including flaring) should cease until the infrastructure is completed. The pipelines to Waihapa Production Station on our property should be removed.
5. Independent landuse reports on the planning, construction and monitoring of the production station and the planning, construction and monitoring of the gas processing facility should be sought. We believe the Head of Petroleum Wayne Vernon with the High Hazard Unit of the Department of Labour should investigate TAG Oil and Cheal.