

29 July 2011

Fracking under the Resource Management Act 1991

You are receiving this letter because you hold resource consents for hydrocarbon exploration and production activities in Taranaki.

Some members of society have recently expressed concern about the potential adverse environmental effects of the activity of fracking, a practice used by the oil and gas industry to enhance hydrocarbon recovery. The Council had held the view that the activity had very minimal environmental effect, given the depth it was undertaken beneath the surface and the thickness and nature of any overlying geological formations. Therefore it was considered the activity did not require regulation under the Resource Management Act (RMA). However, legal advice was recently sought on the matter to provide clarity.

The legal opinion has recently been received and it notes while the situation is complex a resource consent under the RMA could be required. A resource consent could be required under section 15 1 (d) and possibly under sections 15 1 (a) and (b) of the RMA, depending on the temperature/depth and particular circumstances of the situation. The Council has accepted this advice and accordingly reviewed its position.

The Council's Regional Fresh Water Plan for Taranaki (2001) contains catch-all type rules to cover discharge activities that are not specifically addressed elsewhere in the Plan. Of particular note is Rule 44 relating to the discharge of contaminants to land from industrial or trade premises. This rule, which includes section 15 1 (d) RMA requirements, is for a discretionary activity and could be applied to discharges from the activity of fracking.

Hence, from the date of this letter, resource consent will be required for fracking in Taranaki under Rule 44. Such applications are likely to be processed as non-notified given their no more than minor adverse effects and lack of affected parties given the depth that they occur. However, each application will be assessed on a case by case basis.

If you are currently in the midst of a fracking, then contact the undersigned and it is likely relief for a transition period could be granted. However, this would depend on the particular circumstances.

The Council has informed PEPANZ of the approach being taken to regulating fracking and intends, as a part of the review of the Plan, to maintain discussions to develop a specific rule that will address fracking. Other stakeholders will also be part of this dialogue. Given the minimal environmental effects of the activity it could be considered a permitted or

controlled activity under a revised Plan. However, this is part of the public process as part of that Plan review.

For those of you who may operate outside this region, the legal opinion will be shared with other regional/unitary councils. The Council will also share the work associated with developing a specific rule under its regional plan so other councils may consider this when reviewing their plans. This approach is supported by PEPANZ and should result in a consistent approach. However, this will be dependent upon the particular circumstances in each region.

The Council is currently preparing an information sheet for applicants to set out the information that will be required for a fracing activity application.

On 24 May 2011 the Council requested that you voluntarily supply information on fracing undertaken by your company as part of a review of the activity. There was an excellent response to the request with most supplying the data by the end of June 2011 deadline. The Council thanks those who have replied. The data is currently being reviewed. For the few who have not supplied the information a follow up letter will be sent shortly. Those who choose not to reply will be identified in any public communication on the matter.

If you have any queries regarding any of the above please contact the undersigned.

Yours faithfully
B G Chamberlain
Chief Executive

per: AD McLay
Director-Resource Management