

Concept Design for Wholesale Gas Market

Supplementary Note on Section 41 of Crown Minerals Act 1991

31 March 2006

A question that has arisen recently in relation to the design of the wholesale gas market is the effect, if any, that s41 of the Crown Minerals Act 1991 may have on that design. In particular whether the requirement for the Minister's approval for gas sales agreements may be a barrier to the development of a wholesale market.

S41(2)(d) provides that no holder of a prospecting, exploration, or mining permit under that Act or any other person may enter into an agreement which *imposes any obligation on the permit holder which relates to or affects the production of minerals from the land to which the permit relates or the proceeds of such production*, unless the agreement is entered into subject to the consent of the Minister and an application for that consent is made within 3 months after the date of the agreement.

S41 is mainly directed to requiring the Minister's consent to the transfer of, or creation of an interest in, a permit, but the above words in s41(2)(d) arguably bring sales of gas by permit holders within its scope.

The Ministry of Economic Development recognises that s41(2)(d) is difficult to interpret and proposes to issue a practice note relating to it in the near future.

We do not believe that s41(2)(d) will be an impediment to the design and implementation of a new wholesale gas market in a form acceptable to the industry and government, and consider that, if necessary, appropriate steps will be taken to ensure that this is so.

Once the market design has been advanced to a suitable stage, we intend to have dialogue with MED to ensure the necessary arrangements are made. Therefore, your submission should assume this issue will be settled in due course and there is no need for further input on the matter of s41 at this stage.

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