

25 August 2021

Hon Dr Megan Woods MP  
Minister for Energy and Resources  
Parliament Buildings  
**Wellington**

By email: [m.woods@ministers.govt.nz](mailto:m.woods@ministers.govt.nz)

Dear Minister

### **Decisions to grant onshore petroleum exploration permits**

1. We refer to your recent decisions to grant onshore petroleum exploration permits to Greymouth Gas Turangi Limited (**Greymouth**) and Riverside Energy Limited (**Riverside**) as part of the 2019 Block Offer.
2. The decisions to grant the permits are deeply concerning to Lawyers for Climate Action NZ Inc. (**LCANZI**). In our previous letter to you dated 26 January 2021, we noted that:
  - (a) the only rational decision under s 25 of the Crown Minerals Act 1991 (**CMA**) was not to issue any permits as part of Block Offer 2019, given the best available science on the existential threat to ecosystems and human populations posed by climate change; but that
  - (b) if permits were issued, they needed to contain conditions enabling the Crown to restrict or revoke the permit-holder's rights without compensation if this were deemed necessary to address the threats posed by climate change and/or to meet the Crown's domestic obligations or the international obligations of New Zealand.
3. Your letter of 19 July 2021 did not directly take issue with these points, but suggested that emissions resulting from petroleum exploration and extraction can be managed under the Climate Change Response Act and/or the Resource Management Act. While we agree that those Acts are important aspects of the overall regulatory framework, they do not resolve our concerns about the irrationality of issuing petroleum exploration permits in a climate emergency, or the risk of the Crown being liable to compensate permit holders if they are later prevented from fully exploiting permit areas.
4. Indeed, since our letter, the evidential and legal basis for these propositions has only strengthened:

- (a) The first instalment of the Intergovernmental Panel on Climate Change (IPCC)'s Sixth Assessment Report - the report of the IPCC Working Group I entitled *Climate Change 2021: The Physical Science Basis* (AR6 WGI report) – has been released. The report concludes that in the coming decades climate changes will increase in all regions including New Zealand, and that unless there are immediate, rapid and large-scale reductions in greenhouse gas emissions, limiting global warming to close to 1.5°C or even 2°C will be beyond reach. New Zealand is a member country of the IPCC and has participated in plenary sessions of WGI leading to the adoption of the AR6 WGI report, as part of which it “approved” the Summary for Policymakers by agreeing to it following detailed line-by-line discussion, and “accepted” the full report by acknowledging that the report presents a comprehensive, objective and balanced view of the subject-matter.
- (b) The High Court of New Zealand has recognised that the Crown has a positive obligation to take proactive steps to protect the lives of New Zealanders from serious risks of harm under s 8 of the New Zealand Bill of Rights Act 1990.<sup>1</sup>
- (c) Several international courts have issued major judgments on climate issues, including judgments:
- (i) In Australia, recognising that Ministers of the Crown owe duties of care in negligence to young people when exercising statutory powers of decision to issue consents which have the potential to result in significant emissions of greenhouse gases;<sup>2</sup>
  - (ii) In Germany and Belgium, recognising that national regulation of greenhouse gas emissions must be compliant with international human rights obligations, including the right to life and the right to privacy and home life;<sup>3</sup> and
  - (iii) In the Netherlands, that private multinational companies engaged in exploration for oil and natural gas with global operations have a duty of care to mitigate their global emissions in accordance with the best available science.<sup>4</sup>
- (d) The International Energy Agency has issued a special report on the role of oil and gas in meeting a maximum warming target of 1.5°C, with its emissions reduction pathways

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<sup>1</sup> *Wallace v Attorney-General* [2021] NZHC 1963.

<sup>2</sup> *Sharma v Minister for the Environment* [2021] FCA 560

<https://www.judgments.fedcourt.gov.au/judgments/Judgments/fca/single/2021/2021fca0560>

<sup>3</sup> *BVerfG, Order of the First Senate of 24 March 2021* (1 BvR 2656/18)

<https://www.bundesverfassungsgericht.de/SharedDocs/Pressemitteilungen/EN/2021/bvg21-031.html> and *ASBL Klimaatzaak v State of Belgium* (Brussels Court of First Instance – Civil, JUG-JGC No 167) (17 June 2021)

<https://www.theguardian.com/world/2021/jun/18/belgium-climate-policy-violates-human-rights-court-rules>

<sup>4</sup> *Vereniging Milieudefensie v Royal Dutch Shell plc* C/09/571932 / HA ZA 19-379 (26 May 2021) [https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBDHA:2021:5339&showbutton=true&keyword=Shell#\\_dd69bcea-b686-4197-9d71-c429f2e238a](https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBDHA:2021:5339&showbutton=true&keyword=Shell#_dd69bcea-b686-4197-9d71-c429f2e238a)

requiring immediate and rapid action away from fossil fuels. One necessary milestone in its pathways for 2021 is:<sup>5</sup>

No new oil and gas levels fields approved for development; no new coal mines or mine extensions.

5. The developments above are recent, but they do not reflect some new understanding. Rather they reflect the increased urgency necessary due to years of inaction. The proposition that new fossil fuel extraction projects cannot proceed if the world is to have a probable chance of keeping within the emissions budgets necessary to prevent dangerous climate change has been well-known for years.
6. It is unclear to LCANZI whether the decision-making process leading to the grant of permits to Greymouth and Riverside involved an assessment of the evidence and legal obligations set out above and in our previous letter. It is also not apparent whether the permits issued to Greymouth and Riverside contain the conditions we have outlined.
7. LCANZI requests under the Official Information Act 1982 copies of the permits issued to Greymouth and Riverside, including any conditions to which they are subject, and all documents relating to the decisions by you about whether and on what terms to issue exploration permits to anyone as part of Block Offer 2019 (not just Greymouth and Riverside).
8. We look forward to hearing from you.

Ngā mihi



**Jenny Cooper QC**

President, Lawyers for Climate Action NZ

cc: Hon Grant Robertson MP, Minister of Finance  
Hon James Shaw MP, Minister for Climate Change Issues

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<sup>5</sup> International Energy Agency *Special Report: Net Zero by 2050 a Roadmap for the International Energy Sector – Summary for Policymakers* (July 2021) at pp 20 – 21.