

IN CONFIDENCE

Office of the Minister of Energy and Resources

Chair, Cabinet Economic Development Committee

Proposed changes to the Crown Minerals Act 1991

Proposal

- 1 To consider possible changes to the Crown Minerals Act 1991 (the Act), following the Government's announcements that no further offshore Petroleum Exploration Permits will be granted and that Petroleum Exploration Permit Rounds (block offers) will only be held for onshore Taranaki blocks over the next three years.
- 2 This paper seeks agreement: on the Government's outcomes around implementing these new announcements; how existing permit holder's rights are to be preserved; and on a two-stage legislative review.

Executive Summary

- 3 The Government has recently announced changes to the way it intends to manage the Crown minerals estate with respect to new petroleum exploration. The announcements on 12 April 2018 signalled the Government's intention to limit the area available for future petroleum exploration to onshore Taranaki. I am now seeking Cabinet's agreement to a number of outcomes for implementing the proposed changes.
- 4 These outcomes are aimed at giving effect to the Government's announcement for new petroleum exploration while preserving the rights of existing permit holders. This includes the right to continue to explore for and mine petroleum offshore where it is discovered in commercial quantities. Consultation on an area in onshore Taranaki that will also be available for new petroleum exploration as part of Block Offer 2018 has recently concluded. I am confident that the process followed to date with respect of this Block Offer round has been consistent with my obligations under the Act.
- 5 My officials recommend changes to the Act to allow for the smooth operation of any Taranaki only block offers while a wider review of the Act is undertaken. There are also currently provisions in the Act that could allow for further offshore petroleum exploration permits to be applied for, contrary to the Government's new policy, now that no further offshore blocks will be made available through block offers.
- 6 As such, I am proposing a two-stage legislative approach to meet the Government's outcomes. The first tranche would proceed quickly, but would make only those changes necessary to give effect to the new offshore policy and allow onshore Taranaki block offers to be run. The second tranche would involve a wider review of the Act, with input from the public and stakeholders, over a more typical legislative timeframe.

- 7 While this paper discusses some of the options for how to give effect to the new policies, it is not seeking Cabinet agreement to specific choices. My intention is that, unless Cabinet has strong views on the specific legislative approaches, it agrees on the outcomes and allows me to work with Parliamentary Counsel (PCO) with these outcomes in mind. This will allow PCO greater flexibility in drafting the changes to meet the outcomes, but my intention is to return to the Economic Development Cabinet Committee for approval before the changes are introduced into Parliament.

Background

- 8 Petroleum production has occurred in the Taranaki region since the beginning of the 1900s, after oil was first discovered in the mid 1800's. Today, production of petroleum comes from 27 fields located in the onshore/offshore Taranaki Basin. Exploration for petroleum is currently focussed on three main areas; offshore Great South & Canterbury basins, the Offshore East Coast & Pegasus basins and the onshore/offshore Taranaki Basin.
- 9 Exploration since 2012 has been facilitated by the annual block offer tender process. After a period of consultation, block offer release areas are confirmed and made available for application. This is not a financial tender. To be successful, bids must set out how the company proposes to explore its desired permit area, including the methods and technologies they plan to use. Bids can be made by individual companies or joint ventures.
- 10 Typical work programme bids through block offer would start with a series of studies and surveys of the permit area. A series of commitment or surrender decision gates focus the permit holder's activities on the most prospective areas, while relinquishing portions of the permit area thought to be less prospective. At any stage a permit may be relinquished in full and all data must be provided to the Government, which improves our knowledge of the resource. Finally, if a discovery is made the next step is to assess the commercial feasibility and if feasible, a mining permit would be granted to produce the petroleum.
- 11 On 9 April 2018, Cabinet noted two policy announcements to be made on 12 April 2018 [CAB-18-MIN-0162]. As part of these announcements, I outlined my intention to limit the area available for Block Offer 2018 to onshore blocks in Taranaki. Block Offer 2018 is continuing and I am confident in the process that has been followed to date.
- 12 The Prime Minister also announced that there will be no offshore blocks offered in future block offers or through an alternative process.
- 13 At the Cabinet meeting of 9 April 2018, I advised Cabinet that I intended to submit a paper to Cabinet in the near future setting out the full details of this new policy, including clarification around the rights of existing permit holders as well as the fiscal and legislative implications.
- 14 I also advised Cabinet of my intention that this policy will not affect the rights of current permit holders to continue production or exploration activities under existing permits, including, but not limited to, the right of existing exploration permit holders to apply for subsequent mining permits should they discover commercial quantities of petroleum offshore.
- 15 This paper outlines the next steps following Cabinet's previous discussion of these new policies and the Government's subsequent public announcements.

Government's outcomes

- 16 I consider the Government's key outcomes for the management of petroleum resources following the announcement of these policies are:
- 16.1 To give effect to the new offshore petroleum exploration policy while preserving the rights of existing permit holders (either petroleum or other minerals).
 - 16.2 To hold a block offer for onshore blocks in Taranaki for 2018, and again in 2019 and 2020.
 - 16.3 To prohibit surface access to conservation land for certain activities, such as drilling, as they specifically relate to Taranaki block offer 2018, 2019, and 2020.
 - 16.4 To ensure the onshore Taranaki block offer processes are robust and therefore unlikely to be subject to successful judicial review proceedings.
 - 16.5 To reduce the risk that applications for offshore Petroleum Exploration Permits (PEPs) will be made outside of the onshore Taranaki block offer process, which could lead to new PEPs being granted contrary to the Government's new policy, on the basis of the current law.
- 17 The first outcome follows directly from the previous Cabinet discussion and public announcement.
- 18 The second outcome reinforces my intention at the time of the announcement that no onshore areas outside of Taranaki would be available and offered over the next three years.
- 19 The third outcomes relates to the Government's new policy around no new mines on conservation land. The work stream to progress this policy is outside of the scope of this paper and will not be completed in 2018.
- 20 There is a need to consider interim measures for how conservation land is treated for Block Offer 2018. Therefore, while the details on the no new mines on conservation land policy are still being developed, my intention is to prohibit surface access to conservation land for certain activities, such as drilling, as they specifically relate to Taranaki block offer 2018, 2019 and 2020.
- 21 This is not intended to set a precedent for the conservation land work, but recognises that there are interactions between the two work streams. To exclude conservation land from Block Offer 2018 while the no new mines policy is developed, legislative changes may be required to the Act.
- 22 The last two outcomes are about managing the legal risks associated with the Government's recent announcement, which are summarised in the legal risk section of this paper.

Recommended approach

- 23 The current legislation is not broad enough to give effect to the recent announcement, and so legislative changes are required.
- 24 MBIE advises a substantive review of the Act would be the best approach to give effect to the new offshore policy. However, some immediate changes can be made to give effect to the Government's outcomes as soon as possible. This reflects that the new offshore policy is a significant departure from previous approaches, and that careful consideration of the future legislative and regulatory settings for the Crown mineral estate is now warranted.
- 25 Under the Minerals Programme for Petroleum 2013 (the Petroleum Programme), the Government is expected, but not required, to hold an annual block offer process. In addition to any industry expectations, there are benefits in continuing to hold an onshore block offer to help achieve the Government's overarching objectives for the energy sector.
- 26 With regard to the Government objective of maintaining security of energy supply, recent data show that natural gas reserves are sufficient to cover 10.2 years of current demand. This is broadly in line with previous annual reserve figures, which have remained between 10 and 14 years of annual demand since 2003. The latest production profiles provided to MBIE show existing demand will exceed supply from the early 2020s. Lower supplies of gas will create upward pressure on prices. A rise in gas prices would also flow through to electricity prices.
- 27 Given the offshore petroleum exploration announcement, the Government is in a position where it now needs to consider either:
- 27.1 running an onshore block offer under the current legislation which is inconsistent with the purpose of the current Act,
 - 27.2 not running any block offers while a substantial review of the Act is undertaken, or
 - 27.3 making minimal immediate changes to the Act to allow for robust onshore block offers in the short-term, followed by a more substantive review of the Act.
- 28 I consider there is potential for an impact on business confidence if the Government is seen to be resile from its public announcement to proceed with onshore block offers for the next three years. I also consider there is a risk that without changes to the Act to maintain a robust legislative framework to support the onshore block offers, firms will be less likely to participate.
- 29 Either of these options could lead to firms choosing to exit (or not enter) the New Zealand industry while the details of the new policies are worked through.
- 30 Therefore, I am proposing a two part approach:
- 30.1 **Tranche one** will consider only those legislative changes considered necessary to give effect to the new offshore policy and allow onshore block offers to be run successfully; and

- 30.2 **Tranche two** will embark on a wider review of the Act on a more typical timeframe, starting with an issues paper and consultation with stakeholders later in 2018. More details on Tranche two are provided from paragraph 64 onwards.
- 31 This approach minimises the risk of unintended consequences arising from the immediate changes proposed under Tranche one, while providing a robust framework for the onshore block offer processes in the interim.
- 32 It also allows the Government to follow a more typical process in considering the long-term settings under the Act, which would include public and stakeholder engagement, while onshore block offers continue to run.
- Issues to consider under Tranche one**
- 33 There are multiple approaches that could give effect to the new policies. Some of the key choices are discussed below. I am not seeking Cabinet agreement to these specific choices, rather I expect PCO to draft with these issues in mind and it is my intention to return to the Economic Development Cabinet Committee for approval before the changes are introduced into Parliament.
- Whether to give effect to the offshore policy as a new Ministerial power, or in the Act directly*
- 34 Giving effect to the new policy that no further offshore PEPs are issued can be achieved by creating a new statutory power for the Minister of Energy and Resources in the Act that could then be utilised, subject to criteria set out in the Act, to give effect to the policy. Alternatively, the specific details on the offshore policy could be written into the Act directly.
- 35 Creating a new Ministerial power in the Act to limit the areas over which PEPs could be granted would enable some flexibility on how to give effect to the policy. In particular, it could allow changes to the land area over which the policy applies to be considered over time, without the need for further legislative change.
- 36 It could also allow flexibility to consider case-by-case exceptions to the rule. For example, the Minister could use the power to make some specific offshore land available, or to make some onshore land, like conservation land, unavailable.
- 37 Criteria for the use of this Ministerial power would be set out in the Act. These criteria have yet to be developed, but could be created in a way to minimise the likelihood of a successful judicial review and to fetter the level of Ministerial discretion.
- 38 An alternative approach is to specify the details of the policy into the Act directly. Specifying the policy directly into legislation is the clearest way of giving effect to the policy. It would avoid concerns around scope creep from stakeholders who may have limited opportunity to review and comment on legislative changes made under the first tranche of reforms.
- 39 Making a decision now to create a new statutory power in Tranche one would not preclude consideration of making this change in the Act as part of Tranche two then removing the Ministerial power.

Whether to amend the purpose of the Act

40 The purpose of the Act is:

To promote prospecting for, exploration for, and mining of Crown owned minerals for the benefit of New Zealand.

To this end, this Act provides for—

- *the efficient allocation of rights to prospect for, explore for, and mine Crown owned minerals; and*
- *the effective management and regulation of the exercise of those rights; and*
- *the carrying out, in accordance with good industry practice, of activities in respect of those rights; and*
- *a fair financial return to the Crown for its minerals.*

41 The purpose acts as a lens through which the rest of the Act and the associated regulations are interpreted. Either the creation of an explicit carve out from the purpose for offshore PEPs or an amendment to the purpose may be required in order to fully implement the Government's new policies.

42 Making changes to the purpose of the Act is a significant step, and is one that could have unintended consequences both for how the Government interprets and applies the Act when making permit or access arrangement decisions for new permits, and for how the industry perceives New Zealand as an investment destination.

43 Any substantive amendment to the purpose where stakeholders have had no or limited opportunity to comment is likely to attract criticism. However this needs to be balanced against the need to give effect to the decision and seen in the context of the two tranche process.

44 It is possible to create a new power in the Act or clauses in the Act that are inconsistent with the purpose clauses, so long as it is clear how they should be applied, notwithstanding any inconsistency. Such an approach is, however, unusual and may also attract criticism. This approach could also lead to uncertainty and might be interpreted in a way that does not give full effect to the policy as intended.

45 Subject to the nature of any amendments, an amended purpose could allow broader changes to the Petroleum Programme to support the new policy or block offers. It would also assist the Crown to create a consistent regulatory regime and support the “no new mines on conservation land” policy as this work progresses.

46 The disadvantages are that it would be negatively received by a range of industry stakeholders with a possible negative effect on investment decisions, and it would require subsequent short-term changes to both the Petroleum Programme and the Minerals Programme for Minerals (excluding Petroleum) 2013 (the Minerals Programme) to reinterpret the new purpose.

Whether to clarify that an application under s23A of the Act cannot be made over any land that has been made unavailable

47 Section 23A of the Act states:

Any person or persons may apply to the chief executive for a permit in respect of a mineral in land, whether or not there is a minerals programme for that mineral.

- 48 There is potentially an inconsistency between section 23A and the new policies. This inconsistency is discussed in the legal risk section of this paper.
- 49 It will be desirable to make it clear as part of the legislative changes that section 23A will not apply to land that has been made unavailable under the new policies.

Whether to create provisions for any current PEP applications and provisions that protect the rights of current permit holders

- 50 The Act can be amended to clarify that any PEP applications received under section 23A from the time of introduction of the bill that had not been fully assessed at the time of Royal Assent would be assessed under the revised Act.
- 51 The Act can also be amended to ensure that the rights of current permit holders (including prospecting, exploration and mining permits) are protected by the proposed legislative changes in Tranche one. This would essentially allow any statutory decisions on existing permits to continue as if no changes had been made to the Act.

Clarification around the rights of existing permit holders

- 52 In announcing the new offshore policy, the Government has been clear that the rights of existing permit holders will be protected. There is a need to clarify what this entails, both to ensure permit holders are not subject to unnecessary uncertainty, but also to make it clear that this preservation of existing rights does not amount to a perpetual right to be free from further legislative or regulatory changes.
- 53 Part of this is acknowledging that the recent policy announcements have created short-term uncertainty for the industry, and that this uncertainty will affect their current and future investment decisions. In many cases, investment opportunities in New Zealand will compete with investment opportunities overseas.
- 54 Notwithstanding this short-term uncertainty, the Government's intention for making the offshore policy announcement has been to provide certainty to industry and affected communities about the long-term transition that is needed and to avoid sudden economic shocks.
- 55 Block offers are designed for firms to make work programme commitments in order to secure the best exploration opportunities. These commitments are staged to match the exploration cycle, with permit areas being scaled back in size to focus on the most prospective areas within the original permit area. Relinquished permit areas are then re-offered in subsequent block offers.
- 56 Now that there will be no further reallocation of offshore exploration areas, this mechanism may lead to perverse outcomes. This is because firms may choose to exit their exploration permits early due to the short-term uncertainty, and focus on increasing production or exploration in other jurisdictions.
- 57 Beyond the status quo, there is an opportunity now to look at what can be done in the short-term within the Petroleum Programme to provide more flexibility for existing permit

holders, particularly in terms of considering time extensions for work programmes where investment decisions may have been affected by the short-term uncertainty.

Existing rights to be protected

- 58 Existing petroleum permit and licence holders hold a number of rights granted under the existing or previous legislation. The main rights include but are not limited to:
- 58.1 Royalties are grandfathered from the time of initial investment¹;
 - 58.2 Exclusivity² of rights to explore and mine for petroleum within the permit area;
 - 58.3 Right of an exploration permit holder to apply for and be granted a subsequent mining permit where the permit holder has made a commercial discovery and has proposed a satisfactory work programme to mine that discovery, and where other relevant legislative tests are met;
 - 58.4 Some permit information is not to be publicly released before specified legislated timeframes depending on the nature of the information to be released³; and
 - 58.5 The right⁴ to apply for the following:
 - 58.5.1 Changes to work programme conditions;
 - 58.5.2 Extensions of duration;
 - 58.5.3 Extensions of land to which the permit relates;
 - 58.5.4 Transfers of interest in a permit, changes to control of a permit participant⁵, or changes to a permit operator.
- 59 I propose that Cabinet agrees to preserve the rights of existing permit holders so they may continue production or exploration activities under existing permits, including, but not limited to, the right of existing exploration permit holders to apply for subsequent mining permits should they discover commercial quantities of petroleum offshore.
- 60 The Tranche two wider review is not intended to immediately subvert or undermine the decision not to grant further offshore petroleum exploration permits, but will consider the appropriate settings for managing activities associated with the Crown minerals estate over the longer-term, in consultation with industry and other stakeholders. It is important

¹ The Act at clause 4, Schedule 1 sets out that the royalties are grandfathered from the existing permit, or initial permit if the existing permit is a subsequent permit.

² Subject to what is in the actual permit. For example, some permits say exclusive rights to conventional petroleum, some say petroleum. Some exclude coal seam gas and gas hydrates from petroleum.

³ For example data is released annually in the case of reserve and production data, up to 15 years for speculative prospecting data, and five years for most types of information.

⁴ While the right to apply for changes to permits including work programme conditions will be preserved, changes may be considered in future to the criteria in the Petroleum Programme which such applications are assessed against.

⁵ Currently, a change of control of a permit operator is an obligation to notify, and does not require an application. However, proposed changes (otherwise unrelated to the issues in this paper) currently before the Economic Development, Science and Innovation Select Committee would require consent from the Minister of Energy and Resources for a change of control of a permit operator.

to signal that the Government is not creating a perpetual immunity from future regulatory or legislative changes that may be required.

Certainty for investment decisions around block offers between 2018 and 2020 and beyond

- 61 The level of investment interest in onshore-only block offers in Taranaki is likely to be significantly lower than wider block offers. This is partly due to the scale of the block offer being much smaller which is unlikely to attract much international interest, and partly because much of this area has been explored since oil was first produced in the area in 1865, or is currently allocated to existing exploration or production permits.
- 62 There are still some potentially prospective areas available and initial discussions with industry suggests some interest in obtaining permits for these areas. Based on my discussions with stakeholders to date, there are some key questions that will weigh heavily on investment decisions in the short to medium-term:
- 62.1 What are the Government's plans for onshore block offers after 2020?
 - 62.2 Does the Government have any other reforms (e.g. additional resource consenting or seismic surveying requirements) that would impact on the ability of permit holders to operate new or existing permits?
 - 62.3 What impact will the proposed marine mammal sanctuary off the south coast of Taranaki have on existing permit activities?
- 63 While these questions are outside of the scope of this paper, it will be important for the Government to consider how these existing rights could be affected by these decisions. Providing additional clarity around the Government's position on these questions now would provide industry with a greater level of investment certainty.

Legislative changes needed under Tranche two

- 64 In addition to the changes I am proposing in this paper, I consider that it will be necessary to signal a wider review of the legislative and regulatory settings for the Crown minerals estate for the medium to long-term. My view is that while the Act has been effective in attracting investment and exploration to date, there are now broader issues that need to be considered.
- 65 In particular, I am keen to ensure that existing petroleum production is managed well during the life of existing permits and that when the time comes the associated facilities and infrastructure are decommissioned properly, in a way that is consistent with good industry practice and a just transition. I am also aware that merger and acquisition activity is leading to new operators entering the New Zealand petroleum industry. While this provides new opportunities, there are also risks associated with any change of operatorship (or control of operatorship), and it will be important to ensure any risks are effectively managed.
- 66 In addition, this wider review will provide an opportunity to engage with stakeholders and address issues with the legislation where it may be unclear or creating perverse outcomes.

Consultation

- 67 MBIE has consulted with the Treasury, the Department of Conservation, the Ministry for the Environment, the Parliamentary Counsel Office and the Department of Prime Minister and Cabinet on this paper.

Fiscal and financial implications

Fiscal implications

- 68 When the new offshore policy was first discussed at Cabinet, it noted that I would report back on the fiscal implications of the new offshore exploration policy. It is important to distinguish between direct fiscal implications for the Crown and the economic implications for the whole New Zealand economy.
- 69 The announcement of the policy needs to be seen in the context of global commodity cycles. Global exploration development expenditure was in steady decline following the sharp drop in oil prices in 2014. Participants focused on strategies to optimise production while deferring exploration investment. The impact of this locally was a decline in jobs and investment. The global trajectory shifted from around 2017 with increased expenditure in exploration activities and an increase in development projects being approved. Over the coming decades the ability to predict the time and magnitude of oil and gas commodity cycles will be increasingly difficult and inaccurate.
- 70 There is no immediate fiscal impact because the policy only affects new PEPs, and it typically takes several years from making a new discovery to bringing production online. This forward activity is not reflected in the Government's books.
- 71 The new policy is likely to have both an economic impact in the medium-term, and a long-term fiscal impact in terms of forgone royalties and tax revenue that might have been collected from future permit holders. It is difficult to accurately quantify these impacts, as while the benefits of a new discovery can be estimated, it is difficult to predict when (if ever) a new commercial discovery might have been made.
- 72 It is also difficult to quantify the impact on the economy if no new discovery is made from the existing PEPs. At present, remaining gas reserves equate to 10.2 years of current demand. Natural gas is used in a number of commercial and industrial applications from methanol or fertiliser production, to electricity generation, to providing heat for hospitals and schools. There are also approximately 280,000 homes that use natural gas for hot water heating and cooking. Historically, over 70 per cent of this natural gas has been provided from offshore permits.
- 73 There are likely to be opportunities for gas users to switch to electricity or other sources as part of the country's long term transition to a low emissions' future. To allow sufficient time for a transition to renewable sources, it is important to ensure the policy settings for existing petroleum exploration and mining permits are sufficient to encourage investment in extending the life of existing gas fields while new fields are discovered.
- 74 The new offshore policy may also result in existing asset owners choosing not to invest to extend the life of assets (particularly of "late in life" assets), bringing forward the decommissioning of these assets. The Crown is liable for up to 42 per cent of decommissioning costs for royalties and taxes that have effectively been overpaid during the course of field production.

Financial implications

- 75 There are no immediate financial implications as a result of this paper.
- 76 There may be financial implications in the future as a result of lower overall petroleum permit fees paid to MBIE under the new offshore policy. These permit fees are collected to recover costs from activities associated with managing permits and promoting mineral exploration in New Zealand. In 2016, when the fees were last reviewed, the memorandum account was in deficit. Cabinet agreed at the time that this deficit should be stabilised in the short-term but that the fees would be reviewed again in 2019 with a view to bringing the memorandum account back into balance.
- 77 MBIE intends to review permit fees in 2019 as part of the wider review of the Act under Tranche two. There may be some additional challenges to increase permit fees given that offshore PEPs, which typically incur the highest fees, will no longer be granted. Should this result in financial implications for the Crown, they will be addressed at the time.

Human Rights

- 78 There are no human rights implications.

Legal risks

79 s 9(2)(h)

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Legislative Implications

- 83 I am seeking Cabinet approval to seek advice and drafting assistance from PCO on the options to enable the drafting of a bill for introduction to the House as soon as practicable.

⁶ MBIE has sought a peer review from Crown Law and a barrister of this advice.

Following this, there are likely to be subsequent changes to the Petroleum Programme before block offer 2018 commences.

- 84 There is a tension between the desirability of a typical four to six month Select Committee process and the Government's objectives to give effect to its new policy to hold a successful block offer in 2018 with minimal risk of successful judicial review and also in closing the possibility that PEPs could be sought outside of the normal block offer process.
- 85 Ultimately, when the Government weighs up these competing objectives, it may need to consider the use of urgency for the immediate legislative changes and/or a truncated Select Committee process for Tranche one.
- 86 While a draft bill would typically return to Cabinet via the Legislation Cabinet Committee, I am proposing that options on a draft bill will return via the Economic Development (DEV) Cabinet Committee for further discussion to reflect that the choices made in drafting the bill may have wider policy considerations. This will also give DEV an opportunity to consider the timing of the proposed changes in light of the final content of the bill.

Tranche two

- 87 There will also be legislative implications associated with the wider review of the Act under Tranche two. In addition, there are likely to be some further regulatory changes needed to the Minerals Programme and the Petroleum Programme as a result. There will also need to be consideration of the fees regulations as part of Tranche two.

Regulatory Impact Analysis

- 88 This paper is seeking agreement to progress the further development of possible regulatory amendments. It is not seeking final agreement on what the changes should be, so a regulatory impact statement has not been prepared. A statement will be prepared after the required analysis has been completed and before I return to Cabinet to seek agreement to the final proposed changes.

Treaty of Waitangi Implications

- 89 The proposals in this paper have no immediate Treaty implications, but it will be necessary to consult with iwi and hapū as part of the wider review in Tranche two, to ensure their views are reflected in the policy development.

Gender Implications

- 90 The proposals in this paper have no gender implications.

Disability Perspective

- 91 The proposals in this paper have no implications from a disability perspective.

Publicity

- 92 I do not intend to make any public announcements associated with this paper.

Recommendations

I recommend that Cabinet:

- 1 **Note** on 9 April 2018, Cabinet noted [CAB-18-MIN-0162] two policy announcements to be made on 12 April 2018; my intention to limit the area available for Block Offer 2018 to onshore blocks in the Taranaki Basin and that there will be no offshore blocks offered in future block offers or through an alternative process.
- 2 **Agree** the Government's key outcomes around these new policies are:
 - 2.1 To give effect to the new offshore petroleum exploration policy while preserving the rights of existing permit holders (for either petroleum or other minerals).
 - 2.2 To hold a block offer for onshore blocks in Taranaki for 2018, and again in 2019 and 2020.
 - 2.3 To prohibit surface access to conservation land for certain activities, such as drilling, as they specifically relate to Taranaki block offer 2018, 2019, and 2020.
 - 2.4 To ensure the onshore Taranaki block offer processes are robust and therefore unlikely to be subject to successful judicial review proceedings.
 - 2.5 To reduce the risk that applications for offshore Petroleum Exploration Permits (PEPs) will be made outside of the onshore block offer process, which could lead to new PEPs being granted contrary to the Government's new policy on the basis of the current law.
- 3 **Agree** to pursue a two part approach to achieve the outcomes above:
 - 3.1 **Tranche one** will consider only those legislative changes considered necessary to give effect to the new offshore policy and allow onshore block offers to be run successfully; and
 - 3.2 **Tranche two** will embark on a wider review of the Act on a more typical timeframe, starting with an issues paper and consultation with stakeholders later in 2018.
- 4 **Note** there are multiple approaches that could give effect to the new policies that will require a level of trade-off or Ministerial preference between competing outcomes.
- 5 **Note** the changes are likely to require the creation of:
 - 5.1 a new Ministerial power under the Act to allow the Minister of Energy and Resources to set aside or "carve-out" areas of land over which PEPs cannot be granted or can only be granted subject to certain conditions, and/or
 - 5.2 new clauses in the Act that would prevent PEPs from being granted offshore.
- 6 **Note** that either option under recommendation 5 will likely require either:
 - 6.1 a carve out from the purpose of the legislation; or
 - 6.2 amendments to the purpose.
- 7 **Agree** to clarify in the Act that an application for a PEP under section 23A of the Act cannot be made over any land that has been made unavailable to PEPs.

- 8 **Agree** to amend the Act so PEP applications made under section 23A before the new law commences will be assessed in accordance with the new law.
- 9 **Agree** to preserve the rights of existing permit holders so they may continue production or exploration activities under existing permits, including, but not limited to, the right of existing exploration permit holders to apply for subsequent mining permits should they discover commercial quantities of petroleum offshore.
- 10 **Agree** the Minister of Energy and Resources may seek advice from Parliamentary Counsel Office on the drafting of a bill to give effect to the Government's outcomes under Tranche one.
- 11 **Note** I intend to bring another paper to Cabinet via the Economic Development Cabinet Committee that will include options for consideration and seek agreement on a final approach for Tranche one and associated timing considerations.
- 12 **Note** I also intend to seek policy decisions on supporting changes to the Petroleum Programme to be progressed in 2018.
- 13 **Note** I intend for this paper to be published, with redactions consistent with the Official Information Act 1982, on the MBIE website once the new legislation has been introduced in Parliament.

Authorised for lodgement

Hon Dr Megan Woods

Minister of Energy and Resources