Regulatory Impact Statement

Crown Minerals Act Review: Minerals Programmes and Regulations

Agency Disclosure Statement

1 This Regulatory Impact Statement has been prepared by the Ministry of Business, Innovation and Employment.

2 It provides an analysis of options to apply the objectives of the review of the Crown Minerals Act regime to new minerals programmes and revised regulations under the Act. The Crown Minerals Act regime encompasses the Act, minerals programmes and regulations, and regulates the prospecting for, exploration for, and mining of Crown-owned minerals.

3 Cabinet has previously agreed to amendments to the Crown Minerals Act 1991 regime as part of the review of the regime [EGI Min (12) 15/4, CBC Min (12) 6/7 and CAB Min (12) 42/4]. This followed public consultation on the discussion paper, *Review of the Crown Minerals Act 1991 Regime* and release of the report of the Royal Commission of Inquiry on the Pike River Coal Mine Tragedy. The Crown Minerals (Permitting and Crown Land) Bill implements decisions to amend the Act to give effect to the objectives of the review.

4 This Regulatory Impact Statement (RIS) covers proposals to revise regulations and minerals programmes under the amended Act. Policy proposals that are being implemented in amending the Act via the Crown Minerals (Permitting and Crown Land) Bill have been considered in an earlier RIS. In some cases, reference will be made to the previous *Regulatory Impact Statement for proposed changes to the Crown Minerals Act 1991 regime*, without repeating general conclusions or revisiting decisions already made.

5 The proposals covered by this RIS are judged unlikely to impose additional costs on the business sector overall. Any costs that result will be negligible or minimal. Many changes will provide greater flexibility for permit holders, and potentially reduce costs. The proposals are also judged unlikely to impair private property rights, market competition, or the incentives for businesses to innovate and invest; or override fundamental common law principles.

Alice Hume

Manager, Resource Markets Policy; Resources, Energy and Communications Branch;
Infrastructure and Resource Markets Group; Ministry of Business, Innovation & Employment

Status Quo and Problem Definition

6 The Crown Minerals Act 1991 regime (CMA regime) encompasses the Act, minerals programmes and regulations, and regulates prospecting for, exploration for, and mining of Crown-owned minerals. The minerals programmes set procedures and practices in relation to Crown-owned minerals.[1] The regulations encompass application processes, reporting, and fees.[2]

7 A review of the CMA regime was initiated in March 2012 with the release of a discussion paper, *Review of the Crown Minerals Act 1991 Regime*. The proposals in the paper were based on the three objectives set out in paragraph 12. The Crown Minerals (Permitting and Crown Land) Bill implements decisions to amend the Act to give effect to the objectives of the review.

Problem definition

8 To operationalise the amendments proposed to the CMA regime the minerals programmes and regulations need to be revised. It is necessary for new minerals programmes and amended regulations to take effect when the amended Act takes effect, so that the revised regime can operate effectively as a whole.

9 The changes to the Act, and the programmes and regulations, seek to address the following critical issues with the current CMA regime:

Issue 1 Complex and unpredictable regulatory processes compromise New Zealand's attractiveness in the global market for investment in petroleum and minerals exploration. This leads to risks that the best qualified companies may not acquire permit rights, and that the value of Crown resources is not maximised.

Issue 2 Some regulatory processes are complex, and have imposed unnecessary compliance costs on companies. Reporting frequencies for a range of data are unnecessarily onerous in some cases.

Issue 3 Current complexity of regulatory processes causes a misallocation of New Zealand Petroleum and Minerals (NZP&M) resources.

---

[1] The Act establishes the framework for issuing and managing permits. Within that general framework, the minerals programmes must set out how the Minister and Chief Executive will have regard to the principles of the Treaty of Waitangi, and may set out matters such as how powers or discretions under the Act will be applied and how provisions in the Act will be interpreted and applied. Under the Act, as it will be amended by the Bill, minerals programmes are regulations for the purposes of the Regulations (Disallowance) Act 1989, but not for the purposes of the Acts and Regulations Publication Act 1989.

[2] Four sets of Crown minerals regulations are currently in force. These are:

- Crown Minerals (Petroleum) Regulations 2007 – covering the application, notification and reporting requirements for petroleum activities;
- Crown Minerals (Minerals and Coal) Regulations 2007 – covering the application, notification and reporting requirements for non-petroleum mineral activities;
- Crown Minerals (Petroleum Fees) Regulations 2006 – setting out the fees payable for petroleum activities; and
- Crown Minerals (Minerals Fees) Regulations 2006 – setting out the fees payable for non-petroleum mineral activities.

Issue 4 New exploration and production technologies involve regulatory challenges and risks that were not envisaged when the Act was drafted. New technologies and resources are covered by the Act, but the programmes do not set out adequate regulatory management system for new resources such as gas hydrates.

Issue 5 A review of health and safety, and environmental (HSE) legislation (the HSE Review) governing offshore petroleum operations in New Zealand and in other jurisdictions identified some areas where our regulatory framework could be strengthened. In particular, the absence of any consideration of applicants' HSE capabilities before the award of exploration permits was noted.

Issue 6 There is insufficient coordination between regulators involved in the oversight of the various stages of petroleum and minerals exploration and production in relation to the health and safety and environmental impacts of activities undertaken by permit holders. This can prevent a shared understanding of timeframes for exploration activities and involvement of regulators in design choices for production operations.

Scope of this Regulatory Impact Statement

10 This Regulatory Impact Statement (RIS) covers proposals to revise regulations and minerals programmes under the amended Act. Policy proposals that are being implemented in amending the Act via the Crown Minerals (Permitting and Crown Land) Bill have been considered in an earlier RIS, and the Bill has been through a select committee process.

11 This RIS covers proposals that are a significant change from the status quo. While revised regulations and new minerals programmes are required to fully give effect to the revised regime, many elements will remain unchanged from the current regulations and minerals programmes. Such matters are not covered in this RIS.

Objectives

12 The three objectives of the review of the CMA regime are intended to address the critical issues noted above. Objective 1 is intended to address Issue 1, Objective 2 addresses Issues 2 through 4, and Objective 3 addresses Issues 5 and 6.

Objective 1 Encourage the development of Crown-owned minerals so that they contribute more to New Zealand's economic development.

Objective 2 Streamline and simplify the regime where appropriate, ensuring it is in line with the regulatory reform agenda, and make it better able to deal with future developments.

Objective 3 Ensure that better coordination of regulatory agencies can contribute to stringent health, safety and environmental standards in exploration and production activities.

13 In some instances, second-tier objectives apply to specific proposals in addition to the three objectives above. These are clearly stated in the analysis.

Regulatory Impact Analysis

14 The Regulatory Impact Analysis focuses on the following areas:

A. Reserves and resources reporting

B. Processes for granting permits, and approving work programmes

C. Changes to work programmes

D. Exclusivity of permits and overlapping permits

E. Permit duration and appraisal extensions

F. Permit revocation

G. Regard to the principles of the Treaty of Waitangi

15 The proposed minerals programmes also set out practices and procedures relating to a number of other important matters such as an interpretation of the purpose statement of the Act, assessments of permit applicants' technical, health and safety, and environmental capability, and obligations of permit holders, such as attending annual review meetings. These matters are not covered in this RIS as the detail provided in the proposed programmes will not have a regulatory impact. The proposed programmes simply provide guidance on how the relevant provisions in the Act will be applied.

16 Unless otherwise stated, proposals apply to both petroleum and non-petroleum minerals. Due to the different nature of petroleum and non-petroleum minerals it is necessary for different practices and procedures to apply to the allocation and management of rights to the different resources. This is consistent with the status quo, where different regulations and minerals programmes apply to petroleum and non-petroleum minerals.

A. Reserves and resources reporting

17 For both petroleum and non-petroleum minerals there are concerns over the accuracy, precision and consistency of reserve and resource estimates. Proposals to amend the reporting regulations for both petroleum and minerals are set out below. These proposals seek to achieve Objective 1 as well as the following second-tier objectives, which are intended to contribute to Objective 1 (as more reliable reserves and resources information is expected to encourage the development of Crown-owned minerals):

Objective 4 Ensuring a reasonable degree of consistency in estimation methodologies between fields and companies.

Objective 5 Improving the accuracy and precision of reported reserves.

Petroleum reserves and resources reporting

18 In August 2010, the Ministry of Economic Development released an options paper titled New Zealand Petroleum Reserves[3] (the Options Paper) on measures to improve the quality of information reported by industry and disclosed by Government on the Crown's petroleum resources. The Options Paper sought to address concerns about the accuracy, precision and consistency of information reported by industry and published by the Ministry; the quality and quantity of petroleum reserve data being insufficient to allow the Ministry to independently verify and validate reserves estimates; and the lack of any visibility of the upside potential at existing fields. Thus, for petroleum reserves and resources reporting there is an additional objective:

Objective 6 Widening the spectrum of reported reserves such that all stakeholders have a view of both the upside and downside potential at existing fields and can manage their risk accordingly.[4]

---

[3] http://www.med.govt.nz/sectors-industries/natural-resources/pdf-docs-library/oil-and-gas/nz-petroleum-reserves/nz-petroleum-reserves-pdf

[4] Note Objectives 4-6 were set out in the Options Paper and a full analysis of the options against these objectives is set out in that paper. This RIS contains a brief summary of that analysis only.

19 Proposed options included an ‘enhanced status quo’, and UK and Norwegian models, as set out below.

UK Model:

a. Reporting requirements extended to include:

   i. estimates of oil initially in place and gas initially in place

   ii. P90, P50 and P10, or proven, and proven plus probable, and proven plus probable plus possible estimates (1P, 2P and 3P estimates) for remaining and ultimately recoverable oil, condensate (C5+), liquefied petroleum gas (propane plus butane) and gas (methane and ethane) (including an explanation of the methodology used to calculate the estimates)[5]

   iii. C50 contingent resources[6]

   iv. a full explanation of why contingent resources are classified as contingent (including a description of development and cost thresholds)

   v. a copy of any report or any field study undertaken that results in a revised estimate of recoverable or in-place petroleum

   vi. minimum, average and maximum daily and hourly system deliverability for gas using the installed infrastructure

   vii. requirements that all reserve and resource estimates must be made in accordance with the Petroleum Resources Management System, the international benchmark standard for reserves estimations

b. Publication powers extended to include:

   i. petroleum production and field reserves, including estimates of P90, P50 and P10 remaining reserves and ultimately recoverable reserves

   ii. contingent resources by basin

   iii. compositional data (gas (methane and ethane), liquefied petroleum gas (propane and butane), condensate (C5+) and crude oil) for reserves by field and contingent resources by basin

   iv. minimum, average and maximum daily and hourly system deliverability for gas by field using the installed infrastructure

   v. petroleum production profiles in relation to mining permits and existing privileges

---

[5] 'P90' reserves, also referred to as 'proved reserves' or '1P reserves', are those reserves claimed to have a reasonable certainty (i.e. at least 90%) of being recoverable under existing economic, operating and regulatory conditions. 'P50' reserves, also referred to as 'probable reserves' or '2P reserves', are those reserves claimed to have at least a 50% certainty of being produced.

[6] C50 denotes the best estimate scenario of Contingent Resources. Contingent Resources are those quantities of petroleum estimated, as of a given date, to be potentially recoverable from known accumulations by application of development projects, but which are not currently considered to be commercially recoverable due to one or more contingencies.

vi. resource estimates from discoveries or appraisals under any exploration permit, mining permit, or existing privilege

Norwegian model:

c. Full reserves documentation, including supporting calculations, interpretations, data and performance models for all wells and fields under appraisal

d. All raw and interpreted data for all wells and fields

e. All internal performance, volume and reserve related documentation.

Option	Benefits	Costs
Enhanced status quo: more resources but no regulatory change	No additional compliance costs on companies.	The direct costs to the Crown of applying more resources were estimated at between $80,000 and $700,000 per annum.
Proposed option: UK model	Addresses the problems identified in the Options Paper and meets each of the objectives set in the review. Agreement from all submitters on the need to increase penalties for non-compliance and to use the PRMS as the benchmark standard for reserves estimations.	The additional costs to industry were estimated at up to $100,000 per annum. Upstream producers were concerned that the publication of P10 reserves and contingent resources could result in confusion as these numbers are not subject to the same technical rigour as P90 and P50 reserves estimates.
Alternative option: Norwegian model	Provides the most complete information of the Crown's hydrocarbon resource.	Costs to industry were estimated at $3 million per annum. This was by far the most costly option and was seen by all submitters, both upstream and downstream, to be too intrusive.

Conclusion

20 The enhanced status quo does not meet Objectives 4 or 5. Both the UK model and Norwegian model meet Objectives 4, 5 and 6 as they will improve accuracy, precision and consistency of information reported by industry; the quality and quantity of data will be sufficient to allow the Ministry to independently verify and validate reserve estimates; and it provides visibility of the upside potential at existing fields. The UK model is the preferred option as the costs to industry are significantly lower than under the Norwegian model.

Minerals reserves and resource reporting

21 It is proposed that regulations be amended to reduce reporting requirements for Tier 2 mineral permits, but to strengthen the reporting requirements for Tier 1 mineral permits in the area of reserves and resources.[7] Reducing obligation on Tier 2 permits is consistent with Objective 2. At present, the Crown has no complete picture of its mineral estate, reserve and resource information is provided inconsistently and to no defined benchmark standard. To an even greater extent than for petroleum, there are concerns over the accuracy, precision and consistency of reserve and resource estimates for minerals. There is currently no publication of mineral reserve and resource information outside the reporting requirements for listed companies. Thus, for minerals there is an additional objective:

Objective 7 The Crown has a more complete picture of its mineral estate.

22 The proposed option includes:

a. Enhanced reporting requirements for Tier 1 permit holders:

i. total in ground resources

ii. reserves and resources reported in accordance with a recognised resource classification code (either the JORC Code, the Canadian NI 43-101, or the SAMREC Code)

iii. reserve and resource estimates must be accompanied by a spatial definition of the areas to which the figures apply, a statement of the criteria used to determine the estimates, and a statement of whether the estimates are made on the basis of a scoping, pre-feasibility, or feasibility study

b. Specific powers to publish reserves and production information, similar to what is currently done for petroleum.

Option	Benefits	Costs
Status quo	No additional compliance cost to industry.	The Crown will continue not to have a national inventory of mineral reserves and resources. This undermines its ability to effectively allocate and manage its mineral estate. There will also be little transparency to prospective explorers and miners as to how geologically prospective New Zealand is.
Proposed option: enhanced reporting requirements for Tier 1 permit holders, and specific powers to publish reserves and production information, similar to what is currently done for petroleum	Enhanced ability of the Crown to effectively allocate and manage its mineral estate. Enhanced visibility to prospective explorers and miners as to the geological prospectivity of New Zealand.	There will be additional compliance costs for some Tier 1 permit holders who currently do not report their reserve and resource estimates to any international benchmark standard.

[7] Tier 1 and Tier 2 will be defined in the Act as amended by the Crown Minerals (Permitting and Crown Land) Bill. In general, Tier 1 permits broadly relate to metallic minerals, coal, ironsand and all offshore minerals.

Conclusion

23 The status quo does not meet Objectives 4, 5 or 7 and will not provide confidence in the accuracy, precision and consistency of reserve and resource estimates. The proposal to enhance reporting requirements for Tier 1 permit holders, and specific powers to publish reserves and production information is preferred as it will meet these objectives. Although the proposal will result in increased compliance costs, it will achieve Objective 4 by providing confidence in the accuracy, precision and consistency of reserve and resource estimates, and Objective 7 by giving the Crown a more complete picture of its mineral estate.

B. Processes for granting permits, and approving work programmes

24 The proposals relating to permit allocation and approval of work programmes aim to meet Objectives 1 and 2 of encouraging development and streamlining the regime by providing greater flexibility and more realistic timeframes in the development and delivery of work programmes. The key changes proposed from the status quo relate to:

a. Extensions of land for petroleum exploration permits
b. Allocation of minerals permits
c. Minerals permit sizes
d. Minerals permit areas
e. Amalgamating existing permits.

Extensions of land for petroleum exploration permits

25 It is proposed that the *Petroleum Programme* limit the ability to extend the area of an exploration permit to situations where there is an oil or gas discovery that extends beyond the boundaries of that permit. This is an Extension of Land (EOL) and the proposed *Petroleum Programme* sets the conditions on which an EOL application may be granted.

26 If a discovery has been made, an EOL may be granted for the extension of the identified hydrocarbon-bearing structure into an unpermitted area.

27 If a discovery has not been made in the current permit area, an EOL may be granted only if the permit holder commits to drilling a clearly defined prospect - that extends beyond the permit area - within a specified period. In these circumstances, it is also proposed to test the degree of competitive interest in the area over which the EOL is sought from nearby permit-holders and withhold for a future block offer the area applied for if this interest is sufficient.

28 The status quo requires only that permit activities could be carried out more rationally if an extension were granted, reflecting the earlier priority-in-time permit application process, which has been replaced by annual, competitive block offers.

29 Some in industry were concerned that the initially proposed 18 month timeframe for drilling would be too restrictive, particularly in offshore areas. To account for the technical difficulty and practical circumstances of offshore drilling, the programmes will allow for a drilling timeframe of 30 months offshore. The 18 month requirement applies onshore.

30 An analysis of the proposal against the status quo, and an alternative option of longer drilling timeframes, is set out below.

Option	Benefits	Costs
Status quo: no requirements to commit to drilling associated with EOL or check interest of other permit holders	Simple process.	Risk of tying up land which several permit-holders may wish to develop. No certainty about commitment to exploration drilling.
Proposed option: without a discovery, requirement for drilling commitment (within 18 months onshore and 30 months offshore) and test of competitive interest to allow area to be withheld for a future block offer	Likelihood of earlier exploration drilling. Ability to ensure greater levels of competition in block offers.	Administrative costs for NZP&M to consult other permit holders.
Alternative option: longer periods for completion of drilling	May suit strategic interests of permit holders.	Delay in exploration drilling.

Conclusion

31 The status quo does not contribute sufficiently to Objective 1 as there would be no certainty about timing of further exploration or ability to ensure that areas are allocated in future block offers if there is competitive interest. The proposal that extensions of land without discoveries being made will include requirements for drilling within 18 months (onshore) or 30 months (offshore) is preferred because it is consistent with Objective 1. The alternative option of longer periods for completion of drilling is less consistent with Objective 1 than the proposed change.

Allocation of minerals permits

32 Given the wide variety of non-petroleum minerals covered and circumstances particular to each, the *Minerals Programme* will set out a range of allocation methods that may be used.

33 Under the status quo, when an area that was under permit ceases to be under permit (because the permit expires or is surrendered or revoked, or an area of the permit is surrendered or relinquished), the area generally defaults into 'Newly Available Acreage' (NAA) allocation – a short time-bound period for applications.

34 Issues have been raised regarding the efficacy and competitiveness of NAA parameters. Currently, applications for part or all of the NAA area are made during a 25-day competitive timeframe. However, the original permit holder has 40 days to relinquish data on the area that was under permit. This mismatch of dates can mean that information that is highly relevant to the tender process may not be publicly available during the tender process and gives advantage to the former permit holder if they wish to re-acquire the land.

35 A change to the status quo is proposed to provide for a holding period, of not more than 60 working days, while a determination is made on which allocation method to apply to an area of land that was previously under permit when that area becomes available.

36 This holding period will allow the Ministry to consider the status of the land, after receiving the required information from the former permit holder at the 40 day mark, and will facilitate more proactive management of the Crown minerals estate. The Ministry may choose to give the land NAA status, or promote and release the acreage under a competitive tender process.

Option	Benefits	Costs
Status quo: an area of land that becomes available defaults into NAA allocation	All land that ceases to be under permit will be subject to a competitive process (albeit a small-scale one), meaning permits can be awarded to the best applicant and potentially providing greater benefits to New Zealand.	By defaulting into NAA status immediately, land could not be held for future competitive tenders, or even be held for a short time until it could be offered together with adjacent land that becomes available. The potential benefits of a large-scale competitive tender allocation process are forgone.
Proposed option: a determination will be made on which allocation method will apply to an area of land that becomes available	The up to 60 working day holding period ensures that the relevant data is acquired from the former permit holder, gives a reasonable period of time to determine which method should be used to re-allocate the land as either: 'open ground' if it is unlikely to be subject to competitive interest; NAA; or reserved for future competitive tender allocation is interest is likely to be particularly high. The flexibility of timing in which the determination can be made under this option means that two or more adjacent areas becoming available in quick succession could be offered together as a single competitive tender or NAA.	Greater administrative costs for NZP&M as a determination will need to be made on all land that becomes available. However, in practice this will be part of all of the processing of the permit expiry or surrender etc.
Alternative option: an area of land that becomes available could become 'open ground' by default (subject to first-in first-served applications)	No administrative costs for NZP&M.	The potential benefits of any competitive allocation are forgone.

Conclusion

37 The status quo is consistent with Objective 2 as the process would be streamlined; however, it is less consistent with Objective 1 than the proposed option. The alternative option is inconsistent with Objective 1 as areas likely to elicit significant competitive interest would not be subject to a competitive allocation process. The proposed option is preferred because it is consistent with Objective 1 as it allows the Ministry to more proactively manage the Crown minerals estate and facilitate competitive allocation of resources, encouraging high quality applications. While the proposed option is potentially inconsistent with Objective 2 as the introduction of a decision point is less streamlined, this decision point is considered necessary to meet Objective 1.

Minerals permit sizes

38 For petroleum permits, no change to the status quo is proposed in the programme. The *Petroleum Programme* sets out that petroleum exploration permits will be issued solely via annual competitive block offers, as is current practice. Restrictions on permit sizes will be set out in notices offering permits by public tender, under section 24 of the Act.

39 The proposed *Minerals Programme* provides clearer expectations about reasonable prospecting permit sizes and sets a minimum exploration permits size for different mineral classes and locations.

40 The proposed sizes set in the *Minerals Programme* are for:

a. Onshore prospecting permits to be no larger than 500 square kilometres; and offshore prospecting permits to be no larger than 5,000 square kilometres; however, provision is made for larger sizes if competitive interest in the area is likely to be low

b. Exploration permits to be no smaller than 150 hectares

c. Tier 2 mining permits to be no larger than 50 hectares for hobby mining and 200 hectares for any other Tier 2 mining permit.

Option	**Benefits**	**Costs**
Status quo: no guidance on permit sizes provided	Benefits for applicants if they have greater flexibility to apply for permits of any size.	There is a risk that large permit sizes would be allocated and tracts of land 'locked' up. In this situation, permits may be held by companies for a long period of time who may not work the land in a timely way. It also reduces opportunities for competitive allocation.
Proposed option: guidance provided with maximum sizes for prospecting and Tier 2 mining permits, and a minimum size for exploration permits	Provides more certainty for applicants than the status quo and prevents land getting 'locked' up in large permits. Having minimum sizes for exploration permits means that the land remaining after an area has been relinquished (as a permit obligation) will still be viable.	Permit holders may prefer to have larger permit areas but will generally be unable to do so. The risk of fallow acreage, compared to the option of smaller sizes, is mitigated through relinquishment requirements for permit holders.

Alternative option: a larger maximum size	Benefits for applicants if they have greater flexibility to apply for permits of any size.	There is a risk that large permit sizes would be allocated and tracts of land 'locked' up.
Alternative option: a smaller maximum size	Prevents land getting 'locked' up in large permits. Potential to increase activity if permits are smaller, and therefore more permits are in operation.	Permits may not be large enough to be viable, and therefore unattractive to potential applicants.

Conclusion

41 The status quo is inconsistent with Objective 1 if tracts of land are 'locked' up in large permits. The alternatives options of different maximum permit sizes are more consistent with Objective 2 than the status quo as the regime will be more streamlined if there is greater consistency in permit sizes. However, the alternative of larger maximum sizes may be inconsistent with Objective 1 if tracts of land are 'locked' up in large permits, while smaller maximums may be unattractive to potential applicants.

42 The proposed sizes are preferred as these are more consistent with Objective 1 than the status quo, as well as being consistent with Objective 2.

Minerals permit area

43 The *Minerals Programme* provides that permits will ordinarily be granted over unbroken areas, and describes the circumstances under which permits may be non-contiguous – this is generally circumstances where discrete deposits are to be explored or mined as a single project.

Option	Benefits	Costs
Status quo: permits are ordinarily granted over an unbroken area	An expectation that permits will be over unbroken areas provides NZP&M with the ability to decline unreasonable applications (such as a single permit covering numerous discrete deposits all over the country).	The status quo can lead to undesirable outcomes, such as applications for permit areas that include 'connecting land of convenience' to connect discrete deposits into a single permit.
Proposed option: permits will ordinarily be granted over an unbroken area, with certain exceptions will be provided for	The problem of 'connecting land of convenience' under the status quo is avoided, as where appropriate a permit may be granted over broken areas (such as when discrete deposits will be worked together as a single operation). Permit applicants are provided with clear guidance on when broken permit areas may be allowed. The allowances recognise particular circumstances where broken permit areas may be the most pragmatic option.	Potential for greater administrative costs for NZP&M in having a wider variety of different applications to process, compared to the status quo.

Alternative option: no guidance or expectation is set in relation to permit area	Provides greatest flexibility.	In the absence of clear guidance to applicants, NZP&M would be limited in its ability to decline unreasonable applications (such as a single permit covering numerous discrete deposits all over the country). This option would provide the most uncertainty for applicants over what would or would not be accepted and why.

Conclusion

44 The status quo of permits ordinarily being granted over unbroken areas is potentially consistent with Objective 2 as it sets out a clear expectation for permit areas. However, without providing for exceptions it can lead to undesirable outcomes. The alternative of providing no guidance is inconsistent with Objective 2 as it would potentially lead to significant variation in the areas of permits applied for, making processing of such applications and management of permits overly complicated.

45 The proposed option of permits ordinarily being granted over unbroken areas, with certain exceptions provided for is preferred as it is consistent with Objectives 1 and 2. It provides for a pragmatic approach to granting permits over areas suitable for the circumstances, including broken areas when that is more appropriate to encourage development.

Amalgamating existing permits

46 The minerals programmes will describe how a holder of two or more adjacent permits can apply to amalgamate them into a single permit. This provision will provide that the royalty rates of the most recent of the amalgamated permits would apply and sets out how the duration of amalgamated permits will be determined.

Option	Benefits	Costs
Status quo: adjacent permits held by the same permit holder cannot be amalgamated	Minimises the risk of permit holders 'gaming' the system by amalgamating permits to retain ground for as long as possible.	Increased administrative burden for NZP&M and compliance costs for permit holders, whereby adjacent permits that are part of the same operation are each separately subject to their own work programmes and obligations such as reporting on reserves and royalties.

Proposed option: adjacent permits held by the same permit holder can be amalgamated, subject to certain conditions	Removes the costs associated with the status quo, providing a benefit to both permit holders and NZP&M.	Introduces a risk of permit holders 'gaming' the system by amalgamating permits to retain ground for as long as possible. However, this risk is mitigated by setting stringent conditions in relation to the work programme, permit duration, royalty rates, and the circumstances under which an application for an amalgamation may be made.

Conclusion

47 The status quo is inconsistent with Objective 2 due to the administrative burden for NZP&M and compliance costs for permit holders. The proposed change is preferred as it is consistent with Objectives 1 and 2, as rationalising the number of permits held is simpler and more conducive to resource development.

C. Changes to work programmes

48 The minerals programmes set out the factors the Minister will consider when assessing applications for changes to permits, including work programme obligations. These relate to factors generally outside the control of permit holders, such as availability of new geological information or force majeure. Applications for changes of conditions that are the result of poor planning would not be considered.

49 In addition to the matters considered for change applications under the status quo, the proposed minerals programmes provide that the Minister will also be able to consider whether the proposed change would better facilitate the activities under the permit, or adjacent or related permits for the same mineral group, being carried out more effectively.

Option	Benefits	Costs
Status quo: consideration of activities under adjacent or related permits is not provided for in considering changes to work programmes	Minimises the risk of permit holders 'gaming' the system by changing conditions of one permit and focussing their efforts on an adjacent or related permit.	Potential costs to permit holders in not being able to streamline work programmes over adjacent permits which are being operated as a single development.
Proposed option: provide for consideration of activities under adjacent or related permits in considering changes to work programmes	This allows consideration of permit holders' work programme obligations over their portfolio of permits, which was not previously possible.	Introduces a risk of permit holders 'gaming' the system by changing conditions of one permit and focussing their efforts on an adjacent or related permit. This risk will be mitigated by explicitly requiring consideration of whether the change will facilitate activities being carried out more effectively, and whether the change would be inconsistent with the basis of which the permit was granted.

Conclusion

50 The status quo is less consistent with Objective 1 than the proposed option based on the potential costs to permit holders in not being able to streamline work programmes. The proposed option to provide for consideration of activities under adjacent or related permits in considering changes to work programmes is preferred as it is consistent with Objective 1; while this option does present some risks, those can be mitigated through the additional considerations that must be made before granting such a change.

D. Exclusivity of permits and overlapping permits

51 The Act provides that the rights to prospect, explore and mine a resource under a permit are exclusive to the permit holder unless the permit expressly provides otherwise.

Allowing permits for unconventional petroleum resources to overlap with conventional petroleum permits

52 The minerals programmes set out the different policies and procedures applicable to a mineral occurring in different circumstances – for example, a mineral occurring in different states, phases and strata, or minerals that are explored or produced through substantially different methods.

53 Accordingly, the *Petroleum Programme* sets out how the Minister will consider and award applications for permits for unconventional petroleum resources such as methane hydrates and coal seam gas. The practices applicable reflect the need to coordinate such activities with conventional extraction, and, where applicable, include additional requirements reflecting the nature of the resource.

54 Where a gas hydrate exploration permit overlaps with a conventional petroleum exploration permit, it is proposed that:

a. Each permit holder will be required to notify the other and to negotiate with the other about their exploration programme, to ensure that neither interferes with the work of the other. Each permit holder will need to obtain the written consent of the other, and to lodge this consent with the Minister before carrying out exploration work.

b. If the overlapping permit holders cannot agree, the Minister will make a determination on the issue, in order to ensure that exploration of the resource can continue.

c. The Minister will not grant a gas hydrate exploration permit that overlaps the area of a petroleum mining permit for conventional petroleum resources (or a petroleum exploration permit that overlaps the area of a gas hydrate exploration permit) without the written consent of the first or underlying permit holder.

Option	**Benefits**	**Costs**
Status quo: no provisions to allow overlapping permits	A single permit over an area ensures that no interference will occur.	Precludes development of unconventional and conventional resources in the same location.
Proposed option: overlapping permits for different resource types allowed	Allows for efficient utilisation of resources existing in different states at the same location.	Coordination required between permit holders to avoid interference.

Alternative option: separate provisions for each category of unconventional resources	Allows for efficient utilisation of resources existing in different states at the same location.	Coordination required between permit holders to avoid interference. Unnecessary to include specific provisions for each category of resources.

Conclusion

55 The status quo of no provisions to allow overlapping permits is inconsistent with Objective 1 as it precludes development of unconventional and conventional resources in the same location. The alternative option of separate provisions for each category of unconventional resources is consistent with Objective 1 as it encourages the development of Crown-owned resources. However, it is not preferred as it is considered unnecessary to include specific provisions for each category of resources. The proposed option to allow overlapping permits for different resource types is preferred as it meets Objective 1 without the unnecessary complications of the alternative.

Avoiding interference between overlapping permits

56 The circumstances in which a non-exclusive permit may be issued are set out in the minerals programmes. For petroleum, these circumstances are proposed to include:

a. Petroleum prospecting permits[8]

b. Permits over unconventional resources such as methane hydrates where the area may also be subject to a petroleum permit for conventional resources (and vice versa)

c. Strata titles.[9]

57 Some companies were concerned about uncontrolled access to areas under petroleum prospecting or exploration permits. The changes to the programmes seek to implement the changes to petroleum prospecting permits while not compromising the rights of the underlying permit holder.

58 The *Petroleum Programme* describes procedures when a non-exclusive petroleum prospecting permit is granted over some or all of the same area. The petroleum prospecting permit holder must obtain the written consent of the underlying permit holder before commencing activities over the same area as the underlying permit. The underlying permit holder must not unreasonably withhold consent or impose unreasonable conditions on the proposed activities of the petroleum prospecting permit holder. If there is a dispute over either of these matters, the Minister may make a determination, which will be binding on both parties. The *Petroleum Programme* sets out the types of conditions that would normally be considered unreasonable.

[8] The proposed *Petroleum Programme* provides that petroleum prospecting permits may be issued on an exclusive basis under certain circumstances – primarily in "far frontier" areas where there is little data or known interest from other operators. This will encourage some oil companies to undertake seismic data acquisition, potentially bringing forward exploration and mining activities in these areas.

[9] These are permits that specify access to a resource at a certain depth. These are not currently used in New Zealand.

59 For non-petroleum minerals, no change to the status quo is proposed: non-exclusive prospecting permits may be granted where the land is notified for allocation by competitive tender or the applicant would not be materially disadvantaged if the permit were to be granted on a non-exclusive basis.

60 The minerals programmes will also provide guidance on how activities over the same area under different permits should be coordinated, primarily for health and safety reasons, and how disputes between permit holders will be resolved.

Option	Benefits	Costs
Status quo: do not set out guidance on appropriate conditions and a process to resolve disputes	Retains underlying permit holder rights.	Negatively impacts scope for multiple activities over the same area, even when this does not adversely impact the underlying permit holder.
Proposed option: set out guidance on appropriate conditions and a process to resolve disputes	Maximises activities over permit areas where this does not unduly impinge on existing rights or create safety risks.	Underlying permit holders may consider their rights are impinged by allowing petroleum prospecting permits to be granted over lands under permit.

Conclusion

61 The status quo is not consistent with Objectives 1 or 2 as it does not encourage the development of Crown-owned minerals or streamline processes. The proposed option to set out guidance on appropriate conditions and a process to resolve disputes between overlapping permits is preferred because it is consistent with Objectives 1 and 2.

E. Permit duration and appraisal extensions

62 The Act will provide for a maximum duration of a petroleum exploration permit of 15 years, and a maximum of ten years for mineral exploration permits.

63 The provisions relating to permit durations in the proposed *Minerals Programme* are intended to formalise current practice, and therefore no change is proposed to the status quo. It will provide that an exploration permit is ordinarily granted for a period of five years, and may be extended up to a maximum of 10 years from the permit's commencement. In order to obtain an extension of duration, an area of land would be required to be relinquished.

64 Similarly, under the Act mining permits may be up to 40 years. The minerals programmes set out the factors the Minister will take into account when determining the duration.

65 The minerals programmes, for both petroleum and non-petroleum minerals, also set out the circumstances in which the duration of a permit may be extended. This includes the considerations and duration for appraisal extensions of exploration permits, i.e. where a discovery is made and more time is required to assess whether that discovery is mineable.

66 For petroleum, the proposed criterion in the *Petroleum Programme* for determining permit durations within the maxima in the Act includes consideration of whether blocks are onshore or offshore; geographic remoteness; water depth; extent of previous exploration in the area and relevant geological information. Two further clauses in the *Petroleum Programme* will guide permit decisions:

a. Normally, the Minister will set shorter durations for blocks that are onshore, for offshore blocks that are in shallower water and not geographically remote, and for blocks where extensive geological information is already available.

b. Permits will normally be granted for the maximum duration set for a block. Continuance of the permit to its term will be subject to the work programme for each stage of the permit being completed satisfactorily.

67 The options for defining the criteria in the *Petroleum Programme* are limited beyond the status quo as they reflect technical understanding of prospectivity and remoteness in relation to determining the permit size, and based on practical experience at NZP&M.

Option	Benefits	Costs
Status quo: five year petroleum exploration permits with the ability to extend up to a total of 15 years	If permits are turned over more quickly, this could result in increased activity.	Permits are unattractive to potential applicants if the durations are not long enough to realistically meet the objectives of an exploration work programme in frontier areas.
Proposed option: different petroleum exploration permit durations specified depending on a number of criteria	The criteria set in the programmes provide realistic guidelines and practical flexibility for what will be considered by NZP&M when determining the permit conditions within the maxima of the Act. Flexibility is also provided to allow for circumstances where it makes sense to simply extend an existing permit rather than grant a new one. The criteria guiding the permit durations also ensure work programmes for each permit are realistic with some flexibility provided for; benefiting permit holders towards meeting their work programme obligations.	There is a potential risk of fallow acreage through longer permit durations, but this is mitigated through relinquishment requirements.
Alternative option: no practices set out in the *Petroleum Programme*	Permits are more attractive to potential applicants than under the status quo if durations are long enough to realistically meet the objectives of an exploration work programme in frontier areas.	There is a potential risk of fallow acreage through longer permit durations.

Conclusion

68 The status quo of five year petroleum exploration permits with the ability to extend up to a total of 15 years are inconsistent with Objective 1 as the durations are not long enough to encourage development in frontier areas. The alternative option of not setting out any practices in the *Petroleum Programme* is potentially more consistent with Objective 1, although a lack of guidance on permitting practices could cause too much uncertainty for potential applicants. This option is potentially inconsistent with Objective 2 as the regime will not be more streamlined if there is arbitrary inconsistency in permit durations. The proposed option, that the *Petroleum Programme* set out criteria that will be applied in determining petroleum exploration permit durations, is preferred as it is consistent with Objective 1; longer durations in more remote areas are needed to encourage development, for instance, permits in remote areas with little data over them will require a longer duration. The assessment criteria give scope for such things to be taken into account.

F. Permit revocation

69 The Act provides that revocation of a permit can be initiated following breach of *any* permit conditions, many of which would be minor or accidental. In such situations, revocation of a permit would be disproportionate to the offence, and unlikely to be contemplated. However, the existence of such a discretion creates considerable uncertainty for the industry.

70 Accordingly, the minerals programmes set out the circumstances in which the Minister would and would not consider initiating revoking a permit. In particular, it notes that revocation proceedings will not be used in response to minor breaches of permit conditions provided that the breach is not on-going and such breaches are infrequent.

71 Revocation is likely to be applied (without limitation):

- Where the permit holder has failed to comply with its committed work programme obligations
- Where the permit holder has not submitted royalty returns and paid royalties by the due date
- Where the permit holder has frequently missed due dates for the submission of notices and information
- Following serious and on-going failure to comply with the health and safety in employment act 1992 where this demonstrates that the permit holder is not complying with good industry practice.

72 The *Minerals Programme* also notes that revocation is likely to be applied if the permit holder has not paid fees by the due date. This is not included in the *Petroleum Programme* as it is more of an issue for Tier 2 minerals permits.

73 It should also be noted that a permit holder, following receipt of a notice from the Minister of an intention to revoke a permit, has 40 working days to remedy the breach of conditions, and that the revocation may not proceed if it does so.

Option	Benefits	Costs
Status quo: no guidance on when breaches of permit conditions may be subject to permit being revoked	Provides flexibility to consider revocation in any circumstance.	Perceived risks of revocation being applied for minor breaches.

Proposed option: minerals programmes describe when revocation likely to be used	Provides greater certainty for permit holders about when revocation likely to be used while retaining ministerial discretion.	Alternative mechanism needed for minor breaches.
Alternative option: minerals programme provisions state that revocation will always be applied	Provides very strong incentive for compliance.	Revocation of permits for minor breaches would be disproportionate to the offence.

Conclusion

74 The minerals programmes providing no guidance on when breaches of permit conditions may be subject to the permit being revoked is less consistent with Objective 2 than the proposed change, as is the alternative option of the minerals programme stating that revocation will always be applied, The proposed option to describe in the minerals programmes when revocation is likely to be used is preferred as it provides greater certainty and is considered consistent with Objective 2, as it clarifies that only the more serious breaches could be subject to revocation.

G. Regard to the principles of the Treaty of Waitangi

75 A focus of changes to the CMA regime is strengthening the Crown's engagement with iwi and hapū ahead of permits being awarded, and fostering long term productive relationships between permit holders and iwi and hapū.

76 The Bill introduces new provisions into the Act intended to foster iwi-permit holder relationships, specifically the requirement for Tier 1 permit holders to produce annual reports on their engagement with iwi and hapū. The minerals programmes will set out expectations relating to these, but will not introduce any new regulatory obligations.

77 The Act, as amended by the Bill, requires a minerals programme to set out or describe how the Minister and the chief executive will have regard to the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) (as required by section 4 of the Act).

78 The proposed minerals programmes provide for a wider range of outcomes from iwi and hapū consultation. Previously, the emphasis was on excluding areas of importance to iwi and hapū (wāhi tapu) from permit areas. Interaction with iwi and hapū in recent permit rounds and consultation on draft minerals programmes has identified that there are a range of measures that can be adopted that result in protection of areas of significance without excluding areas from permits. Three key changes from the status quo are proposed:

a. Consultation on applications and proposals to hold competitive tenders
b. Timeframe for comments
c. Proactive consultation on alluvial gold permitting.

79 An analysis of each of these proposals against the status quo, and alternative options where they exist, is covered below. In addition to the primary objectives of the review of the CMA regime, these proposals also seek to achieve the following second-tier objective:

Objective 8 Strengthen the Crown's engagement with iwi and hapū.

Consultation with iwi and hapū on applications and proposals to hold competitive tenders

80 It is proposed that when consulting iwi and hapū on permit applications or proposals to hold competitive tenders, iwi and hapū will be able to comment on any aspect of the proposal. NZP&M must advise iwi and hapū that they may request that activities within certain areas within the proposed permit areas (or whole permit areas) be subject to additional requirements to recognise the particular characteristics of those areas, in addition to their current ability to request that certain areas be excluded.

Option	Benefits	Costs
Status quo: iwi and hapū may request areas be excluded from permits	Iwi and hapū have the ability to engage in the permit allocation process, and have a mechanism for areas of particular importance to be recognised.	Prospective areas may be excluded from permits if there are no other ways to recognise their particular importance to iwi and hapū. If there are no other mechanisms to recognise the particular importance of certain areas to iwi and hapū, and the areas are deemed highly prospective, they may be permitted if the benefits of permitting them outweigh the importance to iwi and hapū.
Proposed option: iwi and hapū may also request activities within certain areas be subject to additional requirements	In addition to the status quo, more areas may be able to be permitted, rather than excluded from permits, if additional requirements can be imposed to recognise the particular characteristics of areas at the request of iwi and hapū.	Administrative costs for NZP&M to consider a wider range of request. This could set up expectations that permit conditions may be imposed that are outside of the scope of the Act.

Conclusion

81 The status quo does not meet the Objectives 1-3 of the review or Objective 8 as it will not strengthen the Crown's engagement with iwi and hapū. The proposal to provide that iwi and hapū may also request activities within certain areas be subject to additional requirements is preferred as it is consistent with Objective 1: it means more areas may be able to be permitted (subject to certain requirements) rather than simply excluded from permits. Providing a wider range of tools to protect land of importance to iwi and hapū will also give effect to Objective 8 by strengthening the Crown's engagement with iwi and hapū.

Timeframe for iwi and hapū comments

82 It is proposed that iwi and hapū will have 40 working days to comment on proposals for competitive tender allocation, rather than the 20 working days with the option of seeking an additional 20 working days on request, as provided under the status quo.

Option	Benefits	Costs
Status quo: iwi and hapū have 20 working days to comment on proposals, but may request an additional 20 working days	The process could be fast and efficient if iwi and hapū do not request more time for comments.	Additional time is often required, imposing administrative costs for iwi and hapū and NZP&M in having to request, and respond to requests for additional time.
Proposed option: iwi and hapū have 40 working days to comment on proposals	Reduced administrative costs and more time guaranteed for iwi and hapū to fully consider and respond to proposals.	In some instances the tendering process may take longer than under the status quo.
Alternative option: iwi and hapū have more than 40 working days to comment on proposals	More time for iwi and hapū to fully consider and respond to proposals.	A longer tendering process may not facilitate development.

Conclusion

83 The 20 plus 20 timeframe for iwi and hapū comments under the status quo is less consistent with Objective 2 than the proposed change. It imposes administrative costs for iwi and hapū and NZP&M in having to request and respond to requests for additional time. The proposed change to a fixed period of 40 working days is consistent with Objective 2, as the process is more streamlined than the status quo, and is preferred. An alternative of a period of more than 40 working days has potential to be inconsistent with Objective 1 if longer timeframes slow the tendering process.

Proactive consultation with iwi and hapū on alluvial gold permitting

84 It is proposed that instead of reactively consulting iwi and hapū on every application for a permit for alluvial gold, NZP&M may proactively consult iwi and hapū on the suitability of including areas in new permits. An application for a permit for alluvial gold in an area NZP&M has decided is suitable for permits, following such consultation, will not be subject to further consultation with iwi and hapū.

Option	Benefits	Costs
Status quo: iwi and hapū are reactively consulted on applications for alluvial gold permits	Iwi and hapū have the opportunity to comment on every application for a permit for alluvial gold.	The process for granting permits for alluvial gold is slower than necessary, and imposes high administrative costs on both NZP&M and the iwi and hapū consulted. The prospective areas are well known and these permits can turn over quickly so iwi and hapū are often re-consulted on areas they have previously been consulted on, and will often not respond.

Proposed option: NZP&M may proactively consult iwi and hapū on the suitability of including areas in new permits for alluvial gold	Minimises the need for re-consultation on the same areas.	Up-front costs to NZP&M and iwi of proactively consulting.
Alternative option: NZP&M may proactively consult iwi and hapū on the suitability of including areas in new permits for any minerals	Minimises the need for re-consultation on the same areas.	Proactively consulting on the suitability of large areas of land for all types of permits will be resource-intensive for NZP&M and for iwi and hapū, and would deny iwi and hapū the rights to comment on proposed work programmes if such consultation was overly generic.

Conclusion

85 The status quo of reactive consultation on applications for alluvial gold permits is inconsistent with Objective 2, as the process is time consuming for both iwi and NZP&M and has high costs. Proactively consulting iwi and hapū on the suitability of including areas in new permits for alluvial gold is preferred as it minimises the need for re-consultation and is consistent with Objectives 2 and 8, depending on how well it would be implemented. The alternative of proactive consultation for all minerals is potentially consistent with these objectives but its costs are too high to be worthwhile.

Consultation

86 The Ministry of Business, Innovation and Employment undertook public consultation on the draft minerals programmes (consultation drafts) from 4 October to 5 December 2012, with 25 submissions received. Targeted consultation on the revised regulations was undertaken in early 2013. This consultation was primarily with petroleum and minerals industry groups and was intended to ensure proposals would be workable for industry.

87 A brief summary of the views raised in consultation is set out below.

a. **Reserves and resources reporting:**

i. **Petroleum reserves and resources reporting:** There was widespread support from downstream users and independent submitters to extend the information and disclosure reporting requirements. Upstream producers were concerned that the publication of P10 reserves and contingent resources could result in confusion as these numbers are not subject to the same technical rigour as P90 and P50 reserves estimates.

ii. **Minerals reserves and resources reporting:** Some miners expressed concern over the commercial sensitivity of their estimates and were uncomfortable with the proposal to publicly release them. The Ministry considers that, as for petroleum, there are strong public interest reasons to publish these estimates.

b. **Processes for granting permits, and approving work programmes:**

   i. **Extensions of land for petroleum exploration permits:** The Petroleum Exploration and Production Association of New Zealand (PEPANZ) submitted that the proposal in the consultation draft to require a well to be drilled within 18 months of an extension of duration to a petroleum exploration permit may be too restrictive particularly for offshore areas. As a result, the proposal has been revised to provide up to 30 months.

   ii. **Allocation of minerals permits:** The proposed process and timing changes to the allocation of minerals permits are based on submissions made by the New Zealand Minerals Industry Association (NZMIA). NZMIA was concerned that the proposals in the consultation draft would lead to uncertainty for potential applicants about when each allocation method would apply. NZMIA also submitted that provision should be made for adjacent former permits to be combined into a single NAA offer, which is now provided for in the proposed changes. NZMIA also submitted that the NAA timeframes are too long; however, the Ministry considers that 40 working days is an appropriate timeframe for applications.

   iii. **Minerals permit sizes:** The minerals industry submitters who commented on permit sizes were consistent in their views that minimum permit sizes be increased above those proposed. However, the Ministry's view is that the proposed sizes are appropriate, based on the analysis set out in this RIS, and flexibility is provided for exceptional circumstances.

   iv. **Minerals permit area:** The flexibility proposed for when minerals permits can be non-contiguous is a direct result of industry submissions, in particular those from Straterra, NZMIA, Newmont Waihi Gold, and OceanaGold.

   v. **Amalgamating existing permits:** Minerals industry submitters were supportive of the proposal to allow adjacent permits to be amalgamated. The proposals were revised based on industry submissions, in particular to allow related companies (such as subsidiaries) to amalgamate their permits, and to allow the provisions to apply to all mineral groups (as some were initially proposed to be excluded).

c. **Changes to work programmes:** The proposal to provide for consideration of activities under adjacent or related permits in considering changes to work programmes for minerals activities was developed as a direct result of industry submissions, particularly from OceanaGold.

d. **Exclusivity of permits and overlapping permits:** Industry submissions on the consultation draft minerals programmes submitted that if a permit is granted which overlaps with a permit for different mineral group, the new permit must not interfere with the permit it overlaps with. Particular provisions to avoid any potential conflicts have been proposed as a result of these submissions.

e. **Permit duration and appraisal extensions:** The provisions relating to the circumstances under which an existing petroleum exploration permit holder may apply for an extension were not in the consultation draft minerals programme but were included based a recommended change to the Bill made by the Commerce Committee, based on industry submissions on the Bill.

f. **Permit revocation:** Submissions on the Bill and draft minerals programmes noted that revocation could be initiated following breach of any permit conditions, including those that are minor or accidental. Accordingly, the minerals programmes now set out the circumstances in which the Minister would consider initiating revocation of a permit. In particular, it notes that revocation proceedings will not be used in response to minor breaches of permit conditions provided that the breach is not on-going or frequent.

g. **Regard to the principles of the Treaty of Waitangi:** A common theme in submissions from iwi and hapū on the draft minerals programmes was that iwi and hapū should have more tools available to protect significant areas, rather than the current emphasis on excluding areas of importance to iwi and hapū (i.e. wāhi tapu) from permits e.g. they may want to allow activities only under certain circumstances. The proposal to provide for this was based on this suggestion by iwi and hapū.

88 The following agencies have been consulted on the proposals in this paper: The Treasury, Ministry for the Environment, Environmental Protection Authority, Maritime New Zealand, Ministry of Justice, Department of Conservation, Te Puni Kōkiri. The Department of Prime Minister and Cabinet has been informed of the proposals.

Conclusions and Recommendations

89 It is recommend that petroleum reporting regulations adopt the UK model for reserves and resources reporting, extending reporting requirements and publication powers. It is recommended minerals reporting regulations enhance reporting requirements for Tier 1 permit holders, and include specific powers to publish reserves and production information; similar to what is currently done for petroleum.

90 It is recommend that the following proposals be implemented through the *Petroleum Programme* and the *Minerals Programme*:

a. For petroleum extensions of land a drilling commitment and test of competitive interest be applied to allow area to be included in block offer

b. When land previously under a minerals permit becomes available a determination will be made on which allocation method will apply to an area of land that becomes available

c. Guidance on permit sizes be provided in the *minerals programme* with maximum sizes for prospecting and Tier 2 mining permits, and a minimum size for exploration permits

d. The *minerals programme* provide that permits will ordinarily be granted over an unbroken area, with certain exceptions will be provided for

e. Adjacent permits held by the same permit holder can be amalgamated, subject to certain conditions

f. Provide for consideration of activities under adjacent or related permits in considering changes to work programmes

g. Set out guidance on appropriate conditions and a process to resolve disputes arising between overlapping permits

h. The *petroleum programme* specify different petroleum exploration permit durations depending on a number of criteria

i. Minerals programmes describe when revocation likely to be used

j. When consulted on proposed areas for permits, iwi and hapū may also request activities within certain areas be subject to additional requirements

k. Iwi and hapū be given 40 working days to comment on competitive tender proposals

l. NZP&M may proactively consult iwi and hapū on the suitability of including areas in new permits for alluvial gold

m. Allow overlapping permits for different resource types.

Implementation

91 Changes to the minerals programmes and regulations are part the review of the CMA regime. The changes are largely improvements to existing practices and procedures within NZP&M. No implementation challenges are expected. However, workshops are being held with NZP&M staff to ensure they are familiar with the changes and able to effectively implement them once they come into effect. The topics which are being covered include:

- Inter-agency cooperation
- Iwi consultation
- Tier 1 and Tier 2 permits
- Speculative prospecting
- Application assessments
- New ministerial powers
- Transitional arrangements
- Royalties.

92 Projects are underway to make necessary changes to information and computer systems.

93 The greater emphasis on building productive relationships with iwi and hapū is being supported through additional resources. NZP&M has employed an iwi relationship manager and has developed a clearer approach to stakeholder engagement more generally, and as part of the new, annual Block Offer processes. NZP&M is focusing attention on more sensitive areas of the East Coast and Northland.

Monitoring, Evaluation and Review

94 As part of the broader review of the CMA regime, NZP&M will be monitoring the effects of changes to key processes as they are introduced. The introduction of consideration of HSE issues at the permit allocation stage involves other agencies in a new type of assessment. It will be appropriate to consider the way this has functioned after a year of operation – in early 2014.

95 Two further reviews will occur. There will be an initial review of key features of the new regime in 2015, and longer term effects on exploration activity will be reviewed in 2018.

96 NZP&M will monitor the effects of changes in key processes of interaction with operators as these are introduced, in particular annual meetings, reduced reporting frequencies, less prescriptive work programme commitments and the new focus on Tier 1 activities. It is planned to review these aspects of the proposals two years after their introduction - in early 2015.

97 At this stage it will also be appropriate to review the operation of the Block Offer processes, the published Block Offer Strategy and supporting information provision.

98 Other proposals relating to changes to petroleum prospecting and exploration permits, and specific sections of minerals programmes relating to new types of resources can be expected to have an effect only after some time, but benefits would be identified through:

- Greater interest and competition where areas are made available in block offers
- Increases in seismic surveys undertaken, whether on a speculative basis or to meet permit conditions, and
- Increases in number of wells drilled.

99 These types of indicators will be tracked, and it is planned to undertake a full evaluation of the impact of these proposals five years after their introduction – in 2018.