IN CONFIDENCE

OFFICE OF THE MINISTER
OF ENERGY AND RESOURCES

OFFICE OF THE MINISTER
OF CONSERVATION

The Chair
EXPENDITURE CONTROL COMMITTEE

STOCKTAKE OF SCHEDULE 4 CROWN MINERALS ACT - OUTCOMES

PROPOSAL

1 This paper contains proposals that respond to issues raised in the stocktake of Schedule 4 of the Crown Minerals Act 1991 (**Act**).

EXECUTIVE SUMMARY

2 We have received feedback from a wide range of individuals and organisations on the proposals in the discussion paper on the stocktake of Schedule 4 of the Crown Minerals Act released in March 2010.

3 Two very strong messages from New Zealanders came through:

a Conservation areas, and in particular national parks, are of deep and enduring importance to New Zealanders and the vast majority of New Zealanders do not want to see mining on Schedule 4 lands.

b There is support for greater development of New Zealand's mineral resources outside Schedule 4 lands.

4 After carefully considering feedback received, we have decided to recommend that:

a no areas are removed from Schedule 4;

b the 14 areas proposed for addition to Schedule 4 in the discussion paper are added to the schedule;

c the proposed conservation fund based on mineral royalties not proceed;

d funding be allocated to carry out low impact mineral investigation over Northland (in strategic alliance with Northland Regional Council, the Far North District Council, and Enterprise Northland), the West Coast and various other highly prospective areas in the South Island, excluding any Schedule 4 areas;

e classification decisions for the classes of conservation area listed in Schedule 4 of the Crown Minerals Act 1991 that are currently the sole

responsibility of the Minister of Conservation be made by Order in Council (subject to Cabinet consideration) and that these classes be automatically added to Schedule 4 on their creation or classification;

f significant applications to mine on public conservation land should be publicly notified; and

g the process for approval of mineral-related access arrangements over Crown land be amended so that approvals are jointly decided on by the landholding minister and the Minister of Energy and Resources, and take into account criteria relating to the economic, mineral and national significance of the proposal to access Crown land.

BACKGROUND

The Crown Minerals Act 1991

5 The Act sets out the legislative framework for prospecting, exploration and mining of Crown minerals in New Zealand. It also sets out the process for permit holders to negotiate land access arrangements to Crown lands.

6 In 1997, the National Government added Schedule 4 to the Act to prohibit most access for exploration and mining of Crown minerals to particular tracts of conservation land and marine reserves on the basis of the high conservation values of those areas.

7 In 2008 the previous Government added a further 24 marine reserves and approximately 700,000 hectares of conservation land to Schedule 4. As a consequence, 40 percent of public conservation land – 13 percent of New Zealand's total land area – is now listed in Schedule 4.

The Schedule 4 Stocktake

8 In August 2009, the Minister of Energy and Resources and the Minister of Conservation directed officials to carry out a stocktake of Schedule 4-listed land. The purpose of the stocktake was to identify areas where current knowledge of the geology of the area indicated that the potential high economic value of the minerals to New Zealand warranted a case-by-case consideration of proposals for exploration and mining in the area within the context of a discussion about the conservation, tourism, cultural and other values of the area.

9 A first look at the Schedule 4 lands with high known mineral potential identified approximately 450,000 hectares. Cabinet rejected a change to the Schedule 4 status of such a large proportion of the schedule's land.

10 However, following that, a number of pinpoint areas within the schedule of potential high mineral value were identified, totalling a much smaller 7,058 hectares. On 22 March 2010, we released the discussion paper *Maximising our Mineral Potential – Stocktake of Schedule 4 of the Crown Minerals Act and beyond* (**Discussion Paper**). This sought further information and the views of New Zealanders on the possible removal from Schedule 4 of those areas. No

decisions were made on any removal – the Discussion Paper sought information and views that could then enable a decision to be made on a possible removal of Schedule 4 land.

11 The Discussion Paper also sought feedback on proposals to:

a add 12,400 hectares of public conservation land to Schedule 4;

b undertake further technical investigation of parts of New Zealand (including some areas of public conservation land) where mineral potential is thought to be high;

c provide for the Minister of Energy and Resources to be a joint decision maker on applications for access to Crown land so that the economic value of minerals in the area is considered when decisions are made on access under the Act; and

d establish a new conservation fund using a share of royalties from mining activity on public conservation land.

12 In addition the Discussion Paper outlined the protections applying to all public conservation land in relation to mining and the Department of Conservation's (**DOC**) development of a standard operating procedure for processing access applications under the Act.

CONSULTATION

13 We have carried out wide consultation on the proposals and received a significant level of input from the public, industry, councils, NGOs including environmental, community and recreational user groups, and offshore parties. Three hui were undertaken with the local iwi in the areas proposed for removal.

14 In total 37,552 submissions were received, of which 32,318 submissions were from individuals using standard submission form templates and 5,234 were unique submissions made by individuals and organisations.

15 Substantial submissions were received from representatives of conservation and environmental interests, local councils and community groups, mineral interest groups and affected mineral permit holders.

Removal of areas from Schedule 4

16 The vast majority of submitters opposed the removal of any areas from Schedule 4 and considered that the economic benefits of mining would not outweigh the damage to the environment and to New Zealand's "100% pure" image, or the potential loss of the enjoyment of these areas for future generations. Participants at the three hui stated that all the areas proposed for removal from Schedule 4 were valued by local Māori.

17 Most mining companies and related organisations supported the removal of the proposed areas from Schedule 4 so that case-by-case decisions could be made on mineral-related access to those areas.

Support for greater development of minerals outside Schedule 4

18 Support emerged during the consultation process for greater development of New Zealand's mineral resources outside the schedule.

19 People see value for New Zealand in improving the currently limited knowledge of our mineral potential, and recognise the economic value mining could have for industries, regions and for New Zealand's economic performance as a whole.

Addition of areas to Schedule 4

20 Almost all submissions supported the addition of all areas proposed to Schedule 4. Some industry submitters opposed the addition of Tapuae and Parininihi marine reserves because of the possibility of petroleum and or ironsands resources being present, and some iwi opposed the addition of areas in their rohe without their prior agreement.

21 A number of submissions advocated that high value conservation areas such as new national park areas should be automatically added to Schedule 4.

Changes to decision making on mineral-related access arrangements

22 Submitters considered that joint decision making on access arrangements would increase the likelihood that access to Crown land for mineral exploration and development would be granted, and opposed it on that basis. Groups representing Māori expressed concern that joint access would dilute the consideration of the Treaty of Waitangi, as the Act only requires decision makers to have regard to the Treaty, rather than to give effect to it.

23 The option of amending the Act to specify mineral potential or economic benefits as a matter to be considered in decisions on mineral-related access was also raised.

Summary of submissions

24 An executive summary of the summary of submissions is attached to this paper as Appendix 2.

LAND STATUS CHANGE DECISIONS

Final decisions on proposed removal areas

25 The clear message from submissions was that conservation areas and in particular national parks are of abiding and deep importance to New Zealanders and should be protected. The consultation process has clearly increased the public's awareness of the economic potential of the mining sector and there is support for environmentally responsible mining outside of Schedule 4 land being an important part of New Zealand's future.

26 Mining operations always have the potential to be contentious. Possible environmental and other impacts mean that mining operations must ensure that they have broad community support. This support will only be forthcoming if

communities are confident that the positives of a mining operation outweigh any downside impacts.

27 Based on the stocktake feedback it is clear that there is not sufficient or broad enough community support for considering any Schedule 4 areas for possible targeted future mineral development. Without this support it would not be in the broader interests of the community or the minerals industry to recommend any removals from the schedule. It is possible that public concern over any removal of Schedule 4 land – however small – would be damaging to the reputation of the broader mining sector. This could make it more difficult for the minerals industry to grow and build on the support for mineral development to play a strong role in New Zealand's future.

28 On this basis we recommend that no areas be removed from Schedule 4.

Land and sea additions to Schedule 4

29 Almost all submissions supported the addition of the proposed areas to Schedule 4 and we have decided to recommend adding all 14 areas proposed in the Discussion Paper (totalling 12,400 hectares) to the schedule.

30 Some submitters opposed addition of some areas on the basis that the area has high mineral potential or that iwi should have to agree to the change in land status before any change is made. On balance we consider that the conservation and other values of the areas outweigh those concerns, on the basis that:

a the conservation values of the two marine reserves are high and that the proposed reserves themselves cover only a small fraction of the significant ironsand deposits of the North Island's west coast, which extend from Kaipara and Muriwai north of Auckland for over 480 kilometres southwards to the Whangaehu River, south of Whanganui;

b addition to Schedule 4 would not prevent areas being considered as part of a Treaty settlement; and

c there is significant mineral potential in other parts of the West Coast of the South Island outside Paparoa National Park.

31 The stocktake provided a timely opportunity to amend the schedule and the proposed amendments will help to ensure that it remains current. The areas recommended for addition to the schedule are listed in Appendix 1.

AUTOMATIC ADDITION OF APPROPRIATE CONSERVATION LAND TO SCHEDULE 4

32 Many submitters thought that conservation areas such as national parks should automatically be included in Schedule 4. We want to allay the fears of some submitters that the Government may consider allowing the possibility of mining in national parks in the future by making it clear that the highest value conservation areas such as national parks are off the table.

33 Adding such areas to Schedule 4 automatically would provide them with explicit protection from mineral-related activity at the earliest opportunity and would avoid the delays, costs and uncertainty associated with a separate process for adding them to the schedule. Conservation classification decisions are permanent and so once an area is given a high conservation classification, mineral resources can be effectively sterilised and other uses such as for renewable energy or some types of tourism activities can be compromised. As such we consider the automatic addition of areas is only appropriate if statutory processes exist to ensure that mineral values are properly considered in conservation classification decisions that have this effect.

34 While there are opportunities to raise the mineral potential of some conservation areas before their classification, this is limited currently. Currently the Minister of Energy is notified when DOC has been instructed to investigate potential new national park areas, and an administrative process has recently been agreed whereby DOC informs the Ministry of Economic Development (**MED**) of a proposed conservation classification one month before it is publicly notified.

35 We consider that greater upfront consideration should be given to the other potential values of the land by requiring an Order in Council (subject to Cabinet consideration) to be made to implement classification decisions for those conservation classes[1] listed in Schedule 4. These decisions are currently the sole responsibility of the Minister of Conservation.

36 Cabinet decision making would prevent delegated decision-making by officials, but this is unlikely to create an inappropriate administrative burden given the relatively small number of areas added to the relevant classes of land (9 new areas have been added to those classes in the last 5 years).

37 Implementing the automatic addition of relevant conservation areas to Schedule 4 would require legislative amendment to the Act. Providing for Cabinet decision making on conservation classification decisions would require the amendment of relevant conservation legislation.[2] This is discussed further below in the legislative implications section.

PUBLIC NOTIFICATION OF MINING APPLICATIONS ON PUBLIC CONSERVATION LAND

38 A large number of submitters have highlighted the fact that applications to gain access to public conservation land for mining-related activity under the Act are not currently publicly notified when all other access approvals (concessions) of this scale and/or significance on public conservation land are publicly notified. We note that if the impacts were significant the resource consents required would likely be publicly notified.

39 This lack of public notification is seen by opponents of mining as an unfair advantage for mining compared with other activities on conservation land and

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1 Relevant conservation classifications are listed in clauses 1 to 7 of Schedule 4 – these are national parks, nature and scientific reserves, wilderness areas, sanctuary areas, marine reserves, and Ramsar wetlands.

2 Relevant statues include the National Parks Act 1981, Conservation Act 1987, Reserves Act 1977 and Marine Reserves Act 1971.

one that adversely impacts on the transparency of the decision-making process. Given the public interest in such proposals, providing for public notification of significant proposals would give the public certainty that they would be able to input into any decisions made.

40 How information received in submissions would be factored into decision making is unclear as there is no explicit ability under section 61(2) of the Act to consider submissions received. Conducting a public notification and submission process would have costs and would extend the process of considering access arrangement applications.

41 We consider that only significant activities should be subject to public notification and so a significance test would need to be applied. This test should be aligned with rules under the Resource Management Act 1991 so that public notification applies consistently across the access and consenting processes.

42 If a public notification of significant proposals is preferred then this could be implemented administratively or through statute. A non-regulatory approach would involve development of policy including criteria (such as scale and significance of the activity and/or impact) for the decision maker to apply to determine when an application should be publicly notified. This non-regulatory approach could be implemented once such criteria were developed by officials and agreed by Cabinet. A statutory approach would have the advantage of greater certainty.

43 Should public notification of mining applications on public conservation land be supported in principle we recommend reporting back to Cabinet by October 2010 with detailed policy proposals.

ESTABLISHMENT OF A CONSERVATION FUND

44 Most submitters opposed the establishment of a conservation fund based on mineral royalties and we have decided not to proceed with it.

FURTHER TECHNICAL INVESTIGATION PROGRAMME ACROSS NEW ZEALAND

45 The technical investigation programme to identify areas with potentially rich mineral resources agreed to by Cabinet on 22 March 2010 [refer to CAB MIN (10) 10/14] has been developed by Crown Minerals in consultation with GNS Science and has been peer reviewed.

46 The proposed programme does not include investigation of any Schedule 4 area. The following investigations are planned:

a an aeromagnetic survey over the Northland region in strategic alliance with Northland Regional Council, the Far North District Council, and Enterprise Northland, who will contribute to the survey's total cost;

b an aeromagnetic survey over the West Coast of the South Island (excluding national parks and other Schedule 4 land);

c a desktop review and targeted low impact sampling of the Longwood Complex in Southland and similar rocks in the inland Kaikoura Range; and

d desktop reviews of, and low impact groundwork in, the Riwaka Complex in northwest Nelson, seafloor rocks in both east Nelson and South Westland, and rocks north of Haast River that have the potential to host rare earth elements, excluding any Schedule 4 areas.

47 In addition, the government proposes to consult with iwi and other interested parties about potential investigations over other South Island locations that could host world-class mineral deposits.

48 The knowledge gained from the programme will enable government to promote the rational utilisation of mineral resources and help it make decisions that maximise the value of New Zealand's mineral estate.

49 The estimated cost of the programme is $4.5 million. The costs incurred will be subject to the tenders received. To ensure best value for money it is proposed that the elements of the programme be tendered via government's procurement procedures (mandatory for spends above $100,000) to determine the best provider/s.

PROPOSED CHANGES TO ACCESS ARRANGEMENT APROVALS

50 Many submitters considered that the proposed change to decision making on access arrangements would increase the likelihood that access to Crown land for mineral development would be granted, and opposed it on that basis. However, following consideration of submissions, we have concluded that the current provisions are insufficient to ensure that mineral and economic objectives are considered when access arrangements are addressed.

51 We recommend that section 61(2) of the Act be amended so that approvals are jointly decided by the landholding minister and the Minister of Energy and Resources, and take into account criteria relating to the economic, mineral and national significance of the proposal to access Crown land.

52 While consideration of the potential economic benefits of a mineral-related proposal is currently possible (land-holding ministers have regard to "such other matters" as they consider relevant), it is not required. We consider that the Crown's interest in managing Crown resources for the benefit of all New Zealanders needs to be recognised, and additional criteria would achieve this. This possibility was noted in the Discussion Paper.

53 Additional criteria will not be sufficient in themselves to ensure that mineral and economic objectives are properly considered, because they do not fall within the portfolio or expertise of landholding ministers or their officials. Joint decision making by both the landholding minister and the Minister of Energy and Resources should ensure that the Crown's different interests in the surface values of Crown land and in any subsurface minerals are recognised.

54 Implementing this proposal would require legislative amendment to the Act. This is discussed further below in the legislative implications section.

ESTABLISHMENT OF A STANDARD OPERATING PROCEDURE FOR ASSESSING APPLICATIONS FOR MINERAL-RELATED ACCESS ARRANGEMENTS OVER DOC-ADMINISTERED LAND

55 There is currently no single procedure for assessing applications for minerals access. At times this has created uncertainty, delays and costs for both DOC officials that are tasked with making the assessments, and on the businesses that must apply for access to Crown lands over which they hold a minerals permit.

56 DOC has recently reviewed its procedure for assessing applications, and has developed a standard operating procedure, which aims to provide clarity to all parties involved in the negotiation of access arrangements. It concerns administrative process only, and has no impact on statutory responsibilities.

57 DOC has fully engaged mining interests and other stakeholders in development of the standard operating procedure and DOC advises that mining interests are fully supportive of the improved and standardised approach. The standard operating procedure has been approved and will come into effect on 1 August 2010. Should joint ministerial decision making as proposed above be preferred then amendments to the standard operating procedure would be required.

INTERDEPARTMENTAL CONSULTATION

58 This paper was written by the Ministry of Economic Development with input from the Department of Conservation.

FISCAL IMPLICATIONS

59 The cost of the further technical investigation programme will be $4.5 million in 2010/11. There will be a corresponding net impact on the Crown's operating balance.

HUMAN RIGHTS

60 There are no human rights implications arising from this paper.

LEGISLATIVE IMPLICATIONS

61 Section 61(4) of the Act provides that the Governor-General may, by Order in Council made on the recommendation of the Minister of Energy and the Minister of Conservation, amend Schedule 4 of the Act. The proposals in this paper would make use of this provision to amend the schedule by adding to it a number of marine reserves and areas of high value conservation land.

62 As our power to recommend the making of an Order in Council is a statutory one, the exercise of that power is subject to judicial review by the Courts. The Order in Council will be a "regulation" for the purposes of the Regulations (Disallowance) Act 1989 and the Acts and Regulations Publications Act 1989.

All regulations can be examined by the Regulations Review Committee, which is charged with reporting to the House on Regulations under Standing Orders.

63 Changes to the Act would be required to implement decisions on:

a the automatic inclusion of newly created or classified national parks in Schedule 4; and

b amendments to the provisions relating to approval of mineral-related access arrangements over Crown land.

64 It is envisaged that the necessary amendments to the Act would be progressed through the Crown Minerals Amendment Bill which has been added to the 2010 legislative programme with priority Category 5 – instructions to Parliamentary Counsel to be provided in the year.

65 Changes to conservation legislation – specifically the National Parks Act 1981, Conservation Act 1987, Reserves Act 1977 and Marine Reserves Act 1971 – would be required to implement the proposals in paragraph 35. Officials have yet to identify an appropriate legislative vehicle for progressing these amendments.

REGULATORY IMPACT ANALYSIS

Regulatory Impact Analysis Requirements

66 A regulatory impact statement (**RIS**) has been prepared by MED and is attached to this Cabinet paper. The amendments to Schedule 4 proposed in this paper meet the significance criteria for the Regulatory Impact Analysis Team (**RIAT**) at Treasury to review the attached RIS. MED advises there has been insufficient time for RIAT to review these proposals.

67 We have considered the analysis and advice of our officials, as summarised in the RIS and we are satisfied that, aside from the risks, uncertainties and caveats already noted in this Cabinet paper, the regulatory proposals recommended in this paper:

a are required in the public interest;

b will deliver the highest net benefits of the practical options available; and

c are consistent with our commitments in the Government Statement on Regulation.

RECOMMENDATIONS

68 It is recommended that the Committee:

Background

1 **note** that the submission period on the March 2010 discussion paper, *Maximising our Mineral Potential – Stocktake of Schedule 4 of the Crown*

Minerals Act and beyond has now closed, and submissions have been analysed;

Areas to be removed from Schedule 4

2 **note** that the majority of submitters considered that the economic benefits of mining Schedule 4 land would not outweigh the damage to the environment and to New Zealand's "100% pure" image, as well as the loss of the enjoyment of these areas for future generations, and opposed the removal of any areas from Schedule 4 of the Crown Minerals Act 1991;

3 **agree** that no areas be removed from Schedule 4 of the Crown Minerals Act 1991;

Areas to be added to Schedule 4

4 **note** that the majority of submitters supported the proposed addition of 14 areas to Schedule 4 outlined in the discussion paper;

5 **note** that the Minister of Energy and Resources and the Minister of Conservation intend recommending to the Governor-General that 14 areas totalling 12,400 hectares (as proposed in the discussion paper and described in Appendix 1 of this paper) be added to Schedule 4 of the Crown Minerals Act 1991 by Order in Council in accordance with section 61(4) of the Act;

Amending Schedule 4

6 **agree** that an Order in Council to give effect to the decisions referred to in recommendation 5 be made by October 2010;

7 **invite** the Minister of Energy and Resources and the Minister of Conservation to issue drafting instructions to the Parliamentary Counsel Office for an Order in Council to give effect to the proposals in recommendation 5;

Automatic inclusion in Schedule 4 of relevant conservation areas

8 **agree** to the automatic inclusion in Schedule 4 of newly created or classified areas equivalent to those currently listed in clauses 1 to 7 of Schedule 4 (national parks, nature and scientific reserves, wilderness areas, sanctuary areas, wildlife sanctuaries, marine reserves, and Ramsar wetlands);

9 **agree** that classification decisions for the classes of conservation area listed in clauses 1 to 7 of Schedule 4 of the Crown Minerals Act 1991 that are currently the sole responsibility of the Minister of Conservation instead be made by Order in Council (subject to Cabinet consideration);

10 **invite** the Minister of Energy and Resources and the Minister of Conservation to issue drafting instructions to the Parliamentary Counsel Office to give effect to the proposals in recommendations 8 and 9;

Public notification of mining applications on public conservation land

11 **agree** in principle that significant applications to mine on public conservation land should be publicly notified;

12 **invite** the Minister of Energy and Resources and the Minister of Conservation to report back to Cabinet by October 2010 on how recommendation 11 should be implemented;

Proposed conservation fund

13 **note** that most submissions opposed the establishment of a conservation fund based on mineral royalties;

14 **agree** that the proposed conservation fund not proceed;

Further technical investigation programme

15 **note** that Cabinet agreed to further technical investigation programme being carried out across New Zealand to identify areas with high mineral prospectivity;

16 **approve** the following changes to appropriations to carry out the further technical investigation programme, with a corresponding impact on the Crown's operating balance:

	$m – increase/(decrease)				
Vote Energy Minister of Energy and Resources	**2010/11**	**2011/12**	**2012/13**	**2013/14**	**2014/15 and outyears**
Departmental Output Expense: Energy and Resource Information Services (funded by revenue Crown)	4.500	-	-	-	-

17 **agree** that the proposed changes to 2010/11 appropriations above be included in the 2010/11 Supplementary Estimates and that, in the interim, the increase be met from Imprest Supply;

Ministerial decision making on access arrangements

18 **note** that the current provisions in the Crown Minerals Act 1991 for mineral-related access arrangements do not enable full account to be taken of the potential national significance and economic benefits of a proposal to explore or mine Crown-owned minerals, or recognise that the Crown has different interests in the surface values of Crown land and in any subsurface minerals, both of which it manages on behalf of, and for the benefit of, all New Zealanders;

19 **agree** that section 61(2) of the Crown Minerals Act 1991 be amended to provide for:

19.1 joint decision making on access arrangements under the Act by the landholding minister and the Minister of Energy and Resources; and

19.2 specific economic, mineral and national significance-related criteria to be considered in making a decision on mineral-related access under the Act;

20 **invite** the Minister of Energy and Resources and the Minister of Conservation to issue drafting instructions to the Parliamentary Counsel Office to give effect to recommendation 19;

Department of Conservation standard operating procedures

21 **note** that the standard operating procedure for processing access arrangement applications under the Crown Minerals Act 1991 has been approved and will come into effect on 1 August 2010. The standard operating procedure aims to provide clarity to all parties involved in the negotiation of access arrangements;

22 **note** that the standard operating procedure concerns administrative process only, and has no impact on statutory responsibilities;

Further reclassification process

23 **note** that DOC and MED have agreed to a process whereby MED is informed of any proposals to reclassify conservation areas one month prior to the intended public notification date so that an assessment can be made as to whether such reclassification may adversely impact on the potential to explore and develop mineral resources in areas proposed for change;

Publicity

24 **agree** that the Minister of Energy and Resources and the Minister of Conservation issue a press release to announce the decisions set out in the recommendations above; and

25 **agree** that this paper and the associated Cabinet minute be publicly released, with withholdings as appropriate.

Hon Gerry Brownlee
Minister of Energy and Resources

Date signed: _____

Hon Kate Wilkinson
Minister of Conservation

Date signed: _____

Regulatory Impact Statement

STOCKTAKE OF SCHEDULE 4 OF THE CROWN MINERALS ACT 1991

AGENCY DISCLOSURE STATEMENT

This Regulatory Impact Statement (**RIS**) was prepared by the Ministry of Economic Development with input from the Department of Conservation.

Limitations in analysis in the RIS include:

- The timeframe to carry out the analysis was short.
- The proposal to specify additional criteria for decision making on mineral-related access arrangements was mentioned in the Discussion Paper but has not been specifically consulted on.
- The proposal to require classification decisions for the classes of conservation area listed in clauses 1 to 7 of Schedule 4 to be made by Order in Council and to automatically add these classes of conservation area to Schedule 4 on their creation or classification was developed following consideration of submissions without opportunity for further consultation.

Andrew Saunders
Acting Manager, Fuels & Crown Resources
Ministry of Economic Development

STATUS QUO AND PROBLEM DEFINITION

1 The Crown Minerals Act 1991 (**Act**) establishes a regime for allocating access to Crown-owned minerals. To prospect, explore or mine such a mineral, a permit issued by the Minister of Energy and Resources is required. That permit does not give the permit holder any rights to enter land. For most activities, an access arrangement must be negotiated with the relevant landowner. In the case of conservation areas, the Minister of Conservation is responsible for deciding whether to grant access and on what terms.

2 Statutory protection from mining related activities is afforded to some classes of very high value conservation area and to conservation areas in the Coromandel Peninsula and surrounding islands. This protection was provided on the basis that the impact of development activities such as mining on these sites was considered unlikely to be compatible with their conservation values. These areas are listed in Schedule 4 of the Act (**Schedule 4** or **the schedule**).

3 Schedule 4 initially applied to those areas with the conservation classifications listed in it that held those classifications as of 1 October 1991. Conservation areas with relevant classifications created since need to be specifically added

and a process exists to allow the Ministers of Energy and Resources and Conservation to recommend amendments to the schedule by Order in Council. A significant amount of conservation land was added to Schedule 4 using this process in 2008.

4 Ministers announced a stocktake of Schedule 4 in August 2009 to consider possible additions to and removals from Schedule 4. Cabinet agreed in March 2010 to release a discussion paper titled *Maximising our Mineral Potential – Stocktake of Schedule 4 of the Crown Minerals Act and beyond* (**Discussion Paper**), which contained proposed additions to and removals from the schedule, and related proposals.

Some high value conservation areas should be off limits to mining

5 The first problem identified is that some recently classified/created high value conservation areas have yet to be given the highest possible legal protection through listing on Schedule 4. Fourteen such areas were proposed for addition to the schedule in the Discussion Paper.

6 A second problem identified is that even where there generally is an upfront process[3] for considering mineral potential in the creation of a relevant conservation area, separate consideration is required to add the area to Schedule 4. This multiple process creates delays in bringing areas within the schedule's scope and inefficiencies in conducting two separate processes.

Decisions on access to Crown land for mineral-related activities

7 Currently the Act provides for landholding ministers such as the Minister of Conservation (or their delegate) to negotiate access arrangements for Crown minerals contained in Crown land (e.g. public conservation areas).[4]

8 The factors to be considered by the relevant Minister are set out in section 61(2) of the Act and are focused on:

- the legislation under which, and the purpose for which, the land is held;
- relevant management plans, policy statements etc;
- safeguards against adverse effects; and
- other matters the Minister considers relevant.

9 The third problem identified is that the current provisions fail to recognise that the Crown has distinct interests in both the surface values of land and the underlying minerals, both of which it manages on behalf of, and for the benefit of, all New Zealanders. The current provisions give pre-eminence to the surface

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3 The National Parks Act 1980 provides for both public consultation and notification to the Minister of Energy and Resources where land is being proposed for classification as a national park or part of a park, or being acquired for national park purposes.

4 See section 61(2) of the Act.

values without any explicit balancing of the two interests. Notwithstanding this most applications for access to Crown land are ultimately approved.

10 The Discussion Paper outlined a proposal for responsibility for decision making on access to Crown land under the Act to be jointly held by the landholding minister and the Minister of Energy and Resources. This was intended to ensure that consideration of any mineral-related access arrangement application for Crown-owned land takes full account of the potential national significance and economic benefits of a proposal to explore or mine Crown-owned minerals.

OBJECTIVES

11 The Government's high level goal is increased economic development through policies that facilitate the responsible development of mineral resources. Specific objectives are:

- ensuring that the legislative framework for administration of Crown-owned minerals achieves an appropriate balance between mineral development and other factors;

- providing certainty to communities and industry, and reducing wasted investment, where it is unlikely that mining would be permitted given the statutory protections already applying.

REGULATORY IMPACT ANALYSIS

High value conservation areas that should be off limits to mining (Problems 1 and 2)

Problem 1 - Adding recently classified/created high-value areas to Schedule 4

12 Statutory protections for 14 public conservation areas proposed in the Discussion Paper for addition to Schedule 4 are already high in most cases making access for higher-impact mineral related activities unlikely. Given this and the low mineral potential of most of these areas the effective regulatory impact on the exploration and development of the Crown mineral estate of adding them to the schedule (**Option 1A**) is small. The vast majority of submitters supported this approach.

13 The opportunity cost of prohibiting mineral development generally appears small due to the low mineral potential of most of the 14 areas. Some submitters considered however that access should be determined on a case-by-case basis and that therefore none of areas should be added to the schedule (**Option 1B**).

14 Some submitters considered that some of the proposed addition areas should not be added to Schedule 4. Areas specifically mentioned as not being appropriate for addition at this time were Motu Kaikoura and Rakitu islands and the recent additions to Paparoa National Park (which relevant iwi considered should have no status change without engagement and agreement with iwi) and the Tapuae and Parininihi marine reserves in Taranaki (which were considered

by a some industry submitters to have potential for ironsands or petroleum). Tapuae Marine Reserve was noted as having stronger ironsands potential than surrounding (non-public conservation) areas by the overlying permit holder. It was noted that preventing access to these areas could also adversely affect the determination of the prospectivity of land either under or adjacent to the marine reserves. Tapuae and Parininihi marine reserves amount to only a very small proportion of the significant ironsand deposits of the North Island's west coast.

15 A third option identified would be to add twelve of the fourteen proposed areas to the schedule – excluding Tapuae and Parininihi marine reserves (**Option 1C**).

16 Adding areas to Schedule 4 provides greater certainty for local communities with the trade-off that local community representatives (i.e. councils) are not given any opportunity to make decisions on whether or not to allow most mineral-related activity in their region through Resource Management Act 1991 (**RMA**) consent processes. Environmental and conservation interests would also have the benefit of increased certainty of protection from mineral-related activity for areas of interest to them.

17 There is a small possibility that the certainty provided by adding an area to Schedule 4 could facilitate some additional economic activity in these areas, most likely tourism related. The marginal impact of this additional certainty is, however, considered to be minor as mineral activity is in any case unlikely in these areas.

18 Options 1A – 1C are likely to be fiscally neutral as there appears to be little potential for revenue from mineral development in these areas for the reasons noted above.

19 Certainty of no access for most mineral-related activity means no wasted investment in seeking access to areas where it is unlikely to be granted. There is also no need for opponents to oppose applications or resource consents for mineral-related activities in these areas.

20 With the exceptions noted in paragraph 14 above, Māori generally supported the addition of areas to Schedule 4. As noted in the Discussion Paper, addition to Schedule 4 would not prevent areas being considered as part of a Treaty settlement or impact any non-mineral related use of the land.

21 The attached Cabinet paper proposes Option 1A.

Problem 2 - Multiple processes to add newly classified/created areas to Schedule 4

22 Currently newly classified or created public conservation areas that warrant inclusion in Schedule 4 must be added to the schedule individually or in groups following an assessment of their respective mineral and conservation values and consultation.

23 Numerous submitters, including the Parliamentary Commissioner for the Environment, suggested that new areas that are given equivalent status to

existing Schedule 4 areas should be automatically added to the schedule (**Option 2A**).

24 The processes for classifying these types of conservation areas do not provide explicitly provide for the consideration of mineral potential or necessarily involve a wide-ranging public process. This option would therefore not explicitly provide for any consideration of mineral values prior to an area being added to the schedule.

25 Greater upfront consideration to the other potential mineral values could be given to the land by requiring an Order in Council to be made to implement conservation classifications decisions for those conservation classes before then automatically adding them to the Schedule (**Option 2B**). These decisions are currently given to the Minister of Conservation. The attached paper proposes Option 2B.

26 Cabinet decision making would prevent delegated decision-making by officials. This would increase government processes but classifications of this type are relatively uncommon (9 new areas of these types created in the last five years have been proposed for addition to Schedule 4).

27 Requiring an Order in Council for conservation classification decisions would involve amendment of relevant conservation legislation.[5] Implementing the automatic addition of relevant classes of conservation area to Schedule 4 would require legislative amendment to the Act.

Decisions on access to Crown land for mining related activities (Problem 3)

28 The Discussion Paper proposes providing a role for the Minister of Energy and Resources as a joint decision maker on access to any Crown land (including conservation land) under section 61(2) of the Act (**Option 3A**). This would not apply to any concessions required under the Conservation Act 1987 for mining-related activity (e.g. access roads).

29 Most submitters considered that the proposed change to decision making on access arrangements would increase the likelihood that access to Crown land for mineral development would be granted, and opposed it on that basis. Some mainly industry submitters supported the proposal and some also suggested that other changes be made to section 61(2).

30 While consideration of the potential economic benefits of a mineral-related proposal is currently possible (land-holding ministers have regard to "such other matters" as they consider relevant), it is not mandatory. One way to achieve this would be to specify mineral potential or economic benefits as a matter to be considered in decisions on access under section 61(2) of the Act (**Option 3B**). This possibility was noted in the Discussion Paper, although not specifically outlined as a proposal.

[5] Relevant statues include the National Parks Act 1981, Conservation Act 1987, Reserves Act 1977 and Marine Reserves Act 1971.

31 Both options are intended to ensure that the consideration of any mineral-related access arrangement application for Crown-owned land takes full account of the potential national significance and economic benefits of a proposal to explore or mine Crown-owned minerals. They recognise that the Crown has different interests in the surface values of Crown land and in any subsurface minerals, both of which it manages on behalf all New Zealanders.

32 Additional criteria would not be sufficient in themselves to ensure that mineral and economic objectives are properly considered, because they do not fall within the portfolio or expertise of landholding ministers or their officials. Joint decision making by both the landholding minister and the Minister of Energy and Resources (Option 3A) would ensure that the Crown's different interests in the surface values of Crown land and in any subsurface minerals are recognised.

33 Adoption of Option 3A and/or 3B would not necessarily alter the decision on any particular access application and we note that in recent years, most applications have been approved. A more specific regard for the potential national significance and economic benefits of a proposal to explore or mine Crown-owned minerals might lead to more access arrangement applications being approved and/or on terms more favourable to development. All other legislative (e.g. under conservation or Treaty settlement legislation) and planning protections, public processes and compliance measures (RMA consent process etc) would remain in place.

34 An increase in permitted activity could in turn lead to increased economic activity, exports, royalties to the Crown, employment and regional development. Greater activity could have environmental consequence on relevant areas with impacts managed through access arrangement conditions and under the RMA as usual.

35 The need to involve two ministers in a decision on access could slow decision making. Involvement of an additional minister and greater involvement by officials from more than one department would also have resource and cost implications for departments. Joint decision making could create uncertainty around which Minister was the lead on decision making as, although a decision would be made under the Act, the decision would be in relation to Crown administered land held under other legislation for specific purposes.

36 For public conservation land, access arrangement decisions are usually delegated to conservation managers at the local level. Introducing joint decision making of ministers would likely require an increased time involvement from Ministers and significantly greater administrative time of officials in: assembling information for joint ministers; determining which agency should lead the advice process; developing and negotiating briefing material; and running a relevant process to enable Ministers to make a joint decision.

37 An alternative option considered was to require the landholding minister to have regard to the views of the Minister of Energy and Resources in making any decision on mineral-related access (**Option 3C**). This was not consulted on specifically but would be a lower impact version of Options 3A and 3B. It would

give the Minister of Energy and Resources a formal opportunity to provide a perspective where only informal opportunities currently exist, and would be easier to administer than Option 3A with lower cost and impact on existing processes. However, it would not mean that economic or mineral-related considerations would necessarily be taken into account and it would therefore be less likely to solve the identified problem.

38 The Cabinet Paper recommends adopting both Options 3A and 3B. This is intended to ensure that the legislative framework for administration of Crown-owned minerals achieves an appropriate balance between mineral development and other factors.

CONSULTATION

39 Given the public interest in this matter full public consultation was undertaken. Three hui were undertaken with iwi on Great Barrier Island and in Thames and in Christchurch in relation to the areas proposed for removal from the schedule.

40 In total 37,552 submissions were received. 32,318 submissions were made by individuals using standard submission form templates that had been drafted by environmental organisations such as Greenpeace, Forest & Bird, and Coromandel Watchdog or by organisations such as the Green Party. 5,234 unique submissions were made by individuals and organisations.

41 Substantial submissions were received from representatives of conservation and environmental interests (e.g. conservation boards, various Forest and Bird bodies, Greenpeace, Coromandel Watchdog), local councils and community groups (Thames Coromandel District Council, Auckland Regional Council and community boards), mineral interest groups (including the Australian Institute of Mining and Metallurgy, Straterra and the Petroleum Exploration and Production Association of New Zealand) and affected mineral permit holders (Newmont Waihi Gold, Solid Energy, Ironsands Offshore Mining Limited).

42 Almost all submissions supported the addition of all areas proposed to Schedule 4 (Option 1A). Some industry submitters opposed the addition of Tapuae and Parininihi marine reserves because of the possibility of petroleum and/or ironsands resources being present (Option 1B). Ironsands Offshore Mining Limited, which holds a prospecting permit covering Tapuae Marine Reserve opposed its addition to Schedule 4 on the basis that the area of the reserve held the strongest potential for ironsands in their permit area.

43 As noted above providing for automatic addition of new areas with equivalent status to existing Schedule 4 areas to the schedule (Option 2) was not consulted upon but was advocated in a number of submissons.

44 Individuals, environmental, community, and recreational user groups all generally expressed the view that conservation values of the areas outweighed the mining potential and that areas should not be removed from Schedule 4. Participants in the three hui stated that all of the areas proposed for removal from Schedule 4 were valued by local Maori. Most mining companies and

related organisations supported the removal of the proposed areas from the schedule. Some submitters opposed the removal of only some of the proposed areas, noting that the areas would be protected by existing processes requiring consultation and consideration before mineral-related activities could take place.

45 Most submitters considered that the proposal for joint decision making (Option 3A) would increase the likelihood that access to Crown land for mineral exploitation would be granted, and opposed it on that basis. A common comment was that access should remain at the sole discretion of the landholding minister. Groups representing Maori expressed concern that joint access would dilute the consideration of the Treaty of Waitangi, as the Act only requires decision makers to have regard to the Treaty, rather than to give effect to it.

46 Some submissions, particularly from the minerals industry, raised the option of amending the Act to specify mineral potential or economic benefits as a matter to be considered in decisions on access under section 61(2) (Option 3B).

47 An executive summary of submissions is attached to Cabinet paper as Appendix 2.

IMPLEMENTATION

48 Amendment of Schedule 4 will be given effect through an Order in Council made under section 61(4) of the Act. Once the draft Order is prepared and certified, it can be submitted to the Cabinet Legislation Committee for approval by Executive Council, and the Order would come into effect 28 days after receiving Royal Assent. The areas added to the schedule will then be essentially closed to mining access except for certain very low impact activities.

49 Other regulatory changes outlined would require amendment of the Act. A regulatory review of the Act and associated regulation has been commenced and a Crown Minerals Amendment Bill has been added to the 2010 legislative programme. Because the Stocktake was commenced before the regulatory review and because of the interrelationship between changes to Schedule 4 and changes to decision making on access to Crown land (including conservation land) they have all been progressed through the Stocktake.

Notification

50 Final decisions on the proposals will be announced publicly by the Ministers of Energy and Resources and Conservation. Amendments to Schedule 4 will be notified in the New Zealand Gazette following Royal Assent of the Order in Council.

MONITORING, EVALUATION AND REVIEW

51 Should option 2 be adopted further additions to Schedule 4 will no longer be required. If not then areas with relevant conservation classifications would need to be considered for addition to the schedule after they are created or classified.

Appendix 1: Areas recommended for addition to Schedule 4 of the Crown Minerals Act 1991

Name	Size (ha)	Location	Gazette/Regulation details
Marine Reserves			
Horoirangi Marine Reserve	903	Nelson	SR 2005/323
Parininihi Marine Reserve	1,844	North Taranaki	SR 2006/282
Tapuae Marine Reserve	1,404	New Plymouth	SR 2008/96
Taputeranga Marine Reserve	855	Wellington	SR 2008/226
Te Paepae o Aotea (Volkner Rocks) Marine Reserve	1,267	White Island	SR 2006/281
Whangarei Harbour Marine Reserve	237	Whangarei	SR 2006/283
Coromandel/Hauraki Gulf Islands			
Kaikoura Island Scenic Reserve	564	Great Barrier	*Gazette* 11 November 2004, p 3688
Rakitu Island Scenic Reserve	253	Great Barrier	*Gazette* 2 November 1995, p 4265
Land Areas			
Abel Tasman National Park additions	914	Nelson	*Gazette* 21 February 2008, p 722
Burwood Bush Scientific Reserve	3,114	Southland	*Gazette* 20 March 1997, p 650
Egmont National Park additions	358	Taranaki	*Gazette* 1 June 2000, p 1297
Ianthe Scientific Reserve	211	West Coast	*Gazette* 28 March 2002, p 808
Orokonui Nature Reserve	236	Dunedin	*Gazette* 16 August 2007, p 2401
Paparoa National Park (northwest addition)	240	West Coast	*Gazette* 28 March 2002, p 807 [Area "B" shown on SO 302281 (formerly part Section 1, SO 15152)]

Appendix 2: Executive Summary of Summary of Submissions

1. This document briefly summarises the submissions made in response to the discussion paper *Maximising our Mineral Potential: Stocktake of Schedule 4 of the Crown Minerals Act and Beyond* that was released by the Minster of Energy and Resources and the Minister of Conservation in March 2010.

2. In total **37,552** submissions were received on the discussion paper. In addition, **5,023** postcards and **4,494** emails on the stocktake of Schedule 4 were sent to the Prime Minister.

Submitters

3. **32,318** submissions were made by individuals using a template with standard wording, drafted by environmental organisations such as Greenpeace or Forest & Bird, or by organisations such as Coromandel Watchdog, Federated Mountain Club, or the Green Party.

4. **5,234** unique submissions were made by individuals and organisations.

5. Individuals who submitted represented a range of interests, including:
   - Members of communities near to areas proposed for removal from Schedule 4
   - Recreational users of conservation land
   - People who visited areas proposed to be removed from Schedule 4 or conservation land
   - Members of communities near to land that is proposed to be included in further mineral investigation
   - Academics
   - Business owners, in particular tourism operators
   - Members of communities near to land that is proposed to be added to Schedule 4
   - Environmentalists
   - General members of the public.

6. A significant number of submissions were received from organisations, representing a range of interests, including:
   - City, district, and regional councils
   - National and international conservation and environmental organisations
   - Community groups
   - Groups representing Maori
   - Recreational user groups
   - Mining companies
   - Industry organisations and associations
   - Tourism operators.

Submissions

7. The following paragraphs indicate the approximate level of support for each question in the discussion paper.

Question 1

8. Question 1 asked submitters whether the areas identified in section 7 of the discussion paper should be removed from Schedule 4 of the Crown Minerals Act, so that applications for exploration and mining activity could be considered on a case-by-case basis. Submitters were also asked to provide the reason(s) for their answer.

9. Almost all submitters responded to this question. Of these:
   - **36**,**502,** or **98%** of submitters opposed the removal of all areas identified in section 7 of the discussion paper from Schedule 4
   - **611**, or **1.5%** of submitters supported the removal of all areas identified in section 7 of the discussion paper from Schedule 4
   - **0.5%** of submitters supported only some of the areas identified in section 7 of the discussion paper being removed from Schedule 4.

10. **87%** of the submissions received on question 1 were received from individuals who completed standard form submissions.[6] All opposed the removal of all areas identified in section 7 of the discussion paper from Schedule 4.

11. **4,838** unique submissions were received on question 1. Of these, a substantial majority (**86%**) opposed the proposal to remove any areas from Schedule 4. The following themes came through very strongly in these submissions:

Culture	Many submitters commented that the preservation and enjoyment of natural areas is part of our national identity and what makes New Zealand a great place to live in. Submitters expressed the opinion that Schedule 4 land was a natural treasure, that it enhanced New Zealanders' quality of life, and could not be assigned an economic value. Many submitters expressed their wish to see Schedule 4 land, and National Parks in particular, preserved for future generations to enjoy.
Conservation	The large majority of submissions concluded that the conservation value of the areas proposed for removal outweighed any mineral potential.

6 32,318 submissions in total

Most submitters considered that any mining of the areas proposed for removal from Schedule 4 would significantly diminish their value as habitats for endangered species and plant life. Submitters stated that there was not enough information on conservation value in the discussion paper and expressed concern about the affect any mining of these areas would have on New Zealand biodiversity.

Tourism — Submitters stated that New Zealand's "clean green" reputation was based on our conservation credentials and expressed concern that mining conservation land, particularly National Parks, would threaten our international reputation, and with it tourist numbers. Submitters frequently commented that tourism was a significant and sustainable earner of revenue for New Zealand and threatening this revenue for mining was not in New Zealand's best economic interests.

Recreation — A significant number of submissions noted that New Zealand was unique for the number of world-class recreational opportunities available to New Zealanders, due to our conservation estate and Schedule 4 areas. Submitters commented on how integral this was to New Zealanders' quality of life and many people shared their experiences of hiking or walking in New Zealand's national parks, and/or Schedule 4 land.

Mineral value — Most submitters who commented on mineral value stated that they considered the mineral value of the land and the economic benefit it would bring to New Zealand had been over-stated.

12. Submitters who supported the removal of land from Schedule 4 supported the further investigation of mineral potential of conservation land and emphasised the important contribution mining made to the national and local economies, and considered that mining could be managed in a way that was environmentally responsible.

13. Detailed submissions on question 1 were received from a number of organisations:

Environmental organisations — Almost all opposed the removal of all of the proposed areas from Schedule 4. Very few opposed the removal of only some of the proposed areas. Most environmental groups expressed similar opinions to those described in paragraph 11. However, a number provided specific information on biodiversity, conservation values and the environmental impacts of mining.

Mining organisations — Almost all supported the removal of areas from Schedule 4. Most mining companies and associations expressed similar

opinions to those described in paragraph 12. A number of submissions also suggested an alternative approach to removal of areas from Schedule 4, and provided specific information on the economic benefits of mining, mining techniques, mineral values, and the environmental management capabilities of modern mining.

Industry organisations	These organisations were divided in their support for question 1. Most supported further mineral investigation of Schedule 4 areas.
Groups representing Maori	Almost all opposed the removal of all the proposed areas from Schedule 4. Submitters' commented on the lack of consultation on the proposal (in terms of past Treaty settlements and future Treaty negotiations) as well as potential customary rights claims to minerals.
Community groups/trusts	Almost all opposed the removal of all of the proposed areas from Schedule 4, and expressed opinions similar to those expressed in paragraph 11.
Recreational user groups	Almost all opposed the removal of all the proposed areas from Schedule 4, and expressed opinions similar to those expressed in paragraph 11.

14. Straterra, the mining advocacy organisation, suggested an alternative approach to the amendment of Schedule 4. It recommended that the threshold of prospecting allowed in Schedule 4 areas be raised, to allow any economic deposits to be identified before areas were removed from Schedule 4. It considered the additional environmental and mineral information gained would better inform the debate about the removal of areas and narrow down the land under consideration.[7]

15. Many submissions commented on specific areas that were proposed to be removed from Schedule 4:

Te Ahumata Plateau on Great Barrier Island

- **33,407** submissions opposed removal of Te Ahumata Plateau from Schedule 4[8]
- **58** submissions supported removal of Te Ahumata Plateau from Schedule 4

Seven specific areas in the Coromandel

- **33,517** submissions opposed the removal of areas in the Coromandel from Schedule 4[9]

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7 Straterra submitted that its submission on this point was consistent with the submissions of Newmont Waihi Gold, Pike River Coal and OceanaGold.

8 Of these, 1,089 were unique submissions

9 Of these, 1,253 were unique submissions

- **76** submissions supported the removal of the areas in the Coromandel from Schedule 4

The Otahu Ecological Area and Parakawai Geological Area

- **33,276** submissions opposed the removal of these areas from Schedule 4[10]
- **55** submissions supported the removal of these areas from Schedule 4

Paparoa National Park – Inangahua Sector

- **33,234** submissions opposed the removal of these areas from Schedule 4[11]
- **86** submissions supported the removal of these areas from Schedule 4

16. Specific comments made in submissions on each of these areas are set out below.

Te Ahumata Plateau, Great Barrier

17. Section 7.1 of the discussion paper identified the Te Ahumata Plateau on Great Barrier Island for removal from Schedule 4.

18. **1,089** unique submissions were received from individuals and organisations that specifically opposed the removal of the Plateau from Schedule 4 removal. In addition, **392** standard form submissions were received from individuals using a template drafted by a Great Barrier organisation, and commenting only on Great Barrier. These opposed removal of the Plateau from Schedule 4.

19. Key local government stakeholders, the Auckland Regional Council, Auckland City Council and the Great Barrier Community Board were all opposed to the proposed removal of Te Ahumata Plateau from Schedule 4.

20. A hui was held on Great Barrier, attended by members from local hapu Ngati Rehua. Ngati Rehua - Ngati Wai ki Aotea submitted that the potential economic benefits of mining Great Barrier were outweighed by environmental and cultural concerns.

21. Individual submitters and environmental, community, and recreation organisations also generally opposed the removal of the Te Ahumata Plateau from Schedule 4.

22. A significant number of submitters disagreed with the medium conservation value accorded to Te Ahumata Plateau in the discussion paper, and were of the view that its high conservation and heritage value was understated. References were made in submissions to Great Barrier being a biodiversity "stronghold" because of the absence of Norway rats, stoats, weasels, ferrets, hedgehogs, goats or possums. Submissions cited native reptiles, birds and invertebrates at the site, including freshwater invertebrate fauna. In addition, submitters

10 Of these, 958 were unique submissions
11 Of these, 916 were unique submissions

referred to the outstanding scenery on Great Barrier with the combination of intact indigenous vegetation and strong rock formations.

23. Local residents or frequent visitors considered that Great Barrier branded tourism such as a "Great Walk" would provide more sustainable employment and lifestyle options for the community than any mining of the area. They submitted that mining would affect residents' ability to realise any potential economic benefits from tourism because of the perception of negative impacts on the environment, as well as actual impacts. Many submitters noted that any mining would be in clear view of the flight path over Great Barrier and commented on the negative impression this would make on visitors to the Island.

24. Submissions noted that Great Barrier is a key outdoor destination for residents and visitors to Auckland, New Zealand's largest city. Several submitters raised the issue of public access to conservation sites, saying sites of high conservation value should only be closed to the public for protective measures, not because of mining operations taking place in the area. With reference to community activity, submitters commented that the Claris Sports and Social Club at the base of Te Ahumata Plateau is a key feature of island life where market days and the annual Santa Parade are held.

25. A number of submitters commented on the infrastructure needed for mining and noted that these were not currently available on Great Barrier (i.e. limited access roads, wharf areas, no reticulated power, water shortage, difficulties with waste removal). They also noted the risks caused by tailings during intense rainfall during cyclone periods and landslides and flooding.

26. A number of submissions urged the government to assess the area proposed for removal in context, taking into account the overall effect in terms of visual amenity and ecological impact on adjoining wetland areas such as Kaitoke.

Coromandel

27. Section 7.2 of the discussion paper identified seven areas proposed for removal from Schedule 4 in the Coromandel region.

28. **1,253** organisations and individuals made unique submissions opposing the removal of any of these areas from Schedule 4. Additionally, **7,124** individuals completed standard form submissions from Coromandel Watchdog or the Thames Coast Protection Society, which were opposed to the removal of land in the Coromandel from Schedule 4 in particular.

29. A key local government stakeholder, the Thames Coromandel District Council, adopted a neutral position on the proposed removals from Schedule 4 and has carried out assessments of the conservation and landscape values of the relevant areas. The two Thames

Coromandel District Council advisory boards that submitted were opposed to any removal of Coromandel land from Schedule 4.

30. Another key stakeholder, Newmont Waihi Gold, considered that the preferable course was to undertake a robust analysis of the mineral and conservation values of all Schedule 4 land before decisions on removal of the areas was made. Other mining companies thought that it was preferable to remove all the proposed areas from Schedule 4 and to use the resource management process to weigh up conservation and other values with mineral potential.

31. Ngati Maru submitted that the areas proposed for removal were Crown lands available for Treaty settlement and therefore should not form part of the Government's plans to explore and mine for minerals. Similar concerns were expressed by participants at the hui held in the Coromandel.

32. Individual submitters and environmental, community, and recreation organisations all generally opposed the removal of the areas from Schedule 4, because they considered:

- the conservation value of the areas outweighed any mining potential. Submitters frequently commented on the native species that are present, or may be present, in many of the areas proposed for removal (including the North Island brown kiwi, various lizard species and Archey's and Hochstetter's frogs) and native forests covering much of the areas.
- the areas either provided a scenic backdrop to urban areas or were areas of pristine wilderness. Submitters noted that each of the areas contained well used walking tracks, and that some areas contained picnic areas, huts and notable local landmarks.
- mining in the areas would have negative environmental effects. Submitters were concerned about the risk of contamination of waterways affecting community water supplies, harbours, as well as forests and wildlife. Increased sedimentation, erosion and elevated flood risk were also frequently mentioned. Submitters were also concerned about the feasibility of realising the suggested mineral potential using mining methods with lower environmental impact.
- mining in the areas would interfere with community life. Submitters commented about the risk of increased heavy traffic, dust, noise and the visual impact of mining infrastructure, as well as reduced property values and quality of life for those living in the vicinity of the proposed areas.
- the areas are significant to local Maori. Several submitters commented, as did participants in the hui, that Crown land on the Coromandel Peninsula is currently the subject of Treaty settlement negotiations with Hauraki iwi and so it is not appropriate to remove land from Schedule 4 pending resolution of these claims.
- scepticism that the suggested economic benefits to the region would not be realised. A number of submitters considered that mining would not create a significant number

of jobs locally, that economic benefits would not trickle down to the local community, and mining might undermine other industries such as tourism and aquaculture (either because of the actual physical and environmental effects of mining or by negatively affecting the Coromandel's wider reputation).

- engaging in a case-by-case consideration of whether mining was appropriate was not satisfactory. Submitters considered that removal from Schedule 4 would undo the work that the community has undertaken for many years to limit mining on the Coromandel Peninsula and that communities opposed to mining would be under-resourced compared to mining interests when attempting to contest resource consent applications.

33. Submitters also commented specifically on particular areas of land in the Coromandel proposed for removal. While submitters' assessments of the values of each particular area were different, there was no overall consensus on whether any of the areas were any less suitable for Schedule 4 protection than the others.

Otahu Ecological Area and Parakawai Geological Area

34. Section 7.3 of the discussion paper proposed the removal of Otahu Ecological Area and Parakawai Geological Area from Schedule 4. **1,014** submissions were received that specifically commented on the Otahu and/or Parakawai. **95%** of submitters opposed the removal of both of these areas from Schedule 4. If standard form submissions are added the percentage opposed rises to **99%.**

35. Individual submitters and environmental, community and recreation organisations all generally opposed the removal of areas from Schedule 4, because they considered:

- the two areas had significant conservation and landscape value. Submitters emphasised the Otahu Ecological Area's biodiversity significance as a habitat for many native species (including Archey's and Hochstetter's frogs, native birds as well as native fish species), and its indigenous forest that escaped previous land clearances.
- the Parakawai Geological Area is a unique geological landform because of its distinctive columnar jointing and because of this, it is a highly visited area.
- that because both areas are part of the Otahu catchment, they provide an unbroken sequence of habitat from mountains to ocean and provide links and buffers to other areas of high conservation value.
- mining of these areas would increase the risk of increased sedimentation of Whangamata Harbour, already a problem due to erosion caused by land clearance and issues surrounding roading infrastructure. Many submitters also commented that the Whangamata highway was not suitable for heavy mining traffic, and any use of it as such would present a significant safety risk.

- suggested economic benefits would not be realised, submitters noted the potential negative community impact, and commented on the cultural significance of the areas to local Maori.

Paparoa National Park – Inangahua Sector

36. Section 7.4 of the discussion paper proposed the removal of four sub-areas of the Inangahua Sector of Paparoa National Park from Schedule 4. **1,010** unique submissions on these areas were received. **90%** of those submitters opposed the removal from Schedule 4. If standard form submissions are added, the percentage opposed rises to **99%.** Several mining companies, mining industry organisations and a number of individuals were in support of the removal of this area from Schedule 4.

37. The main argument given by most submitters for retaining Schedule 4 protection for these areas was that to do otherwise was fundamentally inconsistent with their status as part of a National Park. There was significant concern that removal of these areas from Schedule 4 would set a precedent for the removal of other areas with National Park status. Other reasons for opposing removal from Schedule 4 included:
    - the high conservation value of the land, submitters noted that the areas contained substantial sections of unlogged forest and provide habitat for endemic species.
    - the recreational value of the land, particularly for tramping.
    - the significance of the land to local Maori.
    - the potential negative environmental effects, including the undesirability of mining for coal, which contributes to climate change.
    - concern that mining in this area would be likely to be open cast, causing more extensive environmental damage.

38. Submitters in favour of removal of these areas generally gave the following reasons:
    - the areas were originally included as part of Paparoa National Park as part of blanket inclusion of former Timberlands land, without specific consideration of their particular conservation value.
    - even after removal from Schedule 4, mining will still only be hypothetical until the resource consent process has been completed for a particular proposal.
    - modern mining practices significantly reduce the environmental impact of mining as do protective regulatory regimes.
    - coal is an important resource for New Zealand and is used in many different industries.
    - the economic benefits to the region from mining in these areas would be significant.

Question 2

39. Question 2 asked submitters whether the areas identified in section 8 of the discussion paper should be added to Schedule 4. Submitters were also asked to provide the reason(s) for their answer.

40. **23,749** submitters, or **63%** of all submissions, responded to this question:
    - **23,480** submitters supported the addition of all the areas identified in section 8 of the discussion paper to Schedule 4 of the Crown Minerals Act.
    - Very few submitters (**212**) opposed the addition of all the areas identified in section 8 to Schedule 4.
    - Even fewer submitters (**51**) supported the addition of only some of the land identified in section 8 of the discussion paper to Schedule 4.

41. Most submitters stated they supported more conservation land being protected from mining and that the areas for inclusion were valuable conservation areas. Submitters expressed concern that the proposed additions to Schedule 4 were being put forward as compensation for the removal of other land from Schedule 4. Many noted that their support for the inclusion of land to Schedule 4 did not affect opposition to the removal of other areas.

Question 3

42. Question 3 asked submitters what their views were on the assessment of the various values (conservation, cultural, tourism and recreation, mineral, other) of the areas included in the discussion paper, as well as any relevant additional information.

43. Submitters often listed the values identified in the discussion paper as their reasons for opposing the removal of land from Schedule 4, or provided additional information in their response to question 1. For these reasons, it has been more appropriate to consider submitters' comments on values as part of their response to question 1.

Question 4

44. Question 4 outlined the Government's research and investigation programme of the mineral potential of certain areas over the next nine months, and posed two sub-questions:
    - Question 4(a) asked submitters whether they had comments on the type of information that would be the most useful to mineral investors.
    - Question 4(b) asked submitters whether there were any particular areas that the Government should consider including in its investigation programme.

45. **24** submitters stated that they did not support the Government's research and investigation programme. Most submitters who made this response either stated it was because the investigation programme would inevitably lead to the opening up of additional conservation

areas to mining, or that the investigation programme was a subsidy to mining companies. **314** submitters supported the Government's research and investigation programme. This included mining organisations, industry associations and a number of councils.

46. The majority of submitters did not respond to either question 4(a) or 4(b). Of those submitters who did, many of them submitted that more information on conservation values of areas would be most useful to mineral investors. A number of mining companies and councils suggested particular areas to be investigated or specific information that would be useful for mineral investors.

Question 5

47. Question 5 outlined the Government's proposal to establish a contestable conservation fund from a percentage of the money the Crown receives from minerals from public conservation areas. Question 5 posed five sub-questions on the proposed objectives and priorities of the fund, the independent panel, and its proposed funding.

48. **5,210** submitters commented on whether there should be a contestable conservation fund. Of these, **1,104** were unique submissions. **88%** of all responses to this question did not support the Government's proposal to establish a fund. Most submitters who made this response stated that it was not appropriate to fund preservation of conservation land from the revenue derived from mining (and negatively impacting) other conservation land. Most submitters who made this response also supported increased funding of Department of Conservation (DOC) to carry out conservation activities.

49. **574** submitters did support the fund. Councils and mining companies tended to support the fund, with the preference that it be managed by DOC.

Question 6

50. Question 6 asked submitters whether they supported the Government's proposal that joint approval of the land-holding Minister and the Minister of Energy and Resources be required for an access arrangement on Crown land for mineral exploration or development.

51. **9,176** submitters responded to this question. Of these, **96%** did not think joint approval was appropriate because it would increase the likelihood that access to Crown land for mineral exploration or development would be granted.

52. **331** submitters supported joint access. They generally submitted that it would better balance the assessment of economic and conservation values in decisions on access to conservation land.

Question 7

53. Question 7 asked submitters whether they had any further suggestions or comments on what was said in the discussion paper.

54. Due to the significant number of submissions made from organisations and groups, it is not possible to summarise all the unique suggestions or comments received. However, the following were raised by a substantial number of submitters:

- **7,604** submitters requested that the Government prohibit open cast mining and tailings dams on conservation land.
- **3,995** submitters supported the "re-instatement of the recent funding cut to DOC"
- At least **604** submitters commented that the purpose of Schedule 4 was defeated, and that Schedule 4 was meaningless if land could be removed from Schedule 4 for mining.

55. For more detail on any of the above, please see the complete summary of submissions.