MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
HĪKINA WHAKATUTUKI

COVERSHEET

Minister	Hon Shane Jones	**Portfolio**	Resources
Title of Cabinet paper	Crown Minerals Amendment Bill - Approval for Introduction	**Date to be published**	12 November 2024

List of documents that have been proactively released		
Date	**Title**	**Author**
September 2024	Crown Minerals Amendment Bill - Approval for Introduction	Office of Minister for Resources
19 September 2024	Crown Minerals Amendment Bill - Approval for Introduction LEG-24-MIN-0193 Minute	Cabinet Office
6 September 2024	Departmental Disclosure Statement – Crown Minerals Amendment Bill	MBIE

Information redacted **YES**

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

- Legal professional privilege
- Confidential advice to Government
- International relations of the Government of New Zealand

In Confidence

Office of the Minister for Resources

Cabinet Legislation Committee

Crown Minerals Amendment Bill: Approval for Introduction

Proposal

1 This paper seeks approval for the introduction of the Crown Minerals Amendment Bill (the Bill).

Policy

2 In May 2024, the Cabinet Economic Policy Committee agreed and Cabinet confirmed the policy proposals and authority to issue drafting instructions for the Bill [ECO-24-MIN-0077 refers]. The purpose of the Bill is to:

2.1 remove the current ban on new petroleum (i.e., oil and gas) exploration outside onshore Taranaki;

2.2 signal the Government's intent to reinvigorate investment in petroleum exploration in New Zealand;

2.3 make adjustments to the decommissioning regime for petroleum infrastructure; and

2.4 increase investor confidence by reducing compliance and other costs for investors.

3 These proposals relate to the following Government priorities:

3.1 the National-NZ First coalition agreement commitment to 'future-proof the natural gas industry by restarting offshore exploration' and the National-ACT coalition agreement commitment to 'repeal the offshore oil and gas exploration ban';

3.2 the National-ACT coalition agreement commitment to update the Crown Minerals Act 1991 (CMA) to clarify its role as promoting the use of Crown minerals; and

3.3 National's 100-point economic plan 'Rebuilding the economy' which includes a commitment to repeal the ban on oil and gas exploration to reduce New Zealand's reliance on imported coal and ensure gas can be used as a transition fuel as we move towards Net Zero 2050.

Why the Bill is needed

4 Gas is critical to New Zealand's energy security and is needed as a transition fuel until viable and cost-effective alternatives are in place. As we head towards Net Zero 2050 and seek to double renewable energy generation, without gas we would need to either rely on more coal or face security of supply issues and higher prices. Currently gas demand is exceeding supply. Our current gas fields are in decline and without more investment in existing and new fields, supply issues and high prices will likely continue.

5 The oil and gas reserves data published by the Ministry of Business, Innovation and Employment (MBIE) this year show natural gas production in New Zealand is expected to drop below demand. For at least the next three years, data shows New Zealand's natural gas reserves will produce 10 petajoules (PJ) less than recent demand levels.

6 The amount of natural gas in New Zealand's reserves has decreased by 20 per cent between 1 January 2023 and 1 January 2024. New Zealand's natural gas reserves have been steadily declining since 2019 and are expected to remain on this pathway unless there are new discoveries or innovation which enables commercially feasible production from contingent resources.

7 Limited gas supply is already impacting industrial users. For example, Methanex halted all production in August until the end of October to free up gas for power generation.

8 The tight fuel supply is leading to higher prices. Wholesale electricity prices have risen sharply over the last twelve months. In August, New Zealand's gas spot price traded at an all-time high average price of $55.27/GJ. These increased gas prices, combined with low hydro lakes levels, led to wholesale electricity prices reaching an average of $808/MWh for the week to 11 August. These prices have reduced since Methanex halted operations but are still high by historical standards. Winstone Pulp International has recently announced the closure of its Kariori Pulpmill and Tangiwai Sawmill, citing energy costs as the main driver for its decision.

9 In response to these energy security issues, the Government has set up the Gas Security Response Group to coordinate gas producers, major gas users, and government agencies. This group is coordinating measures to make sure that gas is available for New Zealand.

10 In August, Cabinet agreed to progress a range of measures to address energy security [ECO-24-SUB-0172 refers]. As part of these measures, Cabinet agreed to reprioritise the Bill from Category 3 to Category 2 on the 2024 Legislation Programme (must be passed by the end of 2024).

Overview of the Bill

11 This Bill introduces a set of changes to the CMA to immediately improve the economics of petroleum investment in New Zealand and improve the regulatory efficiency of the Crown minerals regime, including:

11.1 Removing the ban on new petroleum exploration beyond onshore Taranaki;

11.2 Signalling New Zealand is 'open for business' by amending the CMA's purpose statement, introducing an optional Government Policy Statement, allowing for different and faster permit allocation methods, and extending the exclusive-use timeframe for existing prospecting datasets;

11.3 Making adjustments to the petroleum decommissioning regime in a way that does not materially increase risk to the Crown but will provide greater certainty to the sector; and

11.4 Creating a new Tier 3 permit for small-scale non-commercial gold mining operations.

The Bill will remove the current ban on new petroleum (i.e., oil and gas) exploration beyond onshore Taranaki

12 The Bill reverses the amendments made to the CMA in 2018 and removes the ban on new petroleum exploration permits beyond onshore Taranaki. This will allow the Crown to receive and assess applications for petroleum prospecting, exploration and mining permits across New Zealand, including offshore.

13 Removing the 2018 ban will send a strong signal that the Government supports the petroleum sector and recognises the importance of gas as a transition fuel. It is the first step in giving market incumbents greater confidence to invest in existing fields and in attracting new entrants.

14 The Bill will end current restrictions on conservation land in onshore Taranaki by repealing the amendments made to the CMA in 2018 which prevent new permit holders from accessing Taranaki conservation land for petroleum activities other than for minimum impact activities. Exploration for petroleum on land listed in Schedule 4 of the Act (including Taranaki Maunga) will continue to be prohibited.

The Bill will signal the Government's intent to reinvigorate investment in petroleum exploration in New Zealand

15 The Bill amends the CMA's purpose statement to clarify its role as promoting the use of Crown minerals. Reverting back to the previous purpose statement and associated Ministerial functions sends a clear signal that the Government intends to increase petroleum exploration and production for the purposes of managing our transition as we move towards Net Zero 2050.

16 The Bill introduces a mechanism for an optional Government Policy Statement (GPS) to cover petroleum and minerals. If issued, a GPS could:

16.1 Establish the Government's medium to long-term vision and priorities for petroleum and minerals exploration in New Zealand;

16.2 Highlight focus areas for the Government, for example, increasing natural gas production for energy security or critical minerals development for the transition to a lower emissions economy;

16.3 Provide strategic guidance to the regulator on how it should manage its functions and operations to support the Government's priorities, for example, around the timely running of permitting processes such as Block Offer; and

16.4 Inform the wider sector and the general public, including agencies and other entities involved in authorising petroleum and minerals-related activities, of the Government's objectives and priorities for the sector.

17 The CMA currently provides for petroleum exploration permits to be allocated by public tender (for example, competitive tender "Block Offer"). The Bill enables the use of other methods for allocating petroleum exploration permits. An example of another method is "priority-in-time" which existed prior to 2013. Reintroducing the ability to enable other applications methods, which can be used in conjunction with, and complement, Block Offers, provides for flexibility in petroleum exploration permit allocation as the market evolves and broadens the approach to attracting and securing investment.

18 The Bill extends the exclusive-use timeframe for existing speculative prospecting datasets that were impacted by the 2018 ban. Extending the confidentiality period by six years (equal to the minimum period lost because of the ban) for these data sets may encourage these speculative prospectors to continue their activities in New Zealand and play a role in promoting New Zealand's petroleum sector overseas.

The Bill will make adjustments to the petroleum decommissioning regime

19 The Bill provides greater flexibility and clarity around financial securities by making the following amendments:

19.1 For joint ventures, where two or more parties hold a permit together, either directly or through a joint venture company, allowing these parties to provide securities separately and split as commercially agreed between the parties;

19.2 Where a party holds interests in a number of permits, allowing a financial security as security for obligations across all permits to reduce costs from holding multiple securities;

19.3 Allowing security arrangements between related parties both within a single permit and across permits; and

19.4 Allowing for securities from permit participants where the permit participant and/or the permit holder is not a party to the financial security (e.g., a bank security, or parent company guarantees).

20 New Zealand's trailing liability provisions are narrower than in other jurisdictions and are intended as a last resort.

21 The Bill amends the trailing liability provisions to only require trailing liability to apply to the most recent permit holders or participant who transferred out, so that liability would not flow further up the chain. Together with a robust financial security from the current permit holder, and the requirement for the Minister to approve the transfer of a permit (which requires the Minister to be satisfied the new permit holder is highly likely to meet their decommissioning obligations), I consider this will provide sufficient risk mitigation for the Crown.

22 The Bill aligns New Zealand's post-decommissioning requirements with other countries by making the following amendments:

22.1 Remove the requirement to pay an amount and/or provide a financial security for any post-decommissioning liabilities;

22.2 Introduce perpetual liability, for permit holders who have completed decommissioning, for infrastructure left in situ and decommissioned wells. Liability should cover any monitoring or remediation necessary;

22.3 Require permit holders who decommission to notify the regulator of any changes to company structure and domicile.

The Bill creates a new Tier 3 permit for small-scale non-commercial gold mining operations

23 The CMA currently differentiates mining permits between Tier 1 permits (for petroleum and any mineral listed in Schedule 5 of the CMA that meets certain conditions), and Tier 2 permits (any permit that is not Tier 1).

24 The new Tier 3 permit will cover small-scale non-commercial gold mining operations, often referred to as 'hobby' or 'recreational' mining. Applications related to these activities consistently represent 20 to 25 per cent of all applications processed by the regulator. The third tier will streamline processes and reduce regulatory requirements.

25 A permit for these activities remains necessary to ensure regulatory oversight, however the new Tier 3 permit will significantly reduce the regulatory burden for these permit holders. This will improve administrative efficiency and ensure that backlogs of applications do not build up in the future.

26 Tier 3 permits will be granted for an initial period of up to 10 years; over an area no greater than 50 hectares; for gold only; and using only hand tools and powered tools with combined power of 10 horsepower or less (in rivers), or hand tools and a riffle box (on beaches).

27 The new Tier 3 permits involve:

27.1 A simpler and quicker application process: the regulator needs to be satisfied that the applicant could comply with the conditions and

obligations under the Act and regulations, pay the fees, and meet reporting requirements. They would not be required to demonstrate a mineable resource and report on mine feasibility or project economics as Tier 2 permit holders are.

27.2 Less onerous reporting requirements: the permit holder has to provide information on where they have mined, for how many days, and how much gold was recovered, significantly less than the full Annual Summary Reports required of Tier 2 permits.

28 The offences and penalties for Tier 3 permits are the same as Tier 2 and, like all other permits, a Tier 3 permit can be revoked, expire or be surrendered. The regulator retains control over changes to the permit, such as sale (i.e., transfer of interest and change of operator) and extensions, but these mechanisms involve a 'lighter touch' approach for the regulator and applicant.

29 Confidential advice to Government

Approach to Tier status changes for Tier 3 permits

30 During drafting of the Bill and the transitional provisions it became apparent that the current provisions governing tier status changes are not suitable to enable Tier 3 permits and need to be amended.

31 While I consider it important that transition from Tier 2 to Tier 3 be as simple as possible, I consider that there should be no ability to transition from Tier 3 to Tier 2. If a Tier 3 permit holder wishes to expand beyond small-scale non-commercial gold mining operations, they must surrender their Tier 3 permit and apply for a Tier 2 permit.

32 Accordingly, the Bill now includes amendments to accommodate status changes from Tier 2 to Tier 3, but not in the other direction. These proposed changes are consistent with the policy intent for Tier 3 and are needed to adjust the current regime to accommodate the new tier.

The Bill makes other changes to improve regulatory efficiency

33 The Bill makes changes to address known issues currently impacting the Crown minerals regulatory system (petroleum and others). These include changes to ensure certain processes within the CMA are working as intended and minor and technical changes, for example, fixing inconsistencies of terms, or drafting errors.

Some aspects of the Bill are likely to be contentious

34 From targeted engagement with iwi and hapū and environmental groups, the reversal of the 2018 ban is broadly opposed because of concerns regarding the general impacts of climate change, prioritising extractive regimes over environmental protection, failing to uphold iwi and hapū rights and interests, and the contribution of oil and gas consumption to climate change.

35 Concerns of an increase in carbon emissions and impact on the environment and people of New Zealand were raised, alongside the need for meaningful engagement and consultation with iwi and hapū to ensure Māori tikanga (customs) and values are respected in decision-making processes.

Legal professional privilege

37

International relations

Legal professional privilege

Treaty of Waitangi and Treaty settlement implications

38 I consider that the Bill complies with the principles of the Treaty of Waitangi as far as possible given the urgency and speed of legislative change. Concerns were raised by iwi and hapū during engagement on the Bill regarding the Crown's role as a Treaty partner and meeting good faith obligations throughout this process.

Legal professional privilege

39 During feedback it was highlighted that iwi had concerns over the limited nature of the consultation, including some which occurred after decisions had been made by Cabinet. Concerns were also raised of the Crown's ability to protect Māori interests, as the Bill provides for the potential increase in extracting resources of particular interest to Māori. However, I consider the approach taken was appropriate and balanced the need for complying with the principles, alongside the need to ensure our energy security needs are met.

40 MBIE also has obligations through Treaty settlement commitments and Protocols, Accords and Relationship Accords. To meet these obligations, Minister Potaka and I held hui with iwi and hapū with whom MBIE had a Treaty settlement commitment or relationship. Following feedback from those attending that they did not consider the hui adequate consultation, MBIE undertook further targeted hui, based on regional groupings and extended the invitation list to other iwi and hapū potentially impacted by the proposals. During these engagements, iwi and hapū raised concerns that the proposed changes would impact existing rights and interests under settlement agreements.

41 The intention with these changes is not to impact rights and interests that have been provided for or recognised through the Treaty settlement process. The specific consultation requirements set out in the Protocols, Accords and Relationship Agreements will continue unchanged.

42 Further, the changes being made through the Bill will not remove any existing arrangements (both operational and as provided in settlement legislation) to engage with iwi and hapū on proposed changes to the Act. Additionally, all existing operational processes for engaging with iwi and hapū on decisions made under the Act, such as new permit applications, will remain.

Impact analysis

43 Two Regulatory Impact Statements and one Climate Implications of Policy Assessment (CIPA) were submitted at the time Cabinet approval was sought for the policy proposals and authority to issue drafting instructions for a Crown Minerals Amendment Bill [ECO-24-MIN-0077 refers]. The CIPA estimated that the proposals could result in an increase of approximately 14.2 MtCO2e, cumulative to 2035, as compared with a likely counterfactual.

44 Since then, officials have carried out further modelling to estimate the whole of energy system impacts of the proposal. Unlike the CIPA modelling, this further modelling takes into account secondary impacts, such as coal use.

45 Two sensitivities were modelled: an increase of 30 per cent and 60 per cent of remaining contingent reserves being converted to proven and probable (2P) reserves in the second emissions budget period. This modelling is intended to show the energy system impacts should the proposal increase gas supply in New Zealand. In both the factual and the counterfactual, gas supply declines considerably.

46 The modelling shows the following outcomes:

46.1 At a 30 per cent increase in contingent reserves being converted to 2P reserves, emissions rise a cumulative total of 1.6 Mt CO2-e through to 2035.

46.2 At a 60 per cent increase in contingent reserves being converted to 2P reserves, emissions rise a cumulative total of 2.4 cumulative total of 2.4 Mt CO2-e through to 2035.

47 The modelling does not assume a new gas field discovery. A new gas field discovery would be unlikely to be developed before 2035.

48 The modelled emissions impacts are smaller than those estimated in the CIPA. The key difference is the expected timing of when contingent reserves can be converted to supply. In the updated modelling, it was assumed that contingent reserves may extend the lifespan of existing fields but are not likely to raise short-term production significantly. Additional gas supply partially displaces coal use for electricity generation, which also offsets the total emissions increase.

49 New Zealand's second emissions reduction plan (ERP2) will outline the actions we intend to take to reduce emissions in New Zealand during the second emissions budget period (2026-2030) and will be published before the end of 2024. The sensitivity modelling for ERP2 includes a scenario with increased gas supply.

50 Emissions from any future oil and gas exploration will be priced through the Emissions Trading Scheme (ETS). The ETS is the primary tool for reducing New Zealand's net emissions in the energy sector. Recent decisions on ETS settings have been designed to achieve net emissions reductions in line with the Government's 2050 target.

Correcting an error in the previous Cabinet paper

51 The Cabinet paper seeking approval for policy decisions for the Crown Minerals Amendment Bill [ECO-24-MIN-0077 refers] contained an error, in that it overstated historical emissions from coal-fired electricity generation. These figures were included in the paper as background, given the potential emissions savings if the policy could result in avoided coal use.

52 Paragraph 117 of the paper incorrectly stated that electricity emissions from coal generation were 2.7 MtCO2e in 2022 with an average of 3.5 MtCO2e over the previous five years and a peak of 6.4 MtCO2e in 2012. The correct figures are approximately 0.7 MtCO2e in 2022 with an average of 1.4 MtCO2e over the previous five years between 2017-2021 and a peak of 2.7 MtCO2e in 2012. These figures also appeared in the CIPA.

53 The error does not directly affect the CIPA estimate for the policy decisions because the CIPA modelling did not include consideration of secondary effects such as coal emissions. In addition, further modelling has been carried

out in the interim period that does consider these secondary effects (see paragraph 46 above).

There may be overlaps with other users in the marine environment

54 Removing the ban on new petroleum exploration permits beyond onshore Taranaki will not prevent other users (offshore renewables, seabed mining, aquaculture and fisheries) from seeking permits or resource consents in the same area. That means other users could gain a permit or consent, which prevents a potential petroleum mining project from going ahead (i.e. where competing uses cannot co-exist), or vice versa.

55 Given some of these competing uses are or will be regulated by the Crown, there may be an opportunity to resolve overlaps through a level of strategic planning in the marine environment. My Officials intend to explore these opportunities further with other agencies.

Compliance

56 The Bill complies with:

56.1 The rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;

56.2 The disclosure statement requirements. This has been prepared and appended to this paper;

56.3 The principles and guidelines set out in the Privacy Act 2020;

56.4 Relevant international standards and obligations Legal professional privilege

56.5 The Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.

57 Compliance with the principles of the Treaty of Waitangi is addressed above.

Consultation

58 Prior to the development of this paper, MBIE undertook consultation with industry, and iwi and hapū on the proposed changes to the CMA. MBIE also held one meeting with targeted environmental groups.

Consultation with industry and environmental groups

59 Industry supported the 2018 ban reversal and changes to improve investor confidence and re-balance New Zealand's financial liability for petroleum decommissioning.

60 Generally speaking, environmental groups opposed the policy intent and proposed changes citing risks to the environment, the economy, New Zealand's international obligations, and stranded assets. Environmental

groups questioned the assumptions around the timeline of the transition as an argument for continued gas use and said too much emphasis was placed on security of supply concerns and the changes would not achieve gas security.

Consultation with iwi and hapū

61 The views heard during consultation and provided after can be broadly categorised as principled opposition to the policy intent, and concerns regarding the operationalisation of the proposals. Iwi and hapū oppose the reversal of the 2018 ban because of concerns regarding the general impacts of climate change, prioritising extractive regimes over environmental protection, failing to uphold iwi and hapū rights and interests, and the contribution of oil and gas consumption to climate change.

62 For similar reasons, iwi and hapū oppose the change to the purpose statement from "manage" to "promote". Other concerns raised during consultation with iwi and hapū include:

62.1 The change to conservation land in Taranaki potentially undermining cultural redress through conservation land provided in Treaty settlements.

62.2 Reversing the 2018 ban would interfere with applications for or existing customary titles recognised by the Marine and Coastal Area (Takutai Moana) Act 2011 (MACA Act) and other specific legislation.

62.3 Allowing both priority-in-time applications and the competitive tender "block offer" process would exacerbate existing issues including inadequate engagement from the Crown and a clear lack of information provided to support iwi and hapū during consultation; variable levels of engagement between permit holders and applicants and iwi/hapū; and resourcing constraints that affect the capacity of iwi and hapū to engage meaningfully in consultation.

62.4 Concerns that proposed changes could attract second-tier operators who are not technically and financially fit to comply with work programmes and associated obligations in New Zealand.

63 In relation to the Tier 3 permit proposals, iwi and hapū have raised concerns regarding an increase in hobby mining activity and impacts on consultation obligations and on access to some minerals (e.g., Pounamu). This Bill will not change the Crown's consultation obligations or our settlement commitments. The new Tier 3 permit will have less stringent requirements and there may be some increased interest, but officials do not anticipate significant surges in applications or permit numbers. I will consider the issues raised about access to other minerals in the design of the implementation approach to Tier 3.

64 Submissions generally supported retaining decommissioning requirements including financial securities, trailing liability, and liability in the post-decommissioning period.

65 Iwi and hapū have been critical of the nature of the engagement and the time given for iwi and hapū to provide feedback. The feedback received strongly communicated that they considered the consultation process was inadequate largely due to the limited time and level of engagement on the development of these proposals.

Addressing concerns raised in submissions from iwi and hapū

66 Officials have analysed iwi and hapū submissions, and have engaged further with iwi and hapū on some of the concerns raised.

67 Officials have engaged further with iwi and hapū on particular issues of interest such as removing restrictions on Taranaki conservation land and the impact of allowing exploration on claims in the MACA Act.

68 The proposed changes to the CMA within the Bill are not intended to override any existing Treaty settlement redress such as land transfers or cultural recognition over certain sites. Consideration of any new petroleum exploration permits will be subject to existing consultation obligations with iwi and hapū as detailed in the Petroleum Programmes. For conservation land transferred to iwi, access arrangements with the landowner will be required before any activity (beyond minimal impact) can begin. For Crown-owned conservation land, impacted iwi/hapū will need to be consulted.

69 Rights provided under the MACA Act only apply in the territorial sea (up to 12 nautical miles), not to any petroleum exploration in the Exclusive Economic Zone. In relation to takutai moana rights that are yet to be recognised through determinations, iwi can provide information to the Minister for Māori Crown Relations on the importance of an area and request it be excluded from a Block Offer round or be subject to additional requirements. The Minister for Māori Crown Relations must consider and make a decision on the request. Should any new exploration in the territorial sea proceed following the passing of this Bill, any operations would still require resource consents; the MACA Act is explicit that resource consents granted after the Act do not constitute a substantial interruption for the purposes of having takutai moana rights recognised.

Consultation with government agencies

70 The following agencies were consulted in the development of this paper: the Treasury, the Ministry of Foreign Affairs and Trade, the Department of Conservation, the Ministry for the Environment, the Ministry of Justice, and Te Arawhiti. The Department of the Prime Minister and Cabinet has been informed.

Binding on the Crown

71 The current CMA binds the Crown. This Bill does not change this [ECO-24-MIN-0077 refers].

Creating new agencies or amending law relating to existing agencies

72 The Bill does not create any new agencies.

Allocation of decision-making powers

73 The Bill does not create any new decision-making powers between the executive, the courts, and tribunals.

Associated regulations

74 Regulations on the matters outlined above are being developed to bring the Bill into operation. The drafting for the Regulations is expected to be of medium size and complexity.

Regulations to implement application methods other than public tender for petroleum exploration permits

75 The Bill enables application methods other than public tender for petroleum exploration permits. To support the implementation of other application methods I am progressing amendments to regulations to specify application and information requirements for such applications.

Regulations to implement the new Tier 3 permit category for small-scale non-commercial gold mining operations

76 Regulations are needed for a new Tier 3 permit for small-scale non-commercial gold mining operations including:

76.1 application and reporting requirements;

76.2 royalty rates; and

76.3 determining application and annual fee levels.

77 The details of how Tier 3 applications will be assessed, the permit holder's reporting requirements, the fee rates, and change procedures will be set out in Regulations and a revised Minerals Programme which I am progressing. The fee rates will be determined through a fees review that MBIE is undertaking now. Tier 3 permits should generally not reach the threshold for royalties but, if the price of gold continues to rise in future, Tier 3 permit holders would pay accordingly.

The Minerals and Petroleum Programmes (the Programmes)

78 The Programmes set out how the Minister and Chief Executive will exercise their powers, and how they will interpret and apply specific provisions in CMA legislation. The Programmes also provide general operational guidance on the CMA and regulations.

79 I am separately progressing changes to the Programmes (which are a form of secondary legislation). There is a statutory requirement for consultation, and I will be doing that in the coming months. Cabinet can expect to see the updated Programmes in February next year following consultation.

80 In line with the approach taken to previous amendments to the CMA, the Bill includes a provision to enable the Programmes to be amended without following the consultation process set out in the CMA. This provision relates only to changes necessary to reflect and give effect to the amendments made in the Bill. The proposed changes to the Programmes are broader. In addition, there are other consultation obligations to consult with iwi and hapū, including in the Crown Minerals Protocols.

Additional workstreams supporting the aims of the Bill are underway

81 This year, officials are separately progressing Cabinet decisions on Information Disclosure Regulations for decommissioning, the royalties review, the fees review, and guidelines for financial securities.

Other instruments

82 The Bill does not include provisions empowering the making of other instruments that are deemed to be legislative instruments or disallowable instruments.

Definition of Minister

83 The Bill contains a definition of Minister. The definition included in the Bill is the same definition in the current CMA at section 2, which is now also inserted at clause 42 of Schedule 1, which contains savings and transitional provisions. As agreed by Cabinet in May 2024, the drafted provision ensures the definition of Minister is consistent in older Resources portfolio-related legislation so that delegations can be made simply and clearly [ECO-24-MIN-0077 refers].

Commencement of legislation

84 The Bill will come into force on the day after it receives Royal Assent. All provisions relating to Tier 3 permits will come into force on 1 July 2025; all other provisions will come into force the day after it receives Royal Assent.

85 The timelines for commencement and implementation are as follows:

86 Regulations to enable application methods other than public tender and Tier 3 permits will be developed in parallel to the Bill this year, and gazetted in early 2025.

86.1 The Programmes are also being revised concurrently with the Bill. The Programmes can only be finalised based on the final regulations. Following consultation, the amended Programmes would come into effect in mid-April 2025.

86.2 Non-public tender allocation methods cannot be accepted under the drafting of the current Programmes. Once the Programmes come into effect, this will enable application methods other than public tender to be used.

86.3 New Tier 3 permits will be issued from 1 July 2025.

Parliamentary stages

87 I propose the Bill be introduced in the week beginning 23 September 2024, to be passed before the House rises on 19 December 2024.

Proactive Release

88 I propose to release this paper proactively, subject to any redactions that may be required consistent with the Official Information Act, within 30 business days following its consideration.

Recommendations

I recommend that the Cabinet Legislation Committee:

1 **note** that the Crown Minerals Amendment Bill holds a Category 2 priority on the 2024 Legislation Programme and must be passed by the end of 2024;

2 **note** that on 28 May 2024 Cabinet agreed to amend the Crown Minerals Act 1991 to ensure security of gas supply and regulatory efficiency [ECO-24-MIN-0077 refers];

3 **note** that the Bill will:

3.1 Remove the ban on new petroleum exploration outside onshore Taranaki made by the Crown Minerals (Petroleum) Amendment Act 2018;

3.2 Signal New Zealand is ‘open for business’ by amending the CMA’s purpose statement, introduce an optional Government Policy Statement, allow for different and faster permit allocation methods, and extend the exclusive-use timeframe for existing prospecting datasets;

3.3 Make adjustments to the petroleum decommissioning regime in a way that does not materially increase risk to the Crown but will provide greater certainty to the sector;

3.4 Create a new Tier 3 permit for small-scale non-commercial gold mining operations;

4 **note** that the tier status determining provisions in the CMA (sections 2C and 2D) will be amended to accommodate status changes from Tier 2 to Tier 3, but not in the other direction from Tier 3 to Tier 2;

Confidential advice to Government

6 **note** there is a statutory requirement to consult for 40 days on changes to the Programmes with both the public, and iwi and hapū;

7 **note** I intend to approve the draft Programmes for consultation in late November 2024. I intend for the updated Programmes to be in place by mid-April 2025;

8 **note** the Regulations to enable application methods other than public tender for petroleum exploration permits and Tier 3 permits will be developed in parallel to the Bill this year, and gazetted early in 2025;

9 **approve** the Crown Minerals Amendment Bill for introduction, subject to the final approval of the government caucus and sufficient support in the House of Representatives;

10 **agree** that the Bill be introduced on 23 September 2024; and

11 **agree** that the Government propose that the Bill be enacted by 19 December 2024.

Authorised for lodgement

Hon Shane Jones

Minister for Resources

Annex One: Departmental Disclosure Statement – Crown Minerals Amendment Bill

Departmental Disclosure Statement

Crown Minerals Amendment Bill

The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by Ministry of Business, Innovation and Employment (MBIE).

The Ministry of Business, Innovation and Employment certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

6 September 2024.

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Part One: General Policy Statement

This Bill amends the Crown Minerals Act 1991 (the Act) to remove the ban on new petroleum exploration permits beyond onshore Taranaki. It supports the Government's objective to promote petroleum exploration and production, to ensure gas remains a transition fuel until viable and cost-effective alternatives are in place.

The Bill also makes changes to immediately improve investor confidence in the New Zealand petroleum sector and increase regulatory efficiency of the Crown Minerals regime.

Removing the ban on new petroleum exploration outside onshore Taranaki

The Bill reverses amendments made to the Act in 2018, that limited new petroleum exploration permits to onshore Taranaki, prohibited surface access to conservation land for permits in onshore Taranaki except for minimum impact activities, and explicitly restricted applications for petroleum exploration permits to public tenders (e.g., Block Offer).

These changes will allow the responsible Minister to receive and assess applications for new petroleum exploration permits outside onshore Taranaki, through the existing regulatory framework. Removing the restriction on access to conservation land in onshore Taranaki will ensure that conservation land in Taranaki is treated the same as conservation land across New Zealand. Conservation land in Taranaki that is listed in Schedule 4 (Land to which access restrictions apply) of the Act will continue to have these protections in place.

The Bill extends the exclusive-use timeframe for existing speculative prospectors who were impacted by the ban. The Act currently provides speculative prospectors with a 15-year confidentiality period for the data they collect; during this time they can on-sell their data to interested explorers. The Bill extends this period by six years, reflecting the period of time lost due to the ban.

Changes to the decommissioning regime

The Bill makes changes to the decommissioning regime, to provide greater flexibility and clarity around the types of financial securities that may be accepted. It also limits trailing liability for the cost of decommissioning to the most recent permit holder or participant who transferred out.

The Bill also removes the requirement to provide payment, or financial security, to cover post-decommissioning costs that may be required. It introduces perpetual liability for permit holders who have completed their decommissioning obligations, for any wells and infrastructure left in situ. This will ensure that a permit holder who decommissions remains liable for any actual risks, as opposed to contributing payments in anticipation of any future risks.

Amending the purpose statement of the Act and introducing an optional Government Policy Statement

Prior to a change in 2023, the purpose of the Act was to 'promote prospecting for, exploration for, and mining of Crown owned minerals for the benefit of New Zealand'. In 2023 the purpose of the Act was amended, replacing 'promote' with 'manage'; the Bill reverses this change. It also amends the Minister's functions under the Act, to 'attract permit applications' to align with the change in purpose.

The Bill also introduces a mechanism to allow for an optional Government Policy Statement (GPS) to cover petroleum and minerals. A GPS, if issued, could signal focus areas for the Government, provide strategic guidance to the regulator on how it should manage its functions, and inform the sector and general public of the Government's priorities for the sector.

Improving regulatory efficiency and consistency within the Act

The Bill makes a number of changes to the Act to improve regulatory efficiencies within the Crown Minerals regime, and fix inconsistencies or drafting errors. The most significant of these is the creation of a new permit category (Tier 3) to ensure a proportionate and risk appropriate approach to small-scale, non-commercial gold mining operations. The new Tier 3 permit will be subject to a simpler and quicker application process, and less onerous reporting requirements. The Bill includes transitional provisions to allow existing Tier 2 permit holders who meet the new Tier 3 requirements to readily move to a Tier 3 permit when they come into effect from 1 July 2025.

Part Two: Background Material and Policy Information

Published reviews or evaluations

2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?	**NO**

Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	**NO**

Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	**YES**

MBIE completed the following two Regulatory Impact Statements on the proposed changes in the Crown Minerals Amendment Bill on 15 May 2024:

- Amendments to the Crown Minerals Act 1991 relating to petroleum exploration
- Amendments to the Crown Minerals Act 1991 relating to small scale non-commercial gold mining

They are available at:

- Regulatory Impact Statement: Amendments to the Crown Minerals Act 1991 relating to petroleum exploration and mining (mbie.govt.nz), and
- Regulatory Impact Statement: Amendments to the Crown Minerals Act 1991 relating to small-scale non-commercial gold mining (mbie.govt.nz)

2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements?	**NO**

The Treasury's RIA team delegated the responsibility for providing comment on the quality of the regulatory impact statements to an internal RIA Review Panel set up within MBIE. The Panel considers that that the information and analysis summarised in the Impact Statements partially meets the criteria necessary for Ministers to make informed decisions on the proposals.

2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?	**YES**

The Climate Implications of Policy Assessment (CIPA) team was consulted and confirms that the CIPA requirements apply to the proposal to remove the current ban on new petroleum exploration and measures to improve investor confidence. The associated disclosure sheet is available at Climate Implications of Policy Assessment disclosure sheet (mbie.govt.nz)

Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?	**YES**

Further whole of energy system modelling will be available by 11 September. We will update this DDS once that is received.

2.5. For the policy to be given effect by this Bill, is there analysis available on:	
(a) the size of the potential costs and benefits?	**NO**
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	**NO**
The size of potential costs or benefits from this amendment are largely dependent on the increase in oil and gas exploration. No quantified estimates are available as costs and benefits cannot be accurately estimated.	

2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	**NO**
(b) the nature and level of regulator effort put into encouraging or securing compliance?	**NO**
The size of potential costs or benefits from this amendment are largely dependent on the increase in oil and gas exploration. The level of effective compliance or non-compliance, and the level of regulator effort into encouraging or securing compliance, will not substantively impact this.	

Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?
New Zealand's obligations under the Paris Agreement and free trade agreements were considered during the policy development process.

Consistency with the government's Treaty of Waitangi obligations

3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?
Treaty analysis MBIE undertook Treaty analysis during the development of this Bill. The analysis considered what effect the policy would have on Māori, what the Treaty/Māori interests are, what Treaty arguments might be made against the policies, and how we are meeting the good faith obligations of the Crown. The good faith obligations have been limited by the speed and urgency given to this Bill. *Meeting Treaty settlement obligations* MBIE has specific consultation obligations set out in Treaty Settlement Protocols, Accords and Relationship Agreements. Some Crown Minerals Protocols in force have an obligation to consult on wider policy and legislative developments related to Crown-owned minerals. Each protocol is different, but the same themes are recurrent. They set out specific basic principles that will be followed in consultation, including: • consultation as soon as reasonably practical following identification and determination of the proposal or issue • providing sufficient information to make informed decisions and submissions • ensuring sufficient time for participation in the decision-making process and to prepare submissions, and • ensuring consultation will be approached with an open mind and genuine consideration will be given to submissions received. An online hui was held prior to Cabinet decisions with the Minister for Resources and Minister for Māori Development, with iwi and hapū with whom MBIE has Treaty settlement commitments or with whom MBIE has a relationship with. A second online hui was with Taranaki iwi focused on the proposed changes of significance to Taranaki iwi. Following feedback from iwi that was critical of the nature of the engagement and limited time to provide written submissions, further hui were held that introduced the proposed CMA amendments as decided by Cabinet, with a wider group of iwi and hapū. Further opportunities to provide written feedback were provided. The intention with these changes is not to impact rights and interests that have been provided or recognised through the Treaty settlement process. The specific consultation requirements set out in many of the Protocols, Accords and Relationship Agreements will continue unchanged.

Consistency with the New Zealand Bill of Rights Act 1990

3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?	**YES**

The Ministry of Justice's advice to the Attorney-General will be publicly available at Advice on consistency of Bills with the Bill of Rights Act | New Zealand Ministry of Justice upon the Bill's introduction to the House.

Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:	
(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?	**NO**
(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?	**NO**

Privacy issues

3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?	**NO**

External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?	**YES**
Limited and specific engagement with iwi and hapū went ahead of Cabinet decisions to satisfy obligations as set out in Crown Minerals Protocols, Relationship Agreements and Accords. A further hui was undertaken with Taranaki iwi focused on the proposed changes of significance to Taranaki. Following Cabinet decisions, further engagement took place with a winder group of iwi and hapū. Feedback from iwi and hapū noted strong opposition to removing the ban on new petroleum exploration permits beyond onshore Taranaki, and concern over the lack of robust consultation and engagement. Industry have been consulted on the proposed changes to the CMA throughout the development of the Bill. Industry were supportive of removing the ban. Environmental groups were briefly consulted on the proposed changes to the CMA, who noted their opposition to the proposed changes.	

Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?	**YES**
New Zealand Petroleum and Minerals, the government regulator that manages New Zealand's Crown minerals estate, has assessed the provisions in the Bill and are comfortable that these achieve the policy intent of the Bill.	

Part Four: Significant Legislative Features

Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	**NO**

Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	**NO**

Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	**NO**

Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	**NO**
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	**NO**

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	**NO**

Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	**NO**

Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	**NO**

4.8. Does this Bill create or amend any other powers to make delegated legislation?	**NO**

Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	**NO**