**Consultation submission form**

**Regulatory proposals for natural and orange hydrogen development**

# How to submit using this form

## This form is used to provide feedback on the proposals within the discussion document – *Regulatory proposals for natural and orange hydrogen development*.

When completing this submission form, please provide reasons explaining your answers. Your feedback provides valuable information and informs decisions about the proposals.

You can submit this form by 5pm, 4 July 2025 by:

* Emailing to resourcepolicy@mbie.govt.nz with the subject line **‘Submission on hydrogen discussion document’** or
* Posting to:

**Submission on hydrogen discussion document**

Resource Policy
Ministry of Business, Innovation and Employment
PO Box 1473
Wellington 6140

Your feedback will contribute to policy advice and decisions on a regulatory approach for natural and orange hydrogen development. It will also become official information, which means it may be requested under the Official Information Act 1982 (OIA).

The OIA specifies that information is to be made available upon request unless there are sufficient grounds for withholding it. If we receive a request, we cannot guarantee that feedback you provide us will not be made public. Any decision to withhold information requested under the OIA is reviewable by the Ombudsman.

# Submitter information

The Ministry of Business, Innovation and Employment (MBIE) would appreciate if you could provide some information about yourself. If you choose to provide information in the “About you” section below, it will be used to help MBIE understand the impact of our proposals on different occupational groups. Any information you provide will be stored securely.

1. About you

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| Name: |  |

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| Email address: |  |

1. Are you happy for MBIE to contact you if we have questions about your submission?

[ ]  Yes [ ]  No

1. Are you making this submission on behalf of a business or organisation?

[ ]  Yes [ ]  No

If yes, please tell us the title of your company/organisation:

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1. The best way to describe your role is:

[ ]  Academic/researcher [ ]  Independent expert (please specify below)

[ ]  Consultant (please specify below) [ ]  Business owner (please specify below)

[ ]  Tradesperson (please specify below) [ ]  Student (please specify below)

[ ]  Industry group (please specify below) [ ]  Other (please specify below)

[ ]  Industry participant (please specify below) [ ]  Prefer not to say

Please specify here:

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1. Privacy information

[ ]  The Privacy Act 2020 applies to submissions. Please check the box if you do not wish your name or other personal information to be included in any information about submissions that MBIE may publish.

[ ]  MBIE may upload submissions, or a summary of submissions, received to MBIE’s website at [www.mbie.govt.nz](http://www.mbie.govt.nz). If you do not want your submission or a summary of your submission to be placed on our website, please check the box and type an explanation below:

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| *I do not want my submission placed on MBIE’s website because… [insert reasoning here]* |

1. Confidential information

[ ]  I would like my submission (or identifiable parts of my submission) to be kept confidential and have stated my reasons and grounds under section 9 of the Official Information Act 1982 that I believe apply, for consideration by MBIE.

If you have checked this box, please tell us what parts of your submission are to be kept confidential.

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# Regulatory proposals for natural and orange hydrogen development

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| Hydrogen has a wide range of applications in sectors ranging from electricity generation to industrial processes and fuel for heavy transport. Natural and orange hydrogen could unlock opportunities for energy resilience and economic growth. However, the hydrogen industry is still developing the processes and technology needed for commercial scale production. Natural hydrogen (sometimes called white, gold, geological or native hydrogen) is produced naturally below the surface of the earth. Orange hydrogen is produced by stimulating a chemical reaction that would allow hydrogen to develop (e.g. by injecting water and carbon dioxide onto target source minerals and then collecting the hydrogen produced).The Crown Minerals Act 1991 (CMA) sets out the broad legislative framework for the issuing of permits to prospect, explore and mine Crown-owned minerals within New Zealand. However, the CMA was not designed with natural and orange hydrogen in mind and there are questions around whether it is fit for this purpose. We have heard from industry that having a clear and certain regulatory pathway and clarity around if and how the CMA applies to hydrogen is key to encourage investment. While we do not have a natural and orange hydrogen industry yet, there are advantages to being a fast mover in enabling an industry to emerge for the positive economic and energy outcomes it could have for New Zealand. We see the following objectives as being important: * Providing investment certainty – by ensuring developers have clarity and a good understanding of the rules that need to be complied with (e.g. easily understanding how natural and orange hydrogen is treated, especially as this is related to the CMA and the Resource Management Act 1991 (RMA) and knowing where they fit within the current system of rules); and
* Efficient market outcomes – by ensuring hydrogen can be developed efficiently and effectively in a responsible manner (i.e. any potential adverse economic, health and safety and environmental outcomes from development are managed appropriately).

We are seeking views on the regulatory approach to support this emerging industry while also ensuring it operates responsibly. The discussion document seeks feedback on two high-level options:* **Option one: Include hydrogen in the definition of a mineral to regulate it as a mineral under the CMA.** This would mean that where mineral rights are privately owned (or owned by iwi under a customary marine title), the owner would have control over its development. Where mineral rights are held by the Crown, the right to access the minerals would be allocated under the CMA. Other regulatory requirements (e.g. environmental resource consents) would apply in both circumstances.
* **Option two: Exclude hydrogen in the definition of a mineral under the CMA and regulate it as a non-mineral natural resource.** This could mean that (by default) hydrogen is allocated and its effects managed primarily through the RMA.[[1]](#footnote-1) An alternative is that a new allocation regime could be developed outside the RMA. Excluding hydrogen in the definition of a mineral under the CMA would allow hydrogen to be developed with a wider focus than the purpose of the CMA (e.g. reducing New Zealand’s emissions and improving energy security and resilience).

This discussion document reflects regulatory proposals based on early international thinking, New Zealand’s unique context and information available about natural and orange hydrogen development. We want to hear from you on the questions we have posed in the discussion document to ensure the regulatory approach is appropriate for natural and orange hydrogen development in New Zealand.Please see the Discussion Document for more information. |

## **Questions for consultation**

## Policy objectives

## (please see pages 12-13 of the discussion document for further information about this)

1. Do you agree that the objectives outlined in the discussion document are the most important objectives for a hydrogen regulatory regime? Are there other objectives that we should explore?

[ ]  Yes, I agree [ ]  No, I do not agree [ ]  Not sure/no preference

Is there anything you would like to tell us about the reason(s) for your choice?

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## Hydrogen as a mineral under the Crown Minerals Act 1991 (CMA)

## (please see pages 14-16 of the discussion document for further information about this)

1. Do you support regulating natural and orange hydrogen as a mineral?

[ ]  Yes, I support regulating natural and orange hydrogen as a mineral

[ ]  No, I do not support regulating natural and orange hydrogen as a mineral

[ ]  Not sure/no preference

Please explain.

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1. What do you consider to be the advantages and disadvantages of this approach (regulating natural and orange hydrogen as mineral)?

Please explain.

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1. Do you see any unintended consequence or risks with the “rule of capture” and how it may work in practice? Please explain your answer and how these risks could be mitigated.

(please see page 15 of the discussion document for further information about the “rule of capture”)

Please explain.

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1. What CMA requirements should apply (e.g. non-petroleum mineral requirements, petroleum requirements, or something bespoke)?

Please explain.

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1. What are your views on phasing the regulatory requirements for hydrogen under the CMA (e.g. focusing on prospecting/exploration permitting first)?

Please explain.

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## Hydrogen as a non-mineral natural resource

## (please see pages 16-18 of the discussion document for further information about this)

1. Do you support regulating natural and orange hydrogen as a non-mineral natural resource outside of the CMA?

[ ]  Yes, I support regulating natural and orange hydrogen as a non-mineral natural resource outside of the CMA.

[ ]  No, I do support regulating natural and orange hydrogen as a non-mineral natural resource outside of the CMA.

[ ]  Not sure/no preference

Please explain.

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1. What do you consider to be the advantages and disadvantages of this approach (regulating natural and orange hydrogen as a non-mineral natural resource outside of the CMA)?

Please explain.

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1. Do you consider the Resource Management Act 1991 (RMA) is an appropriate tool to allocate and manage natural and orange hydrogen resources? If not, why not?

Please explain.

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1. Do you prefer a bespoke regime over the RMA to allocate and manage natural and orange hydrogen resources?

Please explain.

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## Other questions

1. Do you consider either approach a barrier to natural or orange hydrogen development in New Zealand?

Please explain.

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1. Are there any other alternative regulatory approaches to develop natural or orange hydrogen in New Zealand?

Please explain.

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1. Do you have views on how Māori rights and interests should be reflected in the regime?

Please explain.

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# Thank you

Thanks for your feedback. We really appreciate your insight which helps us to understand the implications of the proposals. To ensure we can provide robust advice on regulatory settings for natural and orange hydrogen development in New Zealand, we would appreciate any additional suggestions or comments you may have.

Please leave your feedback here:

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1. Note that the Government’s resource management reform will replace the RMA with two pieces of legislation. [↑](#footnote-ref-1)