MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
HĪKINA WHAKATUTUKI

COVERSHEET

Minister	Hon Shane Jones	**Portfolio**	Resources
Title of Cabinet paper	Crown Minerals Amendment Bill 2024 – Further policy decisions	**Date to be published**	31 July 2025

List of documents that have been proactively released		
Date	**Title**	**Author**
27 March 2025	Crown Minerals Amendment Bill 2024 – Further policy decisions	Office of Minister for Resources
2 April 2025	Crown Minerals Amendment Bill 2024 – Further policy decisions ECO-25-MIN-0047 Minute	Cabinet Office
24 March 2025	Annex to Regulatory Impact Statement: Amendments to the Crown Minerals Act 1991 relating to petroleum exploration and mining	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.

Some information has been withheld for the reasons of commercial information and free and frank opinions.

In-Confidence

Office of the Minister for Resources

Cabinet Economic Policy Committee

Crown Minerals Amendment Bill 2024 – Further policy decisions

Proposal

1 This paper seeks agreement to policy proposals to amend the decommissioning provisions of the Crown Minerals Amendment Bill 2024 (the Bill).

Relation to government priorities

2 Passing the Bill is a priority for the Government. The Bill relates to 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 This Government also has the following policy priorities:

3.1 Ensure New Zealand has abundant and affordable energy.

3.2 Ensure natural gas can be used as a transition fuel as we move towards Net Zero 2050, reducing New Zealand's reliance on coal.

Executive Summary

4 In November 2024, Cabinet agreed to introduce an Amendment paper to amend the Bill, so that liability for decommissioning costs applied to a broader range of persons automatically, including persons with a controlling interest in the current and former permit holder [CAB-24-MIN-0439.01 and CAB-24-MIN-0450 refers]. The Amendment Paper was introduced prior to the Committee of the Whole House stage and is now part of the Bill currently awaiting third reading.

5 It is important that we strike the right balance between protecting the Crown from fiscal risk and supporting investor confidence in the upstream gas market. Following the introduction of the Amendment Paper, industry stakeholders raised concerns that the provisions extending liability for decommissioning in statute go too far.

6 I have reflected on this feedback and considered alignment with the conceptual framework of the Crown Minerals Act 1991, international approaches to decommissioning, and how to strike the right balance between investor confidence and protecting the Crown from significant fiscal risk. As a result, I am proposing a more flexible approach to applying liability for decommissioning.

7 I propose the following framework for decommissioning responsibilities:

7.1 Permit holders' liability is set in the Crown Minerals Act 1991 (the Act) (as in the Bill).

7.2 Parent companies or shareholders of current permit holders' contribution to decommissioning costs could be considered as part of determining an appropriate financial security, e.g. by providing a parent company guarantee (allowed for in the Bill).

7.3 As part of approving certain transactions, the Minister would have discretion to require an outgoing interest or related party to provide a guarantee they will meet relevant decommissioning costs in the event the permit holder does not meet those costs and the financial security is insufficient.

8 The flexibility to require outgoing interests to remain 'on the hook' for decommissioning costs complements existing levers in the Act to ensure decommissioning costs do not fall to the Crown.

9 I am also proposing a minor change to make the power to exempt and defer decommissioning requirements more flexible. The intention is that an exemption could be granted where the total removal of petroleum infrastructure would not be a practical requirement. In turn, this will allow the Minister to ensure financial securities under the Act are set based on practical and reasonable decommissioning requirements.

10 The existing exemption and deferral power does not clearly allow for an exemption to be granted for a part of an item of petroleum infrastructure. I seek Cabinet's approval to amend this power to expressly provide greater flexibility to consider exemptions for either the whole or parts of particular items of petroleum infrastructure. This change would not alter the decommissioning requirements under environmental legislation.

Background

11 The Bill was reported back from Select Committee on 25 October 2024. Among other things, the Bill makes changes to the decommissioning regime.

12 Decommissioning includes plugging and abandoning wells, removing all or parts of infrastructure, and undertaking site restoration under the Act, the Resource Management Act 1991 and the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012. Recent estimates of decommissioning costs across all 25 permits in New Zealand total almost Commercial Information. This figure is likely to be higher if the Crown is required to undertake decommissioning. Just over half of the estimated total costs may need to be incurred in the next 10 years.

13 Decommissioning is an important part of the Crown Minerals regime because it mitigates the fiscal risk that could fall to the Crown or other third parties (e.g. private landowners onshore) if permit holders fail to decommission.

14 This is more than a theoretical risk. After the collapse of Tamarind in 2019, the Crown assumed responsibility for decommissioning the Tui oilfield at a budgeted cost of $443 million. Decommissioning has been completed with the final costs being approximately Commercial Information.

15 The decommissioning regime under the Crown Minerals Act includes:

15.1 **Primary obligations:** Permit holders are required to carry out and meet the costs of decommissioning.

15.2 **Financial securities:** Permit holders must obtain and maintain financial securities to secure the performance of their decommissioning obligations. Financial securities are the primary risk mitigation tool in New Zealand's decommissioning regime.

15.3 **Trailing liability:** If a permit holder fails to decommission or meet the costs of decommissioning (either directly or through a financial security), the CMA places liability on all former permit holders. This is called "trailing liability". The Bill limits trailing liability to the most recent permit holder. Trailing liability is a backstop. It is intended to be a last resort after other safeguards (such as financial securities) fail.

15.4 **Approval for transfers:** There is a Ministerial approval process for permit transfers and for changes of controlling shareholdings in certain persons that hold permits.

15.5 **Penalties:** Civil pecuniary penalties and criminal offences apply for failure to meet decommissioning obligations.

The decommissioning regime in the Bill didn't capture parent companies of permit holders

16 During select committee on the Bill, a problem was identified where the decommissioning regime did not apply to situations where a parent company of a permit holder[1] sold its interest in the permit holder.

17 In those cases, the permit holder would stay the same, so there would be no former permit holder to be liable for decommissioning costs in the event the permit holder defaults. The exiting parent company would not be liable for any decommissioning costs despite having significantly benefited from owning the permit holder.

18 Typically, a permit will be held by a New Zealand subsidiary company of a larger parent. Often the parent company, with its substantial assets, is the party that can provide the financial security that will best protect the Crown's interests. A decommissioning regime that does not appropriately capture parent companies and shareholders could put the Crown at substantial fiscal risk.

[1] For the purposes of this paper, any reference to 'permit holder' also includes licence holder, or person with a participating interest in a permit or licence.

19 In addition to the fiscal risk for the Crown, I was also concerned that this could result in the regulatory decision-maker being overly risk-averse when determining applications to change a controlling shareholding of a permit holder or an acceptable financial security arrangement. This may dampen investment activity in New Zealand's upstream petroleum sector which would not help our overall energy security. I want to ensure there is an enabling environment for the sale and purchase of petroleum assets, while ensuring the Crown is not fiscally exposed.

20 In November 2024, Cabinet agreed to introduce an Amendment Paper so that liability for decommissioning costs applied to [CAB-24-MIN-0439.01 and CAB-24-MIN-0450 refers]:

20.1 A permit holder and the immediately previous permit holder.

20.2 A person with a controlling interest[2] in a permit holder.

20.3 The immediately previous person that had a controlling interest in the current permit holder.

20.4 A person with a controlling interest in the immediately previous permit holder, at the time of transfer.

21 The Amendment Paper was introduced prior to the Committee of the Whole House stage and is now part of the Bill currently awaiting third reading.

We have an opportunity to ensure we have struck the right balance with this approach

22 When addressing this issue it is important that we strike the right balance between protecting the Crown from fiscal risk and supporting investor confidence in the upstream gas market. A secure and affordable gas supply is critical to our overall energy security in the transition to a lower emissions economy.

23 The proposal to address the decommissioning issue and Amendment Paper were prepared very quickly Commercial Information [redacted] and I now have had more time to consider the approach, including feedback from stakeholders.

There is concern that this approach to decommissioning liability goes too far

25 Since the Amendment Paper was introduced, industry stakeholders have raised concerns that the approach to decommissioning liability in statute goes too far.

[2] Meaning the power (whether directly or indirectly, and alone or acting together with others) to exercise, or control the exercise of, 50 percent or more of the voting rights in a corporate body.

26 Their main concern is that extending decommissioning liability to controlling interests and applying criminal offences and pecuniary penalties to directors inappropriately 'pierces the corporate veil' and undermines normal business structures and practices.

27 They also oppose retaining trailing liability in statute; the changes being made through the Bill (since introduction) to limit it to the immediately previous permit holder has not altered this position. They are concerned that this liability is fixed in the Act and there is no discretion to consider what is appropriate on a case-by-case basis.

28 I have reflected on this feedback and considered alignment with the conceptual framework of the Act, international approaches to decommissioning, and how to strike the right balance between investor confidence and protecting the Crown from significant fiscal risk.

I propose a more discretionary approach to decommissioning liability

29 A more flexible approach to decommissioning liability would better balance our objectives, align with the framework of the Act and improve alignment with international approaches to decommissioning. It will still ensure the Crown is protected from significant fiscal risk but provides more flexibility to consider the circumstances of particular situations.

30 I propose the following framework for decommissioning responsibilities:

30.1 Permit holders' liability is set in the Act (as in the Bill).

30.2 Parent companies or shareholders of current permit holders' contribution to decommissioning costs could be considered as part of determining an appropriate financial security, e.g. by providing a parent company guarantee (allowed for in the Bill).

30.3 As part of approving certain transactions under the Act, the Minister could require an outgoing interest or related party to provide a guarantee that they will meet relevant decommissioning costs (an 'outgoing guarantee').[3] A guarantee would be called upon if the permit holder did not meet the decommissioning costs and the financial security is insufficient.

31 The flexibility to require outgoing interests to remain 'on the hook' for decommissioning costs complements existing levers in the Act that work together to ensure decommissioning costs do not fall to the Crown. However, this proposal means removing from the statute the existing automatic trailing liability for former permit holders. It relies on having strong financial securities in place upfront and reflects that former permit holders and shareholding interests can, by discretion, be the last resort if current permit holders cannot meet their decommissioning obligations and financial securities are insufficient.

[3] As with existing provisions in the Act, relevant decommissioning costs would be limited to the costs to decommission any wells or infrastructure in place at the time of the transaction.

32 This approach is consistent with the framework of the Act. Under the Act, the Crown's primary relationship is with the permit holder who is granted rights and has obligations imposed under the permit and Act, including certain offences and penalties. At present, parent companies or other shareholders are only regulated to the extent that they are relevant to ensuring the permit holder has the technical and financial capabilities to fulfil their obligations.

Taking this approach requires four further changes to the regime

1. Introducing approvals of changes of control for all permit participants, to ensure there is a trigger for the exercise of Ministerial discretion

33 At the moment, where there is a change of control of a permit participant who is not the permit operator, there is no Ministerial approval required. Instead, there is only a requirement to notify the Minister after the transaction has occurred.[4]

34 I propose creating a requirement for prior Ministerial approval of such transactions. This will bring changes of control of permit participants who are not permit operators into line with the settings under the Act for permit transfers and changes of control of permit operators. It will also create a point in time for the Minister to exercise the new discretion.

35 I do not expect this will significantly increase the number of transactions that must be approved by the Minister. On average, over the last 10 years, there has been 3-4 changes of control of permit participants (other than Tier 1 operators) per year (although we would expect an uplift in these numbers).

2. Making it clear that the obligation to obtain Ministerial approval exists in the case of both the incoming and exiting controlling interest

36 Currently, the Act defines a "change of control" as a situation where a person obtains control. There could be situations where a person with control sells its shares, but no one obtains 50 percent or more of the voting rights (for example because there are a number of purchasers obtaining a smaller interest).

37 We need to make sure that the obligation to obtain Ministerial approval also arises when there is an outgoing change of control – ie where an outgoing interest ceases to have control. This will ensure there is appropriate oversight of transactions where parent companies intend to exit their positions in permits.

38 The sector does not support this additional approval. They see it as an additional constraint on selling interests in a permit. I accept that this is the case. But the proposed discretionary approach to managing liability centres on the Minister having the ability to exercise discretion to attach liability to certain players at the time of sales transactions. It is important that the Crown

[4] Under section 41AA of the Act, a change of control takes place where a person obtains the power (whether directly or indirectly, and alone or acting together with others) to exercise, or control the exercise of, 50 percent or more of the voting rights in the corporate body.

has the ability to exercise this discretion with any major change in ownership. The scenario where a controlling interest could dilute their shareholding by selling down to two or more players without Ministerial approval would present an avenue for ownership or control changes that expose the Crown to material risk.

3. A regulatory penalty for breach of the obligation to obtain Ministerial approval

39 Transfers of an interest in a permit are not effective without the Minister's approval. However, changes of control under the Act are effective even if they occur without the necessary approval of the Minister – i.e. the Minister declining to approve a change of control does not prevent a sale from happening or invalidate any sale that has occurred.

40 At present, if a change of control of a permit operator happens without the Minister's approval, then:

40.1 the Minister can revoke the permit

40.2 the incoming interest commits an offence and is liable on conviction to a fine not exceeding $800,000.

41 None of these consequences impact the outgoing interest. I do not consider that the potential consequences on the incoming interest are a sufficient deterrent for the outgoing interest who has financially benefited from the permit and would be entirely off the hook for potentially significant decommissioning costs.

42 I propose that pecuniary penalties should apply to an outgoing interest if a change of control goes ahead without Ministerial approval. This would align with the existing pecuniary penalty provisions under the Act, where the maximum penalties are $500,000 for an individual or, for bodies corporate, the greater of $10 million, or either three times the commercial gain or 10 percent of turnover of the interconnected bodies corporate. The existing defence of reasonable mistake would apply.

43 I consider this is appropriate because, unlike the incoming interest, there are no regulatory levers in respect of the outgoing interest once the change of control occurs and their significant benefit from the permit has been realised. A pecuniary penalty would be an effective deterrent and more proportionate to a breach of a regulatory regime than imposing a criminal offence.

4. The new Ministerial discretion to require an outgoing guarantee from an "outgoing interest" or "related party"

44 I propose outgoing guarantees could then be required as part of an approval process for any of the following transactions:

44.1 Transfer of interest in a permit.

44.2 Change of control of a Tier 1 permit operator.

44.3 Change of control of permit participants (other than a Tier 1 permit operator).

44.4 Approval of agreements that transfer a licence or licence interest; or change the control of a licensee (under the Petroleum Act 1937).

45 I propose that the decision-making criteria and information provision powers for considering outgoing guarantees should be enabling. When determining whether an outgoing guarantee is necessary, the Minister should be able to take into account any considerations relevant to ensure the costs of decommissioning will be met and will not fall to the Crown. To provide some certainty to the sector on when this discretion may be used, I propose setting out considerations the Minister may take into account, including:

45.1 The permit's proximity to decommissioning, and its current prospectivity.

45.2 The estimated cost of decommissioning and the extent to which existing and proposed financial securities will cover the cost of decommissioning.

45.3 The circumstances of the current, incoming and outgoing interests.

45.4 Any information relating to current or emerging risks to the permit holder's ability to meet decommissioning obligations under the Act (including risks to the financial security or any liability agreed through the exercise of previous Ministerial discretion at transactions).

46 The Minister will also need an accurate picture of the financial arrangements for the permit and should be able to require that relevant parties provide information that will assist in making that decision.

47 I propose the guarantee could be required from any outgoing interest connected to one of the transactions outlined above, or a related party of the outgoing interest.

48 This provides flexibility for the Minister to decide who is best placed to be the financial backstop for the decommissioning costs. In practice, this will be informed by the information required to be provided from an applicant who is proposing to enter into a transaction. It also ensures there is a close and rational connection between the guarantor and the permit and provides some certainty for the industry.

49 'Outgoing interests' include a permit holder, permit participant or any persons or bodies corporate that have an interest in a permit holder or permit participant, whose interest is removed either through a permit transfer or a change of control. For example, this would include:

49.1 A former permit holder, following a permit transfer.

49.2 Person(s) with an interest in the former permit holder, following a permit transfer (if they had an interest in the permit holder at the time of transfer).

49.3 Person(s) with an interest in a permit holder, who no longer have an interest due to a change of control.

50 This captures "controlling interests" as per Cabinet's previous decision but it does not limit it to those people. There may be instances where an outgoing interest has substantially benefited from the permit, despite not controlling the voting rights.

51 "Related parties" for this purpose should include parent companies, subsidiaries and related companies. I note that in November, Cabinet did not agree to allow trailing liability to be imposed on related parties by discretion. I consider this proposal is different because it is addressing risk through what is akin to a commercial transaction and will not be accompanied by the imposition of criminal liability.

Outgoing guarantees would be enforced as contractual arrangements with the Crown

52 The Bill currently expands criminal offences and pecuniary penalties to controlling interests to ensure consistency with permit holders and previous permit holders whose liability is imposed by statute.

53 The proposed approach for outgoing guarantees is designed around Ministerial discretion exercised through the approval of a commercial transaction. A guarantee would be a contractual arrangement between the outgoing interest/related party and the Crown, and it would be enforced as such. I do not consider that criminal offences are required or appropriate for the breach of such a contractual arrangement.

Alignment with international approaches to decommissioning

54 While I have sought alignment with international decommissioning regimes, perfect alignment is not possible given our different statutory and regulatory landscapes.

55 This proposed approach is more consistent with aspects of decommissioning regimes in the Australian Commonwealth and United Kingdom than the current Bill. Both of those statutory regimes empower ministers to use discretion to impose secondary decommissioning obligations, rather than fixing it in the statute.

56 However, it differs in that the discretion in both of those regimes is broader than what I have proposed – it can be at a wider range of points in time and can apply to a wider range of people, including related bodies corporate and 'related persons' of current and any former permit holders.[5] The discretion in

[5] In Australia 'related persons' includes anyone who has been at any time in a position to influence compliance with obligations, or has acted or had the capacity to derive significant financial benefit from operations, or acts or acted jointly with a permitholder.

those jurisdictions also imposes a legal obligation under the statute including criminal offences.

57 Free and frank opinions

There would be no opportunity for the Minister to reconsider their decision or put another relevant person 'on the hook'.

58 Free and frank opinions a power for the Minister to impose liability for decommissioning costs at the point of default, similar to Australia and the United Kingdom. I do not recommend this approach as it would amount to a very broad discretion and could create a large amount of uncertainty for the sector at a time when we need to improve investment confidence in gas production.

Amending the exemption and deferral power for petroleum decommissioning

59 The decommissioning obligations in the Act are intended to work as a backstop, with other legislation regulating the specific decommissioning requirements (e.g. the Resource Management Act 1991, the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012, or the Health and Safety at Work Act 2015).

60 Where the decommissioning standards or requirements under these other acts are clear, then decommissioning must take place in accordance with them. Where there isn't a specific standard or requirement, or the relevant regulatory agency has not made a decision about the specific decommissioning activities, then the default position in the Act is that petroleum infrastructure must be totally removed unless an exemption applies.

61 This approach is consistent with our international obligations (e.g. the United Nations Convention on the Law of the Sea 1992 and the London Convention and Protocol) and approaches taken in comparable jurisdictions (e.g. Australia and the United Kingdom). For example, in Australia the clear requirement for offshore platforms is for total removal of all assets unless an exemption is granted by the regulator.

62 The Act provides for the Minister to grant an exemption where decommissioning requirements are unreasonable or inappropriate. The intention is an exemption could be granted where total removal would not be a practical requirement, allowing the Minister to ensure financial securities under the Act are set based on practical and reasonable decommissioning requirements.

63 The Ministry of Business, Innovation and Employment (MBIE) considers that the Ministerial exemption and deferral power in the Act (section 89Y) does not clearly allow for an exemption to be granted for a part of an item of petroleum infrastructure.

64 I am seeking Cabinet's approval to amend this power to expressly provide greater flexibility to consider exemptions for either the whole or parts of particular items of petroleum infrastructure. This would allow for greater flexibility to consider situations where it might be unreasonable to remove part of a piece of petroleum infrastructure, by allowing for an exemption to be considered over that part.

65 This would not alter the decommissioning requirements under other legislation but would provide more flexibility to allow decommissioning plans proposing partial removal of petroleum infrastructure under the Act. These plans, and cost estimates, could then be considered when determining the kind and amount of financial security required. This flexibility would apply to both onshore and offshore petroleum infrastructure.

66 Alongside this change, officials will work with Parliamentary Counsel Office to see if the backstop provision (section 89E(2)) can be made clearer without making a substantive change to how it operates. In particular, whether it is desirable to include a reference to an exemption decision from the Minister. This may be needed because feedback from the sector suggests some permit or licence holders are unclear on how the backstop is intended to operate where the Minister has granted an exemption.

Transitional arrangements for Tier 3 permits

67 The Bill introduces a new Tier 3 permit for small-scale, non-commercial gold mining activities, often referred to as 'hobby mining'. The Bill provides a specific commencement date for provisions relating to these permits and transitional arrangements to allow for those who have Tier 3 permits to transition them to Tier 3.

68 These specified dates will need to be updated to account for the delayed passing of the Bill. I seek Cabinet's authorisation to determine appropriate commencement provisions and transitional mechanisms alongside the decommissioning proposal above.

Implementation

69 Once the Bill is passed, the decommissioning proposal would be implemented as part of approvals process for the transactions discussed above. These processes are well established and will require adjusting to give effect to this new proposal.

70 The powers to approve transactions are currently delegated to roles within MBIE in accordance with delegation provisions in the Act.

71 I also note that the decommissioning proposal for the Minister to require an outgoing guarantee is intended to be prospective and would not apply retrospectively to any transactions that have already been approved.

Cost-of-living Implications

72 There are no immediate or direct cost-of-living implications arising from the proposals in this paper.

Financial Implications

73 There are no direct financial implications as a result of the proposals in this paper.

Legislative Implications

74 I intend to introduce an Amendment Paper to amend the Bill which is currently awaiting third reading. The Bill will be recommitted to Committee of the Whole House to progress the Amendment Paper.

75 I expect to bring the Amendment Paper to the Cabinet Legislation Committee in early June and for the Bill to be passed by the end of June.

76 The Bill holds a Category 2 priority on the 2025 Legislation Programme (must be passed by the end of 2025).

Impact Analysis

Regulatory Impact Statement

77 A regulatory impact statement was completed for the policy decisions for the Bill, including the decommissioning amendments. An Annex[6] was completed for the Amendment Paper that extended the decommissioning regime in November 2024 [CAB-24-MIN-0439.01]. The Annex has been updated to cover a change to the approach, with options for extending decommissioning liability through Ministerial discretion.

78 The Annex has been reviewed by a MBIE Quality Assurance panel who consider that it meets the RIS Quality Assurance criteria.

79 However, the Cabinet paper now seeks to remove the existing automatic liability for the costs of decommissioning on immediately previous permit holders, which is replaced by Ministerial discretion. The Ministry for Regulation advise that Cabinet's impact analysis requirements apply to this proposal, but this option is not covered within the scope of the existing RIS nor updated Annex, and the Ministry for Regulation has not exempted the proposal. Therefore, this does not meet Cabinet's requirements for regulatory proposals.

80 MBIE and the Ministry for Regulation have agreed that supplementary analysis will be provided before Cabinet approves the introduction of a new Amendment Paper.

[6] Annex to Regulatory Impact Statement: Amendments to the Crown Minerals Act 1991 relating to petroleum exploration and mining.

81 The Ministry for Regulation has determined that the proposal to enable partial exemptions for decommissioning under the CMA is exempt from the requirement to provide a Regulatory Impact Statement on the grounds that the economic, social or environmental impacts are limited and easy to assess.

Climate Implications of Policy Assessment

82 There are no direct emissions impacts as a result of this policy proposal.

Population Implications

83 The proposals in this paper will not disproportionately impact distinct population groups.

Human Rights

84 There are no human rights implications related to this proposal.

Use of external resources

85 These proposals have been developed without the use of external resources.

Consultation

86 The following agencies have been consulted: Treasury, the Ministry of Foreign Affairs and Trade, the Ministry for the Environment, Department of Conservation and Te Arawhiti. The Ministry of Justice has been consulted on the proposal to apply pecuniary penalties and agrees with the approach. The Department of Prime Minister and Cabinet has been informed.

Meeting New Zealand's international trade and climate obligations

87 Engaging closely with the Ministry of Foreign Affairs and Trade to minimise any risk of policy changes engaging New Zealand's international and multilateral obligations and commitments will be important.

Communications

88 I do not intend to release a statement following Cabinet approval.

Proactive Release

89 I intend to release the Cabinet paper proactively around the time the Amendment Paper is introduced to the House.

Recommendations

The Minister for Resources recommends that Cabinet:

Decommissioning obligations

1 **Note** that the Crown Minerals Amendment Bill 2024 imposes decommissioning obligations on:

1.1 A permit holder and the immediately previous permit holder ('permit holder' includes a licence holder, or persons with a participating interest in a permit or licence, as the case may be).

1.2 A person with a controlling interest in a permit holder.

1.3 The immediately previous person that had a controlling interest in the current permit holder.

1.4 A person with a controlling interest in the immediately previous permit holder, at the time of transfer.

2 **Note** that obligations for controlling interests were added through an Amendment Paper to ensure that the decommissioning regime applied to situations where a parent company of a permit holder sells its interest in the permit holder [CAB-24-MIN-0439.01 and CAB-24-MIN-0450 refers].

3 **Note** that a more flexible approach could achieve this policy objective and strike a better balance between protecting the Crown from fiscal risk and supporting investor confidence in the upstream gas market.

4 **Agree** to remove automatic liability for the cost of decommissioning on immediately previous permit holders, and the associated criminal offences and pecuniary penalties for failing to meet the cost of decommissioning.

5 **Agree** to the following framework for decommissioning responsibilities under the Crown Minerals Act 1991:

5.1 Permit holders' decommissioning liability is set in the Act (as in the current Bill).

5.2 Parent companies of current permit holders could be required to provide a financial security as part of determining an appropriate financial security (as in the current Bill).

5.3 As part of approving certain transactions, the Minister for Resources could require an outgoing interest or related party to provide a guarantee that they will meet relevant decommissioning costs in the event the permit holder and financial security cannot meet the decommissioning costs (an 'outgoing guarantee').

6 **Agree** that outgoing interest includes the permit holder or any persons or bodies corporate that have an interest in a permit holder, whose interest is removed either through a permit transfer or a change of control.

7 **Agree** that a related party of an outgoing interest includes parent companies, subsidiaries and related companies.

8 **Agree** that an outgoing guarantee could be required as part of Ministerial approval of the following transactions:

8.1 Transfer of interest in a petroleum permit

8.2 Change of control of a Tier 1 petroleum permit operator

8.3 Approval of agreements that transfer a licence or licence interest; or change the control of a licensee (under the Petroleum Act 1937).

9 **Agree** that changes of control of permit participants for petroleum permits (other than a Tier 1 permit operator) require approval from the Minister and that an outgoing guarantee could be required as part of this approval.

10 **Agree** that, for the transactions above, Ministerial approval is required where the outgoing interest ceases to have control as well as situations where the incoming interest obtains control.

11 **Agree** that when deciding whether to require a guarantee from an outgoing interest/related party, the Minister may have regard to any considerations the Minister considers relevant to ensure the costs of decommissioning will be met, including:

11.1 The permit's proximity to decommissioning, and its current prospectivity.

11.2 The estimated cost of decommissioning and the extent to which existing and proposed financial securities will cover the cost of decommissioning.

11.3 The circumstances of the current, incoming and outgoing interests.

11.4 Any information relating to current or emerging risks to the permit holder's ability to meet decommissioning obligations under the Act.

12 **Agree** that the Minister should have a power to require relevant parties (including the outgoing interest/related party and incoming interests) to provide any information that will assist in determining whether to require an outgoing guarantee.

13 **Agree** that pecuniary penalties could apply to an outgoing interest if a change of control goes ahead without Ministerial approval (relying on existing pecuniary penalty provisions under the Crown Minerals Act).

Amending the exemption and deferral power for petroleum decommissioning

14 **Agree** to provide greater flexibility under the ministerial exemption and deferral power (section 89Y of the CMA) to consider exemptions for either the whole or parts of particular items of petroleum infrastructure.

15 **Agree** to investigate if the backstop provision (section 89E(2)) can be made clearer without making a substantive change to how it operates.

Transitional arrangements for Tier 3 permits

16 **Note** the commencement provisions and transitional arrangements for Tier 3 permits need to be updated due to the delayed passing of the Bill.

17 **Authorise** the Minister for Resources to determine appropriate commencement and transitional provisions for Tier 3 permits.

18 **Note** that the decisions in this paper will be progressed through an Amendment Paper to the Crown Minerals Amendment Bill 2024 which is currently awaiting third reading and will be recommitted to the Committee of the Whole House.

19 **Invite** the Minister for Resources to issue drafting instructions to the Parliamentary Counsel Office.

20 **Authorise** the Minister for Resources to take further decisions, in line with the policy decisions agreed by Cabinet, on any minor or technical issues that arising during drafting of the Amendment Paper.

Authorised for lodgement

Hon Shane Jones

Minister for Resources