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Minister	Hon Shane Jones	Portfolio	Resources
Title of Cabinet paper	Crown Minerals Amendment Bill 2024: additional policy decisions and approval to release Amendment Paper	Date to be published	31 July 2025

List of documents that have been proactively released		
Date	Title	Author
19 June 2025	Crown Minerals Amendment Bill 2024: additional policy decisions and approval to release Amendment Paper	Office of Minister for Resources
26 June 2025	Crown Minerals Amendment Bill 2024: additional policy decisions and approval to release Amendment Paper LEG-25-MIN-0119 Minute	Cabinet Office
16 June 2025	Supplementary Analysis Report: Amendments to the Crown Minerals Act 1991 decommissioning regime	MBIE

Information redacted

YES

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Some information has been withheld for the reason of commercial information.

In Confidence

Office of the Minister for Resources

Cabinet Legislation Committee

Crown Minerals Amendment Bill 2024: additional policy decisions and approval to release Amendment Paper

Proposal

- 1 This paper seeks approval to release an Amendment Paper for the Crown Minerals Amendment Bill 2024 (the Bill) that:
 - 1.1 amends the decommissioning regime for petroleum wells and infrastructure to allow for a discretionary approach to assigning liability for decommissioning costs, and more flexibility for exemptions and deferrals, and
 - 1.2 updates the commencement and transitional provisions for new Tier 3 recreational mining permits given the delayed passing of the Bill.
- 2 This paper also:
 - 2.1 seeks approval of additional policy decisions that are included in the Bill and are necessary to achieve the policy intent, and
 - 2.2 notes decisions made under my delegated authority.

Policy

- 3 The Bill reverses the ban on new offshore petroleum exploration and makes other changes, including to the decommissioning regime, to improve investor confidence in petroleum development.
- 4 In November 2024, an Amendment Paper was introduced that amended the Bill so that liability for decommissioning costs applied to a broader range of persons automatically, including persons with controlling interests, current and former permit holders. That Amendment Paper was agreed during the committee of the whole House stage and is now part of the Bill currently awaiting third reading.
- 5 In April 2025, Cabinet agreed to take a more flexible, discretionary approach to assigning decommissioning costs to former permit holders and other persons who have held interests in permit holders [ECO-25-MIN-0047].
- 6 The agreed approach gives the Minister for Resources and Minister of Finance joint discretion to determine whether an outgoing interest in a

petroleum permit or related party must provide a guarantee that they will meet relevant decommissioning costs, in the event the permit holder does not, and the financial securities are insufficient. The Ministers can consider whether to require an outgoing guarantee as part of Ministerial approval for transfer of a permit¹ and change of control of a permit participant (where a person either obtains, or ceases to have, a controlling interest in a permit participant).

7 Cabinet also agreed to:

- 7.1 amend the Bill to provide greater flexibility under the Ministerial exemption and deferral power for decommissioning to consider exemptions for either the whole or parts of particular items of petroleum infrastructure, and
- 7.2 authorise the Minister for Resources to determine appropriate updated commencement and transitional provisions for Tier 3 permits given the delayed passing of the Bill.

8 The new Amendment Paper gives effect to these decisions.

Additional policy decisions

9 I am seeking agreement to policy changes that align with the intent of existing Cabinet decisions but go beyond my delegated authority.

Aligning post-decommissioning obligations

- 10 The Bill, as introduced, removed the requirement to provide payment or financial security to cover any post-decommissioning costs.² Instead, it introduced perpetual liability for permit holders who have completed their decommissioning obligations for any infrastructure and wells left in situ.
- 11 In November 2024, this post-decommissioning liability was extended to include the controlling interest of the permit holder to align with the then approach to decommissioning obligations. This is now inconsistent with the new approach for decommissioning obligations.
- 12 I seek Cabinet's approval to revert to the post-decommissioning provisions as introduced – where only the permit holder, not its controlling interest, has perpetual post-decommissioning obligations.

¹ In this paper, any reference to 'permit holder' also includes licence holder, or person with a participating interest in a permit or licence, and references to changes of control and permit transfers under the Crown Minerals Act 1991 also include equivalent transactions under the Petroleum Act 1937.

² Post-decommissioning is the monitoring and remediation of any decommissioned petroleum infrastructure and wells, including remediation of environmental damage or health and safety risks caused by a decommissioning failure.

Transitional provisions

- 13 The ability to require outgoing guarantees is prospective and does not apply to any applications for permit transfers or changes of control that have already been determined by the Minister.
- 14 It also does not apply to transactions that are entered into or take place before commencement and that do not require Ministerial approval under the existing law – i.e. transactions where a person ceases to have a controlling interest in a permit participant, and changes of control of Tier 1 permit participants that are not permit operators.
- 15 There is a risk that transactions that do not currently require Ministerial approval are entered into after the sector has been on notice of the new discretionary approach (13 March 2025) and before commencement, and so avoid the new law. This is particularly relevant for transactions where a person ceases to have a controlling interest in a permit participant, because there is no existing regulatory oversight of these transactions. It would mean that a person with a controlling interest in a permit participant could dilute their shareholding by selling down to two or more players without Ministerial approval and could expose the Crown to fiscal risk. However, the permit holder would still have to provide and maintain financial securities, which could consider the financial capability of the permit holder and factor in any new persons with an interest in the permit.
- 16 I consider the risk of this type of transaction occurring before commencement is low – I am not aware of any transactions of this nature and the risk is only present within a narrow, specific window. Also, applying the new law to these situations could be considered directly retrospective because it would impose obligations and penalties (including criminal offences and pecuniary penalties) to actions that take place before commencement of the Bill and could affect accrued rights under commercial contracts. For these reasons, I do not propose to apply the new law to such transactions.
- 17 Specific transitional provisions are needed to:
 - 17.1 Address the situation where a former permit holder has trailing liability under the existing law. There is only one permit transfer that has been approved since the trailing liability provisions came into effect in 2021, and so only one former permit holder who has this liability. I propose that, in this circumstance, the existing law should apply until a transaction is consented to under the new law. I propose that consent to such a transaction would then automatically remove existing trailing liability.
 - 17.2 Clarify what law applies to applications in train when the Bill commences. I propose the new law should apply to applications for changes of control and transfers that have been made since 13 March 2025 (when the sector was informed of the proposed changes) but are not determined before commencement. This is necessary to ensure the

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policy change is not avoided before commencement. It does not affect existing rights, only applications.

- 17.3 Make sure that obligations under the existing law are carried over where necessary (e.g. to notify after certain changes of control).
- 18 I am confident that the approaches to applying the new law and transitional provisions are consistent with common legislative practice and the principle that legislation should not be directly retrospective.

Clarifying the intent of section 89E of the Crown Minerals Act 1991

- 19 Section 89E defines decommissioning under the Crown Minerals Act 1991 as total removal of infrastructure unless another enactment, relevant standard or requirement applies. Cabinet agreed to investigate whether the provision could be made clearer without substantively changing how it operates.
- 20 Officials worked with the Parliamentary Counsel Office and have included in the Amendment Paper a reference to exemptions from decommissioning requirements in the backstop provision. I seek Cabinet's approval to this change which makes it clearer that the standard of total removal only applies if there is no exemption from decommissioning requirements granted under the Crown Minerals Act 1991 (and no other enactment, standard, or requirement applies). The amendments do not alter the decommissioning requirements under environmental legislation.

Decisions under delegated authority

- 21 The Bill introduces a new Tier 3 permit for small-scale, non-commercial gold mining activities, often referred to as recreational or 'hobby mining'. Cabinet authorised me to determine appropriate updated commencement and transitional provisions for Tier 3 permits given the delayed passing of the Bill. I have taken the following decisions:
- 21.1 Tier 3 permit provisions will now commence by order in council rather than a fixed date. This will provide flexibility to progress the amendments to secondary legislation (regulations and Minerals Programme) necessary to give effect to Tier 3 permits and for New Zealand Petroleum and Minerals to operationalise the Tier 3 permit regime.
- 21.2 Tier 3 transitional provisions have been simplified and revised to create an extended window for existing Tier 2 permit holders to apply to transition to Tier 3 at no cost, from the commencement of the relevant provisions until 11 December 2026.
- 22 I have also taken one decision, in line with policy decisions agreed by Cabinet, on minor and technical issues. The Crown Minerals Act 1991 provides for the Minister to grant individual exemptions and deferrals from decommissioning obligations and for class exemptions from decommissioning obligations to be made through regulations. Cabinet agreed to amend the

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Ministerial exemption and deferral power to allow for exemptions for either the whole or parts of particular items of petroleum infrastructure.

- 23 For consistency, I have decided to also amend the power to grant class exemptions and deferrals from decommissioning obligations through regulations made under in section 105(1)(qb) so that such exemptions and deferrals can be made for the whole or parts of particular items of petroleum infrastructure.

Parts of the Amendment Paper expected to be contentious

- 24 The Amendment Paper is expected to be contentious because the new discretionary approach to assigning liability for decommissioning costs replaces automatic liability for the costs of decommissioning for immediately former permit holders. This change does however ensure there is a consistent mechanism for assigning liability for decommissioning costs for permit transfers and changes of control.
- 25 The Amendment Paper may also be contentious because it will be released prior to the third reading of the Bill and then the Bill will be recommitted to the committee of the whole House under Standing Order 319. The motion to recommit the Bill is not amendable or debatable. The debate in the committee of the whole House will be limited to the changes proposed in the Amendment Paper, however recommitment is unusual, particularly for such substantive changes.

Impact analysis

- 26 An Annex to the Regulatory Impact Statement for the Bill was submitted when Cabinet approved the Amendment Paper that extended the decommissioning regime in November 2024 [CAB-24-MIN-0439.01]. The Annex was updated in March 2025 to cover a change to the approach, with options for extending decommissioning through Ministerial discretion [ECO-25-MIN-0047].
- 27 The updated Annex did not include the proposal to remove the existing automatic liability for the costs of decommissioning on the immediately former permit holder. A Supplementary Analysis Report (SAR) covering the decision to remove the existing automatic liability is attached in Annex One.
- 28 A Quality Assurance Panel from the Ministry of Business, Innovation and Employment has reviewed the SAR. The Panel consider the information and impact analysis summarised in the SAR partially meets the Quality Assurance criteria. The Panel consider that the SAR would benefit from: further analysis of the guardrails to support Ministerial discretion to address any risk/perception of risk of regulatory capture and to ensure discretion is exercised in a consistent manner; and consultation on the proposed changes, particularly with iwi and hapū.

Compliance

- 29 The Amendment Paper complies with each of the following:

- 29.1 the principles of the Treaty of Waitangi;
 - 29.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
 - 29.3 the principles and guidelines set out in the Privacy Act 2020;
 - 29.4 relevant international standards and obligations;
 - 29.5 the [Legislation Guidelines](#) (2021 edition), which are maintained by the Legislation Design and Advisory Committee.
- 30 A revised departmental disclosure statement has been prepared and is attached at Annex Two.

Consultation

Relevant government departments or other public bodies

- 31 The Ministry for the Environment, Ministry of Foreign Affairs and Trade, Te Arawhiti, Department of Conservation, Ministry of Justice and Treasury were consulted on this paper. The Department of Prime Minister and Cabinet has been informed.

Relevant private sector organisations and public consultation processes

- 32 Targeted consultation on the policy and draft Amendment Paper was undertaken with Energy Resources Aotearoa, Beach Energy, Greymouth Petroleum, Todd Energy, OMV and Genesis Energy.
- 33 The sector supports the discretionary approach in the Amendment Paper over the automatic trailing liability currently in the Bill, but their preference is that no form of trailing liability should apply at all. They also do not support the new approval required for transactions where a person ceases to have a controlling interest, which they see as a constraint on selling interests in a permit. I accept this, but the Crown needs active visibility over these transactions, in order to exercise the discretion being provided for.
- 34 The industry peak body, Energy Resources Aotearoa, have also raised concerns about the proposal to apply the new law to applications for changes of control made after 13 March 2025 that are not determined before commencement. They consider it unusual for the new law to apply to these applications back to the date the proposals were shared with the sector. I am comfortable that this approach is justified to ensure the policy change is not avoided before commencement. There are no applications that officials are aware of that would be impacted and the proposal is not directly retrospective because it does not affect accrued rights (only applications).
- 35 Crown Law and an external barrister with expertise in petroleum development were also consulted on the draft Amendment Paper.

The government caucus and other parties represented in Parliament

- 36 Consultation has occurred with both coalition partners. No issues were raised with this paper.

Binding on the Crown

- 37 The amendments proposed will be binding on the Crown.

Creating new agencies or amending law relating to existing agencies.

- 38 The Amendment Paper does not create a new agency or amend law relating to existing agencies.

Allocation of decision-making powers

- 39 The Amendment Paper does not involve the allocation of decision-making powers between the executive, the courts and tribunals.

Associated regulations

- 40 The Crown Minerals (Petroleum) Regulations 2007, Crown Minerals (Petroleum Fees) Regulations 2016, Crown Minerals (Minerals Other than Petroleum) Regulations 2007 and Crown Minerals (Minerals Fees) Regulations 2016 require minor consequential amendments because of changes in the Amendment Paper (e.g. updating cross references).
- 41 I propose to make these minor consequential amendments as part of the package of regulations Cabinet has agreed to that will give effect to other parts of the Bill – i.e. Tier 3 permits and the new open market application process for petroleum exploration permits [ECO-24-MIN-0219, EXP-25-MIN-0017].
- 42 Drafting is well progressed on this package of regulations and Minerals Programme, and I expect to bring this package to Cabinet soon after the Bill has passed and to commence in September 2025.

Other instruments

- 43 The Amendment Paper does not empower the making of other instruments that are deemed to be legislative instruments or disallowable instruments.

Definition of Minister/department

- 44 The Amendment Paper does not contain a definition of Minister, department or chief executive.

Commencement of legislation

- 45 The Amendment Paper provides that provisions relating to Tier 3 permits will commence on a date to be appointed by order in council, with a backstop commencement date of 1 January 2026.

- 46 This provides flexibility to progress the amendments to secondary legislation (regulations and Minerals Programme) necessary to give effect to Tier 3 permits and for New Zealand Petroleum and Minerals to operationalise the Tier 3 permit regime. I expect to bring the commencement order in council to Cabinet soon after the Bill has passed as part of the wider package of secondary legislation. I expect the package of secondary legislation to commence in September 2025.
- 47 The explanatory note to the Amendment Paper sets out the reasons for commencement by order in council.
- 48 The rest of the provisions of the Bill come into force on the day after Royal assent.

Parliamentary stages

- 49 The Amendment Paper is to be released prior to the third reading of the Bill, at which point a motion will be put forward to recommit the Bill to the committee of the whole House stage under Standing Order 319. The Bill is expected to be passed in July.

Proactive Release

- 50 I intend to release this paper proactively, subject to appropriate redactions.

Recommendations

I recommend that the Cabinet Legislation Committee:

- 1 **note** that the Crown Minerals Amendment Bill 2024 holds a category 2 priority on the 2025 Legislation Programme (must be passed by the end of 2025);
- 2 **note** that the proposed Amendment Paper will create a more flexible, discretionary approach to assigning decommissioning costs to former petroleum permit holders and other persons who have held interests in permit holders [ECO-25-MIN-0047];
- 3 **agree** the following changes that align with the intent of previous Cabinet decisions [ECO-25-MIN-0047] and are reflected in the Amendment Paper:
 - 3.1 post-decommissioning obligations will revert to what was in the Bill on introduction – where only the permit holder has perpetual post-decommissioning obligations;
 - 3.2 transitional provisions which provide that:
 - 3.2.1 the existing law will continue to apply to former permit holders who have trailing liability until a transaction is consented to under the new law, which would automatically remove existing trailing liability;

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- 3.2.2 the new law will apply to applications for changes of control and permit transfers that have been made since 13 March 2025 and have not been determined before commencement;
 - 3.2.3 relevant obligations under the existing law continue to apply where necessary (e.g. obligations to notify the Minister after a change of control of a permit participant (other than operators of Tier 1 permits));
 - 3.3 include a reference to exemptions in section 89E to clarify that the standard of total removal only applies if there is no exemption under the Crown Minerals Act 1991, and no other enactment, relevant standard, or requirement by a regulatory agency contains any requirements or standards relating to the method of decommissioning.
- 4 **note** the following decisions that I have made under delegated authority from Cabinet [ECO-25-MIN-0047]:
 - 4.1 Tier 3 permit and transitional provisions will commence on a date to be appointed by order in council, with a backstop commencement date of 1 January 2026;
 - 4.2 Tier 3 transitional provisions have been simplified and revised to create an extended window, from the commencement of the relevant provisions until 11 December 2026, for existing Tier 2 permit holders to apply to transition to Tier 3 at no cost.
 - 4.3 the power to grant class exemptions and deferrals from decommissioning obligations by regulation has been amended to allow for class exemptions and deferrals to be made for the whole or parts of particular items of petroleum infrastructure.
- 5 **agree** to make consequential changes to the Crown Minerals (Petroleum) Regulations 2007, Crown Minerals (Petroleum Fees) Regulations 2016, Crown Minerals (Minerals Other than Petroleum) Regulations 2007 and Crown Minerals (Minerals Fees) Regulations 2016 as part of the package of regulations required to implement the Crown Minerals Amendment Bill 2024.
- 6 **approve** the release of the Amendment Paper to the Crown Minerals Amendment Bill 2024, subject to the final approval of the government caucus and sufficient support in the House of Representatives;
- 7 **authorise** the Minister for Resources to refine the Amendment Paper prior to its release.
- 8 **agree** that the Amendment Paper be released and the Bill be recommitted and passed in July 2025.
- 9 **note** that the Amendment Paper will be released prior to the third reading of the Bill, at which point a motion will be put forward to recommit the Bill to the committee of the whole House stage.

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Authorised for lodgement

Hon Shane Jones

Minister for Resources

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Annex One: Supplementary Analysis Report

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Annex Two: Revised Departmental Disclosure Statement

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