



## BRIEFING

### Review of the Treaty Principles provisions in the Crown Minerals Act 1991

<b>Date:</b>	26 May 2025	<b>Priority:</b>	High
<b>Security classification:</b>	In Confidence	<b>Tracking number:</b>	BRIEFING-REQ-0013729

Action sought		
	Action sought	Deadline
Hon Shane Jones <b>Minister for Resources</b>	<b>Direct</b> MBIE to consult with iwi and hapū seeking their views on the Treaty Principles provisions in the Crown Minerals Act 1991 (CMA), including: <ul style="list-style-type: none"><li>a. The reason for the provisions.</li><li>b. Whether the CMA appropriately encapsulates the Treaty relationship through the Treaty Principles provisions?</li><li>c. Whether the provisions (including the relevant parts of the Minerals Programmes) are clear and specific about how the Treaty applies in the context of the CMA?</li></ul>	3 June 2025

Contact for telephone discussion (if required)			
Name	Position	Telephone	1st contact
Lena MacCarthy	Manager, Resource Policy	[REDACTED]	✓
Joe Harbridge	Principal Policy Advisor, Resource Policy	[REDACTED]	

The following departments/agencies have been consulted

Minister's office to complete:

- |   |  |
|---|--|
| <input type="checkbox"/> Approved             | <input type="checkbox"/> Declined            |
| <input type="checkbox"/> Noted                | <input type="checkbox"/> Needs change        |
| <input type="checkbox"/> Seen                 | <input type="checkbox"/> Overtaken by Events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn           |

Comments



# BRIEFING

## Review of the Treaty Principles provisions in the Crown Minerals Act

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### Purpose

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To seek your direction to engage with iwi and hapū on a review of the Treaty Principles provisions in the Crown Minerals Act 1991 (CMA).

### Recommended action

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The Ministry of Business, Innovation and Employment (MBIE) recommends that you:

- b **Note** the National Party and New Zealand First coalition agreement includes a commitment to “conduct a comprehensive review of all legislation (except when it is related to, or substantive to, existing full and final Treaty settlements) that includes “The Principles of the Treaty of Waitangi” and replace all such references with specific words relating to the relevance and application of the Treaty or repeal the references”.

*Noted*
- c **Note** Cabinet agreed in September 2024 that the purpose of the review is to ensure that, where it is appropriate, Te Tiriti o Waitangi I the Treaty of Waitangi (the Treaty) or the Treaty relationship is encapsulated in legislation, and that the provisions are clear and specific about how the Treaty applies in the context of each legislative regime. If there is no clear reason for the provision, to achieve the purposes of the review, it should be removed [CAB-24-MIN-0346 refers].

*Noted*
- d **Note** Cabinet agreed on 5 May 2025, to a work programme for reviewing Treaty Principles provisions (the provisions). [SOU-25-MIN-0041 refers].

*Noted*
- e **Note** as part of this decision, Cabinet directed MBIE to separately lead a review of the relevant CMA provisions (s4 and s14).

*Noted*
- f **Note** MBIE has carried out an initial assessment of the CMA Treaty provisions in line with the purpose of the review and the framework developed for the wider review (attached as Annex One).

*Noted*
- g **Note** MBIE considers it appropriate to encapsulate the Treaty relationship in the CMA and that it is clear from the provisions (and supported by the Minerals Programmes<sup>1</sup>), how the Treaty applies to the legislative regime.

*Noted*

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<sup>1</sup> Specifically, the relevant chapters in the Minerals Programme for Minerals (Excluding Petroleum) 2013 and the Minerals Programme for Petroleum 2013.

h **Note** MBIE administers over 60 Treaty-settlement relationship agreements, accords and protocols relating to Crown-owned minerals, many of which require early engagement or consultation on policy issues and/or legislative amendments relating to the administration of the Crown mineral estate.

*Noted*

i **Direct** MBIE to consult with iwi and hapū seeking their views on:

- a. The reason for the Treaty provisions in the CMA.
- b. Whether the CMA appropriately encapsulates the Treaty relationship through the Treaty Principles provisions?
- c. Whether the provisions (including the relevant parts of the Minerals Programmes) are clear and specific about how the Treaty applies in the context of the CMA?

*Agree / Disagree*

j **Note** MBIE will provide you with further advice following iwi and hapū consultation.

*Noted*



Lena MacCarthy  
**Manager, Resources Policy**  
Resource Markets, MBIE

26 / 05 / 2025

Hon Shane Jones  
**Minister for Resources**

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## Background

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1. The New Zealand National Party and New Zealand First coalition agreement includes a commitment to “conduct a comprehensive review of all legislation (except when it is related to, or substantive to, existing full and final Treaty settlements) that includes “The Principles of the Treaty of Waitangi” and replace all such references with specific words relating to the relevance and application of the Treaty, or repeal the references”.
2. In September 2024, Cabinet agreed to a review of legislation that include reference to the Principles of the Treaty [CAB-24-MIN-0346 refers]. Sections 4 (Treaty of Waitangi) and 14 (Contents of Minerals Programmes) of the Crown Minerals Act 1991 (CMA) were included within the scope of the review. At the same time, Cabinet agreed that the purpose of the review is:

*To ensure that where it is appropriate to encapsulate the Treaty or the Treaty relationship in legislation, the provisions are clear as to how the Treaty applies in the context of each legislative regime, to reduce uncertainty and support better compliance with the provision concerned. Treaty settlement legislation and other Acts that raise similar issues have been excluded from the review.*

3. The Minister of Justice provided an update on this review to Cabinet on 5 May 2025, seeking agreement to a process to review the provisions during the 2025 calendar year, in order to enable legislation to give effect to the review within this Parliamentary term [SOU-25-MIN-0041 refers]. This paper also directed MBIE to lead a review of the relevant provisions (s4 and s14) in the CMA separately to this work programme.

## MBIE has done an initial assessment of the provisions in the CMA

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### The Treaty provisions provide for iwi and hapū input into decisions taken under the CMA

4. The CMA is different from most other statutes with Treaty Principles provisions, in that section 4 requires decision makers under the CMA to have regard to the Treaty Principles (a general/operative clause), and section 14 requires that a minerals programme must set out how the Minister or chief executive will do this (a descriptive clause, but with the detail in secondary legislation). This approach puts a general obligation on persons exercising functions or powers under the CMA, while also providing specificity on how that is operationalised in the Minerals Programmes:

#### **Section 4: Treaty of Waitangi**

All persons exercising functions and powers under this Act shall have regard to the principles of the [Treaty of Waitangi \(Te Tiriti o Waitangi\)](#).

#### **Section 14: Contents of Minerals Programmes**

- (1) A Minerals Programme—
  - (a) must specify the mineral or minerals to which it applies; and
  - (b) must set out or describe how the Minister and the chief executive will have regard to the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) (as required by [section 4](#)) for the purposes of the Minerals Programme.
- (2) A Minerals Programme—
  - (c) on the request of an iwi or hapū, may provide that defined areas of land of particular importance to the iwi's or hapū's mana are excluded from the operation of the Minerals Programme or are not to be included in any permit.

5. The effect of the Treaty provisions is to provide for iwi and hapū input into decisions taken under the CMA, without acting as a veto power over decisions. The Crown must act reasonably, make informed decisions based on meaningful consultation, and have an open mind to any views received from iwi and hapū when exercising functions or powers under the CMA.
6. Initially, only section 4 was included in the CMA, but section 14 was subsequently added in 2013 to ensure there was greater clarity on how the Crown will have regard to the Treaty principles when managing the mineral estate. Before section 14 was introduced, a common theme in submissions from iwi and hapū was that iwi and hapū should have more tools available to protect significant areas, rather than the emphasis on excluding areas of importance to iwi and hapū (eg wāhi tapu) from permits eg they may want to allow activities only under certain circumstances. The change to section 14 was based on this suggestion by iwi and hapū.
7. Following the changes in 2013, both the Minerals Programme for Minerals (Excluding Petroleum) 2013 and the Minerals Programme for Minerals (Petroleum) 2013 include detailed guidance on how the Crown intends to meet its section 4 responsibilities (chapter 2 of each programme). This includes consulting on various matters including permit decisions in an iwi or hapū's rohe.

### **MBIE considers it appropriate to encapsulate the Treaty relationship in the CMA**

8. Iwi and hapū have significant interests and rights in relation to the protection and management of natural resources. The Government recognises aspirations for greater participation in natural resource management, given long-standing cultural, historical, spiritual, and traditional association to minerals<sup>2</sup>. As such, we consider it is appropriate to have Treaty provisions in the CMA.
9. The CMA's Treaty Principles provisions provide a framework for how the Crown can consider Māori interests within a legislated approach where the Crown owns and administers its mineral estate for the benefit of New Zealand.
10. Additionally, iwi and hapū have specific interests in minerals development, either directly as investors and participants or indirectly with a view to regional employment and development.
11. In recognition of these rights and interests, many iwi and hapū have, or are in negotiation with the Crown on, a Crown Minerals Protocol (or other agreement) as part of their Treaty settlement. These typically include, among other obligations, a commitment to ensure iwi and hapū are consulted with on the issuing of mining permits (which is currently provided for in the Minerals Programmes) and the wider management of Crown-owned minerals (eg engagement on policy proposals beyond what is required in the Minerals Programmes). Some Treaty settlements and associated legislation also vest, or provide fossicking rights for, certain minerals.

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<sup>2</sup> <https://www.mbie.govt.nz/building-and-energy/energy-and-natural-resources/minerals-and-petroleum/strategies/a-minerals-strategy-to-2040/guiding-principle-1-te-tiriti-o-waitangi>

## **Our initial assessment is that the Treaty provisions in the CMA are clear as to how the Treaty applies to the regime**

12. We have undertaken an initial assessment (attached as Annex One) on the status quo, in light of the Treaty principles review process.
13. We consider that section 4 of the CMA, as a general Treaty clause (as opposed to a more descriptive clause), allows for a broad range of Treaty interests to be considered as part of the management of the Crown minerals estate. Section 14 of the CMA then clarifies (by requiring the Minister to set out in the Minerals Programmes) what having regard to the Treaty Principles means within the CMA context.
14. This approach provides a good balance between flexibility and certainty:
  - a. While a general Treaty clause could lead to some uncertainty around how the Crown will have regard to the Treaty principles, the CMA changes in 2013 have resulted in detailed guidance in the Minerals Programmes on how the Crown has regard to the Treaty principles when exercising specific functions or powers under the Act.
  - b. In some cases, the Minerals Programmes exclude land of significance to local iwi where no permits can be granted (eg the Taranaki Maunga), in other cases, permits can be granted over an area while allowing for a range of measures to protect any areas of significance without excluding those areas from permits.
  - c. The Minerals Programmes can be updated as needed in consultation with iwi and hapū. This can include localised provisions (eg pounamu management areas) where a specific interest has been identified that interacts with the mining of Crown owned minerals.
15. This review provides an opportunity to engage with iwi and hapū on the provisions to see if there are ways that the provisions (or the Minerals Programmes) could be improved upon.

## **Treaty settlement obligations require consultation with Māori as part of this process**

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16. MBIE administers over 60 Treaty-settlement relationship agreements, accords, and protocols relating to Crown-owned minerals. MBIE is also involved in 12 active settlement negotiations with iwi groups who are progressing towards settlement of their historical Treaty claims, four of which are expected to include a Crown Minerals Protocol.
17. Many of these agreements with iwi and hapū require early engagement on policy issues and/or legislative amendments relating to the administration of the Crown mineral estate. For example, the Ngāti Porou Crown Minerals Protocol requires consultation on "... any policy and legislative development or review in relation to the administration of Crown owned minerals which may affect Ngāti Porou interests in relation to the Crown Minerals Protocol Area ...".
18. As Cabinet has directed MBIE to review the CMA Treaty provisions to consider whether they are clear and appropriately encapsulate the Treaty relationship, we are required to consult with iwi and hapū, under our relationship agreements.

## Next steps

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19. To inform our advice on the Treaty principle provisions, we recommend consulting with iwi and hapū seeking their views on:
  - a. The reason for the Treaty provisions in the CMA.
  - b. Whether the CMA appropriately encapsulates the Treaty relationship through the Treaty Principles provisions?
  - c. Whether the provisions (including the relevant parts of the Minerals Programmes) are clear and specific about how the Treaty applies in the context of the CMA?
20. MBIE is currently developing an engagement plan for this process. Subject to your agreement, we expect to begin consultation in June 2025 and will report back to you in August 2025 with further advice informed by consultation with iwi and hapū.
21. Should the Government look to change the CMA provisions following the consultation process, any changes could be fed back into the wider legislative review being led by the Minister of Justice. Any changes to the Minerals Programmes could be made using the process set out in the CMA without the need for further legislation.

## Risks and mitigations

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22. MBIE has been engaging on updates to the Minerals Programmes in 2024/25, which has included engagement with iwi. Feedback received from some iwi and hapū through this process will be relevant to the questions above. There has also been consistent feedback from Māori on the need for a stronger Treaty principles clause, since its initial creation in 1991<sup>3</sup>. As such, MBIE has a general sense of the feedback we are likely to receive. However, we think it is important to engage specifically in the context of the current Treaty principles review. Our engagement approach will acknowledge previous feedback received to help mitigate the risks around consultation fatigue.
23. During the Supreme Court hearing for *Students for Climate Solutions Incorporated v Minister for Energy and Resources*, Justice Williams asked counsel about what interests are to be considered under section 4 of the CMA given the Crown argues that environmental matters are to be dealt with under the Resource Management Act 1991 (RMA) and ownership is dealt with through legislation (ie mainly Crown ownership) or through land titles. It is possible that the Supreme Court may express views on section 4 and what it applies to. We will keep you informed of any relevant developments with this case.

## Annexes

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Annex One: Crown Minerals Act Treaty provisions initial assessment

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<sup>3</sup> Submissions when the clause were introduced either stated that this clause should be stronger, similar to the clause in the State-Owned Enterprises Act, or consistent with the wording in clause 6B (which became section 8 of the RMA) which says that all persons "shall take into account the principles of the Treaty. The National Māori Congress, NZ Māori Council and NZ Māori Women's Welfare League requested that the Crown replace the clause with the negative safeguard that "nothing in this Act shall permit the Crown to act in a manner that is inconsistent with the Treaty of Waitangi".

**Annex One: Crown Minerals Act Treaty provisions initial assessment**

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See separate document

## **Crown Minerals Act Treaty provisions initial assessment**

### **Summary of initial assessment**

The below table provides a summary of the Ministry of Business, Innovation and Employment's (MBIE's) initial assessment of the *Crown Minerals Act 1991* (CMA) Treaty Principles provisions (the provisions) against the draft review Assessment Criteria provided by the Ministry of Justice. The following sections provide further detail of our evaluation.

Draft

Criterion	Initial assessment
Clear intent	The Treaty Principles provisions provide a framework for how the Crown can consider Māori interests within a legislated approach where the Crown owns and administers its mineral estate for the benefit of New Zealand.
Achieving its purpose	<p>MBIE considers that the provisions are, broadly speaking, achieving their purpose.</p> <p>We acknowledge that some iwi assert ownership of minerals and seek greater recognition of the rights that would flow from mineral ownership. We also acknowledge Māori and the Waitangi Tribunal in 2011 have previously called for stronger wording in section 4 (eg a requirement to <u>give effect</u> to the Treaty Principles, rather than <u>have regard</u> to them).</p> <p>Successive Governments have made changes to the CMA to strengthen iwi participation in processes under the CMA (notably in 2013 and 2023), and to acknowledge and protect sacred sites from mining activities where they have been suggested by iwi and hapū.</p>
Clear intended effect and the rights / interests it seeks to uphold	The Minerals Programmes set out clearly the intended effects and processes to give effect to the provisions.
Case law and commentary	There have been two Waitangi Tribunal inquiries into the management of New Zealand's petroleum and one relevant court case. The elements of this case relevant to the Treaty Principles are summarised in Appendix One.
<b>Overall assessment</b>	<p>Iwi and hapū have significant interests and rights in relation to the protection and management of natural resources. The Government recognises aspirations for greater participation in natural resource management, given long-standing cultural, historical, spiritual, and traditional association to minerals<sup>1</sup>. As such, we consider it is appropriate to have Treaty provisions in the CMA.</p> <p>We consider that section 4 of the CMA, as a general Treaty clause (as opposed to a more descriptive clause), allows for a broad range of Treaty interests to be considered as part of the management of the Crown minerals estate. Section 14 of the CMA then clarifies (by requiring the Minister to set out in the Minerals Programmes) what having regard to the Treaty Principles means within the CMA context.</p> <p>This approach provides a good balance between flexibility and certainty.</p>

<sup>1</sup> <https://www.mbie.govt.nz/building-and-energy/energy-and-natural-resources/minerals-and-petroleum/strategies/a-minerals-strategy-to-2040/guiding-principle-1-te-tiriti-o-waitangi>

### **What are the relevant Crown and Māori interests in minerals?**

1. The Treaty Principles provisions provide a framework for how the Crown can consider Māori interests within a legislated approach where the Crown owns and administers its mineral estate for the benefit of New Zealand.
2. The Crown owns most minerals in their natural state in New Zealand including all gold, silver, uranium and petroleum. Māori have a range of interests in minerals. In some cases, iwi assert ownership over the minerals and petroleum within their rohe, and do not recognise the Crown as the owner. Given this cultural significance and the relationship iwi have with land, we consider it is appropriate to have Treaty provisions in the CMA.
3. Prior to 1948, when the Crown sold or disposed of land, it also transferred ownership of the minerals it contained (except for gold and silver which the Crown asserted ownership over by virtue of the royal prerogative). Since 1948, when the Crown sells or disposes of land, it retains ownership of the minerals.
4. The ownership of all petroleum and uranium in its natural state (regardless as to who owns the land or wider mineral rights) was asserted by the Crown in 1937 (under the Petroleum Act) and 1945 (under the Atomic Energy Act) respectively.
5. When the CMA amalgamated the various mining statutes in 1991, it continued the position that all petroleum, gold, silver and uranium in its natural condition in land shall be the property of the Crown (see CMA section 10). For these “statute minerals” ownership applies equally to Māori and non-Māori land, the marine and coastal area, and seabed minerals and petroleum in our exclusive economic zone and continental shelf vested in the Crown under international law (incorporated into domestic law through the Continental Shelf Act 1964).
6. For the non-statute minerals, there are often differences between the owner of the land and the minerals below the surface depending on when/if the land was sold by the Crown. In addition, the Marine and Coastal Area (Takutai Moana) Act 2011 provides a mechanism to recognise customary titles, which can result in iwi ownership of non-statute minerals in the marine and coastal area.

### **Is the provision achieving its purpose?**

7. The provisions provide a framework for how the Crown can consider Māori interests in minerals and access to the lands that contain them, within a legislated approach where the Crown owns those minerals.
8. The Waitangi Tribunal, in its 2011 report on the management of the petroleum resource (WAI 796) considered the petroleum management regime (under both the CMA and Resource Management Act (RMA)). It found systemic flaws at the time in the operation of the regime and concluded that decision-makers tend to minimise Māori interests, and elevate other interests, in their decisions about the petroleum resource. Among other recommendations, the Tribunal recommended that the CMA be amended to require decision-makers to act consistently with Treaty Principles (eg to give effect to rather than have regard to the Treaty Principles) and to establish a ministerial advisory committee so that Māori can have input to policy-making at the highest level.

9. While the Crown has not progressed these specific recommendations, it has continued progress towards addressing elements of the WAI 796 report. The CMA Amendment Act 2013 made several changes aimed at ensuring greater iwi and hapū participation under the CMA, in particular by replacing section 14 to have specific references to the Treaty Principles.
10. Under the CMA, decision makers (eg the Minister, a Minister with responsibility for Crown land, or the Chief Executive of MBIE, including anyone acting under delegation) are required to have regard to the Treaty Principles when exercising powers or functions under the CMA (e.g. when deciding to grant permits within certain areas).
11. To ensure it is clear what this entails, the 2013 changes to the CMA created an obligation on the Minister to set out how the Minister and the chief executive will have regard to the Principles of the Treaty of Waitangi in a Minerals Programme (secondary legislation). The 2013 changes also required consultation on changes to minerals programmes, and a requirement in the CMA for the Minister and Chief Executive to act in accordance with the minerals programmes.
12. In addition, the CMA Amendment Act 2023 introduced provisions to improve permit holder engagement with iwi and hapū. This includes providing iwi and hapū with opportunities to provide feedback into engagement reports; enabling iwi or hapū to request an annual iwi engagement report meeting be held; and making explicit that decision makers may take feedback from iwi and hapū on the quality of a permit holders previous engagement into account when making certain permit decisions. The amendments also introduced provisions that allow regulations to be made to state minimum requirements for those iwi engagement reports.

**Is the intent clear on how/why the Crown is having regard to the Treaty principles?**

13. Prior to 2013, the CMA was not specific about what it meant to have regard to the Treaty Principles. Following the CMA changes in 2013, the Minerals Programmes were updated to include a chapter on what having regard to the Treaty Principles typically involves. For example, 2.1(2) of the Minerals Programme for Minerals (Excluding Petroleum) 2013 states:

*In order to meet the Crown's responsibility to have regard to the Principles of the Treaty, this Programme does the following things:*

- (a) it provides that certain land that has been identified as being of particular importance to the mana of iwi or hapū must not be included in a permit (see clause 3.1).*
- (b) it specifies the matters on which iwi and hapū must be consulted (see clauses 2.2 and 2.4 to 2.6)*
- (c) it sets out the principles and procedures for consulting with iwi and hapū (see clauses 2.3 to 2.7, and 2.11 and 2.12)*
- (d) it specifies the matters of which iwi and hapū must be notified (see clauses 2.4(2), 2.5(1), 2.5(4), 2.5(5), 2.6(1), 2.6(3), 2.6(4) and 2.9)*
- (e) it requires Tier 1 permit holders to report annually to NZP&M on their engagement with iwi and hapū whose rohe includes some or all of the permit area or who otherwise may be directly affected by the permit (see clause 2.13).*

14. The provisions in the Minerals Programme for Petroleum 2013 are similar<sup>2</sup>.

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<sup>2</sup> Note both Programmes are currently under review and some changes to the chapter on giving effect to the Treaty Principles are being consulted on (see <https://www.nzpam.govt.nz/assets/Uploads/minerals-programme-public-consultation-draft-2024.pdf>). Decisions are expected in mid 2025.

15. The Minister and Chief Executive are required to act in accordance with the programmes, but equally, the programmes do not limit what can be done to have regard to the Treaty Principles.
16. In addition to the provisions in the CMA and Programmes, there are specific Treaty settlement obligations on the Minister for Resources and MBIE, set out in formal relationship agreements, accords and Crown Minerals Protocols<sup>3</sup>, to consult with relevant iwi and hapū on permit applications, policy and legislative developments or reviews in relation to Crown-owned minerals. Many of these agreements directly reference the Treaty Principles and would prevail if there is any inconsistency between the text of the programmes and the relevant agreement.

### **What is the relevant case law and commentary?**

17. There have been two Waitangi Tribunal reports into the management of New Zealand's petroleum and one relevant court case which is ongoing. The elements of this case relevant to the Treaty Principles are summarised in appendix one.

### **Wai 796 – Report on the management of the petroleum resource<sup>4</sup>**

18. The report was the result of an urgent inquiry the Tribunal held in 2010 to investigate the regime for managing petroleum in modern times. The claimants were Ngāruahine of Taranaki and Ngāti Kahungunu of Hawke's Bay and the Wairarapa. This claim was a sequel to Wai 796 The Petroleum Report 2003.

19. The Waitangi Tribunal specifically considered the language of section 4 and whether it should be strengthened (see 8.4.3 of the report on the management of the petroleum resource). It asked:

*“What would be the effect if those sections were amended to provide that all who exercise functions under the two Acts must act consistently with, or give effect to, the principles of the Treaty? Examples of stronger statutory language include section 9 of the State-Owned Enterprises Act 1986 and section 4 of the Conservation Act 1987. Such a change is essential to ‘raise the bar’ to the level required by the Treaty Principles. By itself, however, we think it will not be effective to ensure that decision-makers under those Acts will meet the required standard.”*

20. In the Tribunal's view the CMA regime was not consistent with Treaty Principles due to three systemic flaws that affect its operations and results:

- Māori lack capacity in terms of infrastructure and resources to engage effectively with CMA and RMA processes;
- the Crown has failed to monitor the performance of its delegated Treaty responsibilities by local authorities and assist with constructive solutions; and,
- Māori perspectives are not being adequately considered or protected in decision-making on petroleum matters.

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<sup>3</sup> There are over 60 such agreements with iwi flowing from Treaty Settlements. There are also processes underway with unsettled iwi to create new Crown Minerals Protocols.

<sup>4</sup> [https://forms.justice.govt.nz/search/Documents/WT/wt\\_DOC\\_68187775/PetroleumReportW.pdf](https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_68187775/PetroleumReportW.pdf)

21. For the petroleum management regime to meet the standards of the Treaty, the Tribunal found that four criteria needed to be met. Tangata whenua must be able to:
- count on being involved at key points in decision-making processes;
  - make a well-informed contribution to decisions;
  - afford to have that level of involvement; and
  - be confident that their contribution will be understood and valued.
22. As outlined earlier in this briefing, while the language in section 4 was not changed as per the Tribunal's recommendation, Ministers from successive governments have taken (and continue to take) actions to have regard to the Treaty Principles when exercising powers or functions under the CMA.

### **Overall assessment**

23. The Crown owns most minerals in their natural state in New Zealand including all gold, silver, uranium and petroleum. Māori have a range of interests in minerals. In some cases, iwi assert ownership over the minerals and petroleum within their rohe, and do not recognise the Crown as the owner. Given this cultural significance and the relationship iwi have with land, we consider it is appropriate to have Treaty provisions in the CMA.
24. MBIE has sufficient clarity (supported by the Minerals Programmes) on what having regard to the Treaty Principles means within the CMA context. The Minerals Programmes can be updated as needed in consultation with iwi and hapū.

## Appendix one – summary of case law and commentary

26. Note the case below has been appealed to the Supreme Court and was heard on 6 May 2025, so there may be additional case law and commentary to come.
27. In *Students for Climate Solutions Incorporated v Minister of Energy and Resources*<sup>5</sup>, the decision to grant two petroleum exploration permits was challenged by way of judicial review. These decisions were judicially reviewed on the basis that the decision maker failed to consider the climate change matters either as a mandatory relevant consideration or through her statutory obligation to have proper regard to the principles of the Treaty of Waitangi | Te Tiriti o Waitangi, rendering the relevant decision unlawful and unreasonable.
28. In the High Court, Justice Cooke rejected these arguments. The Judge acknowledged the existence of an obligation on the decision maker to have regard to the principles of the Treaty of Waitangi, but held that on the evidence before him the obligation had been discharged.
29. The Judge also found that if climate change issues had been raised by the relevant hapū and iwi during the consultation period, then the decision maker would have been required to consider them, but without any particular outcome being mandated. As it was, climate change issues were not raised by the directly affected iwi.
30. The Judge concluded by saying:<sup>6</sup>

*The decision to issue these two exploration permits is not inconsistent with the principles of the Treaty simply because there are climate change issues that affect Māori. Climate change mitigation measures do so as well. A balance must be struck. A balance between rangatiratanga and kāwanatanga also arises under the Treaty principles. The necessary assessments have taken place in other ways, including under other statutory provisions. Iwi have been consulted as part of these processes. There is nothing before the Court to indicate that the consultation has been inadequate, or that the principles have not been properly addressed.*
31. The High Court decision was appealed to the Court of Appeal. On appeal the appellant's lawyer, Mr Every-Palmer, challenged the Judge's finding that the consultation with the local iwi was sufficient compliance with the principles of the Treaty.
32. Mr Every-Palmer emphasised the particular vulnerability of Māori to the effects of climate change and that any worsening of climate change created by fossil fuel extraction directly affects Māori interests protected under Te Tiriti. It followed in his submission that the duty of active protection required those who made decisions about further fossil fuel extraction to actively consider climate change.
33. In Mr Every-Palmer's submission, the failure to give any consideration to climate change issues was not good enough. The obligation imposed by s 4 was a substantial one and could not, he said, be met simply by making an assumption, as the Judge did, that the Treaty implications were being adequately addressed elsewhere.

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<sup>5</sup> [2024] NZCA 152

<sup>6</sup> *Students for Climate Solutions Incorporated v Minister of Energy and Resources* [2022] NZHC 2116 at [111]

34. In disputing these criticisms, Ms Boadita-Cormican argued for the respondent that the material before the decision maker was sufficient to support a Treaty-consistent decision. She contended the appellant was seeking to impose on the decision maker the responsibility for meeting all of the Crown's obligations of active protection and partnership under the Treaty. In her submission, she argued that was an incorrect siloed approach and was contrary to authority because the Crown meets its obligations across the statute book.
35. For the same reasons articulated by the High Court Judge, the Court of Appeal considered that climate change may become a mandatory consideration through s 4 of the Act when raised during iwi consultation.<sup>7</sup> However, it was not persuaded that s 4 required the decision maker to conduct the type of wide-ranging inquiry into the broader potential impact of climate change and mitigation measures on Māori advocated for by Mr Every-Palmer.
36. Such an inquiry would involve a balancing of considerations that have been and are being addressed elsewhere and, as the Judge put it, the decision maker was not required to readdress them. Rather, the decision maker was entitled to focus on the localised issues associated with the particular bids and the engagement with the directly affected iwi, and she did so in a meaningful way.
37. The Court of Appeal was also not persuaded the respondent can be accused of "backfilling" the decision to grant the permits by reference to other work streams concerning the impact of climate change on Māori. The relevance of the existence of those other work streams is that it bears on the scope of the decision maker's obligation under s 4 as a matter of interpretation.
38. Ultimately, the appeal was dismissed by the Court of Appeal, but this decision has since been appealed to the Supreme Court.

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<sup>7</sup> *Students For Climate Solutions Incorporated v Minister of Energy and Resources*, above n 4, at [91].



## BRIEFING

### Review of the Treaty Principles provisions in the Crown Minerals Act - further advice

<b>Date:</b>	6 October 2025	<b>Priority:</b>	Medium
<b>Security classification:</b>	In Confidence	<b>Tracking number:</b>	BRIEFING-REQ-0020812

Action sought		
	Action sought	Deadline
Hon Shane Jones Minister for Resources	<p><b>Agree to either:</b></p> <p>a. Retain the current Treaty Principles provisions in the CMA (status quo), acknowledging iwi support for their retention but noting their ongoing concerns about their practical effect.</p> <p><b>OR</b></p> <p>b. Investigate strengthening the Treaty Principles provisions, independent of the review.</p> <p><b>Agree for MBIE to inform the Ministry of Justice of your decisions.</b></p>	13 October 2025

Contact for telephone discussion (if required)			
Name	Position	Telephone	1st contact
Lena MacCarthy	Manager, Resource Policy	[REDACTED]	✓
Sophie Ford	Policy Advisor	09 928 2981	

The following departments/agencies have been consulted
Ministry of Justice

Minister's office to complete:

- |   |  |
|---|--|
| <input type="checkbox"/> Approved             | <input type="checkbox"/> Declined            |
| <input type="checkbox"/> Noted                | <input type="checkbox"/> Needs change        |
| <input type="checkbox"/> Seen                 | <input type="checkbox"/> Overtaken by Events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn           |

Comments



## BRIEFING

### Review of the Treaty Principles provisions in the Crown Minerals Act - further advice

<b>Date:</b>	6 October 2025	<b>Priority:</b>	Medium
<b>Security classification:</b>	In Confidence	<b>Tracking number:</b>	BRIEFING-REQ-0020812

#### Purpose

To seek your direction on next steps on the review of the Treaty Principles provisions in the Crown Minerals Act 1991 (CMA).

#### Recommended action

The Ministry of Business, Innovation and Employment (MBIE) recommends that you:

- a **Note** that the Government is reviewing references to the Treaty of Waitangi in legislation to ensure they are clear and specific about how the Treaty applies to the legislative regime.  
*Noted*
- b **Note** that Cabinet directed MBIE to lead a review of the relevant CMA provisions separate to the Ministry of Justice led review.  
*Noted*
- c **Note** that MBIE considers that the Treaty Principles provisions in the CMA should be retained without change.  
*Noted*
- d **Note** the recent iwi and hapū engagement on the Treaty Principles provisions provided strong and consistent feedback that the provisions should be retained and, where possible, strengthened to give greater practical effect to the Crown's Treaty obligations.  
*Noted*
- e **Note** that exploring options to strengthen the Treaty Principles provisions in the CMA is outside the scope of the review.  
*Noted*
- f **Agree** to either:
  - a. Retain the current Treaty Principles provisions in the CMA (status quo), acknowledging iwi support for their retention, but noting their ongoing concerns about their practical effect.  
*Agree / ~~Disagree~~*

**OR**

  - b. Investigate strengthening the Treaty Principles provisions, independent of the review.  
*Agree / Disagree*
- g **Agree** for MBIE to inform the Ministry of Justice of your decision.  
*Agree / ~~Disagree~~*


- h **Note** MBIE will explore non-legislative options to improve the implementation of the Treaty Principles provisions, to better reflect the Crown's obligations, in line with iwi feedback.

*Noted*



Lena MacCarthy  
**Manager, Resource Policy**  
Building, Resources & Markets, MBIE

06/10/2025



Hon Shane Jones  
**Minister for Resources**

..... / ..... / .....

## Background

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1. The New Zealand National Party and New Zealand First coalition agreement committed to reviewing legislation referencing the "Principles of the Treaty of Waitangi," with the intent to either clarify their application or remove them, excluding full and final Treaty settlement legislation.
2. In September 2024, Cabinet agreed to a targeted review of such references [CAB-24-MIN-0346 refers], including sections 4 and 14 of the CMA. The review aims to ensure Treaty-related provisions are clear, context-specific, and support compliance, while reducing legal uncertainty. Settlement legislation and similar Acts are out of scope.
3. On 5 May 2025, the Minister of Justice updated Cabinet on the review process [SOU-25-MIN-0041 refers] with a view to legislative change within the current Parliamentary term, confirming that MBIE will lead a separate review of the CMA provisions.
4. On 26 May 2025, we provided you with an initial assessment of the provisions in the CMA, concluding that MBIE considers it is appropriate to encapsulate the Treaty relationship in the CMA, and the provisions are clear as to how the Treaty applies to the regime [BRIEFING-REQ-0013729 refers]. At the same time, we sought your direction to engage with iwi and hapū, consistent with our obligations under Treaty settlements.
5. This briefing summarises the feedback we received from iwi engagement and seeks your direction on next steps. A summary of the engagement undertaken is included at Annex One.

## Iwi were strongly supportive of retaining the Treaty Principles provisions, and where possible strengthening them

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6. The CMA is different from most other statutes with Treaty Principles provisions, in that section 4 requires decision makers under the CMA to have regard to the Treaty Principles, and section 14 requires that a minerals programme must set out how the Minister or chief executive will do this.
7. Both the Minerals Programme for Minerals (Excluding Petroleum) 2013 and the Minerals Programme for Minerals (Petroleum) 2013 include detailed guidance on how the Crown intends to meet its section 4 responsibilities (chapter 2 of each programme). This includes consulting on various matters including permit decisions in an iwi or hapū's rohe.
8. The effect of the Treaty provisions is to provide for iwi and hapū input into decisions taken under the CMA, without acting as a veto power over decisions. The Crown must act reasonably, make informed decisions based on meaningful consultation, and have an open mind to any views received from iwi and hapū when exercising functions or powers under the CMA.
9. Officials engaged with iwi and hapū to understand their perspectives on the provisions. The feedback was clear and consistent across engagements:
  - a. **Strong support for retention and strengthening:** Iwi and hapū were unanimous that the Treaty Principles provisions should not be removed from the CMA. Many expressed that the current provisions are essential for upholding the Treaty partnership and ensuring the Crown's obligations are recognised in resource management.
  - b. **Desire for greater practical effect:** Several iwi noted that, while the provisions provide a necessary framework, their operational impact is limited. There is a strong desire to see the provisions not only retained but also strengthened to ensure they are enforceable and have real effect in decision-making and practice.

- c. **Concerns about implementation and accountability:** Iwi highlighted ongoing issues with the Crown's implementation of Treaty Principles under the CMA. In particular, there were concerns about inadequate consultation and engagement with iwi and hapū, and a lack of accountability for permit holders' obligations to engage. For example, one Taranaki iwi reported that, despite requirements for permit holders to report on engagement, this has not occurred in practice.
  - d. **Alignment with Waitangi Tribunal findings:** Some iwi referenced the Waitangi Tribunal's reviews of the CMA, including the Petroleum Report 2003, and noted that key recommendations to strengthen Treaty provisions have not been reflected in legislation.
  - e. **Written submissions reinforce these themes:** At Annex Two, the attached submissions strongly support retaining the current provisions and, if any changes are made, advocate for further strengthening. Te Rūnanga a Rangitāne o Wairau also emphasised that any dilution of the provisions would undermine the Crown's obligations and erode trust with iwi and hapū.
10. Overall, engagement indicates a clear expectation that the Treaty Principles provisions in the CMA should be retained and, where possible, strengthened to ensure they are meaningful, enforceable, and give effect to the Crown's Treaty obligations in practice.

## **MBIE still considers that it is appropriate to retain the Treaty Principles provisions unchanged**

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11. Based on our previous analysis and feedback from iwi and hapū, and in line with the Crown's Treaty obligations, there are two options for your consideration.

### **Option One (Recommended): Retain the current Treaty Principles provisions (status quo)**

12. This option would maintain sections 4 and 14(1)(b) of the CMA as they currently stand and is in line with our initial assessment that it is appropriate to encapsulate the Treaty relationship in the CMA and that the provisions are clear. These sections provide a good balance between flexibility and certainty:
- a. While a general Treaty clause could lead to some uncertainty around how the Crown will have regard to the Treaty Principles, the CMA changes in 2013 have resulted in detailed guidance in the Minerals Programmes on how the Crown has regard to the Treaty Principles when exercising specific functions or powers under the Act.
  - b. In some cases, the Minerals Programmes exclude land of significance to local iwi where no permits can be granted (eg the Taranaki Maunga). In other cases, permits can be granted over an area while allowing for a range of measures to protect any areas of significance without excluding those areas from permits.
  - c. The Minerals Programmes can be updated as needed in consultation with iwi and hapū. This can include localised provisions (eg pounamu management areas) where a specific interest has been identified that interacts with the mining of Crown owned minerals.
13. Retaining the provisions would provide continuity and certainty for both iwi and industry, but may not address concerns raised by iwi about the limited practical effect and enforceability of the current provisions.
14. This approach aligns with the strong support expressed by iwi and hapū during engagement. However, while they view the current framework as vital for upholding the Treaty partnership,

their clear preference is to see the provisions strengthened to better reflect the Crown–Māori relationship.

### **Option Two: Strengthen the Treaty Principles provisions (out of scope for the review)**

15. Iwi and hapū have expressed their preference for strengthening the Treaty Principles provisions, however 'strengthening' is outside the scope of the review.
16. Officials could develop advice on how the Treaty Principles provisions might be strengthened, outside of the review, however we do not recommend undertaking this work at this time.
17. MBIE previously considered options to strengthen the provisions during the development of the Crown Minerals Amendment Bill 2023, which resulted in changes to improve the quality of permit holder engagement with iwi and hapū – the added value of revisiting this work this term is likely to be limited. Further work to strengthen the provisions would require substantive analysis and engagement which is not currently resourced in the Resources policy work programme.
18. Given the amendments made in 2023 and current competing priorities, we consider this work to be a lower priority presently.

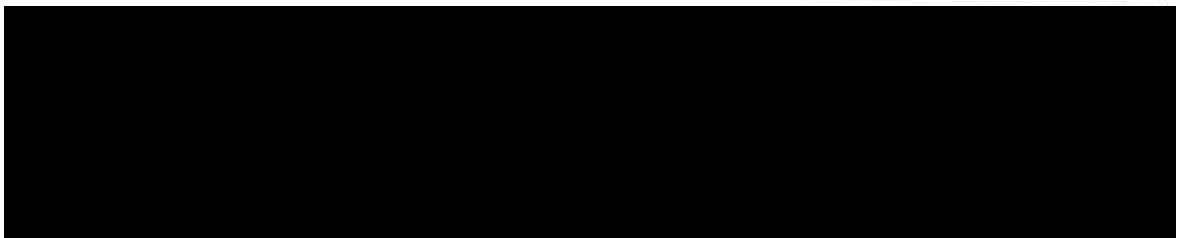
### **MBIE will continue to consider operational improvements outside of the review**

19. Outside of the review, we will continue to explore non-legislative measures (such as updated guidance, improved monitoring, or adjustments to the Minerals Programmes) to strengthen implementation of the Treaty Principles provisions.
20. While the current review is focused on legislative provisions, operational improvements can be progressed independently, ensuring responsiveness to feedback.

### **Risks and mitigations**

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21.



22. Retention of the current provisions does not preclude ongoing engagement with iwi and hapū on any operational concerns. MBIE will continue to explore non-legislative measures to strengthen implementation outside of the review.

### **Next steps**

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23. If you wish to retain the status quo, officials will inform the Ministry of Justice.
24. If you prefer to investigate options to strengthen the Treaty principle provisions, officials can provide further advice on a timeline for policy development.

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<sup>1</sup> There has also been consistent feedback from Māori on the need for a stronger Treaty Principles clause, since its initial creation in 1991 [BRIEFING-REQ-0013729 refers].

25. MBIE will explore non-legislative measures to strengthen implementation, independent of the review.

## **Annexes**

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Annex One: Summary of iwi engagement on the Treaty Principles provisions in the CMA 1991

Annex Two: Written submissions on the Treaty Principles provisions in the CMA 1991

## **Annex One: Summary of iwi engagement on the Treaty Principles provisions in the CMA 1991**

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In line with the Crown's obligations under Treaty settlements and relationship agreements, MBIE undertook targeted engagement with iwi and hapū to inform advice on the Treaty principles provisions in the CMA.

### **Engagement approach**

- On 26 May 2025, Ministerial direction was sought to engage iwi and hapū.
- On 12 August, MBIE contacted 120 iwi (including those with settled and active settlements in progress) via email. The communication included:
  - A summary of the review and MBIE's initial assessment.
  - Key questions seeking views on:
    - The reason for the Treaty provisions in the CMA.
    - Whether the CMA appropriately encapsulates the Treaty relationship through the Treaty Principles provisions?
    - Whether the provisions (including the relevant parts of the Minerals Programmes) are clear and specific about how the Treaty applies in the context of the CMA?

### **Engagement activities**

- Online hui were held with iwi on:
  - 21 August - Ngā iwi o Taranaki, Ngāti Ruanui, Ngāruahine, Ngā Rauru Kīitahi, Te Ātiawa Taranaki, Ngāti Maru, Ngāti Mutunga (combined with Offshore Renewable Energy and \$200 million co – investment fund).
  - 25 August - Moriori Imi Settlement Trust and Ngāti Tamaoho Settlement Trust.
  - 5 September - Ngati Tuwharetoa Settlement Trust.
- A follow up email was sent on 15 September, offering additional dates to meet and inviting written submissions by 30 September.

### **Submissions received**

Written submissions were received from:

- Te Rūnanga a Rangitāne o Wairau (19 September)
- Ngā Pōtiki (20 September)
- Te Runanga o Te Rarawa (29 September)
- Moriori Imi Settlement Trust (30 September)
- Te Rūnanga O Whaingaroa (3 October)

**Annex Two: Written submissions on the Treaty Principles provisions in the CMA 1991**

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18 Here-turi-kōkā (August) 2025

Ministry of Business, Innovation & Employment  
167b Victoria Street West  
**AUCKLAND 1010**

**By email only to:** ResourcePolicy@mbie.govt.nz

Tēnā koe

**SUBMISSION ON THE TREATY PRINCIPLES PROVISIONS IN THE CROWN MINERALS ACT 1991**

Thank you for the opportunity to engage on the Treaty Principles provisions within the Crown Minerals Act 1991. Rangitāne acknowledges the Ministry of Business, Innovation and Employment's initial assessment and supports the recommendation that sections 4 and 14(1)(b) of the Act remain unchanged.

We consider it essential that the Crown Minerals Act continues to reflect and uphold the Treaty partnership in a substantive and enforceable manner. The current provisions provide a necessary framework for seeking to recognise the principles of Te Tiriti o Waitangi. Any amendment or dilution of these provisions would undermine the Crown's obligations and erode trust with iwi and hapū.

For the record, we note that the Crown frequently fails to uphold Treaty principles in practice. This is particularly evident in the lack of consultation and engagement with iwi regarding the implementation and implications of the Act. Such failures highlight the need not only to retain the existing provisions but to strengthen their operational application and accountability.

Rangitāne expects that the Treaty Principles provisions in the Crown Minerals Act be retained in full and without modification. If any modification is to occur, we would support further strengthening and would welcome engagement on such enhancements.

We thank you for the opportunity to comment on this review.

Ngā mihi, nā



Corey Hebbard  
**Kaiwhakahaere Matua (General Manager)**  
**Rangitāne o Wairau Group**



**Rangitāne**

Te Rūnanga a Rangitāne o Wairau  
Level 5, Rangitāne House  
PO Box 883 Blenheim 7240  
Ph: 03 5786180  
Email: [admin@rangitane.org.nz](mailto:admin@rangitane.org.nz)  
[www.rangitane.org.nz](http://www.rangitane.org.nz)



**Archived:** Wednesday, 1 October 2025 11:53:47 am

**From:** [Spencer Webster](#)

**Sent:** Tue, 19 Aug 2025 22:17:35

**To:** [ResourcePolicy](#)

**Subject:** FW: Upcoming engagement on the Treaty Principles provisions in the Crown Minerals Act 1991 [UNCLASSIFIED]

**Importance:** Normal

**Sensitivity:** None

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Thank you for the email. We agree with the MBIA assessment regarding the retention of the Treaty reference in the CMA. We appreciate the opportunity to meet but we currently lack the capacity to engage on a broader review of the CMA in relation to Te Tiriti o Waitangi. We generally agree with the review of the CMA by the Waitangi Tribunal in its various reports.

Ngā mihi,

Spencer Webster

Chief Executive Officer

Email: [spencer@ngapotiki.org.nz](mailto:spencer@ngapotiki.org.nz) Phone: [REDACTED]



**NGĀ PŌTIKI**

*This email and all attached content is confidential and may contain privileged material. If you receive this email in error, please notify the sender and then delete it. Unauthorised use, distribution or copying is prohibited.*

Thank you for this email. We agree with the position reached by MBIE regarding the CMA. Therefore, we don't need to meet but appreciate being offered the opportunity to do so.



TE RARAWA

Te Runanga o Te Rarawa | 16 Matthews Ave, Kaitaia | Phone +649 408 0141

www.terarawa.iwi.nz

## **Submission on the Treaty Principles Provisions in the Crown Minerals Act (CMA)**

**Submitter:** George Riley, CEO – on behalf of Te Runanga o Te Rarawa

**Date:** 29 September 2025

### **1. Introduction**

Te Runanga o Te Rarawa is a post-settlement governance entity (PSGE) mandated to represent the interests of Te Rarawa in matters relating to natural resource management, including minerals and whenua. We welcome the opportunity to engage with MBIE on the review of Treaty provisions in the Crown Minerals Act and acknowledge the importance of this process in upholding Te Tiriti o Waitangi.

### **2. Response to MBIE’s Initial Assessment**

We support MBIE’s proposal to retain the Treaty references in sections 4 and 14(1)(b) of the CMA. However, we strongly assert that retention alone is insufficient. These provisions must be strengthened to reflect contemporary Treaty jurisprudence, evolving iwi–Crown relationships, and the dynamic nature of resource management.

We are concerned that MBIE’s assessment of the provisions as “clear” and “providing a framework” does not align with our lived experience. In practice, the application of Treaty principles is inconsistent, lacks transparency, and does not adequately support iwi participation or influence.

### **3. Views on Treaty Provisions in the CMA**

#### **a. Why Treaty provisions are essential:**

The Treaty principles embedded in the CMA are fundamental to recognising Māori rights and interests in minerals and other natural resources. These provisions reflect the Crown’s obligations under Te Tiriti o Waitangi and must be upheld and enhanced to ensure partnership, active protection, and redress.

#### **b. Does the CMA appropriately reflect the Treaty relationship?**

Only partially. While the legislative references exist, the practical implementation falls short. Iwi influence in strategic decisions, permit allocations, and resource planning is limited. The current framework does not enable genuine partnership or shared decision-making.

#### **c. Are the provisions clear and specific?**

No. The lack of definition and operational clarity around Treaty principles creates ambiguity. The Minerals

Programmes require urgent updating with iwi co-design to ensure they reflect Treaty obligations and provide clear guidance for implementation.

#### **4. Recommendations**

- **Retain sections 4 and 14(1)(b)** but strengthen their operationalisation.
- **Clarify the application of Treaty principles** through updated Minerals Programmes co-designed with iwi.
- **Develop robust protocols** for consultation, decision-making, and dispute resolution.
- **Resource iwi appropriately** to participate meaningfully in CMA processes.
- **Establish a monitoring mechanism** to ensure Treaty compliance and accountability.
- **Embed regular review and co-design** into legislation or policy to ensure ongoing improvement.

#### **5. Conclusion**

Te Runanga o Te Rarawa reaffirms its commitment to working with MBIE in good faith to ensure the Crown Minerals Act reflects the true intent and obligations of Te Tiriti o Waitangi. We request further dialogue and the opportunity to provide additional written feedback before final recommendations are presented to Cabinet.

**Archived:** Wednesday, 1 October 2025 11:57:03 am  
**From:** [Jade Tapsell](#)  
**Mail received time:** Tue, 30 Sep 2025 01:49:34  
**Sent:** Tuesday, 30 September 2025 2:49:36 pm  
**To:** [ResourcePolicy](#)  
**Cc:** [Moriore Imi Settlement Trust \(MIST\)](#)  
**Subject:** Feedback - CMA Treaty Principles Provisions  
**Importance:** Normal  
**Sensitivity:** None

---

Kioranga

## **Feedback from Moriore Imi Settlement Trust (MIST)**

### **Our position**

- We support keeping the Treaty provisions in the Crown Minerals Act (sections 4 and 14(1)(b)).
- What matters most now is making sure they are actually carried out in practice, not just words on paper. That means moving from "consulting" Imi and iwi to working in real partnership on decisions, and giving the Treaty provisions more weight in how they are written and applied.

### **1) Why the Treaty provisions matter**

The Treaty provisions are important because minerals are miheke. How the Crown manages them directly affects Imi rights and responsibilities under Te Tiriti o Waitangi. For Moriore, this is especially relevant on Rēkohu and Rangihau, where our settlement and statutory acknowledgements recognise our role as Tchieki. These provisions are what ensure Crown decisions on mining, exploration, or prospecting are not made in isolation from our connection to henu, moana, and miheke.

### **2) Does the Act reflect the Treaty relationship?**

On paper, yes the CMA does this through sections 4 and 14(1)(b). They stop Treaty principles being ignored and help make sure decisions are not only about short-term economic gain. But the real test is in practice. Too often Imi and iwi are only consulted late in the process. For Moriore, partnership means being involved at the start, shaping decisions together, and having our Tchieki role given equal weight. This approach also reflects our own tikane which is about balance and protecting the environment for future generations.

### **3) Are the provisions clear enough?**

The current rules, supported by the Minerals Programmes, do set out a framework that on paper works - they require consultation, recognise wāhi tchāp, and allow conditions or refusals to protect important places. But clarity on paper doesn't always match what happens in real life. Engagement needs to happen earlier, Imi need the resources to take part properly, and government agencies need to be consistent across the board. Crucially, the wording of the provisions needs to carry more weight. Phrases like "have regard to" or "considered" are not strong enough, they risk reducing Treaty obligations to a tick-box exercise. Ministers and officials should be required to demonstrate how Treaty principles have shaped their decisions, not simply that they were acknowledged.

### **Conclusion**

We support MBIE's advice to keep the Treaty provisions in the CMA. They are vital protections. But keeping them is only the first step because what really matters is strengthening the wording and how they are put into practice so they carry real weight in decision making. This protects both Treaty rights and our environment for the future.

Me rongo,

--

**Jade Tapsell**  
MIST Operations Manager

**Moriori Imi Settlement Trust**

PO Box 262, Rēkohu/Chatham Island 8942

Ph: 0800 MISTNZ (0800 647869) or 021 073 5510

[www.moriori-imi-trust.nz](http://www.moriori-imi-trust.nz)

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Archived: Monday, 6 October 2025 10:20:36 am

From: [Raniera Kaio](#)

Sent: Friday, 3 October 2025 12:04:48 pm

To: [ResourcePolicy](#)

Subject: RE: CMA Treaty Principles provisions – follow-up and next steps [UNCLASSIFIED]

Importance: Normal

Sensitivity: None

Kia ora Sophie,

Thank you for sharing the slides and initial feedback from the recent hui regarding the Crown Minerals Act (CMA) Treaty Principles provisions. I appreciate the opportunity to review and contribute to this important discussion.

I would like to emphasise the significance of collaboration with tangata whenua in any decision-making process related to the CMA. As representatives of Whangaroa, we firmly believe in the necessity of maintaining and strengthening the Treaty Principles provisions within the Act. Removing these provisions would be a step backward in honoring the Treaty and our relationship with the Crown.

Furthermore, it is crucial to recognise that Whangaroa stands against toxic mining practices. We advocate for scientifically proven and environmentally safe methods that genuinely engage with and respect the rights and perspectives of tangata whenua. This approach ensures that our natural resources are managed sustainably and that our communities are not adversely affected by harmful practices.

I will be preparing written feedback to further elaborate on these points and will submit it by the requested deadline of 30 September. If there are any pātai or if additional time is needed, I will reach out.

Thank you once again for the opportunity to kōrero and share our whakaaro.

Mauri ora

**Raniera Kaio**

*Whangaroa, Ngāpuhi, Ngāi Tahu*

Pouārahi

Waea Pūkoro: **021 295 7306**

[www.whangaroa.iwi.nz](http://www.whangaroa.iwi.nz)

HE PANUI TAPU RAWA: Kua noho tapu pea tēnei īmera, me ngā āpitinga kua tapaina, i raro kē i ngā mana punanga. Mehemea horekau raini koe te kaiwhiwhi tika i tēnei īmera, tēnā, kua e pānuitia, kua hoki e mau, e tukua, e pūruatia raini. Pēnā kua hē tōu nei whiwhinga – whakamōhio ki te kaituku wawe ake nei, ā, whakakorea naini tonu nei. Nō reira, ko ngā kōrero o roto horekau pea he kōrero e tautoko, whakamana raini, e Te Rūnanga o Whangaroa, te rōpū Healthy Families Far North raini.

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