MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
HĪKINA WHAKATUTUKI

COVERSHEET

Minister	Hon Shane Jones	**Portfolio**	Resources
Title of Cabinet paper	Regulating hydrogen resources through the Natural Environment Bill framework	**Date to be published**	3 November 2026

List of documents that have been proactively released		
Date	**Title**	**Author**
8 September 2026	Regulating hydrogen resources through the Natural Environment Bill framework	Office of Minister for Resources
16 September 2026	Regulating hydrogen resources through the Natural Environment Bill framework ECO-26-MIN-0181 Minute	Cabinet Office
8 September 2026	Regulatory Analysis Summary - Regulating hydrogen resources	MBIE
16 July 2026	BRIEFING-REQ-0034749 Regulating white and orange hydrogen resources	MBIE
November 2025	Enabling the Regulation of Natural and Orange Hydrogen: Policy Direction	Office of Minister for Resources
19 November 2025	Enabling the Regulation of Natural and Orange Hydrogen: Policy Direction ECO-25-MIN-0193 Minute	Cabinet Office

Information redacted **YES**

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In Confidence

Office of the Minister for Resources

Cabinet Economic Policy Committee

Enabling the regulation of natural and orange hydrogen: Policy direction

Proposal

1 This paper provides a summary of feedback received on the *Regulatory Proposal for Natural and Orange Hydrogen Development: Discussion Document* (discussion document) and seeks Cabinet's direction on whether to keep the option of the Crown owning all natural and orange hydrogen on the table.

2 Final policy decisions on natural and orange hydrogen will be sought from Cabinet in March 2026.

Relation to government priorities

3 The proposal supports the National-New Zealand First Coalition Agreement commitment to 'ensure the Government's energy settings allow for the exploration of natural geological hydrogen in New Zealand, to maximise future energy resilience'.

4 This commitment is also reflected under the Government's Hydrogen Action Plan that was released in December 2024. The *Minerals Strategy for New Zealand to 2040* that was released in January 2025 also outlined the Government's commitment to review regulatory settings for new resources such as natural hydrogen.

Executive Summary

5 Hydrogen has the potential to become a highly valuable energy resource for New Zealand, however, there is currently a lack of regulatory certainty preventing investment in natural and orange hydrogen. Following the release of the discussion document, feedback showed support from industry for treating natural and orange hydrogen like petroleum, which is owned by the Crown no matter where it is found.

6 Crown ownership of all natural and orange hydrogen would provide regulatory certainty, and remove the potential for ownership disputes, given hydrogen is a gas and can move across boundaries between Crown land and private land. It may be impossible to determine where hydrogen has come from within a reservoir that crosses property boundaries and therefore who owns it. Exclusive Crown ownership of the resource would also enable the Crown to have oversight of the development of all natural and orange hydrogen

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resources, and to strategically align development with energy security and public interest objectives.

7 No mineral has been classified as wholly Crown owned due to its strategic importance since petroleum in 1937 and uranium in 1945. Vesting ownership of all natural hydrogen in the Crown will likely raise concerns from private owners due to the loss of property rights, and from iwi and hapū, in relation to existing Treaty settlements, ongoing settlement negotiations, and customary marine title rights established under the Marine and Coastal Area (Takutai Moana) Act 2011 (MACA Act). Further work is required to understand existing ownership rights to orange hydrogen and the impact vesting ownership of all orange hydrogen in the Crown would have on property rights, including for iwi and hapū.

8 There are different ways to achieve Crown ownership, but we do not need to make any firm policy decisions now. However, I seek Cabinet's direction on whether to keep the option of the Crown owning all natural and orange hydrogen on the table.

9 I recommend keeping the option on the table because it is more likely to address the challenges associated with ownership and best enable industry development. It also means we can engage with iwi and hapū on the options, better understand the impact on private property rights, explore potential mitigations such as royalty sharing, and make an informed decision on the full suite of options in the new year.

10 If we take this option off the table, ownership will be more fragmented and disputes around ownership may stifle industry development. The other options would likely result in a more complex and regulatory burdensome regime and continue to have some impact on property and Treaty rights.

11 I intend to return to Cabinet in March 2026 to seek final policy decisions for regulating natural and orange hydrogen.

Background

12 Hydrogen is an attractive energy source. It has a wide range of applications and produces zero carbon emissions when it is used in a fuel cell to generate electricity and combusted for heat and energy. While hydrogen itself is clean when burned, its carbon footprint depends on how it is produced.

13 Natural and orange hydrogen are gaining interest worldwide, as they potentially have lower production costs and lower carbon emissions to produce than other types of hydrogen. Natural hydrogen occurs naturally under the earth's surface. Orange hydrogen is generated through a process of pumping water and carbon dioxide into particular minerals to stimulate hydrogen gas creation[1]. This process can also permanently sequester carbon dioxide at the same time, creating wider emissions benefits.

[1] Throughout this paper, any reference to orange hydrogen is only hydrogen that is stimulated below ground by human intervention.

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14 As a potential new, highly valuable energy source, hydrogen could reduce emissions in hard-to-electrify industries, unlock opportunities for economic growth, and support energy security and resilience. There is interest in natural and orange hydrogen development in New Zealand. Having a clear and certain regulatory framework is key to encourage investment.

There is currently a lack of regulatory certainty, preventing investment in natural and orange hydrogen

15 The Crown minerals regime enables the Crown to allocate rights to prospect for, explore for and mine Crown owned minerals. The regime sets the requirements for applicants and permit holders, including reporting, fee and royalty obligations. Resource consents under the Resource Management Act 1991 (RMA) and access agreements with landowners are also required.

16 Under the CMA, gold, silver, petroleum and uranium in their natural state are always Crown owned no matter where they exist (statute minerals).

17 Beyond the statute minerals, the Crown also generally owns all minerals in the territorial sea and has vested rights in minerals in the exclusive economic zone and the continental shelf. Minerals in their natural state are also owned by the Crown if they exist on or under Crown land, or if they are on or under privately owned land that is subject to a mineral reservation in favour of the Crown.

18 All minerals that are not Crown owned are owned privately (usually by the person who owns the land) and fall outside the CMA but may still require access arrangements and consents under the RMA to develop. The MACA Act also provides that iwi, hapū and whānau that have been determined to have customary marine title (CMT) in a specified area have ownership of minerals (excluding the statute minerals) within the specified area. Some Treaty settlements also vest, or provide fossicking rights for certain minerals, often specifically excluding the statute minerals.

19 Hydrogen is similar to petroleum gas – they are both mobile and can move across property boundaries and are strategically important. Hydrogen and petroleum gas often occur together in underground reservoirs; when you extract one, you are likely extracting some of the other. The extraction of petroleum and hydrogen involve similar processes, risk management and infrastructure.

20 The CMA was not designed with natural and orange hydrogen in mind.
Legal professional privilege

21 To date the regulator has not granted rights *explicitly* for natural hydrogen due to uncertainty over whether natural hydrogen is captured by the Crown

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minerals regime. However, several applications have been made where it has been clear an objective of those permits is to prospect for natural hydrogen, or the minerals required to create orange hydrogen.

22 Even if natural and orange hydrogen clearly fell within the CMA, the CMA does not have any mechanisms to determine Crown ownership of non-statute minerals that are gases or liquids that may flow across Crown owned and privately owned land. This is not an issue for petroleum under the CMA because it is a statute mineral, and the Crown has ownership in all cases.

23 I have heard from industry that a clear and certain regulatory pathway, including if and how the CMA applies to natural and orange hydrogen, is key to encourage investment.

Public consultation on regulatory proposals for natural and orange hydrogen

24 In May 2025, Cabinet approved the release of a discussion document on regulatory proposals for natural and orange hydrogen development [ECO-25-MIN-0062]. The Government consulted on the discussion document between May and July 2025. The Ministry of Business, Innovation and Employment also undertook early engagement with iwi and hapū ahead of the release of the discussion document, in line with its commitments under Crown Minerals Protocols.

25 The discussion document sought feedback on two key regulatory options:

25.1 Include hydrogen in the definition of a mineral to regulate it as a mineral under the CMA.

25.2 Exclude hydrogen in the definition of a mineral under the CMA and regulate it as a non-mineral natural resource either under the RMA or through bespoke legislation.

26 When approving the release of the discussion document, Cabinet noted that the intention of the discussion document was not to narrow options that may surface during consultation, and a full range of feasible options would be considered following feedback [ECO-25-MIN-0062].

Feedback on the discussion document showed support for vesting ownership of all natural and orange hydrogen in the Crown

27 In total, 28 submissions were received on the discussion document, from businesses (12), industry groups (4), iwi and hapū (6), local government (2), Crown Research Institute (1), and individuals (3). Most submitters, excluding the majority of iwi and hapū submitters, supported regulating both natural and orange hydrogen under the CMA.

28 They noted the CMA provides a familiar, tested framework for resource exploration and development, which is crucial for attracting capital in a nascent industry. Feedback also noted that regulating hydrogen similarly to petroleum, which is regulated as a statute mineral under the CMA, would align

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with other regimes internationally, including Australia and France. Though not specifically consulted on, industry submitters largely supported vesting ownership of natural and orange hydrogen in the Crown.

29 The majority of iwi and hapū submitters opposed the regulation of hydrogen under the CMA. Instead, they supported a bespoke, Treaty focused regime that recognises Māori proprietary rights and interests, and environmental stewardship.

30 The alternative option of excluding natural and hydrogen from the CMA and regulating it as non-mineral resource under the RMA was not widely supported. Key concerns with this option included the fragmented regulation across regional councils, who may lack the technical expertise and consistency needed for hydrogen development. Submitters also noted the RMA is not designed for the allocation of subsurface resource rights, and the level of uncertainty present given ongoing RMA reforms. If this option were to progress, it may require changes to the RMA and implementation support to improve the technical expertise of decision-makers.

31 After considering this feedback, I am now seeking Cabinet's direction on whether to keep exploring the option of the Crown owning all natural and orange hydrogen. Direction is sought now because of the impact this option could have on property rights and implications under the Treaty of Waitangi; this is discussed below.

If the Crown does not own all natural and orange hydrogen, where it is located will determine how it is regulated

32 Under the CMA, certain minerals are always Crown owned. Gold and silver were reserved to the Crown in New Zealand by way of a Royal Prerogative and subsequently codified in New Zealand legislation. Ownership of petroleum was vested in the Crown under the Petroleum Act 1937 given its economic and strategic importance; a secure domestic supply of oil was required for defence and transport. Uranium was also vested in the Crown under the Atomic Energy Act 1945.

33 If natural and orange hydrogen are regulated under the CMA but are not always Crown owned like petroleum, there would be two regimes regulating hydrogen depending on where it is located:

33.1 Hydrogen (naturally occurring or orange produced) underneath privately owned land would be permitted through resource consents under the RMA.

33.2 Hydrogen under Crown land (or otherwise owned by the Crown) would require permits under the CMA and resource consents under the RMA.

34 There is currently limited information on the location of any natural hydrogen reservoirs, so it is difficult to quantify how much is privately owned. However, more is known about the areas suitable for orange hydrogen development.

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Industry have indicated that these areas are largely under private land and privately owned so would be regulated under the RMA.

35 The RMA does not provide for the allocation of hydrogen. Rights to privately owned hydrogen would therefore be determined by private contracts and resource consents for exploration or mining, on a first-in, first-served basis.

36 Having two different approaches to how hydrogen is regulated would create uncertainty for any party interested in mining for natural hydrogen or producing orange hydrogen. Additionally, fragmented ownership introduces legal uncertainty and risks of ownership disputes, making coordinated and derisked developments challenging and potentially impossible.

Ownership was identified as a key issue preventing development

37 Vesting ownership of all natural and orange hydrogen in the Crown was central to industry support for regulating hydrogen under the CMA. They considered it would provide regulatory certainty for the exploration, mining and processing of natural and orange hydrogen and remove the potential for ownership disputes.

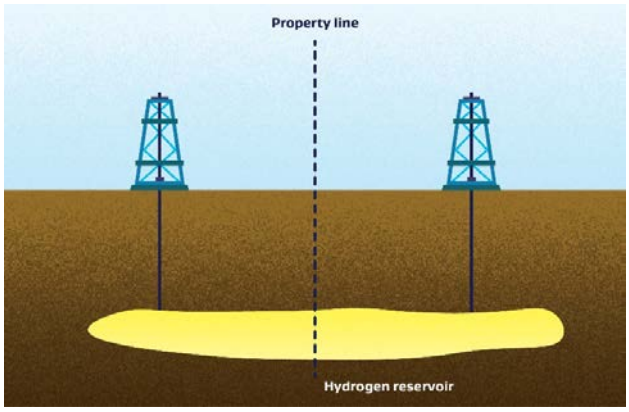
38 Although orange hydrogen is produced rather than naturally occurring, feedback from this group of submitters was clear that natural and orange hydrogen should both be wholly Crown owned. In practice, development of natural and orange hydrogen is likely to require similar exploration and production techniques, and it is likely to be difficult to distinguish how much natural versus orange hydrogen is being produced during extraction.

39 Ownership of hydrogen can be difficult to determine due to its form as a gas; its ability to move means it can cross boundaries between Crown land and private land. This is also the case for petroleum reserves; however, Crown ownership of petroleum resolved the issue of ownership.

40 Though there is currently limited information as to where natural hydrogen reservoirs might be located, it is possible large deposits span across many property boundaries – potentially in the hundreds. If ownership is not vested in the Crown, and if a reservoir crosses boundaries beyond Crown owned land, any natural hydrogen extraction under a CMA permit would require agreement with every owner of property above the reservoir. However, it will likely be challenging to definitively identify the border of a reservoir. If mining were to proceed, there may be legal disputes over who owns the hydrogen being extracted. This would also apply to orange hydrogen development, if the produced gas moves across multiple property boundaries.

41 In some overseas jurisdictions where petroleum is not owned by the state, the issue of ownership is addressed through a ‘rule of capture’, where a landowner has the right to extract and claim ownership from a common reservoir beneath their land, even if that resource migrates from a neighbour’s property. How this might be utilised for hydrogen (if it is not vested in the Crown) is illustrated below (see diagram).

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42 However, such a mechanism in New Zealand for hydrogen was not supported by submitters. There would be no exclusivity provided through a CMA permit, if a reservoir crossed into private land; another developer could (through purchasing adjacent land or seeking agreement with a landowner) access the same reservoir without a CMA permit. This could encourage a “race to drill” and result in overproduction and waste. It would also mean that developers could invest significantly in infrastructure only for the resource to be depleted by someone else. This would be exacerbated in the case of orange hydrogen which requires more intense intervention and infrastructure to produce.

Crown ownership of all natural and orange hydrogen will provide industry confidence to invest, and provide the Crown with greater strategic control

43 Clear Crown ownership will encourage investment and, given the potential for natural and orange hydrogen to play a vital role as a clean energy source, will enable the Crown to have oversight of the development of all natural and orange hydrogen resources, in alignment with energy security and public interest objectives. This aligns with the rationale for Crown ownership of petroleum in 1937.

44 There are other benefits that providing for Crown ownership of all natural and orange hydrogen would provide, including:

44.1 Streamlined industry development: a single resource owner could simplify regulatory and commercial engagement for a nascent industry, making it easier to attract investment and accelerate development.

44.2 Public benefit and revenue generation: allowing the Crown to collect royalties for all hydrogen mining, ensuring that the economic benefits of hydrogen development are shared with all New Zealanders.

44.3 Robust frameworks: exploration and development would be governed under economic regulation for the benefit of New Zealand, alongside environmental and health and safety regulations, ensuring responsible resource management.

44.4 Global positioning: if natural and orange hydrogen proves commercially viable at scale, Crown ownership could position New Zealand as a

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strategic player in global energy markets, enhancing our international leverage.

45 If we are to truly realise the benefits of this emerging industry, serious consideration of addressing the issue of ownership is essential. There is a risk that without it, the challenges associated with determining ownership could mean investment is taken offshore and any benefits of developing hydrogen in New Zealand are lost.

46 If consideration of vesting ownership of all natural and orange hydrogen in the Crown is not supported, further work is required to determine how natural and orange hydrogen could be allocated. The other options for regulating natural and orange hydrogen would likely result in a more complex and regulatory burdensome regime, lead to ownership disputes, and would stifle development of the industry. It would not help us achieve our energy security and economic growth objectives.

Risks associated with vesting ownership of natural and orange hydrogen in the Crown

Loss of property rights for natural hydrogen

47 Vesting ownership of natural hydrogen to the Crown will likely raise concerns from private owners due to the loss of property rights, as in some circumstances minerals are privately owned. This could also apply to iwi and hapū, particularly in relation to existing Treaty settlements, ongoing settlement negotiations, and CMT rights established under the MACA Act (discussed further below).

48 The scale of this potential loss of property rights is difficult to quantify as there is currently limited information on the possible scale and location of natural hydrogen deposits in New Zealand. Quantifying this is complicated further by the difficulties of determining ownership when natural hydrogen deposits cross property boundaries.

49 Legal professional privilege

50 To address any concerns over the loss of property rights, compensation or a royalty sharing mechanism could be explored alongside the option of vesting ownership in the Crown. Due to the limited information as to where natural hydrogen deposits may be located, a royalty sharing mechanism is likely the most viable and would target those directly impacted, as royalties are collected following extraction once the location of any natural hydrogen deposit would be proven.

51 Further work is required on any royalty sharing mechanism, including considering what loss or entitlement is being recognised, who it applies to, any minimum or limit, and how royalties would be distributed. I am separately

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considering royalty sharing for all minerals and would need to consider how any specific royalty sharing mechanism for hydrogen could work with or alongside that proposal. Proposals for royalty sharing will be covered in final policy decisions sought in March 2026.

Impact on property rights is more complex for orange hydrogen because it is a processed mineral

52 Because orange hydrogen is produced rather than naturally occurring, ownership and impact on property rights is more complex. Orange hydrogen does not exist until it is produced by pumping water and carbon dioxide into minerals underground. Those minerals may be owned privately or by the Crown. Once created, orange hydrogen may move within a reservoir that could cross property boundaries. It will also likely be difficult to distinguish orange hydrogen from any natural hydrogen that may also be present.

53 Further work and legal advice are required to understand existing ownership rights to orange hydrogen and the impact vesting ownership of orange hydrogen in the Crown would have on property rights, including for iwi and hapū.

Treaty impacts

54 Based on early engagement with, and submissions from, iwi and hapū, Crown ownership of all natural and orange hydrogen will also likely be opposed by Treaty partners due to the potential loss of property rights and interests. Following the vesting of all petroleum to the Crown in 1937, Māori objected to the failure to compensate for the loss of their rights to petroleum.

55 This was considered by the Waitangi Tribunal in 2003 and 2011[2]. The Tribunal accepted some of the Crown's arguments that classifying all petroleum as Crown owned was in the national interest. However, it found that the Crown was not justified in withholding royalties from Māori who retained legal ownership of petroleum at the time the Crown took ownership, nor from those who lost petroleum-bearing land through Crown conduct in breach of the Treaty.

56 The Tribunal recommended that such Māori groups hold a "Treaty interest" in petroleum, which includes:

56.1 A right to redress for the wrongful loss of legal rights in the resource.

56.2 An entitlement to participate in decisions about the management and use of the resource.

56.3 A legitimate expectation of benefit-sharing, including royalties.

[2] Wai 796 – The Petroleum Report (2003) and The Report on the Management of the Petroleum Resource (2011).

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57 If ownership of natural and orange hydrogen is vested in the Crown without recognising Māori proprietary interests or providing for compensation or benefit-sharing, there is a risk of repeating historical grievances.

58 There may also be implications for existing and developing Treaty settlement legislation. Some existing Treaty settlement legislation recognises the current statute minerals (gold, silver, petroleum and uranium in its natural condition), and there are examples of developing legislation that vests non-statute minerals back to iwi. Similarly, under the MACA Act, CMT holders own minerals other than statute minerals within their areas. If natural hydrogen is classified as a statute mineral, CMT rights would not apply. This would reduce or remove the mineral rights that iwi/hapū currently hold or are negotiating through Treaty settlements.

59 As for property rights above, compensation or a royalty sharing mechanism with iwi and hapū could be explored alongside the option of vesting ownership in the Crown.

60 Consultation with iwi and hapū to date did not include a proposal to vest ownership in the Crown. Subject to Cabinet agreement to explore Crown ownership of natural and orange hydrogen, to satisfy Treaty obligations and consultation obligations under Crown Minerals Protocols, I intend to undertake further engagement with iwi and hapū, ahead of Cabinet decisions in March 2026.

Development of Carbon Capture, Utilisation and Storage (CCUS) legislation

61 The Minister of Climate Change is currently developing legislation to manage the environmental effects of CCUS. The CCUS regime seeks to regulate the environmental effects associated with injecting carbon into sub-surface geological formations. The injection of carbon into sub-surface geological formations can occur alongside orange hydrogen development.

62 Consideration will need to be given to whether environmental effects associated with orange hydrogen, in particular, are most appropriately regulated under the upcoming Natural Environment Act, or the CCUS Act. If it is the latter, this will impact on the scope of work currently under way to develop the Act, which is tentatively scheduled for introduction in 2026.

Other options for Crown ownership of natural and orange hydrogen beyond the CMA

63 Further work is required to determine what requirements under the CMA would apply to natural and orange hydrogen, and amendments would be required. But fundamentally the CMA provides an off-the-shelf regime for full Crown ownership of minerals like petroleum. However, we could explore other ways to achieve Crown ownership of natural and orange hydrogen, if it is found that the CMA is not the most appropriate vehicle. This could be done through bespoke legislation.

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64 If Cabinet agrees to keep the option of Crown ownership on the table, it will also allow for further engagement with iwi and hapū, to better understand the impact on private property rights, explore potential mitigations such as royalty sharing, and make an informed decision on the full suite of options in 2026.

Comparison to geothermal resources

65 Both geothermal resources and hydrogen are found in underground reservoirs which may span multiple land parcels. But hydrogen is more mobile than geothermal resources which makes it difficult to determine the exact boundaries of a hydrogen reservoir, where hydrogen has come from within a reservoir and therefore who owns it.

66 The regulatory approach to geothermal resources does not solve ownership. The Crown's position is that geothermal resources are incapable of ownership. No such position could be advanced for hydrogen, which is property capable of ownership. This is because the special status in law that freshwater and geothermal (from the Crown's position) has, does not extend to hydrogen. The Crown's right to manage and use geothermal is not legally the same as "ownership", but in practice it gives the Crown the ability to control the resource, allocate use and potentially require royalties – achieving similar outcomes to how petroleum is treated under the CMA.

67 However, feedback on the draft Geothermal Strategy highlighted fragmented ownership as a problem, and the Waitangi Tribunal is currently looking at geothermal ownership. The approach to geothermal is therefore not a panacea for enabling industry development or for managing property and Treaty rights.

68 Annex One provides diagrams comparing, at a high level, the current ownership status of geothermal and petroleum, and what this means for extraction from a shared reservoir. If Cabinet agrees to keep the option of Crown ownership on the table, the Crown management approach will be considered further.

Cost-of-living implications

69 There are no direct cost-of-living implications arising from this paper.

Financial implications

70 There are no direct financial implications to the Crown arising from this paper. If natural and orange hydrogen are regulated under the CMA there will be additional costs to the regulator, and it may lead to the mining of natural and orange hydrogen and payment of royalties to the Crown.

Legislative Implications

71 There are no direct legislative implications arising from this paper.

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72 The regulation of natural and orange hydrogen within the Crown minerals regime, and vesting ownership in the Crown, will require changes to the Crown Minerals Act 1991. A legislative bid for a Crown Minerals Amendment Bill is currently a Category 6 on the 2025 legislation programme, and a revised bid will be submitted for the 2026 programme.

Impact Analysis

Regulatory Impact Statement

73 There are no regulatory proposals in this paper, and therefore Cabinet's impact analysis requirements do not apply. Impact analysis will be provided when policy decisions are being sought in March 2026.

Climate Implications of Policy Assessment

74 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this policy proposal, as any emissions impacts would be indirect and difficult to quantify at this stage. A CIPA assessment will be undertaken in 2026 when policy decisions are being considered, with the understanding that incorporating hydrogen into the energy system mix could support New Zealand's transition to a low-emissions economy.

Population Implications

75 The proposals in this paper may have implications for Māori. This is noted in the Treaty of Waitangi implications section below.

Treaty of Waitangi Implications

76 As noted in this paper, there will be implications under the Treaty of Waitangi if ownership of natural and orange hydrogen is vested in the Crown. Full Treaty implications and impact on Māori will be addressed in the Cabinet paper seeking policy decisions on these matters.

Human Rights

77 The proposals in this paper are consistent with the New Zealand Bill of Rights Act 1991 and the Human Rights Act 1993.

Use of External Resources

78 No external resources were used in the development of policy advice contained in this paper.

Consultation

79 The Ministry for the Environment, Department of Conservation, Te Tari Whakatau, Te Puni Kokiri, Ministry for Regulation, Treasury, Ministry of Transport, Ministry of Foreign Affairs and Trade, Department of Internal

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Affairs, WorkSafe New Zealand, and New Zealand Trade and Enterprise were consulted. The Department of Prime Minister and Cabinet has been informed.

Communications

80 I intend to make announcements on the regulation of natural and orange hydrogen following policy decisions in early 2026.

Proactive Release

81 I intend to release this Cabinet paper alongside the Cabinet paper seeking policy decisions for regulating natural and orange hydrogen, ahead of introduction of a bill to the House of Representatives.

Recommendations

The Minister for Resources recommends that the Committee:

1 **note** that the Coalition Agreement between the National Party and the New Zealand First party contains a commitment to 'ensure the government's energy settings allow for the exploration of natural geological hydrogen in New Zealand, to maximise future energy resilience';

2 **note** that in May 2025, Cabinet approved the release of the *Regulatory Proposal for Natural and Orange Hydrogen Development: Discussion Document* [ECO-25-MIN-0062];

3 **note** when Cabinet approved the release of the discussion document, Cabinet noted that the intention of the discussion document is not to narrow options that may surface during consultation, and a full range of feasible options will be considered following feedback from public consultation;

4 **note** that the Crown Minerals Act 1991 provides a familiar, tested framework, but it was not designed with hydrogen in mind, which creates regulatory uncertainty and may discourage investment in natural and orange hydrogen;

5 **note** that industry submitters were largely supportive of regulating natural and orange hydrogen under the Crown Minerals Act 1991 and industry feedback supported vesting ownership of all natural and orange hydrogen in the Crown;

6 **note** iwi and hapū submissions were largely opposed to regulating natural and orange hydrogen under the Crown Minerals Act 1991, preferring a bespoke regime;

EITHER

7 **agree** to continue exploring regulating natural and orange hydrogen through Crown Minerals Act 1991, Resource Management Act 1991 or bespoke legislation, including the option of vesting ownership of natural and orange hydrogen in the Crown (recommended);

OR

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8 **agree** to continue exploring regulating natural and orange hydrogen through the Crown Minerals Act 1991, Resource Management Act 1991 or bespoke legislation, without vesting ownership in the Crown;

9 **note** that under either paragraph 7 or 8 above further policy work will include:

9.1 determining how natural and orange hydrogen could be regulated under the Crown Minerals Act 1991 or other legislation, including what existing or new requirements should apply;

9.2 further consideration of impacts on property rights and implications under the Treaty of Waitangi; and

9.3 engaging with iwi and hapū on developing policy proposals.

10 **note** that I intend to return to Cabinet in March 2026, seeking final policy decisions for regulating natural and orange hydrogen.

Authorised for lodgement

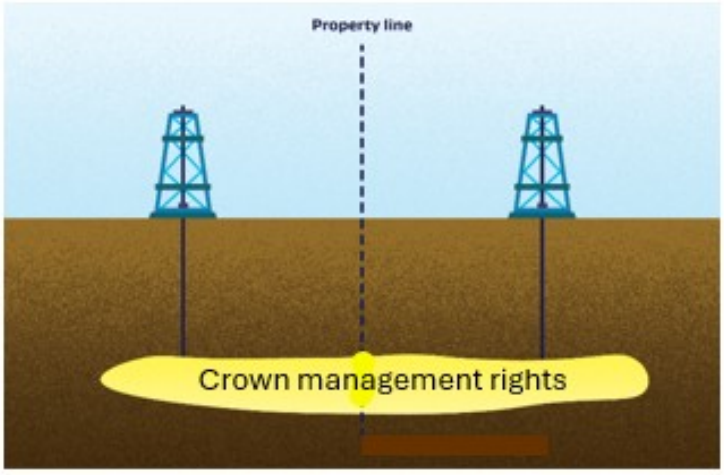
Hon Shane Jones

Minister for Resources

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Annex One: Comparison of current status of geothermal and petroleum

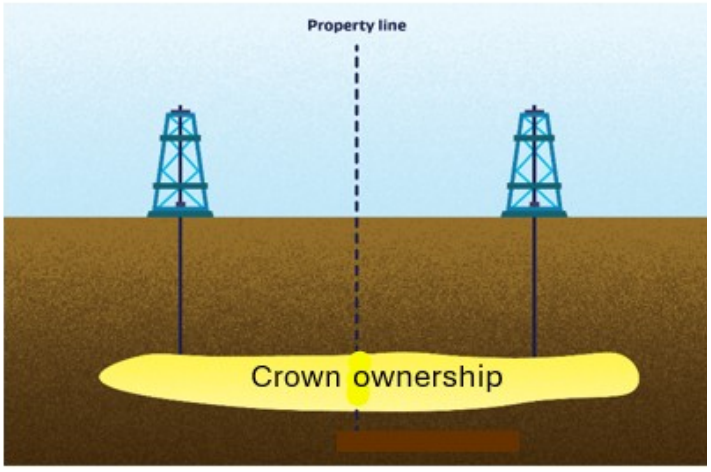
Geothermal – current status



For both parties

- Right to extract sits with the Crown
- Crown permits landowner/person with consent of landowner through resource consents (first-in first served basis)

Petroleum – current status



For both parties

- Right to extract sits with the Crown
- Crown permits extraction through CMA permits & permission of landowner

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