

## Review of Crown Minerals Act 1991

### The Ministry of Business Innovation and Employment has published a discussion document on the Review of Crown Minerals Act 1991 (CMA).

The document can be found [here](#).

- This document is for consultation, it is not in the form of a draft Bill.
- Submissions close on 20 December 2019.
- The Discussion Document is divided into eight chapters and includes 41 consultation questions, which range from general requests for public views on a topic, to questions on specific proposals.
- Energy and Resources Minister Megan Woods intends to report back to Cabinet early in 2020, and to introduce new legislation later that year.

The topics covered in each chapter are discussed below. Some key areas for discussion are:

- whether the purpose of the CMA should be amended to place the emphasis on "managing/administering" mining activities, rather than "promoting" them.
- whether the CMA should provide for greater public participation in permitting decisions.
- the introduction of new compliance and enforcement provisions to better address instances of non-compliance with the requirements of the CMA.
- proposals to clarify permit/license holder obligations regarding decommissioning and plugging and abandonment of wells, and to

enable MBIE to monitor the discharge of these obligations.

#### Background

The Review is part of a wider process to transition New Zealand to a carbon neutral economy by 2050. In November 2018 the government passed the Crown Minerals (Petroleum) Amendment Act limiting future oil and gas exploration permits to onshore Taranaki only. In response to submissions on the Crown Minerals (Petroleum) Amendment Act the government committed to:

- Prepare a Resource Strategy – *The Minerals and Petroleum Strategy for Aotearoa New Zealand 2019-2029* which sets the Government's long term vision for the minerals and petroleum sector. The Strategy has now been released and is available at <https://www.mbie.govt.nz/assets/nzpm-resource-strategy-multi-agency.pdf>
- Review the CMA to ensure that regulatory regime is "fit for purpose" and "appropriately geared to meet Government priorities, including a just transition to a low emissions economy that is productive, sustainable and inclusive."

The Resource Strategy and Review of the CMA are intended to work in tandem to "ensure that the minerals and petroleum sector best meet the current and future needs of New Zealanders" and the Government sees the Discussion Document as giving effect to the Strategy.

The objectives of the CMA Review are to ensure:

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- New Zealand's minerals and petroleum resources sector contributes to the country's productive, sustainable and inclusive economy;
- risks and downsides associated with the sector can be appropriately managed; and
- the sector is governed by a regulatory regime that is clear, coherent and fair.

### Chapter Summaries

#### Chapter 1: Role and Purpose Statement

Considers the Act's existing purpose statement and general focus on economic wellbeing are still appropriate. The Act's current purpose statement is: "The purpose of this Act is to promote prospecting for, exploration for, and mining of Crown owned minerals for the benefit of New Zealand." The discussion document asks whether this should be amended and "promote" replaced with alternate wording such as "manage" or "administer".

#### Chapter 2: Balancing the rights, interests and activities of marine users

Seeks views on whether current non-interference zone (NIZ) provisions should be removed, retained in their current form, or amended to better balance the rights, interests and activities of marine users (including permit holders) to undertake lawful activities, with the rights of others to protest against these activities. The chapter contains specific questions about whether current sanctions for breach of an NIZ are appropriate, and whether the CMA is right legislation to house the NIZ provisions.

#### Chapter 3: Ensuring offshore petroleum permits contribute to a managed transition

Seeks views on how the CMA should manage existing offshore petroleum permits to ensure that they

contribute to energy security, regional prosperity, and facilitate New Zealand's long term transition to a carbon neutral economy. The chapter specifically considers whether provisions for existing offshore petroleum permits that were based on a competitive allocation approach remain appropriate following the introduction of the Crown Minerals (Petroleum) Amendment Act 2018.

#### Chapter 4: Community participation

Requests views on whether there should be greater public participation in permitting decisions under the CMA. Currently the CMA only provides for public notification and public submissions on applications for significant mining activities on conservation land. Otherwise, the mechanisms for public consultation on mining activities fall under "effects-based" legislation - the Resource Management Act 1991 and the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012.

#### Chapter 5: Maori engagement and involvement in Crown minerals

Identifies issues associated with: the Crown's engagement with iwi and hapu during the permit allocation process; permit holders' engagement with iwi and hapu during the duration of the permit; and ongoing resource constraints that affect the capacity of iwi and hapu to engage effectively. The document proposes addressing these issues by evaluating the effectiveness of the new engagement condition introduced in Block Offer 2018; establishing a clearer process for iwi and hapu to request land be excluded from mining permits; and stipulating content that permit holders must include in iwi engagement reports.

#### Chapter 6: Compliance and Enforcement

Proposes new regulatory tools for MBIE to address non-compliance and incentivise compliance under the CMA.

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These include the introduction of: compliance notices and associated penalties for non-complying permit and license holders; enforceable undertakings that provide an alternative to legal action by establishing voluntary statutory agreements in cases of non-compliance; and instant infringement fees for non-compliance with low level requirements such as late filing of royalty returns. The document also proposes to make it an offence under the CMA for non-permit holders to refuse to provide MBIE with information requested; and to make changes to both the Act and associated regulations to clarify the meaning of "adequate records".

### Chapter 7: Improving petroleum sector regulation

Proposes new tools to address end-of-field-life issues associated with petroleum exploration and mining permits. These include the introduction of explicit obligations in the CMA for decommissioning and plugging and abandonment of wells (P&A) for permit and license holders; enhancing MBIE's ability to determine permit/license holders' ability to complete decommissioning and P&A; and new regulatory powers to ensure that permit/license holders are financially capable to discharge decommissioning and P&A obligations. These proposals are intended to reduce the possibility of costs associated with end-of-field-life issues falling to the Crown or third parties.

### Chapter 8: Technical amendments

This chapter includes a number of specific technical amendments not covered in other chapters and offers specific proposals on these amendments. These include options for the Minister to consider the capability of potential new operators of Tier 1 permits to meet the environmental requirements of all specified Acts for the types of activities proposed under the permit; a proposal to classify all minerals prospecting permits as Tier 2 permits; and a request for views on possible improvements to the allocation process for new petroleum exploration permits within onshore Taranaki.

### Want to know more?

If you would like to talk about the discussion document to further understand the implications for you, or for assistance in preparing a submission, please contact our specialist [Mining](#) or [Environment, Planning and Natural Resources team](#).