

# Departmental Disclosure Statement

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Crown Minerals Amendment Bill
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The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by Ministry of Business, Innovation and Employment (MBIE).

The Ministry of Business, Innovation and Employment certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

6 September 2024.

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## Part One: General Policy Statement

This Bill amends the Crown Minerals Act 1991 (the Act) to remove the ban on new petroleum exploration permits beyond onshore Taranaki. It supports the Government's objective to promote petroleum exploration and production, to ensure gas remains a transition fuel until viable and cost-effective alternatives are in place.

The Bill also makes changes to immediately improve investor confidence in the New Zealand petroleum sector and increase regulatory efficiency of the Crown Minerals regime.

### *Removing the ban on new petroleum exploration outside onshore Taranaki*

The Bill reverses amendments made to the Act in 2018, that limited new petroleum exploration permits to onshore Taranaki, prohibited surface access to conservation land for permits in onshore Taranaki except for minimum impact activities, and explicitly restricted applications for petroleum exploration permits to public tenders (e.g., Block Offer).

These changes will allow the responsible Minister to receive and assess applications for new petroleum exploration permits outside onshore Taranaki, through the existing regulatory framework. Removing the restriction on access to conservation land in onshore Taranaki will ensure that conservation land in Taranaki is treated the same as conservation land across New Zealand. Conservation land in Taranaki that is listed in Schedule 4 (Land to which access restrictions apply) of the Act will continue to have these protections in place.

The Bill extends the exclusive-use timeframe for existing speculative prospectors who were impacted by the ban. The Act currently provides speculative prospectors with a 15-year confidentiality period for the data they collect; during this time they can on-sell their data to interested explorers. The Bill extends this period by six years, reflecting the period of time lost due to the ban.

### *Changes to the decommissioning regime*

The Bill makes changes to the decommissioning regime, to provide greater flexibility and clarity around the types of financial securities that may be accepted. It also limits trailing liability for the cost of decommissioning to the most recent permit holder or participant who transferred out.

The Bill also removes the requirement to provide payment, or financial security, to cover post-decommissioning costs that may be required. It introduces perpetual liability for permit holders who have completed their decommissioning obligations, for any wells and infrastructure left in situ. This will ensure that a permit holder who decommissions remains liable for any actual risks, as opposed to contributing payments in anticipation of any future risks.

### *Amending the purpose statement of the Act and introducing an optional Government Policy Statement*

Prior to a change in 2023, the purpose of the Act was to 'promote prospecting for, exploration for, and mining of Crown owned minerals for the benefit of New Zealand'. In 2023 the purpose of the Act was amended, replacing 'promote' with 'manage'; the Bill reverses this change. It also amends the Minister's functions under the Act, to 'attract permit applications' to align with the change in purpose.

The Bill also introduces a mechanism to allow for an optional Government Policy Statement (GPS) to cover petroleum and minerals. A GPS, if issued, could signal focus areas for the Government, provide strategic guidance to the regulator on how it should manage its functions, and inform the sector and general public of the Government's priorities for the sector.

*Improving regulatory efficiency and consistency within the Act*

The Bill makes a number of changes to the Act to improve regulatory efficiencies within the Crown Minerals regime, and fix inconsistencies or drafting errors. The most significant of these is the creation of a new permit category (Tier 3) to ensure a proportionate and risk appropriate approach to small-scale, non-commercial gold mining operations. The new Tier 3 permit will be subject to a simpler and quicker application process, and less onerous reporting requirements. The Bill includes transitional provisions to allow existing Tier 2 permit holders who meet the new Tier 3 requirements to readily move to a Tier 3 permit when they come into effect from 1 July 2025.

## Part Two: Background Material and Policy Information

### Published reviews or evaluations

<b>2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?</b>	<b>NO</b>
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### Relevant international treaties

<b>2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?</b>	<b>NO</b>
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### Regulatory impact analysis

<b>2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?</b>	<b>YES</b>
<p>MBIE completed the following two Regulatory Impact Statements on the proposed changes in the Crown Minerals Amendment Bill on 15 May 2024:</p> <ul style="list-style-type: none"><li>• Amendments to the Crown Minerals Act 1991 relating to petroleum exploration</li><li>• Amendments to the Crown Minerals Act 1991 relating to small scale non-commercial gold mining</li></ul> <p>They are available at:</p> <ul style="list-style-type: none"><li>• <a href="#">Regulatory Impact Statement: Amendments to the Crown Minerals Act 1991 relating to petroleum exploration and mining (mbie.govt.nz)</a>, and</li><li>• <a href="#">Regulatory Impact Statement: Amendments to the Crown Minerals Act 1991 relating to small-scale non-commercial gold mining (mbie.govt.nz)</a></li></ul>	

<b>2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements?</b>	<b>NO</b>
<p>The Treasury's RIA team delegated the responsibility for providing comment on the quality of the regulatory impact statements to an internal RIA Review Panel set up within MBIE. The Panel considers that that the information and analysis summarised in the Impact Statements partially meets the criteria necessary for Ministers to make informed decisions on the proposals.</p>	

<b>2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?</b>	<b>YES</b>
<p>The Climate Implications of Policy Assessment (CIPA) team was consulted and confirms that the CIPA requirements apply to the proposal to remove the current ban on new petroleum exploration and measures to improve investor confidence. The associated disclosure sheet is available at <a href="#">Climate Implications of Policy Assessment disclosure sheet (mbie.govt.nz)</a></p>	

### Extent of impact analysis available

<b>2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?</b>	<b>YES</b>
<p>Further whole of energy system modelling will be available by 11 September. We will update this DDS once that is received.</p>	

<b>2.5. For the policy to be given effect by this Bill, is there analysis available on:</b>	
<b>(a) the size of the potential costs and benefits?</b>	<b>NO</b>
<b>(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?</b>	<b>NO</b>
The size of potential costs or benefits from this amendment are largely dependent on the increase in oil and gas exploration. No quantified estimates are available as costs and benefits cannot be accurately estimated.	

<b>2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:</b>	
<b>(a) the level of effective compliance or non-compliance with applicable obligations or standards?</b>	<b>NO</b>
<b>(b) the nature and level of regulator effort put into encouraging or securing compliance?</b>	<b>NO</b>
The size of potential costs or benefits from this amendment are largely dependent on the increase in oil and gas exploration. The level of effective compliance or non-compliance, and the level of regulator effort into encouraging or securing compliance, will not substantively impact this.	

## Part Three: Testing of Legislative Content

### Consistency with New Zealand's international obligations

<b>3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?</b>
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New Zealand's obligations under the Paris Agreement and free trade agreements were considered during the policy development process.
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### Consistency with the government's Treaty of Waitangi obligations

<b>3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?</b>
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*Treaty analysis*

MBIE undertook Treaty analysis during the development of this Bill. The analysis considered what effect the policy would have on Māori, what the Treaty/Māori interests are, what Treaty arguments might be made against the policies, and how we are meeting the good faith obligations of the Crown. The good faith obligations have been limited by the speed and urgency given to this Bill.

*Meeting Treaty settlement obligations*

MBIE has specific consultation obligations set out in Treaty Settlement Protocols, Accords and Relationship Agreements. Some Crown Minerals Protocols in force have an obligation to consult on wider policy and legislative developments related to Crown-owned minerals. Each protocol is different, but the same themes are recurrent. They set out specific basic principles that will be followed in consultation, including:

- consultation as soon as reasonably practical following identification and determination of the proposal or issue
- providing sufficient information to make informed decisions and submissions
- ensuring sufficient time for participation in the decision-making process and to prepare submissions, and
- ensuring consultation will be approached with an open mind and genuine consideration will be given to submissions received.

An online hui was held prior to Cabinet decisions with the Minister for Resources and Minister for Māori Development, with iwi and hapū with whom MBIE has Treaty settlement commitments or with whom MBIE has a relationship with. A second online hui was with Taranaki iwi focused on the proposed changes of significance to Taranaki iwi. Following feedback from iwi that was critical of the nature of the engagement and limited time to provide written submissions, further hui were held that introduced the proposed CMA amendments as decided by Cabinet, with a wider group of iwi and hapū. Further opportunities to provide written feedback were provided.

The intention with these changes is not to impact rights and interests that have been provided or recognised through the Treaty settlement process. The specific consultation requirements set out in many of the Protocols, Accords and Relationship Agreements will continue unchanged.

### Consistency with the New Zealand Bill of Rights Act 1990

<b>3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?</b>
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YES
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The Ministry of Justice's advice to the Attorney-General will be publicly available at [Advice on consistency of Bills with the Bill of Rights Act | New Zealand Ministry of Justice](#) upon the Bill's introduction to the House.

## Offences, penalties and court jurisdictions

<b>3.4. Does this Bill create, amend, or remove:</b>	
<b>(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?</b>	<b>NO</b>
<b>(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?</b>	<b>NO</b>

## Privacy issues

<b>3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?</b>	<b>NO</b>
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## External consultation

<b>3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?</b>	<b>YES</b>
<p>Limited and specific engagement with iwi and hapū went ahead of Cabinet decisions to satisfy obligations as set out in Crown Minerals Protocols, Relationship Agreements and Accords. A further hui was undertaken with Taranaki iwi focused on the proposed changes of significance to Taranaki. Following Cabinet decisions, further engagement took place with a wider group of iwi and hapū.</p> <p>Feedback from iwi and hapū noted strong opposition to removing the ban on new petroleum exploration permits beyond onshore Taranaki, and concern over the lack of robust consultation and engagement.</p> <p>Industry have been consulted on the proposed changes to the CMA throughout the development of the Bill. Industry were supportive of removing the ban.</p> <p>Environmental groups were briefly consulted on the proposed changes to the CMA, who noted their opposition to the proposed changes.</p>	

## Other testing of proposals

<b>3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?</b>	<b>YES</b>
<p>New Zealand Petroleum and Minerals, the government regulator that manages New Zealand's Crown minerals estate, has assessed the provisions in the Bill and are comfortable that these achieve the policy intent of the Bill.</p>	



## Part Four: Significant Legislative Features

### Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO
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### Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO
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### Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO
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### Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO

### Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO
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### Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	NO
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### Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	NO
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4.8. Does this Bill create or amend any other powers to make delegated legislation?	NO
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### Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	NO
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