Report on consultation on blocks for tender for Block Offer 2017

March 2017
Table of Contents

Table of Contents .................................................................................................................. 2

Key Terms .................................................................................................................................. 3

Introduction ................................................................................................................................. 5

Block Offer 2017 ......................................................................................................................... 6

Summary of Officials’ Recommendations .................................................................................. 8

Summary of Submissions ............................................................................................................. 10

Analysis of Requests for Amendments to, or Exclusions of Land from, the Block Offer 2017 Competitive Tender ......................................................................................................................... 13

Annex 1: Regulatory Provisions relating to the management of potential effects of petroleum related activity ........................................................................................................................................ 31
Key Terms

Crown Minerals Act 1991 / CMA
The CMA sets the broad legislative policy for prospecting, exploration and mining of Crown-owned minerals (including petroleum) in New Zealand.

Discharge Management Plan / DMP
All DMP establish procedures and practices aimed at reducing the environmental impacts from discharges of harmful substances, including oil and chemicals, from offshore activities.

Department of Conservation / DoC
DoC is the state sector organisation that deals with the conservation of New Zealand’s natural and historic heritage.

Exclusive Economic Zone / EEZ
The EEZ is a sea-zone prescribed by the United Nations Convention on the Law of the Sea over which a state has special rights over the exploration and use of marine resources. It generally stretches from the seaward boundary of the territorial sea (12 nautical miles from shore) out to 200 nautical miles from shore.

Exclusive Economic Zone (Environmental Effects) Act 2012 / EEZ Act
The EEZ Act manages the environmental effects of activities in New Zealand’s EEZ.

Geographic Information System / GIS
GIS is a system designed to capture, store manipulate, analyse, manage and present all types of geographic data.

Marine and Coastal Areas (Takutai Moana) Act 2011 / MACA Act
The MACA Act guarantees free public access in, on or over the ‘common marine and coastal area’, subject to certain exceptions. Public access is prohibited or restricted in the common marine and coastal area only to allow commercial developments to operate viably and safely— for example, ports, naval bases, marine farms and marinas. Under the Act, whānau, hapū and iwi can seek recognition and protection of longstanding customary interests. The Act also preserves and protects existing recreational fishing rights, navigation rights and all other existing uses.

Ministry of Business, Innovation and Employment / MBIE
MBIE integrates the functions of four former agencies – the Department of Building and Housing, the Ministry of Economic Development, the Department of Labour and the Ministry of Science and Innovation. Its purpose is to Grow New Zealand for All.

Ministry for the Environment / MfE
MfE is the Government’s principal advisor on the environment in New Zealand and on international environmental matters.

Maritime New Zealand / MNZ
MNZ is a Crown entity responsible for protecting the marine environment within New Zealand and maintaining safety and security.
Minerals Programme for Petroleum 2013 / MPP
The Minerals Programme sets out how the Minister of Energy and Resources and the chief executive of MBIE will perform duties or exercise powers under the Crown Minerals Act 1991.

Office of Treaty Settlements / OTS
The Office of Treaty Settlements negotiates the settlement of historical Treaty of Waitangi claims and builds positive relationships between the Crown and Māori.

Proposed release areas
These are areas which are selected by MBIE on the basis of an assessment of geological prospectivity, commercial interest, and sensitivity. These are taken to affected iwi and hapū and (per officials’ practice) local authorities for consultation, before being finalised for release in a block offer round.

Release areas
Areas released for competitive tender as part of a block offer round, having been consulted on with iwi, hapū and (per officials’ practice) local authorities.

Resource Management Act 1991 / RMA
The RMA is New Zealand’s principle legislation for environmental management. It applies on land and within the territorial sea (out to 12 nautical miles from shore).

Territorial Sea
The territorial sea is a belt of coastal water extending 12 nautical miles from the coast. It is regarded as the sovereign territory of the state. For environmental purposes, the territorial sea is covered by the Resource Management Act 1991.
Introduction

The Ministry of Business, Innovation and Employment (MBIE) allocates petroleum exploration permits through the annual petroleum Block Offer process. The annual Block Offer allocation method enables the government to efficiently manage the allocation of petroleum exploration rights, provide for better and more transparent planning and promotion, and consult more proactively with iwi, industry and other stakeholders. The Crown Minerals Act (CMA) 1991 and the Minerals Programme for Petroleum (Petroleum Programme) 2013 allow for petroleum exploration permits to be allocated through staged work programme bidding through competitive tender.

Under the MPP, the Minister of Energy and Resources may determine the location and area of any petroleum exploration permit block tendered following consultation with relevant iwi and hapū. The Petroleum Programme requires that a period of no fewer than 40 working days be provided to iwi and hapū to comment on the proposal.

To better reflect community views, we also sought feedback from local authorities where consultation areas lie within or adjacent to regional or district council boundaries. This approach has been applied for the previous Block Offer rounds.

MBIE has analysed iwi and hapū requests for exclusions and conditions and made recommendations to the Minister of Energy and Resources on the final areas to be released for tender as part of Block Offer 2017.
Block Offer 2017

Block Selection

MBIE uses a staged process to select blocks for consultation. During this process MBIE assesses:

a) geological merit – identification of areas with geological merit, principally based on sediment thickness;

b) prospectivity – identification of areas with prospectivity. This is principally based on evidence for components of a working petroleum system and previous industry interest as expressed by data acquired;

c) commerciality – identification of areas of commercial interest. This is principally based on industry nomination of areas during the nomination period. It is also informed by market interest and progression of activity in areas of interest by current and potential permit holders;

d) statutory obligations – removal of areas unavailable for petroleum exploration by legislation; and

e) policy considerations – removal of areas that were excluded from previous block offers in line with previously announced government commitments, and after balancing the concerns raised during previous consultation rounds against the prospectivity of the area.

Existing permit areas were also excluded from the proposed release areas. Permits granted through Block Offer 2016 were automatically excluded from the final blocks for tender for Block Offer 2017.

Consultation

MBIE has a statutory requirement under clause 2.4 of the Petroleum Programme to consult with iwi and hapū on each Block Offer round so that they can provide feedback on the consultation areas. This is designed to highlight areas that are considered to be culturally significant to iwi and hapū.

The Petroleum Programme stipulates that iwi and hapū have 40 working days to consider the consultation areas and make a submission.

MBIE has also sought the views of local authorities in all previous Block Offer rounds. This is not a statutory requirement, but can provide a better understanding of community views and any relevant regional issues.

MBIE consulted with iwi and hapū, and sought feedback from local authorities on proposed blocks for Block Offer 2017. These blocks were split into the following seven areas – two onshore, one onshore/nearshore, and four offshore:

- onshore Taranaki (1,242 square kilometres);
- onshore Southland (4,366 square kilometres);
- onshore/nearshore Northern Taranaki (1,475 square kilometres);
- offshore Northland-Reinga (150,566 square kilometres);
• offshore Taranaki (64,978 square kilometres);
• offshore Pegasus-East Coast (75,180 square kilometres); and
• offshore Canterbury-Great South (210,884 square kilometres).

MBIE consulted on over 508,691 square kilometres of proposed blocks (5,608 square kilometres onshore, 1,475 square kilometres onshore/nearshore and 501,618 square kilometres offshore) for Block Offer 2017. In comparison, MBIE consulted on over 537,632 square kilometres for Block Offer 2016.

MBIE identified 143 iwi and hapū, and 43 local authorities that were geographically associated with the proposed blocks and invited them to submit their views on the proposed release areas.

Consultation with iwi and hapū occurred between 19 September 2016 and 25 November 2016, and the views of local authorities were sought between 17 October 2016 and 25 November 2016. Under clause 2.6 of the Petroleum Programme, iwi and hapū can request that certain areas be excluded from a Block Offer round, or that additional conditions be included to protect sensitive areas.

**Analysis of consultation submissions**

MBIE received 25 submissions – 12 from iwi and hapū, and 13 from local authorities. All 13 iwi and hapū submissions requested exclusions or conditions be placed on the Block Offer 2017 blocks.

MBIE analysed submissions from iwi, hapū and local authorities including any requests to exclude blocks or to add further conditions to protect sensitive areas.

Clause 2.3 and 2.7 of the Petroleum Programme stipulates the matters that the Minister of Energy and Resources must take into account when considering requests to protect certain land that was identified in submissions from iwi and hapū.

In the case of individual responses, MBIE noted the matters raised. The Minister can only consider submissions from mandated representatives of iwi and hapū.
Summary of officials’ recommendations

MBIE split the Pegasus-East Coast Basin release area into two separate areas. This is to reflect that the blocks in Hawke Bay are located in shallower water closer to shore with significant existing seismic and well data. The split means MBIE can set more appropriate minimum work programme requirements for this area compared to the deeper water, frontier parts of the Pegasus-East Coast Basin that are lightly explored.

MBIE removed the residual blocks located along the eastern and western margin of the Pegasus-East Coast Basin release area. These areas are adjacent to the unavailable acreage that is already permitted. The shape and size of the residual blocks means that MBIE expect limited interest in these blocks until future surrenders or relinquishments allow for a consolidation of the unpermitted blocks in that area.

After analysing submissions from iwi and hapū, MBIE recommends that the following blocks be excluded from the blocks for tender for Block Offer 2017:

a) blocks inside three nautical miles in the Hawke’s Bay up to the southern point of Gisborne, from the Pegasus-East Coast 2 release area. The area MBIE consulted on included blocks up to the shoreline (further discussion on this amendment is included below);

b) blocks inside six nautical miles in the Gisborne region in the Pegasus-East Coast 1 release area. The area MBIE consulted on included blocks up to the shoreline;

c) blocks inside 12 nautical miles in the Canterbury-Great South release area. MBIE consulted on blocks between six and 12 nautical miles from shore; and

d) blocks that covered the Takitimu mountain range in the Southland release area.

MBIE made these decisions by balancing the prospectivity of the areas with iwi requests and the reasoning for these requests, in line with clause 2.7 of the Petroleum Programme.

MBIE recommends different approaches based on variations in the prospectivity and commercial attractiveness of the blocks in these different release areas, these being:

a) the Hawke’s Bay has been explored in the past and there is existing seismic and well information that makes it more commercially attractive than areas that do not have existing information. In particular, this includes a 3D seismic survey and the data associated with the Hawke’s Bay-1 well. Blocks in the Hawkes Bay to the shoreline have been nominated by a range of companies in a number of Block Offer rounds, which indicates that there is commercial interest;

b) there is data available in the Pegasus-East Coast 1 release area in the territorial sea off the Gisborne coast. However, there is less data available for these blocks compared with in the Hawkes Bay. These blocks have also been nominated in a number of Block Offer rounds; and

c) there is data available on blocks within 12 nautical miles in the Canterbury-Great South release area. However, few companies have nominated blocks over this acreage in the past, which indicates a lack of commercial interest at present.

MBIE will also include the following conditions in the Invitation for Bids (IFB), which:

a) notify bidders of their responsibility towards Customary Marine Title applicants;

b) notify bidders of their responsibilities under the Resource Management Act 1991 (RMA) and Heritage New Zealand Pouhere Taonga Act 2014 to protect sensitive sites;
c) ensure that any successful bidders over the relevant blocks contact Papatipu Rūnanga if a permit is granted within 200 metres of their rohe;

d) ensure that any successful bidders over the relevant blocks contact Ngati Ruanui within 20 days of a permit being granted if it is within 200 meters of the Tangahoe, Whenuakara, and Patea Awa. This consideration was also included after analysing submissions for Block Offer 2016; and

e) ensure that any successful bidders over the relevant blocks notify Te Korowai O Ngaruahine of any activity within 200 metres of the areas identified in their submission.

Proposed release areas for Block Offer 2017

As a result of these exclusions, the total area of the blocks proposed to be offered in Block Offer 2017 is 481,735 square kilometres (4,589 square kilometres onshore, 1,475 square kilometres onshore/nearshore and 475,671 offshore). This is 26,956 square kilometres smaller than the area MBIE consulted with iwi, hapū and local authorities on for Block Offer 2017.

In comparison, the total Block Offer 2016 release area was 525,515 square kilometres.

The table below outlines the total areas of the blocks to be offered in the Block Offer 2017 release areas in square kilometres.

<table>
<thead>
<tr>
<th>Release Area</th>
<th>BO2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Offshore Canterbury-Great South (GSC-R1)</td>
<td>204,928</td>
</tr>
<tr>
<td>Offshore Northland-Reinga (NRN-R1)</td>
<td>150,566</td>
</tr>
<tr>
<td>Offshore Pegasus-East Coast (PEC-R1)</td>
<td>49,630</td>
</tr>
<tr>
<td>Offshore Hawke Bay (PEC-R2)</td>
<td>5,569</td>
</tr>
<tr>
<td>Offshore Taranaki (TAR-R1)</td>
<td>64,978</td>
</tr>
<tr>
<td>Onshore Taranaki (TAR-R2)</td>
<td>1,021</td>
</tr>
<tr>
<td>Onshore/Nearshore Northern Taranaki (TAR-R3)</td>
<td>1,475</td>
</tr>
<tr>
<td>Onshore Southland (SLD-R1)</td>
<td>3,568</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>481,735</strong></td>
</tr>
</tbody>
</table>
Summary of submissions

General themes raised in submissions from iwi, hapū and local authorities

The general themes from iwi, hapū and local authorities’ submissions were very similar to previous Block Offer rounds, these being:

- concerns relating to the potential health, safety and environmental risks, including the marine environment;
- the need for early, ongoing engagement with stakeholders, and requests for wider public consultation;
- a desire for oil and gas activity to directly benefit local communities and economies;
- the relationship between the Crown and iwi and hapū on petroleum issues, including ownership of petroleum resources; and
- the need to manage the impact of activities on sites of local, cultural and historical significance.

Below are officials’ responses to these matters.

Concerns relating to the potential health, safety, and environmental risks of petroleum activity

Officials’ Response

MBIE shares the view that health, safety and environmental impacts of petroleum activity must be managed effectively, and that petroleum operators must be subject to rigorous regulatory requirements.

Recent initiatives have created a robust framework for appropriate regulation of petroleum exploration and production activity in high risk environments. These include the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012, and the Department of Conservation’s (DOC) Seismic Surveys Code of Conduct.

Maritime New Zealand (MNZ) also requires offshore exploration drilling installations to produce a Well Control Contingency Plan as part of their overall emergency response procedures for oil spills. This plan sets out how an operator would respond to a well blow-out and must be contained in their Discharge Management Plans (DMPs).

Before any exploratory or production drilling MNZ must be satisfied that an operator has in place the necessary measures, and capability, to manage any event has adequate financial resources to execute their DMP plans.

Information on how the overall framework of the regulatory regime allows for the responsible management of petroleum is attached in Annex 3.
The need for early, ongoing engagement with stakeholders, and requests for wider public consultation

*Official's Response*

The CMA requires that successful Block Offer bidders provide an annual report to MBIE on their engagement with iwi and hapū whose rohe overlap with the permit area or will otherwise be directly affected by the permit.

MBIE facilitates relationships between petroleum companies, relevant iwi and hapū, and local authorities. This may include, subject to the relevant party's permission, passing on information it has received about sensitive sites to successful bidders.

A number of iwi and hapū submissions granted MBIE permission to pass on information about sensitive sites to successful bidders, and they seek to discuss these.

Desire for oil and gas activity to directly benefit the local community and economy (e.g. through royalties sharing)

*Official's Response*

The Government receives approximately 42 per cent of a petroleum company's accounting profit, which is a combination of taxes and royalties. This helps to pay for infrastructure and services that benefit all New Zealanders, such as hospitals, schools, roads, and broadband. As Crown minerals are owned by, and administered on behalf of, the people of New Zealand, it is appropriate that these royalties are collected and used at a national level.

Job creation and training, community investment, and infrastructure development are just a few examples of potential regional benefits from oil and gas activities. Taranaki, the only region producing oil and gas in New Zealand, is an example of the significant regional benefits that this industry can produce. According to the latest Venture Taranaki report from 2015, the petroleum industry directly employed 4,653 jobs in 2013.

The relationship between the Crown and iwi/hapū on oil and gas issues, including ownership of petroleum resources

*Official's Response*

The Crown has owned all petroleum existing in its natural condition in land under New Zealand jurisdiction since its nationalisation under the Petroleum Act 1937. Crown ownership continues under section 10 of the CMA.

Submissions on Block Offer 2017 will be made available on the MBIE website, where bidders will be able to identify areas of concern to affected iwi early in the process. It is officials’ expectation that this will prompt discussions between iwi and operators to manage any potential effects on sites of sensitivity.

MBIE acknowledges the important role that iwi and hapū have regarding the natural resources in their rohe. MBIE is working to strengthen engagement between iwi and hapū and petroleum companies working in their rohe.
In recent years, MBIE has strengthened its resource capabilities. MBIE has staff members specifically dedicated to proactively engaging with iwi and hapū on petroleum and minerals issues, as well as reaching out to iwi and hapū in areas where the industry is expanding. This ensures that iwi and hapū are able to make informed decisions around the future development of petroleum and mineral resources.

The need to manage the impact of activities on sites of local, cultural and historical significance

Officials' Response

Officials recognise the importance and values attached to areas of local, cultural and historical significance, and take seriously the responsibility to ensure they are actively protected from development, where appropriate.

Under the Petroleum Programme, the Crown has responsibilities regarding the active protection of areas of particular importance to iwi and hapū. The exclusion of explicitly defined areas of particular importance from the Block Offer round is one mechanism to achieve this.

The Minister of Energy and Resources balances active protection against the prospectivity and potential value of the area in question, and considers what other legislative and regulatory protections exist for these areas.

Adequate protection may generally be given to such sites under existing legislation and regulations. For instance, where wāhi tapu are listed in the relevant district plan, this allows for local authorities to place additional requirements on any activity undertaken on or near these sites, including consultation with the affected iwi or hapū.

Officials consider that the most effective way to address submitters’ concern of wāhi tapu sites and areas of particular importance is to include these sites into the Block Offer and then encourage and facilitate engagement between relevant iwi and hapū and industry operators. This will enable iwi and hapū, and stakeholders to reach their own solutions for avoiding and minimising any impacts of petroleum exploration activities on or near sites of significance without unduly sterilising potential petroleum resources.

The actual activity undertaken by operators will usually involve a much smaller area than that of the permit, which is in turn a much smaller area than that of the initial release area. Therefore, in most cases, the best stage to address the sensitivity of specific sites is at the point prior to activity occurring. Generally, this would be through the RMA and EEZ Act, which deal with potential environmental effects of specific proposed activities.
Analysis of requests for amendments to, or exclusions of land from, the Block Offer 2017 competitive tender

Clause 2.3 of the Petroleum Programme states that iwi and hapū must be notified that they may, if they wish, request that certain areas within the consultation areas are not included in the block offer round.

Clause 2.4 states they may also request that certain activities within certain areas be subject to additional requirements that recognise particular characteristics of those areas.

Clause 2.7(1) of the Petroleum Programme requires that in considering such requests, the matters the Minister must take into account are:

(a) the matters raised by iwi and hapū;
(b) the exercise of customary marine title or of protected customary rights under the Marine and Coastal (Takutai Moana) Act 2011;
(c) whether the area is already adequately protected under other legislation – for example, the Resource Management Act 1991, the Conservation Act 1987 or the Historic Places Act 1993;
(d) the size of the area and the value of the potential resource affected if the area is excluded; and
(e) the impact on the viability of undertaking work under a permit if activities within certain areas are subject to additional requirements.

Clause 2.6 of the Petroleum Programme sets out the matters that should be covered in a request by iwi or hapū, which include (but are not limited to):

(a) what it is about the area that makes it important to the mana of iwi and hapū;
(b) whether the area is a known wāhi tapu site;
(c) the uniqueness of the area – for example, whether it is one of a number of mahinga (food gathering) areas or the only waka tauranga (landing place of ancestral canoes);
(d) whether the importance of the area to iwi and hapū has already been demonstrated – for example, by Treaty claims and settlements, and objections made by iwi and hapū under other legislation;
(e) any Treaty claims that may be relevant and whether granting a permit over the land would impede the prospect of redress of grievances under the Treaty;
(f) any customary rights and/or interests granted under the Marine and Coastal Area (Takutai Moana) Act 2011; and
(g) any iwi management plans in place that specifically state that the area should be excluded from certain activities.

What follows is a full consideration of these matters for each exclusion or amendment request received from iwi and hapū for Block Offer 2017.
Iwi/hapū: TE RŪNANGA O NGĀTI MUTUNGA

Date Received: 16 November 2016

Proposed Release Areas Affected: 17TAR-R1 and 17TAR-R2

Exclusions requested

1. All of 17TAR-R1 for Block Offer 2017 and all future Block Offers.

2. If excluding 17TAR-R1 is not possible, then exclude the area 17TAR-R1 that overlaps with takutai moana (customary rights) in the rohe as recognised in the Ngāti Mutunga Deed of Settlement (2005).

Conditions requested

3. Make applicants in 17TAR-R2 aware of their responsibilities under the RMA and Heritage NZ Pouhere Taonga Act to protect sites from any damage their activities may cause.

4. Request face-to-face meetings in future Block Offer processes

Recommendations on exclusions requested

Decline both exclusion of 17TAR-R1 request, and exclusion of the area 17TAR-R1 that overlaps with takutai moana. Include a note in the IFB about Customary Marine Title applications

The Taranaki Offshore Basins (17TAR-R1) is a proven petroleum system with significant discovered resource and large, high value potential resources. In addition, New Zealand has a robust regulatory regime for oil and gas exploration to manage potential adverse environmental effects. For these reasons the Minister has decided against making exclusions in this basin.

We acknowledge that Ngāti Mutunga is currently applying for formal recognition of their Customary Marine Title (CMT) application. A note in the IFB regarding CMT applications will be included.

We do not consider that the current Block Offer process conflicts or hinders an application for CMT or a CMT once granted under MACA. MACA does not require exclusion of areas subject to a CMT, or applications for a CMT, from Block Offer. Nor does it prohibit the granting of petroleum permits over such areas. However, MACA does require that anyone making a mining application that is in the area relating to a CMT area, to notify and seek the views of the party that has applied for the CMT.

Should MBIE grant a petroleum permit over a CMT application area and the CMT was subsequently granted, the permit holder would need to seek permission from the CMT group or obtain an activity agreement agreed/arbitrated in accordance with the MACA for them to be able to carry out certain activities that require resource consent over the area. This means a Block Offer bidder that receives a permit overlapping a CMT application area would be subject to more onerous RMA (resource consent) obligations, if the CMT is granted.
Recommendations on conditions requested

Include a condition in IFB that applicants must be aware of their responsibilities under the RMA and Heritage New Zealand Pouhere Taonga Act

In response to this request, we have included wording in the Block Offer 2017 IFB that informs permit holders that they must be aware of their responsibilities under this legislation.

Also, in particular to Te Rūnanga o Ngāti Mutunga, there are conditions that will apply to any permit(s) granted over the release areas that were identified in this submission (17TAR-R1 and 17TAR-R2).

The intent of these conditions is aimed at promoting and improving engagement between the applicants/industry and Iwi. From our experience, promoting engagement between industry and Iwi leads to better outcomes for Iwi by providing a more suitable avenue to discuss the significance of certain areas and Iwi desires to be more involved in and informed of such things as contingency planning, ongoing protection of such significant sites and exploring opportunities within the industry. This is in addition to, and intended to support, the requirements under the CMA for Tier 1 permit holders to report annually on their engagement with relevant Iwi and hapū.

Consultation process – Kanohi ki te kanohi

The Crown Minerals Act and the subsequent Petroleum Programme outlines the consultation process as our regulatory obligation. The intent of this consultation is to allow Iwi a voice in the decision making process. We hold meetings with consulted Iwi where possible with the aim of achieving the best outcomes while meeting our legislative obligations. With notice, MBIE officials would like to meet face to face with Iwi when requested. However the reality is that we are cannot hold meetings with all Iwi that we consult.

We acknowledge the resource pressures that administering multiple responses to mining activity have on Iwi and Iwi organisations. We are always open to hearing how we might be able to improve our processes regarding consultation within our current regulatory framework.
Iwi/hapū: TE KOTAHI TANGA O TE ĀTIAWA TARANAKI

Date Received: 18 November 2016

Proposed Release Areas Affected: 17TAR-R1, 17TAR-R2, 17TAR-R3

Exclusions requested

1. All of 17TAR-R1, 17TAR-R2 and 17TAR-R3 from current and future Block Offers.

Conditions requested

None

Recommendations on exclusions requested

Decline exclusion request for 17TAR-R1, 17TAR-R2, 17TAR-R3

We acknowledge Te Ātiawa’s cultural, spiritual, historical and traditional association with the whenua and takutai moana and the significant waterways and reef structures which support taonga species and provide important mahinga kai areas.

The Taranaki Basins (17TAR-R1, 17TAR-R2 and 17TAR-R3) are proven petroleum systems with significant discovered resources and large, high value potential resources. In addition, New Zealand has a robust regulatory regime for oil and gas exploration to manage potential adverse environmental effects. For these reasons the Minister has decided against making exclusions in these basins.

We acknowledge that Te Ātiawa has put in a CMT application for this area, and we recommend putting a note in the IFB to make potential bidders aware of this fact.

Consultation process – Kanohi ki te kanohi

We are committed to proactively engaging with Iwi and hapū about the development of oil, gas and minerals resources in areas of interest. The CMA and the subsequent Petroleum Programme outlines the consultation process as our regulatory obligation. The intent of this consultation is to allow Iwi a voice in the decision making process. We hold meetings with consulted Iwi where possible with the aim of achieving the best outcomes while meeting our legislative obligations. With notice, MBIE officials would like to meet face to face with Iwi when requested. However the reality is that we are cannot hold meetings with all Iwi that we consult.

We acknowledge the resource pressures that administering multiple responses to mining activity have on iwi and iwi organisations. We are always open to hearing how we might be able to improve our processes regarding consultation within our current regulatory framework.
Iwi/hapū: TE KOROWAI O NGĀRUAHINE TRUST

Date Received: 27 September 2016

Proposed Release Areas Affected: 17TAR-R1, 17TAR-R2, 17TAR-R3

Exclusions requested

1. 17TAR-R1, 17TAR-R2, and 17TAR-R3 be removed entirely from current and future block offers.

2. Offshore permits to be only granted for areas outside of the Ngāruahine customary area and outside of the area subject to current proceedings under the MACA – between Taungatara and Waihi Rivers.

3. No exploration takes place within 500 metres of the areas specifically identified by TKONT in their submission.

Conditions requested

2. Early dialogue and consultation (within four weeks of award of the permit) on any activity that has the potential to affect freshwater sources (ground and surface water), affect aquatic life (fish and organisms), native flora and fauna and sea birds.

3. That the permit holder engage in early dialogue (within four weeks of award of the permit) with Ngāruahine to ensure that no culturally significant site will be affected, and to ensure that mitigation and management strategies are put in place to ensure no adverse effects.

4. That Ngāruahine is engaged in early dialogue (within four weeks of award of the permit) and approves the emergency response plans and strategies that the permit holder develops should an adverse incident take place that affects directly or indirectly the mauri of the water, land habitat, species and wider environment.

5. That the permit holder financially invests in remediation strategies and investments that will enhance the natural environment. The nature of the investment to be determined in partnership with Ngāruahine.

6. The permit holder works alongside Ngāruahine with its development of our Kaitiaki Plan, which shall include matters relating to mineral exploration within it.

Recommendations on exclusions requested

Decline exclusion of 17TAR-R1, 17TAR-R2, 17TAR-R2 and areas outside of the Ngāruahine customary area, and outside of the area subject to current proceedings under the MACA between the Taungatara and Waihi Rivers.

The Taranaki Basins (17TAR-R1, 17TAR-R2 and 17TAR-R3) are proven petroleum systems with significant discovered resources and large, high value potential resources.

We acknowledge the matters raised by TKONT, including concern about the on-going health and wellbeing of the land, waters and the people, and that the blocks include significant food gathering areas. However, we consider the current regulatory regime, including the RMA and EEZ Act, for oil and gas exploration robust and that they adequately manage potential adverse environmental effects. This recommendation is consistent with the approach taken with similar requests in the past. For these reasons the Minister has decided against excluding these basins.
To acknowledge TKONT’s concerns we recommend including a condition in the IFB which explicitly lists the areas for which notification is required when activities are undertaken within 200 metres of these areas. Schools and Marae are already protected under section 55 of the CMA.

We acknowledge that TKONT has put in a CMT application for this area, and we recommend putting a note in the IFB to make potential bidders of this fact.

**Recommendations on conditions requested**

Regarding these requests, the Minister of Energy and Resources considers them to be protected by subsequent environmental protection legislation, such as the Resource Management Act.

However, the Minister does want to acknowledge the special connection between Ngāruahine and the whenua, water and species of life that reside in these environments within the guidelines of the Crown Minerals Act. Therefore, applicants that are awarded permits within the specified blocks will be informed of your condition regarding working alongside Te Korowai o Ngāruahine Trust with your development of your Kaitiaki Plan.

**Engagement**

We will advise permit holders of TKONT’s desire to work along permit holders to identify culturally significant sites and to develop contingency plans concerning offshore blocks within their takiwa. We will facilitate an introduction between TKONT and any permit holder. Section 1.12 of the 2016 IFB included the following statement which will also be included in the 2017 IFB:

**Kaitaki Plan**

MBIE will advise the permit holder of TKONT’s desire to work along permit holders on their Kaitaki Plan
Iwi/hapū: TE RUNANGA O NGĀTI RUANUI TRUST

Date Received: 29 October 2016

Proposed Release Areas Affected: 17TAR-R1 and 17TAR-R2

Exclusions requested

1. Land within 20 metres of the Tangahoe, Patea and Whenuakura Awa (Rivers)
2. Land within 50 metres of Marae sites
3. Identified Urupā sites
4. Any area, regardless of land title boundaries, of native vegetation 1 ha or greater, where that vegetation is 3 metres or greater in height

Conditions requested

1. That any exploration activity that occurs within 100 metres of the Tangahoe, Whenuakura and Patea Awa are referred by the successful company to Ngāi Ruanui for comment (within 20 days).
2. Where an applicant’s proposed activity in an offshore block may impact upon cetaceans and other fish consultation should take place with Ngāi Ruanui for the purposes of determining appropriate measures to ensure sufficient protection is given to affected fish life and in particular fish nurseries present in and around an offshore block.
3. Where an applicant’s proposed activity may impact upon benthic organisms in or around the offshore blocks consultation should take place with Ngāi Ruanui for the purposes of determining appropriate measures to ensure sufficient protection is given to the benthic organisms present in and around the relevant offshore blocks.
4. Where an applicant’s proposed activity in an offshore block may impact upon seabirds within our takiwa consultation should take place with Ngāi Ruanui for the purposes of determining appropriate measures to ensure sufficient protection is given to seabirds present in and around an offshore block.
5. Ngāi Ruanui wishes to also be involved in the development of any contingency plans concerning offshore blocks within our takiwa. The applicant will consult with Ngāi Ruanui to establish appropriate responses, including key contacts, in the case of emergencies that impact on the mauri of the water, biodiversity and wider environment.
6. In evaluating who will become the successful applicant, consideration will be given to the applicant’s proven ability or willingness to become involved in meaningful engagement with the relevant iwi/hapū authority.

Recommendations on Exclusions Requested

Decline exclusion requests

We recommend declining all exclusion requests. Some of the areas requested for exclusion cover existing blocks in 17TAR-R2, a proven petroleum system with significant discovered resource. Excluding small areas of surface land could make work unviable by preventing the development of supporting infrastructure that may be needed in these areas. For this reason the Minister has decided against making exclusions in this basin.
As an alternative to the exclusion of land within 20 metres of the three rivers mentioned, we propose including a condition in the IFB requiring permit holders to notify Ngāi Ruanui of any activities within 200m of the rivers. In regards to marae and urupā sites, we acknowledge the matters raised by Ngāi Ruanui, but we are satisfied that existing protections under section 55 of the CMA will apply to the marae and urupā sites. We will advise the permit holders of Ngāi Ruanui’s concerns.

We acknowledge that Ngāi Ruanui is currently applying for formal recognition of their CMT application. A note in the IFB regarding CMT applications will be included.

In regards to the request for vegetation exclusion, there are already robust existing environmental protections in place. The RMA provides for the protection of the environment from the potential effects of oil and gas activity onshore and within the territorial sea.

**Recommendations on Conditions Requested**

**Notification near Rivers**

We recommend the following condition in regards to the Tangahoe, Whenuakura and Patea rivers:

- “The permit holder must give written notice to Ngāi Ruanui at least 20 working days prior to undertaking exploration or prospecting activities within 100 metres of the Patea, Tangahoe or Whenuakura Rivers”.

**Environmental protections**

We will advise the permit holders of Ngāi Ruanui’s concerns regarding fish life, benthic organisms and seabirds.

However, there are already robust existing environmental protections in place. The RMA provides for the protection of the environment from the potential effects of oil and gas activity onshore and within the territorial sea. The EEZ Act provides effective protection of the environment from the potential effects of oil and gas activity.

**Engagement**

We will advise permit holders of Ngāi Ruanui’s desire to work along permit holders to develop contingency plans concerning offshore blocks within their takiwa. We will facilitate an introduction between Ngāi Ruanui and any permit holder. Section 1.12 of the 2016 IFB included the following statement which will also be included in the 2017 IFB:

“In evaluating who will become the successful applicant, consideration will be given to the applicant’s proven ability or willingness to become involved in meaningful engagement with the relevant iwi/hapū authority”.

Iwi/hapū:  TE RŪNANGANUI O NGĀTI POROU TRUSTEE

Date Received:  17 September 2016

Proposed Release Areas Affected:  17PEC-R1

Exclusions requested

1. All blocks within and adjacent to nga rohe moana o nga hapū o Ngati Porou.

Conditions requested

2. If the Minister declines the exclusion request TRONPNui seeks to be given the opportunity to be a part of the decision-making process regarding the selection of tenderers and any conditions to be imposed.

Recommendation on Exclusions Requested

Recommend excluding the territorial sea out to six nautical miles offshore (in the Gisborne Region)

TRONPNui has raised the significance of the sites, including fishing food gathering sites, and ancestral and other wāhi tapu sites. The sites in question are located in 17PEC-R1 in an area where the potential resource is considered to be very valuable. The Minister has decided to exclude 17PEC-R1 in Ngai Porou’s rohe out to 6 nautical miles offshore. This compromise balances the iwi concern with the high value of the potential resource.

We acknowledge that TRONPNui is currently applying for formal recognition of their CMT application. A note in the IFB regarding CMT applications will be included.

Recommendation on Conditions Requested

Decline condition request

It is proposed that the Block Offer 2017 IFB contain the following draft wording:

The Minister expects that, following the grant of a permit, the permit holder will regularly engage with iwi and hapū whose rohe (tribal area) includes some or all of the area of the permit or who may be directly affected by petroleum exploration activities under the permit. That engagement must then be reported on by the permit holder as required by section 33C of the Act.

The engagement should address the potential impact of petroleum exploration activities on the rohe and, in particular, wāhi tapu (restricted places of cultural significance and importance), urupā (burial grounds), mahinga kai (food gathering areas) and waka Tauranga (landing places of ancestral canoes). Permit holders must also comply with any statutory requirements applying to any sites of cultural importance to iwi and hapū within the permit area protected under legislation, including the Heritage New Zealand Pouhere Taonga Act 2014, the Resource Management Act 1991, the Conservation Act 1987 and any Treaty of Waitangi settlement legislation. Further information and assistance with iwi and hapū engagement is available through NZP&M.

Before granting a permit, the Minister must be satisfied that the applicant is likely to comply with relevant obligations under the Act or the regulations in respect of reporting. This includes that the applicant will provide all reports required by section 33C of the Act (Iwi engagement reports).
Iwi/hapū: TE HAPŪ MATUA
Representative organisation/person: Tui Marino

Date Received: 25 November 2016

Proposed Release Areas Affected: 17PEC-R1

Exclusions requested

1. Exclude the area from, ‘Te Taumata Kahawai’, to ‘Te Karaka Point’ then to the northern point of ‘Mōtueka Island’, following the northern parallel of the ‘Tātara Reef’ out to the Exclusive Economic Zone (EEZ) and; in a parallel line from the southern bank of the ‘Pākarae River’ to the 200 nautical mile, Exclusive Economic Zone.

Conditions requested

2. That the Crown or partners or parties to which it makes binding legal agreements notify us of every step that lead to and follows this submission process
3. They call for representatives of the MBIE to advertise and to convene meetings within the local affected communities in order to provide relevant transparent information and to respond to queries by all concerned.

Recommendation on exclusions requested

Recommending excluding the territorial sea out to six nautical miles offshore (in the Gisborne Region)

In regards to the mana-moana rohe of Te Hapū Matua, the area is precious in terms of its cultural traditions, resources, history and the local livelihood for the many whānau and their local communities. The area is also considered very valuable in terms of resource potential. The Minister has decided to exclude Te Hapū Matua’s rohe out to 6 nautical miles offshore. This compromise balances the iwi concern with the high value of the potential resource.

Recommendations on conditions requested

Agree to notify hapū of each step in the process

MBIE will send follow up letters to all iwi and hapū who make a submission following the announcement of the acreage on offer for Block Offer 2017. The letters will explain every step in the process.

MBIE are committed to proactively engaging with Iwi and hapū about the development of oil, gas and minerals resources in areas of interest. Therefore MBIE will make contact with Iwi and Hapū regarding a potential meeting.
Iwi/hapū: TE AITANGA A MAHAKI

Date Received: 02 December 2016

Proposed Release Areas Affected: 17PEC-R1

Exclusions requested

1. Exclude Te Aitanga a Mahaki’s tribal waters. These waters extend in a line from Paritu in the south to the mouth of the Pakararae River in the north. This exclusion zone goes out to and around Te Toka a Huru in the east and takes in the sea-bottom moving toe of the Waipaoa River sedimentation under-sea wall.

Conditions requested

No conditions requested

Recommendation on exclusions requested

Recommend excluding the territorial sea out to six nautical miles offshore (in the Gisborne Region)

The site in question is located in 17PEC-R1 and the potential resource in this area is considered to be large and very valuable. For these reasons the Minister has decided against excluding the entire basin.

However, after taking into consideration a number of issues raised by iwi in the area, the Minister has decided to exclude Te Aitanga a Mahaki’s tribal waters out to six nautical miles from shore. This balances the iwi request with the high value of the potential resource.
Iwi/hapū: NGĀI TĀMANUHIRI
Date Received: 29 November 2016

Proposed Release Areas Affected: 17PEC-R1

Exclusions requested

1. Exclude Ngāi Tāmanuhiri’s tribal waters extending off the coastline into Moananui-a-kiwa.

Conditions requested

No conditions requested

Recommendation on exclusions requested

Recommend excluding the territorial sea out to 6 nautical miles offshore (in the Gisborne Region)

The site in question is located in 17PEC-R1 and the potential resource in this area is considered to be large and very valuable. For these reasons the Minister has decided against excluding the entire basin.

However, after taking into consideration a number of issues raised by iwi in the area, the Minister has decided to exclude Ngāi Tāmanuhiri’s tribal waters out to six nautical miles from shore. This balances the iwi request with the high value of the potential resource.
Iwi/hapū: RONGOWHAKAATA TRUST

Date Received: 02 December 2016

Proposed Release Areas Affected: 17PEC-R1

Exclusions requested

1. Exclude all of 17PEC-R1
2. Exclude 17PEC-R1 from Rongowhakaata’s rohe

Conditions requested

3. All research materials relating to Block Offer 2017 and previous years, and the impact of deep sea drilling on our varied East Coast ecologies, including a robust Cultural Impact Assessment to be presented to nga iwi and hapū o Te Tairawhiti and their scientific community for review, analysis and consultation.

Recommendation on exclusions requested

Decline, but recommend excluding the territorial sea out to 6 nautical miles offshore (in the Gisborne Region)

We recognise that Rongowhakaata asserts its mana in relation to mineral resources and taonga in its rohe. We acknowledge that Rongowhakaata is currently applying for formal recognition of their CMT application. A note in the IFB regarding CMT applications will be included.

The site in question is located in 17PEC-R1 and the potential resource in this area is considered to be large and very valuable. The Minister has decided to exclude from Rongowhakaata’s rohe out to six nautical miles offshore. This compromised recommendation balances the iwi concern with the high value of the potential resource.

Recommendations on conditions requested

Seek further detail

MBIE does not fund Cultural Impact Assessments; however, this does not stop iwi from approaching the permit holder directly to discuss the merits of conducting one with their support. In saying this, in our experience engagement between permit holders and iwi directly results in positive outcomes for iwi which may address the need for such assessments. MBIE encourages permit holders to engage early with iwi to discuss such matters in detail.

Some information requested under the conditions we cannot provide as we consider to be restricted by commercial sensitivity and obligations under the Privacy Act. However, there is information available on our website www.nzpam.govt.nz.
Iwi/hapū: MAUNGAHARURU TANGITŪ TRUST

Date Received: 01 December 2016

Proposed Release Areas Affected: 17PEC-R1

Exclusions requested

1. Exclude 17PEC-R1, in particular the area within the Hawkes Bay

Conditions requested

No conditions requested

Recommendation on exclusions requested

Decline, but recommend excluding the territorial sea out to three nautical miles offshore

We acknowledge that natural resources are taonga to Maungaharuru Tangitū Trust and that the area is a significant resource for food gathering for the hapū.

The site in question is located in 17PEC-R2 (which was split from 17PEC-R1 after consultation – see above). The potential resource in this area is considered to be large and very valuable. In addition Hawke Bay has shallow water close to shore and significant existing seismic and well data.

Given the high prospectivity and the level of knowledge in Hawke Bay, the Minister decided to exclude 3 nautical miles from shore, rather than the six nautical miles recommended for waters off the coast of Gisborne/East Cape.
**Iwi/hapū:** NGĀTI KAHUNGUNU IWI INCORPORATED

**Date Received:** 11 November 2016

**Proposed Release Areas Affected:** 17PEC-R1

**Exclusions requested**

1. Exclude Ngāti Kahungunu’s coastal waters – the territorial sea from northern Hawke Bay to the south Wairarapa coast.

**Conditions requested**

No conditions requested

**Recommendation on exclusions requested**

Decline, but recommend excluding the territorial sea out to three nautical miles offshore

The sites in question are located in 17PEC-R1 and 17PEC-R2 (which was split from 17PEC-R1 after consultation – see above). The potential resource in these areas is considered to be large and very valuable.

In addition Hawke Bay has shallow water close to shore and significant existing seismic and well data. Given the high prospectivity and the level of knowledge in Hawke Bay, the Minister decided to exclude 3 nautical miles from shore, rather than the six nautical miles recommended for waters off the coast of Gisborne/East Cape.

Please also note that for commercial reasons, under the current commercial environment, we excluded blocks along the eastern, western and southern fringes of 17PEC-R1. Therefore, Ngāti Kahungunu’s coastal water south of Hawke Bay has been removed from Block Offer 2017.
Iwi/hapū: TE WHĀNAU HOROMIA TE RITO & THE TE RITO WHĀNAU TRUST

Date Received: 01 December 2016

Proposed Release Areas Affected: 17PEC-R1

Exclusions requested

1. Revoke current granted permits and remove Te Ikaroa Rawhiti region from offer Block Offer 2017

Conditions requested

No conditions requested

Recommendation on exclusions requested

Decline, but recommend excluding the territorial sea out to 6 nautical miles off the coast of Gisborne/East Coast and 3 nautical miles offshore in Hawke Bay.

The sites in question are located in 17PEC-R1 and 17PEC-R2 (which was split from 17PEC-R1 after consultation – see above). The potential resource in these areas is considered to be large and very valuable.

In addition Hawke Bay has shallow water close to shore and significant existing seismic and well data. The Minister decided to exclude 3 nautical miles from shore in Hawke Bay, and six nautical miles for waters off the coast of Gisborne/East Cape.

Please also note that for commercial reasons, under the current commercial environment, we excluded blocks along the eastern, western and southern fringes of 17PEC-R1. 17PEC-R1 off the coast of Manawatu and Wairarapa has been removed from Block Offer 2017.

Regarding the request to revoke current permits, the intention of the consultation process under the CMA is to allow iwi to provide information for consideration on the determinations on applications for permits. The CMA and the consultation process do not cover the revoking of current permits.
Iwi/hapū: TE RŪNANGA O NGĀI TAHU

Date Received: 25 November 2016

Proposed Release Areas Affected: 17GSC-R1

Exclusions requested

1. Exclude all Block Offer areas within the territorial sea
2. Exclude all Block Offer areas within the Ngāi Tahu takiwā (territory).
3. Exclude Statutory Acknowledgment Areas, tōpuni, nohoanga, and the areas surrounding them to be excluded from the Block Offer process. These are: Waiau River (Statutory Acknowledgment Area), Aparima River (Statutory Acknowledgment Area), Takitimu mountain range (Tōpuni), Waiau River No. 1 (Nohoanga site), and Waiau River No. 2 (Nohoanga site).

Conditions requested

4. Ensure early contact with Papatipu Rūnanga
5. Respect the desire of Papatipu Rūnanga to prevent drilling activity in the Pegasus Basin, Canterbury Basin, Southland onshore block and that there is early engagement made from successful bidders.

Recommendation on exclusions requested

Decline requests to exclude Block Offer areas within the territorial sea and within Ngāi Tahu takiwā (territory), but recommend excluding the territorial sea –12 nautical miles from the shoreline - of Great South Basin and Canterbury.

There are parts of the territorial sea which contain active production permits; e.g. Pohokura. Given the high value of the resource, the Minister has decided against excluding all blocks within the territorial sea.

We acknowledge the matters raised by Ngāi Tahu on behalf of Ngāti Kuri. The Minister has agreed to exclude the territorial seas of 17GSC-R1.

We note the territorial sea off the Kaikoura Coast is already excluded. We are confident that the Department of Conservation’s 2013 Code of Conduct for Minimising Acoustic Disturbance to Marine Mammals from Seismic Survey Operations (the Code) ensures adequate minimisation and mitigation measures.

Exclude Takatimu Mountain Range, do not exclude Waiau River and Aparima River, but include conditions on these areas in IFB

We acknowledge the cultural significance of these areas to Ngāi Tahu. The Takatimu Mountains have limited data, and are likely to have low petroleum prospectivity. Therefore, we recommend excluding them.

In the case of the Waiau and Aparimu rivers, the Minister of Energy and Resources has considered the value of the potential resource, and the robust regulatory regime for oil and gas exploration, and decided against making exclusions.

As an alternative we propose to include a condition in the IFB asking applicants to notify Papatipu Rūnanga of their planned activities within 100 meters of those waterways.
Recommendations on conditions requested

Accept both conditions

These requests would not impact the viability of undertaking work under a permit. Therefore, we propose wording in the IFB for 17GSC-R1 and 17PEC-R1 permit holders to give written notice to Papatipu Rūnanga at least 20 working days prior to undertaking exploration activities, and we will contact any successful bidders of Papatu Rūnanga's desire for early engagement with permit holders.
Annex 1: Regulatory provisions relating to the management of potential effects of petroleum related activity

The government is committed to ensuring that sites of local, cultural (including wāhi tapu) and historical significance are protected from development where appropriate. There are several pieces of legislation that explicitly allow for such consideration and details of their provisions are set out below.

**Crown Minerals Act 1991 (CMA)**

Section 4 of the CMA provides that all persons exercising functions and powers under the CMA shall have regard to the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

Section 14(1)(b) of the CMA requires a minerals programme to set out or describe how the Minister and the chief executive will have regard to the principles of the Treaty of Waitangi for the purposes of the minerals programme. A new Minerals Programme for Petroleum (Petroleum Programme) was issued to take effect from 24 May 2013, and consultation on consultation areas has been undertaken according to the requirements of the Petroleum Programme.

Clause 2.4 provides that MBIE must give relevant iwi and hapū notice in writing of every block offer. Iwi and hapū must be notified that they may, request that certain areas within the proposed blocks (or whole blocks) not be included in the block offer, and that they may, request that activities within certain areas within the proposed permit areas be subject to additional requirements that recognise the particular characteristics of those areas.

In determining whether a request made by an iwi should be accepted, the Minister of Energy and Resources will take into account Clause 2.7(1) of the Petroleum Programme:

(a) the matters raised by iwi and hapū

(b) the exercise of customary marine title or of protected customary rights under the Marine and Coastal (Takutai Moana) Act 2011

(c) whether the area is already adequately protected under other legislation – for example, the Resource Management Act 1991, the Conservation Act 1987 or the Historic Places Act 1993

(d) the size of the area and the value of the potential resource affected if the area is excluded

(e) the impact on the viability of undertaking work under a permit if activities within certain areas are subject to additional requirements.

Clause 2.6 of the Petroleum Programme set out the matters that should be covered in a request by iwi or hapū, which include (but are not limited to):

(a) what it is about the area that makes it important to the mana of iwi and hapū;

(b) whether the area is a known wāhi tapu site;

(c) the uniqueness of the area – for example, whether it is one of a number of mahinga (food gathering) areas or the only waka tauranga (landing place of ancestral canoes);

(d) whether the importance of the area to iwi and hapū has already been demonstrated – for example, by Treaty claims and settlements, and objections made by iwi and hapū under other legislation;
(e) any Treaty claims that may be relevant and whether granting a permit over the land would impede the prospect of redress of grievances under the Treaty;

(f) any customary rights and/or interests granted under the Marine and Coastal Area (Takutai Moana) Act 2011; and

(g) any iwi management plans in place that specifically state that the area should be excluded from certain activities.

The consideration of the value of the potential resource (in other words, the prospectivity of the area) is necessary to determine whether the extent of prospectivity is too uncertain to allow an estimate of the potential value of that area until exploration activity has occurred.

Furthermore, section 14(2)(c) of the Act provides that on the request of an iwi, a minerals programme may provide that defined areas of land of particular importance to its mana are excluded from the operation of the minerals programme or shall not be included in any permit.

The Minerals Programme for Petroleum 2013 (Petroleum Programme) describes, in accordance with 14(2)(c) of the CMA, certain areas of land that are unavailable for permitting because of importance to Māori (refer to section 3.1 of the Petroleum Programme). These consist of Mount Taranaki and the Pouakai, Pukeiti and Kaitake Ranges, and the Titī and Beneficial Islands.

Further, under Block Offer 2016, all land listed in Schedule 4 of the CMA will be excluded from petroleum exploration permits. Schedule 4 covers areas of particular natural significance and includes national parks and nature reserves.

The CMA also requires Tier 1 permit holders\(^1\) to attend an annual review meeting with the Chief Executive of the Ministry (though this will likely be delegated to senior MBIE officials in practice) at the Chief Executive’s discretion to discuss activities on the permit and to report annually on the engagement they have undertaken with iwi and hapū affected by their permit activities.

The purpose of the report is to encourage permit holders to engage with relevant iwi and hapū in a positive and constructive manner, and to enable MBIE to monitor progress in this regard. Requiring an annual report on iwi and hapū engagement signals the government’s expectation that such engagement will take place without making such engagement mandatory.

The Petroleum Programme encourages permit holders to consult with relevant iwi and hapū before submitting their iwi engagement report and, where appropriate, to include the views of consulted iwi and hapū.

It is worth noting that the annual report on engagement with relevant iwi and hapū will be one of the agenda items on the annual work programme review meetings between permit holders and MBIE. MBIE will take into account any comments received from iwi and hapū on a permit holder’s engagement with relevant iwi and hapū.

MBIE may, as appropriate, discuss the outcome of the review of the permit holder’s iwi engagement report as part of MBIE’s on-going discussions and liaison with iwi and hapū.

\(^1\) Tier 1 includes all petroleum permits.
For any activity to occur, under the CMA a permit holder requires a land access arrangement with the relevant land owner or occupier. In such cases, the land owner/occupier may negotiate terms and conditions they consider necessary to protect particular areas. If an access arrangement cannot be agreed upon generally the permit holder has the right, following a notification process, to have the terms and conditions of access determined by an arbitrator and on reasonable conditions.

However, under section 55(2) of the CMA, some categories of land cannot be subject to arbitration (however, land within the common marine and coastal area is deemed not to fall within any of those categories). These include:

- any land held under the Conservation Act 1987 or any other Act specified in Schedule 1 of the Conservation Act 1987;
- land subject to an open space covenant in terms of the Queen Elizabeth the Second National Trust Act 1977;
- land subject to a covenant in terms of the Conservation Act 1987 or the Reserves Act 1977;
- land for the time being under crop;
- land used as, or situated within, 30 metres of a yard, stockyard, garden, orchard, vineyard, plant nursery, farm plantation, shelterbelt, airstrip, or indigenous forest;
- land which is the site of, or situated within, 30 metres of any building, cemetery, burial ground, waterworks, race, or dam;
- land having an area of 4.05 hectares or less

Resource Management Act 1991 (RMA)

The RMA is administered by local authorities, many of whom made submissions on Block Offer 2016. Resource consents will be required for most petroleum exploration and mining related activities in addition to permits under the CMA. The RMA provides the appropriate framework for affected communities to identify areas that may need to be protected, usually because of an area’s special significance. Attempting to manage local effects of activities in detail through the CMA is unlikely to provide the best outcome as it is focused on permit allocation and management.

The RMA requires all decision-makers to recognise and provide for a number of matters of national importance through regional and district plans and in consent decisions. Matters of national importance include the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development and the relationship of Māori to their ancestral lands and wāhi tapu. The RMA also requires all decision-makers to take into account the principles of the Treaty of Waitangi and to have particular regard to kaitiakitanga. Regional and district plans can also protect taonga and wāhi tapu sites by listing them and applying requirements on activities undertaken on them.

The rules contained in a plan set the framework for a council to follow in respect of applications for resource consent. Where an application is publicly notified, parties will have the opportunity to lodge submissions.

Heritage New Zealand Pouhere Taonga Act 2014 (HNZPTA)

Wāhi tapu sites and other sites of historical importance, such as pa sites, receive protection under the Heritage New Zealand Pouhere Taonga Act 2014 (HNZPTA). There are different forms of protection under this Act.

Archaeological sites must not be damaged, modified or destroyed without authority from Heritage New Zealand Pouhere Taonga (section 48 of the HNZPTA). Archaeological sites
include places associated with human activity before 1900 or that may provide evidence relating to the history of New Zealand following archaeological investigation. This includes urupā sites pre-1900. Officials are advised that authority is not normally given to damage or modify such sites.

Sites can also be listed on the New Zealand Heritage List/Rārangi Kōrero. Once they are registered they will generally be listed in district plans. The list contains a number of parts, including parts relating to wāhi tapu and wāhi tapu areas. Wāhi tapu areas may be proposed to the Māori Heritage Council. Once an area has been listed Heritage New Zealand Pouhere Taonga may make recommendations to the consent authorities, which must then have regard to its recommendations.

**Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (EEZ Act)**

The EEZ Act establishes an environmental effects management regime beyond the 12 nautical mile limit, outside the jurisdiction of the RMA.

Under this legislation, the EPA is responsible for managing marine consents which are required before certain kinds of exploration activity, including exploration drilling, can be undertaken. The EPA has the ability to assess the potential adverse environmental impacts of an activity and apply additional measures they see fit.

The EEZ Act provides that the EPA’s existing Māori Advisory Committee will advise the EPA so that decisions made under the Act may be informed by a Māori perspective. The EPA’s Māori Advisory Committee will be able to provide advice and assistance on matters relating to policy, process, and decisions under the EEZ legislation.

The EEZ Act also requires:

- the Minister for the Environment to establish and use a process that gives iwi adequate time and opportunity to comment on the subject matter of proposed regulations;
- all persons performing functions and duties or exercising powers under the EEZ Act to have regard to existing interests to the extent that they are relevant. Existing interests include Treaty settlements and customary marine title and protected customary rights granted under the Marine and Coastal Area (Takutai Moana) Act 2011; and
- the EPA to notify iwi authorities, customary marine title groups, and protected customary rights groups directly, of consent applications that may affect them. In this way consultation, including with iwi, will be a feature of the consent decision-making processes.

The Environmental Protection Authority Act 2011 also provides the following opportunities for Māori involvement in the EPA:

- A dedicated position/s on the board to ensure at least one member has knowledge and experience relating to the Treaty and tikanga Māori (with the potential for the Minister for the Environment to appoint more than one member with these qualifications)
- A requirement for the board to collectively have knowledge of and experience related to the Treaty and tikanga Māori.
Discharge Management Plan (DMP)

Operators are required to plan what they would do if an oil spill occurs before they are able to commence drilling. MNZ places requirements on operators of offshore installations under Marine Protection Rules Part 200: Offshore Installations – Discharges. This includes the ability to require offshore installations to produce a Well Control Contingency Plan as part of their overall emergency response procedures for oil spills.

MNZ has also issued stricter guidelines to offshore operators on expected levels of oil spill preparedness and response capability. The new Well Control Contingency Plans, setting out how an operator would respond to a well blow-out, must be contained in their Discharge Management Plans (DMP).

Operators must receive approval from MNZ for a DMP before they can carry out any exploratory or production drilling. MNZ must be satisfied that an operator has in place the necessary measures, and have the necessary capability, to manage any event. In addition MNZ must be satisfied that a company has adequate financial resources to execute their DMP plans.

2013 DoC Code of Conduct for Minimising Acoustic Disturbance to Marine Mammals from Seismic Surveying Operations (the Code)


A full review of the seismic Code is currently taking place, led by the Department of Conservation (DoC). After the current review of the substance of the Code is completed, consideration will be given to making the Code a regulatory requirement in the territorial seas, including the Sanctuary, to ensure that seismic surveying is regulated in a consistent manner throughout New Zealand waters.

The Code is considered one of the most rigorous in the world, and requires operators to submit a Marine Mammal Impact Assessment to DoC. In the EEZ, the Code must be followed in order for seismic surveying activities to be a “permitted” activity under the EEZ Act. If an operator does not follow the Code, they will require a Marine Consent from the EPA. For this reason all operators in the EEZ do follow the Code.

Within the North Island West Coast Marine Mammal Sanctuary, the seismic code is a voluntary measure. With one exception, all operators in New Zealand have signed the Code and agreed to abide by its provisions, and it has been endorsed as industry best practice by the Petroleum Exploration and Production Association of New Zealand (PEPANZ).