NEW ZEALAND
PETROLEUM & MINERALS

Minerals Programme

(Minerals Programme for Minerals (Excluding Petroleum) 2025)

SEPTEMBER 2025

MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
HĪKINA WHAKATUTUKI

Te Kāwanatanga o Aotearoa
New Zealand Government

MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT
HĪKINA WHAKATUTUKI

Ministry of Business, Innovation and Employment (MBIE)
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1. About this Programme

1.1 Introduction

(1) This Minerals Programme for Minerals (Excluding Petroleum) 2025 (this "Programme") sets out, in relation to minerals—

(a) how the Minister[1] and the Chief Executive[2] will have regard to the principles of the Treaty of Waitangi | Te Tiriti o Waitangi (the "Treaty | te Tiriti") for the purposes of this Programme; and

(b) how the Minister and the Chief Executive will exercise specific powers and discretions conferred on them by the Crown Minerals Act 1991 (the "Act"); and

(c) how the Minister and the Chief Executive will interpret and apply specific provisions in the Act or regulations made under the Act (the "Regulations");[3] and

(d) general guidance on the Act and the Regulations.[4]

(2) The Minister and the Chief Executive must act in accordance with this Programme when performing a duty or exercising a power under the Act.[5]

(3) If the Minister issues one or more Government Policy Statements under section 12 of the Act then—

(a) any person exercising a function under the Act must have regard to the Government Policy Statement(s) in their decision-making; and

(b) any person making a decision referred to in this Programme will have regard to any relevant Government Policy Statement as may have been issued.

(4) Various sections of this Programme summarise and paraphrase relevant parts of the Act and the Regulations. For the avoidance of doubt, the wording in the Act and Regulations

[1] "Minister" means "the Minister of the Crown who, under the authority of a warrant or with the authority of the Prime Minister, is responsible for the administration of the Act."

This Programme also refers to the "appropriate Minister". Section 2A of the Act provides that appropriate Minister means, in relation to Crown land or land in the common marine and coastal area—

(a) the Minister charged with the administration of the land; or

(b) if the land is part of the common marine and coastal area, the Minister described in paragraph (a) and the Minister of Conservation (if they are not the Minister described in that paragraph); or

(c) if neither of paragraphs (a) and (b) apply, the Minister of Lands.

If, after paragraphs (a) – (c) have been applied and there is uncertainty about who the appropriate Minister is, the Governor-General may designate the appropriate Minister.

[2] "Chief Executive" means "the chief executive of the department that, with the authority of the Prime Minister, is responsible for the administration of the Act."

[3] "Regulations" refers to: the Crown Minerals (Minerals Fees) Regulations 2016, the Crown Minerals (Minerals Other than Petroleum) Regulations 2007 and the Crown Minerals (Royalties for Minerals Other than Petroleum) Regulations 2013 (see clause 4.14).

This non-exhaustive list of regulations made under the Act is a list of regulations in force as at the date this Programme is issued. Regulations which are relevant to prospecting, exploring, and mining for minerals may change after this Programme is issued. The Minister and Chief Executive will act in accordance with the regulations in force as at the time of their decision-making.

[4] Section 14 of the Act.

[5] Section 22 of the Act.

prevails in all circumstances,[6] and any summary or paraphrase of the Act or Regulations (or any other reference to them) in this Programme is a guide only. Any term or expression that is defined in the Act or the Regulations and that is used, but not defined, in this Programme, has the same meaning as in the Act or the Regulations, as the case may require. Generally, definitions for this Programme are set out in Schedule 1. There may be additional guidance published from time to time on the NZP&M website relating to matters contained in the Act, the Regulations or this Programme.

(5) This Programme refers variously to the Crown, the Minister, the Chief Executive and NZP&M, depending on the particular decision or process being discussed. "NZP&M" refers to New Zealand Petroleum & Minerals, a brand name used by the Resource Markets branch of the Ministry of Business, Innovation and Employment ("MBIE") (or any successor government organisation that is responsible for administering the Crown Minerals Act 1991). Decisions that are the responsibility of the Minister or the Chief Executive under the Act may be made by NZP&M officials under delegation from the Minister and/or the Chief Executive.

1.2 Purpose statement in the Crown Minerals Act 1991

(1) Section 1A of the Act provides:

"(1) The purpose of this Act is to promote prospecting for, exploration for, and mining of Crown owned minerals for the benefit of New Zealand.

(2) To this end, the Act provides for:

(a) the efficient allocation of rights to prospect for, explore for, and mine Crown owned minerals; and

(b) the effective management and regulation of the exercise of those rights; and

(c) the carrying out, in accordance with good industry practice, of activities in respect of those rights; and

(d) a fair financial return to the Crown for its minerals."

1.3 Interpretation of the purpose statement in relation to Crown owned minerals (excluding petroleum)

(1) This clause provides the Minister's interpretation of the Act's purpose statement as it applies to Crown owned minerals (excluding petroleum).

(2) "Prospecting", "exploration" and "mining" are defined terms in the Act.[7]

(3) An underlying premise of the Act is that the government wants other parties, such as public and private corporations, to undertake prospecting for, exploring for, and mining of Crown owned minerals. The government does not wish to undertake these activities itself, although it may from time to time undertake prospecting activities for the purpose of providing information to promote interest in New Zealand's mineral estate.

[6] Sections 14(5) and 22(2) of the Act.

[7] Section 2(1) of the Act.

Interpretation of "promote prospecting for, exploration for, and mining" of Crown owned minerals

(4) The Minister interprets the words "promote prospecting for, exploration for, and mining of Crown owned minerals" as requiring the Minister and the Chief Executive to—

(a) ensure that parties interested in prospecting for, exploring for, and mining of Crown owned minerals are able to do so as readily as possible within the mandate and provisions of the Act; and

(b) publicise and encourage interest and investment in prospecting for, exploring for, and mining New Zealand's Crown owned minerals.

(5) An important component of promoting prospecting, exploration and mining is minimising sovereign risk[8] for investors by providing for a stable and coherent regulatory regime for Crown owned minerals.

Interpretation of "for the benefit of New Zealand"

(6) The Minister sees "for the benefit of New Zealand" as the overarching objective of the purpose statement and as the touchstone for interpreting the rest of the purpose statement and the provisions of the Act governing various activities and processes. The Minister considers that, within the context and mandate of the Act as it relates to minerals (excluding petroleum), "the benefit of New Zealand" is best achieved by increasing New Zealand's economic wealth through maximising the economic recovery of New Zealand's Crown owned mineral resources.

(7) Other important components of "the benefit of New Zealand", including environmental considerations, are covered in other legislation, as noted in clause 1.4.

Interpretation of "efficient allocation of rights" to prospect, explore and mine

(8) The words "the efficient allocation of rights to prospect for, explore for, and mine Crown owned minerals" are interpreted by the Minister to refer to the process of efficiently allocating rights to permit holders. To give effect to the purpose statement, the Minister interprets "efficient" allocation to mean allocation that—

(a) ensures that permits to prospect for, explore for, and mine New Zealand's Crown owned minerals are obtained by the persons most likely to do this effectively and in a timely manner; and

(b) minimises transaction costs to the extent consistent with the requirements of the Act, and makes it simpler to do business with the government; and

(c) ensures that applications for permits (including changes to permits) are processed in a timely manner (and that applicants are kept well-informed about the processes used); and

(d) ensures that the Minister is satisfied that the applicant for a permit is highly likely to comply with the conditions of any permit granted and give proper effect to it.

[8] "Sovereign risk" is the risk that the government may unexpectedly change significant aspects of its policy and investment regime and the legal rights applying to investors to the detriment of investors.

Interpretation of "the effective management and regulation" of rights to prospect, explore and mine

(9) The words "the effective management and regulation of the exercise of … rights [to prospect for, explore for, and mine Crown owned minerals]" are interpreted as requiring the Minister to ensure—

(a) that permit holders comply with the Act, the Regulations, this Programme, and the conditions of their permits; and

(b) that rights to prospect, explore and mine are exercised proactively and efficiently in order that "benefit to New Zealand" is achieved.

Interpretation of "the carrying out, in accordance with good industry practice, of activities in respect of those rights"

(10) Section 2(1) of the Act defines "good industry practice" as "acting in a manner that is technically competent and at a level of diligence and prudence reasonably and ordinarily exercised by experienced operators engaged in a similar activity and under similar circumstances, but (for the purposes of this Act) does not include any aspect of the activity regulated under environmental legislation."

(11) The Minister interprets "good industry practice" for minerals (excluding petroleum) to include the following (without limitation):

Personnel and procedures

(a) At all times the permit operator ("Operator"), contractors and their staff have the skills, training and experience required to carry out all prospecting, exploration and mining operations in a skilful, safe and effective manner.

Operational

(b) Exploration and appraisal activities, mine development and mining operations are designed and conducted to maximise economic recovery and minimise sterilisation and waste, within reasonable technical and economic constraints.

(c) Methods of prospecting, exploration or mining are suitable and will be technically effective and meaningful, given the objectives of the work programme, the geology of the area, and the results of previous prospecting, exploration or mining.

(d) In the case of mining, any ongoing appraisal and definition of the geology and structure of the mineral deposit will be in sufficient detail to facilitate the most suitable mine development and mining operations.

Risk management

(e) The Operator has systems and processes in place to avoid, mitigate and manage operational risks, including health and safety risks. The health and safety obligations of Operators are governed by the Health and Safety at Work Act 2015 (and associated regulations).

Acquisition of data

(f) Prospecting and exploration/appraisal and mining operations are conducted so as to ensure that good-quality, objective data is acquired, within reasonable technical and

economic constraints. Sufficient data needs to be acquired to test the understanding of a mineral prospect or mineral exploration target in an exploration permit. In appraisal and development, sufficient data needs to be acquired to understand mineral development and resolve uncertainties that affect the success of mineral recovery.

Interpretation of "a fair financial return"

(12) The words "providing for … a fair financial return to the Crown for its minerals" are interpreted as referring to royalty payments for any minerals obtained under a permit.

(13) The term "fair" is interpreted by the Minister as referring to the need to balance the interests of the Crown (as the owner of the mineral for the benefit of New Zealand) and those of prospectors, explorers and miners, taking into account—

(a) that minerals are a non-renewable resource; and

(b) the need to attract ongoing investment in minerals prospecting, exploration and mining in a competitive international environment; and

(c) the need to provide certainty and security for investors by not changing royalty rates during the life of a permit or subsequent permit.

(14) A further component of "fair" in the Minister's interpretation is that the Crown (for the benefit of New Zealand) should always receive a return on the mining of Crown owned minerals, subject to—

(a) the permitting requirements under section 8 of the Act; and

(b) the requirements of the Crown Minerals (Royalties for Minerals Other than Petroleum) Regulations 2013 or other royalty provisions applicable to the permit or privilege.

(15) Overall, these considerations lead to a royalty regime for Tier 1 minerals that—

(a) provides for an immediate but low ad valorem royalty that ensures that the Crown always receives some return for the mining of minerals; and

(b) provides for an accounting profits royalty so that the Crown shares in the benefits if a mineral resource proves to be particularly profitable.

1.4 Other relevant legislation

(1) The Act is about the development of the Crown's mineral estate, and this Programme relates to the development of New Zealand's Crown owned minerals other than petroleum. There is a wide range of other legislation that affects or relates to prospecting for, exploring for, and mining minerals.

(2) The following is a non-exhaustive list of other legislation that is relevant to prospecting for, exploring for, and mining minerals:[9]

[9] The non-exhaustive list of legislation is a list of legislation in force as at the date this Programme is issued. Legislation which is relevant to prospecting for, exploring for and mining minerals may change after this Programme is issued.

(a) the Resource Management Act 1991, which sets out how the environment is to be managed onshore and up to 12 nautical miles offshore:

(b) the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012, which sets out how the environment in New Zealand's exclusive economic zone and continental shelf is to be managed:

(c) the Climate Change Response Act 2002, which sets out how New Zealand's greenhouse gas emissions are to be managed:

(d) the Health and Safety at Work Act 2015, which sets out how health and safety in the workplace, including mines, is to be managed:

(e) the Maritime Transport Act 1994 and the Marine Protection Rules, which set out how the marine transport environment is to be managed:

(f) the Marine Mammals Protection Act 1978, which provides for the protection, conservation and management of marine mammals:

(g) the Marine and Coastal Area (Takutai Moana) Act 2011, which provides for the recognition of customary marine title and protected customary rights in the common marine and coastal area,[10] and which requires certain mineral permit applications to be notified to customary marine title applicant groups:

(h) the Biosecurity Act 1993, which provides for excluding, eradicating and managing unwanted organisms and pests:

(i) the Hazardous Substances and New Organisms Act 1996, which manages and regulates the use of hazardous substances:

(j) the Conservation Act 1987, which provides for the protection and management of indigenous biodiversity and the conservation estate:

(k) the Heritage New Zealand Pouhere Taonga Act 2014, which protects certain sites of cultural and historical significance in New Zealand:

(l) Treaty | te Tiriti settlement legislation, which (among other things) sets out the Crown's commitments to iwi and hapū[11] in relation to Crown minerals. Further detail about the Crown's commitments to Māori and the way in which persons exercising functions and powers under the Act will have regard to the principles of the Treaty | te Tiriti, is set out in Chapter 2 of this Programme.

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[10] "Common marine and coastal area" is defined in the Marine and Coastal Area (Takutai Moana) Act 2011, section 9(1) as:

"the marine and coastal area other than:

(a) specified freehold land located in that area; and

(b) any area that is owned by the Crown and has the status of any of the following kinds:

(i) a conservation area within the meaning of section 2(1) of the Conservation Act 1987:

(ii) a national park within the meaning of section 2 of the National Parks Act 1980:

(iii) a reserve within the meaning of section 2(1) of the Reserves Act 1977; and

(c) the bed of Te Whaanga Lagoon in the Chatham Islands".

[11] In this Programme, "iwi or hapū" or "iwi and hapū" includes, as the context requires, iwi, hapū, hapū clusters, and Post Settlement Governance Entities (including Post Settlement Governance Entities established to represent legal entities such as Taranaki Maunga and Te Awa Tupua) (refer to definitions in Schedule 1).

(3) The Minister and the Chief Executive, in administering the Act, do not have powers and functions (except where and to the extent specifically provided for in the Act) relating to matters covered by other legislation. In particular, the Minister and the Chief Executive are not required (except where and to the extent specifically provided for in the Act) to duplicate the activities and requirements of Ministers and departments responsible for administering other legislation.

(4) Applicants for permits to prospect for, explore for, and mine Crown owned minerals, and holders of permits, must meet the requirements of other legislation as applicable. The granting of a permit under the Act does not provide or imply any rights (or obligations) with respect to other legislation. Compliance with the Act, the Regulations or this Programme does not relieve any person from any obligation under other legislation.

(5) The clear separation in the legislation between powers and functions (and rights and obligations) under the Act on the one hand and under other legislation on the other is designed to ensure clear accountability and avoid conflicting interests and objectives on the part of Ministers and departments responsible for administering relevant legislation.

1.5 Application of this Programme

(1) This Programme takes effect from 25 September 2025. It applies to all existing permits (except as expressly provided for in the Act) and existing privileges for minerals (excluding petroleum) (where the Act and/or the Regulations apply to the existing privilege) and to all applications for permits for minerals (excluding petroleum) received on and after this date.[12]

1.6 Minerals covered by this Programme

(1) Except as otherwise expressly provided in this Programme, this Programme applies to prospecting for, exploring for, and mining Crown owned minerals (excluding petroleum). Section 2(1) of the Act defines the terms “mineral” and “petroleum”.[13]

(2) As provided in section 10 of the Act, all gold, silver and uranium existing in its natural condition in land is the property of the Crown. Further, section 11 of the Act provides that certain minerals that have been reserved in favour of the Crown on land that has since been sold are the property of the Crown.[14]

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[12] Section 22(2) of the Act makes it clear, however, that the provisions of the Act and any Regulations apply, to the extent there is any inconsistency between the Act and the Regulations and the provisions of any minerals programme.

[13] “mineral means a naturally occurring inorganic substance beneath or at the surface of the earth, whether or not under water; and includes all metallic minerals, non-metallic minerals, fuel minerals, precious stones, industrial rocks and building stones, and a prescribed substance within the meaning of the Atomic Energy Act 1945”.

“petroleum means—

(a) any naturally occurring hydrocarbon (other than coal) whether in a gaseous, liquid, or solid state; or

(b) any naturally occurring mixture of hydrocarbons (other than coal) whether in a gaseous, liquid, or solid state; or

(c) any naturally occurring mixture of 1 or more hydrocarbons (other than coal) whether in a gaseous, liquid, or solid state, and 1 or more of the following, namely hydrogen sulphide, nitrogen, helium, or carbon dioxide—

and, except in sections 10 and 11, includes any petroleum as so defined which has been mined or otherwise recovered from its natural condition, or which has been so mined or otherwise recovered but which has been returned to a natural reservoir for storage purposes”.

[14] An exception applies to pounamu to which section 3 of the Ngai Tahu (Pounamu Vesting) Act 1997 applies.

Uranium and thorium minerals

(3) Applications for permits for prospecting for, exploring for, and mining uranium and thorium minerals will ordinarily be declined. Those minerals include (without limitation) uraninite, torbenite, autinite, coffinite, uranophane, rutherfordite, tyuyamunite, thorite, thorianite and uranothorite.

Use of minerals by owners or occupiers of land

(4) Section 8 of the Act provides that a permit is not required for the taking of a Crown owned mineral for any reasonable agricultural, pastoral, domestic, roadmaking or building purpose by a person from land that that person owns or occupies, if that land is not subject to a permit for the mineral.

Sand, shingle or other natural material in the bed of a river or lake or in the coastal marine area

(5) Section 8(2) of the Act states that, unless otherwise specified in a minerals programme, a permit is not needed for prospecting for, exploring for, or mining any Crown owned sand, shingle, or other natural material in the bed of a river or lake or in the coastal marine area. Accordingly, this Programme specifies, a permit is required for a metallic or non-metallic mineral that is a component of sand, shingle, or other natural material in the bed of a river or lake or in the coastal marine area.

Stopped legal roads

(6) Section 8(2A) of the Act also provides that a permit is not required for the taking of Crown owned minerals in a legal road, whether formed, unformed, or stopped, if—

(a) the mineral is—

(i) coal; or

(ii) a mineral (other than coal) for which a Tier 2 permit would, but for this provision, be required; and

(b) the road is within an area of land that otherwise contains privately owned minerals.

Underground coal gasification

(7) For the avoidance of doubt, underground coal gasification, which involves the combustion of an underground coal seam to produce gaseous product from coal resources, falls within the definition of “mining” under the Act, and is therefore covered by this Programme.

Coal seam gas

(8) Coal seam gas falls within the definition of petroleum in the Act, and therefore is not covered by this Programme. Clause 11.2 sets out practices and procedures relating to the incidental rights of holders of coal mining permits and existing privileges to extract, collect and release coal seam gas, where it is necessary and reasonable to do so.

1.7 Tier 1, Tier 2, and Tier 3 permits

(1) Section 2B of the Act defines “Tier 1” and “Tier 2” permits. The purpose of the distinction is to allow different practices and procedures to apply to different minerals and/or permits so

that regulatory efforts focus on operations that have the highest technical and geological complexity. There is a further category of permits which relate to the mining of gold in certain circumstances and which are described as “Tier 3 permits” (see subclause (6) and chapter 13).

(2) Section 2B(1) of the Act provides that the following permits are Tier 1 permits:

(a) a permit that (irrespective of the type of mineral to which the permit relates, the year of the permit’s life, or any threshold amounts specified for the mineral to which the permit relates in Schedule 5 of the Act)—

(i) relates to an underground operation or an operation that is (whether wholly or partially) 50 metres or more beyond the seaward side of the mean high-water mark; and

(ii) is not for a special purpose mining activity:

(b) an exploration permit for gold, silver, platinum group metals, coal, ironsand, or another metallic mineral unless the total work programme expenditure for the final five years of the life of the permit, or for the entire duration of the permit if the permit is for less than five years, is, in the Minister’s estimation, less than the amount listed in the second column of Schedule 5 of the Act (which, at the time this Programme commenced, was $1,250,000):

(c) a mining permit for gold, silver, or platinum group metals if, in any one year in the next five years of the life of the permit, the annual royalty in relation to the permit will be, in the Minister’s estimation, equal to or more than the amount listed in the third column in Schedule 5 of the Act (which, at the time this Programme commenced, was $50,000):

(d) a mining permit for coal if, in any one year in the next five years of the life of the permit, the annual production in relation to the permit will be, in the Minister’s estimation, equal to or more than the amount listed in the fourth column in Schedule 5 of the Act (which, at the time this Programme commenced, was 200,000 tonnes):

(e) a mining permit for ironsand if, in any one year in the next five years of the life of the permit, the annual production in relation to the permit will be, in the Minister’s estimation, equal to or more than the amount listed in the fourth column in Schedule 5 of the Act (which, at the time this Programme commenced, was 500,000 tonnes):

(f) a mining permit for any other metallic mineral if, in any one year in the next five years of the life of the permit, the annual production in relation to the permit will be, in the Minister’s estimation, equal to or more than the amount listed in the fourth column in Schedule 5 of the Act (which, at the time this Programme commenced, was 500,000 tonnes of ore).

(3) Section 2B(2) of the Act provides that a Tier 2 permit is any permit that is not a Tier 1 permit or a Tier 3 permit.

(4) Section 2C of the Act provides that the Minister must determine the tier status of a permit—

(a) on first granting the permit; and

(b) at any time that the permit is changed (pursuant to section 36(1) of the Act).

(5) Except as otherwise expressly provided in this Programme, all clauses in this Programme apply to both Tier 1 and Tier 2 permits for minerals covered by this Programme. For the avoidance of doubt, references in this Programme to Tier 1 permits do not apply to petroleum permits.

(6) The Act includes a separate category of "Tier 3 permits" for certain small-scale gold mining activities. Tier 3 permits are addressed in a specific chapter of this Programme (chapter 13). Chapters 1 to 3 of this Programme apply to Tier 3 permits. Chapters 4 –12 of this Programme do not apply to Tier 3 permits, except as expressly provided for in this Programme.

(7) The Minister may also determine the tier status of a permit at any other time they think fit.

(8) When making a decision under subclauses (4) or (7), the Minister may not make a determination that results in a Tier 3 permit becoming a Tier 2 permit.

(9) Section 2D(2) of the Act provides that the Chief Executive will notify the permit holder of a change in tier. Where this occurs, the new tier status and all provisions that apply to it (including those in the Act, this Programme, or the Regulations) will apply as follows:

(a) where a Tier 2 permit is being changed to a Tier 3 permit, from the date on which the Chief Executive notifies the permit holder of a change in the tier status of the permit:

(b) for any other permit tier status change (other than a change of the type referred to in subclause (9)(a)), from the start of the next permit year after the Chief Executive notifies the permit holder of a change in the tier status of a permit.[15]

1.8 Gold fossicking areas

(1) Sections 98 and 98A of the Act provide that the Minister (jointly with the appropriate Minister in the case of Crown land) may, by notice in the Gazette, designate an area of land as a gold fossicking area, which will then be open for public fossicking for gold. A gold fossicking area is an area in which the public has the right to mine for gold by means only of non-motorised hand held tools.

(2) All Crown land will ordinarily be considered for designation as a gold fossicking area, except land that the Minister (after consulting with iwi and hapū) recommends to be explicitly unavailable as a gold fossicking area because of its particular importance to iwi or hapū.

(3) The Minister may designate council land as a gold fossicking area at the request of the landowner, subject to subclauses (4) and (5) below.

(4) Land where exploration or mining permits or existing privileges exist will not generally be considered as gold fossicking areas unless the holder of the permit or existing privilege, as the case may be, consents to the designation.

(5) In determining whether or not to support a request for land to be designated a gold fossicking area, the Minister will ordinarily consider the following matters (without limitation):

(a) the level of interest in recreational gold fossicking in respect of the land being considered as a gold fossicking area:

[15] "Permit year" is defined in section 2(1) of the Act to mean— "the period of 12 months from the commencement of a permit, or any successive period of 12 months from an anniversary of the commencement of a permit".

(b) whether there are other gold fossicking areas in the general vicinity of the land:

(c) the level of commercial interest in prospecting for, exploring for, or mining minerals (other than petroleum) and whether designating a gold fossicking area would be in conflict with or could negatively affect that interest:

(d) the geology of the area and whether the land has prospecting, exploration and mining potential:

(e) whether the land is unavailable for permitting:

(f) if the land is unavailable for permitting, whether designating a gold fossicking area would be in conflict with the reason for the land being unavailable for permitting:

(g) any request or comment from iwi and hapū arising from consultation.

2. Regard to the principles of the Treaty of Waitangi | Te Tiriti o Waitangi (Treaty | te Tiriti)

2.1 The Treaty | te Tiriti

(1) Section 4 of the Act requires all persons exercising functions and powers under the Act to have regard to the principles of the Treaty | te Tiriti.

(2) In order to meet the Crown's responsibility to have regard to the principles of the Treaty | te Tiriti, this Programme does the following things:

(a) it provides that certain land that has been identified as being of particular importance to the mana of iwi or hapū must not be included in a permit (see clause 3.1);[16] and

(b) it specifies the matters on which iwi and hapū must be consulted (see clauses 2.3 and 2.5 – 2.7); and

(c) it sets out the principles and procedures for consulting with iwi and hapū (see clauses 2.4 – 2.8, 2.12 and 2.13); and

(d) it specifies the matters of which iwi and hapū must be notified (see clauses 2.5(2), 2.6(1), 2.6(4), 2.6(5), 2.7(1), 2.7(3), 2.7(4) and 2.10); and

(e) it sets out the circumstances in which the Minister must/may have regard to feedback provided by iwi and hapū (see clause 5.6).

(3) The Crown has entered into a number of different types of Crown Minerals Treaty | te Tiriti Redress Commitments with iwi and hapū in relation to Crown minerals which form part of the redress provided by the Crown under Treaty | te Tiriti settlements. These commitments include (together, described in this Programme as "Crown Minerals Treaty | te Tiriti Redress Commitments") —

(a) **Crown Minerals Protocols and Minerals Relationship Instruments**: these arrangements are entered between the Minister and iwi or hapū and set out how the Crown will consult and engage with particular iwi or hapū over matters relating to the management of Crown owned minerals in their rohe (including, for example, in relation to decisions regarding permit applications):[17]

(b) **Relationship Agreements**: these arrangements are intended to provide a framework for particular iwi or hapū and the Crown to work with one another in relation to a range of matters, including Crown minerals:

(c) **Energy and Resources Accords**: these are a form of arrangement entered between iwi or hapū and the Crown and relate to the way in which particular resources or places are managed between the Crown and iwi and hapū (for example, Energy and

[16] In this Programme, "iwi or hapū" or "iwi and hapū" includes, as the context requires, iwi, hapū, hapū clusters, and Post Settlement Governance Entities (including Post Settlement Governance Entities established to represent legal entities such as Taranaki Maunga and Te Awa Tupua). (refer to definitions in Schedule 1).

[17] The Crown has entered a number of Crown Minerals Protocols with iwi and hapū (further detail is provided about these Protocols in clause 2.12). As at the date of this Programme, the Crown has entered into one Minerals Relationship Instrument; the Minerals Relationship Instrument entered between Ngā Hapū o Ngāti Porou and MBIE.

Resources Accords have been entered regarding the management of the Waikato River).

(4) In addition to the Crown Minerals Treaty | te Tiriti Redress Commitments described in subclause (3), some legislation provides a framework under which the rights and interests of iwi and hapū to certain minerals can be recognised. For example, under the Marine and Coastal Area (Takutai Moana) Act 2011 an applicant group may seek an order that they have a "customary marine title" which has consequences for the ownership of certain minerals in the area that is the subject of that title. Other legislation, particularly Treaty | te Tiriti settlement legislation, also has consequences for the relationship between the Crown and iwi and hapū. In this Programme, the types of legislation referred to in this clause are together described as "Statutory Frameworks".

(5) To the extent there is any inconsistency between the text of this Programme and a Crown Minerals Treaty | te Tiriti Redress Commitment or Statutory Framework, the Crown Minerals Treaty | te Tiriti Redress Commitment or Statutory Framework prevails.

2.2 Relationship between permit holders and iwi and hapū

(1) An underlying premise of the Act is that the Crown wants other parties (for example, permit holders) to undertake activities in relation to Crown owned minerals (see clause 1.3(3)). Given this, the Crown has set expectations for some permit holders to report on their engagement with iwi and hapū.

(2) To give effect to these expectations, this Programme does the following things:

(a) it provides information about how Tier 1 permit holders (and Tier 2 permit holders of a class or kind specified in the Regulations) should comply with the requirements in the Act to provide an annual report to the Minister on the permit holder's engagement with iwi and hapū whose rohe (area) includes some or all of the permit area or who otherwise may be directly affected by the permit (see clause 11.9); and

(b) it provides that Tier 1 permit holders (and Tier 2 permit holders of a class or kind specified in the Regulations) may be required to attend an annual review meeting regarding their engagement with iwi or hapū (see clause 11.9).

(3) Best practice guidelines for engagement with iwi or hapū, if developed by the Chief Executive, will be published on the NZP&M website.

(4) Where a permit holder is planning engagement with iwi or hapū (see clause 11.9), the rohe (area) maps discussed in clause 2.3(2) may inform which iwi or hapū to engage with. Permit holders can also seek information from NZP&M about engaging with iwi or hapū as well as regarding the rohe (area) of iwi or hapū. NZP&M will only provide publicly available information regarding the rohe (area) of iwi or hapū.

2.3 Consultation with iwi and hapū

(1) Iwi and hapū whose rohe (area) includes some or all of the permit area or who may be directly affected by a permit[18] will be consulted by the Minister or NZP&M on the following matters:

(a) an application for a permit (except an application for a permit for alluvial gold in an area that has been subject to the consultation with iwi and hapū as set out in clause 2.5):

(b) areas that may be permitted for alluvial gold (as set out in clause 2.5):

(c) an application to extend the minerals or land to which a permit relates:

(d) an application in respect of newly available acreage ("NAA") that the Minister is considering granting:

(e) a proposal to hold a competitive tender to allocate permits:

(f) a proposal to designate gold fossicking areas.

(2) For the purposes of carrying out consultation, the rohe (area) of iwi and hapū will ordinarily be determined by reference to a Protocol area map (or similar) contained in a Crown Minerals Protocol or Relationship Instrument or, where no Crown Minerals Protocol or Relationship Instrument has been agreed, by reference to the description of the area of interest of the iwi or hapū described in their settlement legislation or by reference to maps maintained by, or on advice from, Te Tari Whakatau or Te Puni Kōkiri.

(3) Where consultation with iwi and hapū is required by this Programme, it must be carried out in accordance with the consultation principles and procedures stated in this Programme, or if different principles and procedures are set out in a Crown Minerals Treaty | te Tiriti Redress Commitment or Statutory Framework, with the principles and procedures set out in that Crown Minerals Treaty | te Tiriti Redress Commitment or Statutory Framework (see clauses 2.1 and 2.12).

2.4 Consultation principles

(1) Consultation with iwi and hapū under this Programme must be carried out in accordance with the following principles:

(a) the Crown will act reasonably and in utmost good faith towards its Treaty | te Tiriti partner; and

(b) the Crown will make informed decisions. To this end, the Minister and NZP&M will take active steps to be informed of Māori perspectives, including tikanga Māori, and will have regard to the principles of the Treaty | te Tiriti; and

(c) the Crown will consider whether a decision will impede the prospect of redress of any Treaty | te Tiriti claims; and

[18] In this Programme iwi and hapū whose rohe (area) includes some or all of the permit area or who may be directly affected by a permit are referred to as "relevant iwi and hapū".

(d) the Minister and NZP&M are committed to a process of meaningful consultation with iwi and hapū, which involves—

(i) early consultation with iwi and hapū during the decision-making process, aimed at informing the Minister and NZP&M of any Treaty | te Tiriti implications or any other matters about which iwi and hapū may wish to express their views; and

(ii) ensuring that iwi and hapū who are consulted are given enough information to make informed decisions and to present their views; and

(iii) ensuring that iwi and hapū who are consulted are given enough time to consider the information provided by the Minister and NZP&M and to present their views; and

(iv) the Minister and NZP&M having an open mind on the views received from those iwi and hapū who are consulted; and

(v) the Minister and NZP&M giving those views full and genuine consideration.

2.5 Consultation with iwi and hapū on areas available for permitting for alluvial gold

(1) The Minister may propose, for the granting of permits, areas that demonstrate alluvial gold prospectivity, and must consult with relevant iwi and hapū on the suitability of including these areas in new permits.

(2) Relevant iwi and hapū will be notified in writing and provided with the following information:

(a) details of the area being considered, including a map of the area that enables the location to be readily identified; and

(b) the types of activities that may take place should a permit be granted; and

(c) likely conditions that a permit may be subject to.

(3) Relevant iwi and hapū will have 40 working days to comment on any aspect of the proposal.

(4) Following consultation, NZP&M will make a decision on the suitability of including the areas consulted on in alluvial gold permits.

(5) An application for a permit for alluvial gold in an area NZP&M has decided is suitable for such permits will not be subject to further consultation with relevant iwi and hapū.

(6) An application for a permit for alluvial gold can also be made in relation to an area outside of the areas NZP&M has decided are suitable for alluvial gold permits. Such applications will be subject to the consultation process set out in clause 2.3.

2.6 Consultation on permit applications

(1) When NZP&M has received an acceptable work programme offer (“AWPO”) application for a permit or an AWPO application to extend the land or minerals to which a permit relates, or if the Minister is considering granting an application in respect of NAA, NZP&M must notify relevant iwi and hapū in writing and provide any or all of the following information (as applicable):

(a) the details of the application, including a map of the application area that enables the location to be readily identified:

(b) an outline of the proposed work programme:

(c) the proposed new mineral.

(2) Relevant iwi and hapū will be asked to inform NZP&M of any issues or questions they may have in relation to the application (described in subclause (1)), and will be given 20 working days to comment on any aspect of the proposal.

(3) Relevant iwi and hapū may request in writing up to an additional 20 working days for making comments. The Minister will ordinarily grant a request for additional time made under this subclause.

(4) Relevant iwi and hapū must be notified that they may request that certain areas within the proposed permit area (or whole permit area) not be included in the permit.

(5) Relevant iwi and hapū must be notified that they may request that activities within certain areas within the proposed permit area be subject to additional requirements to recognise the particular characteristics of those areas.

(6) Crown Minerals Treaty | te Tiriti Redress Commitments and Statutory Frameworks may impose consultation requirements on the Minister when they are considering a permit application. The Minister will comply with any relevant consultation requirements that arise from Crown Minerals Treaty | te Tiriti Redress Commitments and Statutory Frameworks (see clause 2.12).

2.7 Consultation on proposals to hold competitive tender allocation

(1) NZP&M must give relevant iwi and hapū notice in writing of every proposal to hold a competitive tender and must provide the following information:

(a) the details of the proposal, including a map of the area under consideration that enables the location to be readily identified; and

(b) the types of activities that may take place should a permit be granted; and

(c) the proposed timing of the competitive tender; and

(d) any proposed conditions of the offer.

(2) Relevant iwi and hapū will have 40 working days to comment on any aspect of the proposal.

(3) Relevant iwi and hapū must be notified that they may request that certain areas within the proposed permit area (or whole permit areas) not be included in the competitive tender (see clause 2.8).

(4) Relevant iwi and hapū must be notified that they may request that activities within certain areas within the proposed permit areas be subject to additional requirements to recognise the particular characteristics of those areas (see clause 2.8).

(5) Crown Minerals Treaty | te Tiriti Redress Commitments and Statutory Frameworks may place consultation requirements on the Minister when they are proposing to issue a competitive tender. The Minister will comply with any relevant consultation requirements

contained in an agreed Crown Minerals Treaty | te Tiriti Redress Commitment or Statutory Framework (see clause 2.12).

(6) NZP&M must report to the Minister on the consultation with relevant iwi and hapū concerning the proposed competitive tender before the final decision on the areas to be included in the tender.

(7) Further consultation will not ordinarily be undertaken with relevant iwi and hapū between the public notification of a competitive tender and subsequent decisions on the granting of exploration permits.

(8) The process by which the Minister will have regard to the feedback of relevant iwi or hapū about the quality of engagement by a current or previous permit or privilege holder is set out in clause 5.6.

2.8 Requests by iwi or hapū to protect certain land

(1) Where iwi or hapū request that certain areas of land should not be included in a permit, or that activities within certain areas be subject to additional requirements, they should provide an accurate description of the areas and set out the reasons for their request to assist the Minister to consider the request effectively. The matters that should be covered include (without limitation)—

(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 kai (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 | te Tiriti claims and settlements, and objections made by iwi and hapū under legislation other than the Act:

(e) any Treaty | te Tiriti claims that may be relevant, and whether granting a permit over the land would impede the prospect of redress of grievances under the Treaty | te Tiriti:

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

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

(h) any land which is protected under the Heritage New Zealand Pouhere Taonga Act 2014 (for example, an archaeological site).

(2) Where iwi or hapū have requested that land be excluded from a permit, or that activities within certain areas be subject to additional requirements, the Minister will consider and make a decision on the request (see clause 2.9). The iwi or hapū who made the request must be informed in writing of the Minister's decision. If the request is declined, the reasons will be provided.

(3) NZP&M will provide for appropriate procedures to manage information provided on a confidential basis by iwi and hapū concerning wāhi tapu. NZP&M may also provide iwi and hapū with guidelines and templates to assist them to provide information relevant to requests to exclude particular areas from permits and to requests to subject activities within certain areas to additional requirements.

(4) NZP&M may publish guidance on the NZP&M website about how iwi or hapū can make a request—

(a) that certain areas of land are not to be included in a permit:

(b) that activities within certain areas should be subject to additional requirements.

2.9 Matters the Minister must consider when considering requests to protect certain land

(1) When considering requests by iwi or hapū to exclude any land from a permit, or to subject activities in certain areas to additional requirements, the Minister must take into account—

(a) the matters raised by iwi or hapū; and

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

(c) whether the area is already adequately protected under other legislation – for example, the Resource Management Act 1991, the Conservation Act 1987 or the Heritage New Zealand Pouhere Taonga Act 2014; and

(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 a proposed work programme and undertaking work under a permit if activities within certain areas are subject to additional requirements; and

(f) how the proposed activity may affect the land which iwi or hapū have requested be excluded from a permit; and

(g) any relevant Crown Minerals Treaty | te Tiriti Redress Commitments and Statutory Frameworks.

2.10 Notifications to iwi and hapū

(1) NZP&M will notify relevant iwi and hapū that a permit has been granted, including providing information on where the details of the permit (including the permit holder, Operator, location, and work programme) may be found. The notification will be given whether or not the iwi or hapū made comments during the consultation processes.

(2) NZP&M will notify relevant iwi and hapū following consent being given to a change of Operator for a Tier 1 permit, consent to a change of control of a Tier 1 Operator or a change in permit tier status (see clauses 12.8, 12.11 and 1.7).

(3) NZP&M will also provide to relevant iwi and hapū—

(a) the results of a decision in relation to suitability of an area for alluvial gold permits under clause 2.5; and

(b) a map of any areas of land that have been identified as suitable for alluvial gold permits that enables the location to be readily identified.

2.11 Permits in pounamu management areas

(1) The Ngai Tahu (Pounamu Vesting) Act 1997 provides that Te Rūnanga o Ngāi Tahu (Ngāi Tahu) owns all pounamu existing in its natural condition in the Takiwā of Ngāi Tahu Whānui that up until the enactment of that Act was the property of the Crown.

(2) Permits granted under the Act do not give rights to pounamu, and removal of pounamu for possession without Ngāi Tahu's agreement is unlawful.

(3) Ngāi Tahu requests that holders of permits in pounamu management areas engage with Ngāi Tahu and reach agreement on how incidental discoveries of pounamu will be dealt with. The Minister encourages this engagement. NZP&M will notify all applicants for permits in pounamu management areas of Ngāi Tahu's and the Minister's expectations.

2.12 Crown Minerals Treaty | te Tiriti Redress Commitments and consultation with iwi and hapū

(1) The Chief Executive will make available, on request, a list of iwi and hapū in respect of whom the Minister has entered Crown Minerals Treaty | te Tiriti Redress Commitments.

(2) NZP&M will maintain a register of Crown Minerals Treaty | te Tiriti Redress Commitments and include on its website a list of all of the iwi and hapū with whom it has entered Crown Minerals Treaty | te Tiriti Redress Commitments.

(3) The full texts of the Crown Minerals Treaty | te Tiriti Redress Commitments contained in the register (referred to in subclause (2) above) are available through the NZP&M website.[19]

(4) By way of summary of the terms of issue of Crown Minerals Protocols, common terms may include—

(a) a failure by the Crown to comply with the Crown Minerals Protocol is not a breach of any Deed of Settlement, but its obligations may be enforced subject to the Crown Proceedings Act 1950:

(b) the Crown Minerals Protocol is consistent with section 4 of the Act and does not override or diminish the requirements of that Act, the functions and powers of the Minister or MBIE under that Act, or the rights of iwi under that Act.

[19]The full texts of these commitments are available on the NZP&M website: https://www.nzpam.govt.nz/assets/Uploads/treaty-commitments.pdf. This information is incorporated by reference into this Programme, pursuant to section 64 of the Legislation Act 1991, by the Minerals Programme for Minerals (Excluding Petroleum) Order 2025.

(5) By way of summary of the substantive terms of Crown Minerals Protocols, common terms may include—

(a) the Crown Minerals Protocol applies to a particular Crown Minerals Protocol area:

(b) the Minister will ensure that the Governance Entity for the iwi or hapū to whom it relates is consulted by MBIE in relation to the following issues, where they relate to the Crown Minerals Protocol area:

(i) the preparation of new minerals programmes; and

(ii) the planning of petroleum exploration permit block offers; and

(iii) other petroleum exploration permit applications; and

(iv) amendments to petroleum exploration permits; and

(v) permit block offers for Crown owned minerals other than petroleum; and

(vi) other permit applications for Crown owned minerals other than petroleum; and

(vii) NAA; and

(viii) amendments to permits for Crown owned minerals other than petroleum:

(c) the principles that will be followed by MBIE in consulting with the Governance Entity:

(d) how MBIE will seek to fulfil its obligations under the Crown Minerals Protocol.

(6) By way of summary of the one Relationship Instrument the Crown has entered as at the date of this Programme, its terms include—

(a) the area over which the Relationship Instrument applies; and

(b) the principles which underlie the Relationship Instrument; and

(c) a description of how MBIE will—

(i) share information; and

(ii) engage in policy development; and

(iii) carry out consultation in relation to this Programme; and

(d) a framework for how the parties will communicate with one another; and

(e) how consultation is to take place.

(7) For details of the terms of any Crown Minerals Protocol or Relationship Instrument, refer to the Crown Minerals Protocol or Relationship Instrument itself.

(8) A map indicating the Crown Minerals Protocol rohe (area) of an iwi or hapū is contained in some of the Crown Minerals Protocols. A Crown Minerals Protocol rohe for a coastal iwi or hapū includes the territorial sea adjacent to the rohe.

(9) A map indicating the rohe (area) that is the subject of the Relationship Instrument is contained in the Relationship Instrument.

2.13 Form of consultation with iwi and hapū may be flexible

(1) Subject to any Crown Minerals Treaty | te Tiriti Redress Commitments or Statutory Frameworks that apply to the consultation concerned, the form of the consultation process between iwi and hapū and the Crown is flexible.

(2) If iwi and hapū and the Crown think it appropriate, there may be kanohi ki te kanohi (face-to-face) consultation or the holding of a hui.

(3) If relevant iwi and hapū have an organisation established to foster consultation processes, the Minister, the Chief Executive and NZP&M would be pleased to work with them.

3. Land available for mineral prospecting, exploration and mining

3.1 Land unavailable for permits

(1) Section 14(2)(c) of the Act provides that at the request of an iwi or hapū, a minerals programme may provide that defined areas of land of particular importance to the mana of an iwi or hapū are excluded from the operation of this Programme or must not be included in any permit.

(2) Land excluded from the operation of this Programme by way of a request made under section 14(2)(c) of the Act or under a Statutory Framework must not be included in any permit issued under this Programme.[20]

(3) In making decisions relating to permits under this Programme, the Minister will comply with any Statutory Frameworks that exclude land of particular importance to the mana of an iwi or hapū from the operation of this Programme.

(4) Other land that is not available for prospecting, exploration or mining because of a legislative requirement, such as a notice made under section 28A of the Act, will be kept on a list by NZP&M, which will be available on request.

(5) The Minister may issue a notice under section 28A(1) of the Act to declare that during a specific period, specified kinds of permits will not—

(a) be granted in respect of specified land; and

(b) have the area of land that those permits apply to extended to include any of that specified land.

(6) The Minister may issue a notice under section 28A(1AA) of the Act to declare that during a specific period, specific kinds of permits—

(a) will only be granted in respect of specified land by competitive tender (see clauses 6.9 – 6.11); and

(b) will not have the area of land that those permits apply to extended to include any of that specified land.

(7) The Minister may only issue a notice containing a declaration under subclauses (5) or (6) where they believe that action is necessary to better meet the purpose of the Act than would be achieved by allowing the land to be generally available for a permit (see clauses 1.2 and 1.3).

(8) A notice issued under section 28A of the Act does not affect—

(a) any permit application received by the Minister before the notice is published; or

[20] The land that has been excluded from the operation of this Programme is available on the NZP&M website: https://www.nzpam.govt.nz/assets/Uploads/land-excluded-from-the-minerals-programme-excluding-petroleum.pdf. This information is incorporated by reference into this Programme, pursuant to section 64 of the Legislation Act 1991, by the Minerals Programme for Minerals (Excluding Petroleum) Order 2025.

(b) any permit granted before the notice is published; or

(c) the power to extend the duration of a permit (see clauses 8.5, 9.5,10.6 and 13.10); or

(d) a right of the holder of a permit that was issued before the notice was published to be granted a subsequent permit (see clause 4.5).

(9) Other legislation may also restrict permitting including, for example, the Marine Mammals Protection Act 1978, the Marine and Coastal Area (Takutai Moana) Act 2011 and Treaty | te Tiriti settlement legislation.

3.2 Access to Crown land and land in marine areas

(1) Section 61 of the Act provides that a permit holder who wants to access Crown land or land in the common marine and coastal area for the purpose of exercising permit rights must enter into an access arrangement (or agree to vary an access arrangement) with—

(a) the appropriate Minister in the case of—

(i) an initial access arrangement in relation to a Tier 2 or Tier 3 permit; or

(ii) a variation to an existing access arrangement for a Tier 2 or Tier 3 permit; or

(iii) a variation to an existing access arrangement for a Tier 1 permit (except if the variation is to allow access for the purpose of significant exploration or mining activities); or

(b) the appropriate Minister and the Minister in the case of—

(i) an initial access arrangement in relation to a Tier 1 permit; or

(ii) a variation to an existing access arrangement in relation to a Tier 1 permit (if the variation is to allow access for the purpose of significant exploration or mining activities).

(2) Section 61(1A) of the Act provides that these Ministers must not accept any application for an access arrangement (or a variation to an existing access arrangement) relating to any Crown owned mineral in any Crown land described in Schedule 4 of the Act, except for the purpose of undertaking certain excepted activities.[21]

[21] Under section 61(1A) of the Act, "relevant excepted activities" include those—

(a) that are necessary for the construction, use, maintenance, or rehabilitation, of an emergency exit or service shaft for an underground mining operation, where these cannot safely be located elsewhere, provided that it does not result in—

(i) any complete stripping of vegetation over an area exceeding 100 square metres; or

(ii) any permanent adverse impact on the profile or surface of the land that is not a necessary part of any activity specified in paragraph (a):

(b) that do not result in—

(i) any complete stripping of vegetation over an area exceeding 16 square metres; or

(ii) any permanent adverse impact on the profile or surface of the land that is not a necessary part of any activity specified in paragraph (a):

(c) a minimum impact activity (see footnote 22):

(d) gold fossicking carried out in an area designated as a gold fossicking area under section 98 or 98A:

(3) Sections 61 and 61C of the Act provide criteria and processes for access arrangements in respect of mining of Crown land where the Minister of Conservation is the appropriate Minister.

(4) If a permit relates to land in the common marine and coastal area that is described in Schedule 4 of the Act, the permit holder may only exercise the permit—

(a) in respect of land that is not subject to a customary marine title order or agreement; and

(b) in accordance with an access arrangement agreed in writing under section 61(1A) of the Act (see subclause (2) above).

(5) Access arrangements are not required for access to land in New Zealand's Exclusive Economic Zone or the extended continental shelf (although consents may be required under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012).

(6) Under section 62 of the Act, an Order in Council prohibiting all access (including for minimum impact activities)[22] in respect of any Crown land may be made on the recommendation of the Minister and the appropriate Minister (who in this case is the Minister who administers the Crown land). Such an Order, however, cannot affect any existing access arrangements.

3.3 Access to other land

(1) The granting of a permit under the Act does not confer on the permit holder a right of access to any land.[23] Sections 49 – 80 of the Act set out provisions and procedures applying to permit holders seeking to obtain access to land. These are summarised below.

(e) any special purpose mining activity carried out in accordance with a mining permit.

[22] Section 2(1) of the Act provides that "minimum impact activity" means any of the following:

"(a) geological, geochemical, and geophysical surveying:

(b) taking samples by hand or hand held methods:

(ba) taking small samples offshore by low-impact mechanical methods:

(c) aerial surveying:

(d) land surveying:

(e) any activity prescribed as a minimum impact activity:

(f) any lawful act incidental to any activity to which paragraphs (a) to (e) relate—

to the extent that it does not involve any activity that results in impacts of greater than minimum scale and in no circumstances shall include activities involving—

(g) the cutting, destroying, removing, or injury of any vegetation on greater than a minimum scale; or

(h) the use of explosives; or

(i) damage to improvements, stock, or chattels on any land; or

(j) any breach of the provisions of this or any other Act, including provisions in relation to protected native plants, water, noise, and historic sites; or

(k) the use of more persons for any particular activity than is reasonably necessary; or

(l) any impacts prescribed as prohibited impacts; or

(m) entry on land prescribed as prohibited land."

[23] Section 47 of the Act.

Written agreement of land owner/occupier required

(2) Section 50(1) of the Act provides that the following classes of land can be entered for the purpose of carrying out a minimum impact activity only if the access seeker has the consent of the owner or occupier of the land:[24]

(a) any land held or managed under the Conservation Act 1987 or any other Act specified in Schedule 1 of the Conservation Act 1987:

(b) land subject to an open space covenant in terms of the Queen Elizabeth the Second National Trust Act 1977:

(c) land subject to a covenant in terms of the Conservation Act 1987 or the Reserves Act 1977:

(d) land for the time being under crop:

(e) land used as, or situated within 30 metres of, a yard, stockyard, garden, orchard, vineyard, plant nursery, farm plantation, shelterbelt, airstrip or indigenous forest:

(f) land that is the site of, or situated within 30 metres of, any building, cemetery, burial ground, waterworks, race or dam:

(g) land having an area of 4.05 hectares or less.

(3) Section 51(2) of the Act provides that Māori land that is regarded as wāhi tapu by the tangata whenua cannot be entered for the purpose of carrying out a minimum impact activity without the consent of the owners of the land.

Notice required for minimum impact activities

(4) Section 49 of the Act provides that for land other than the classes of land referred to in subclause (2) above, a permit holder (and employees, agents and contractors of a permit holder who are authorised for that purpose) may enter land to which the permit relates and carry out a minimum impact activity, if they have either obtained the written consent of each owner and occupier or customary marine title group or given at least ten working days' notice to each person or group whose consent is required of—

(a) the date of intended entry; and

(b) the type and duration of work to be carried out; and

(c) a telephone number in New Zealand of the person who intends to enter the land.

(5) For Māori land, section 51 of the Act also requires reasonable efforts to be made to consult with those owners of the land able to be identified by the Registrar of the Māori Land Court, and requires the local iwi authority to be given at least ten working days' notice of a proposed land entry. The notice must detail the matters described in subclauses (4)(a) – (c) above.

[24] If it is agreed between each owner and occupier of the land and the person seeking access, the parties may seek the assistance of an arbitrator to determine the terms of the access agreement in relation to these classes of land (section 55(2) of the Act).

Land owner/occupier agreement or arbitration

(6) For activities other than minimum impact activities, section 54 of the Act provides that the holder of a permit (other than for petroleum) must not prospect, explore or mine in or on land to which the permit relates except in accordance with an access arrangement that has been either—

(a) agreed in writing between the permit holder and each owner and occupier of the land; or

(b) determined by an arbitrator in accordance with the Act.

(7) However, in relation to subclause (6)(b) above, a permit holder has no power under the Act, in relation to minerals, to require an access arrangement to be determined by arbitration. An arbitrator may be used only if the permit holder and each owner and occupier agree to this.

(8) Further to subclause (7), where it has not been possible to agree on an access arrangement, section 66 of the Act enables a permit holder to apply to the Chief Executive for a declaration by the Governor-General that an arbitrator may be appointed to determine an access arrangement on the grounds of public interest. The Chief Executive will report to the Minister on any application they receive. If the Minister considers that there are sufficient public interest grounds to support the application, the Minister will serve a notice on each owner and occupier attaching the application and setting out the Minister's preliminary views. If an access arrangement is not agreed or an arbitrator is not appointed within three months, the Governor-General may, by Order in Council, declare that an arbitrator may proceed to determine the access arrangement if the Governor-General considers it to be in the public interest to do so. A decision made by the Governor-General under this subclause is made on joint advice from the Minister and the Minister for the Environment.

(9) Section 83 of the Act provides that if an access arrangement is entered into with a duration of more than six months, the permit holder must lodge a copy of the arrangement (which may exclude monetary details associated with the arrangement) with the Registrar-General of Land. Failing to do this can result in the access arrangement not being binding on any successors in title to the owner and occupier.

(10) Upon expiry of an access arrangement to which section 83 of the Act applies, the permit holder or applicant must, as soon as practicable, lodge a notice with the Registrar-General of Land stating that the access arrangement has expired.

3.4 Meaning of entry on land

(1) Section 57 of the Act provides that prospecting, exploration or mining carried out below the surface of any land does not constitute prospecting, exploration or mining on or in land if it—

(a) will not, or is not likely to, cause any damage to the surface of the land or any loss or damage to the owner or occupier of the land; or

(b) will not, or is not likely to, have any prejudicial effect in respect of the use and enjoyment of the land by the owner or occupier of the land; or

(c) will not, or is not likely to, have any prejudicial effect in respect of any possible future use of the surface of the land.

4. Permits: General

4.1 Introduction

(1) With certain exceptions (as noted in clauses 1.6 and 1.8), section 8(1) of the Act provides that no person may prospect for, explore for, or mine Crown owned minerals unless the person has a permit granted under the Act.

(2) The Act provides for permits for prospecting, exploration and mining. For Tier 1 and Tier 2 permits, the purpose of minerals prospecting, exploration and mining permits, and the provisions relating to them, are covered in chapters 8, 9 and 10 of this Programme respectively. Tier 3 gold mining permits are covered in chapter 13.

(3) Section 30 of the Act provides that the holder of an exploration permit may also undertake prospecting within the area of the permit, and the holder of a mining permit may also undertake prospecting and exploration within the area of the permit.

(4) A permit is not required for prospecting for, exploring for, or mining gold in a gold fossicking area by means of hand held non-motorised machinery (see clause 1.8).

4.2 Permits may be granted where there are permits for other mineral groups

(1) A permit for minerals within a mineral group may be granted over land over which there exists, wholly or partially, any other permit for other mineral groups or for petroleum.

(2) The Minister will issue a permit over an area already subject to a permit only where that would not derogate from or otherwise interfere with the existing rights of the underlying permit holder. In this clause, “existing rights” means all rights and entitlements of the permit holder under the Act, the Regulations and this Programme, whether or not they have been exercised or are yet exercisable by the permit holder.

(3) When NZP&M receives an application for a mining permit, or an application to extend the land to which a mining permit relates, for an area of land that overlaps with an existing minerals mining permit for another mineral group, NZP&M will—

(a) notify the underlying permit holder of the application; and

(b) provide the underlying permit holder with 20 working days to inform NZP&M of any issues or questions it may have in relation to the area under consideration.

(4) Before issuing a mining permit that overlaps with another mining permit of a different mineral group, the Minister will consider feedback provided under subclause (3) above to ensure that the grant of that permit will not derogate from or interfere with existing rights (as defined in subclause (2) above), and may otherwise include conditions within the permit to address any issues identified.

(5) If a dispute subsequently arises and a permit holder is hindered or prevented from fulfilling the work programme conditions of the permit, this may be grounds for seeking an amendment to the permit work programme conditions (see clause 12.2), subject always to preservation of the existing rights of the first or underlying permit holder.

4.3 Rights to prospect, explore and mine are exclusive to the permit holder

(1) Subject to the exception in clause 4.4 below, permits for prospecting, exploration and mining provide rights to (respectively) prospect for, explore for, or mine Crown owned minerals within a mineral group that are exclusive to the permit holder; that is, no other person may prospect for, explore for, or mine for Crown owned minerals within the same mineral group within the area of the permit without the prior written consent of the permit holder.[25]

4.4 Non-exclusive prospecting permits

(1) A prospecting permit granted under the following circumstances will ordinarily be on the condition it is non-exclusive:

(a) when particular land is notified for allocation by competitive tender and, before the tender closes, the Minister considers it is appropriate to provide for pre-bid minimum impact prospecting so that interested parties may better formulate a bid; or

(b) when a prospecting permit is sought to allow speculative surveys or investigations of mineral distribution in particular land, and the applicant would not be materially disadvantaged if the permit were to be granted on a non-exclusive basis.

(2) A non-exclusive prospecting permit will not provide a right to a subsequent exploration permit.

4.5 Rights to subsequent permits

(1) Unless the permit expressly provides otherwise, section 32 of the Act provides that a permit holder has the right to apply for a subsequent permit.

(2) The holder of a prospecting permit, except a non-exclusive prospecting permit (see clause 4.4 above), has an exclusive right to apply for and receive an exploration permit, subject to the terms and conditions in chapters 5 and 9.

(3) Subject to the terms and conditions in chapters 5 and 10, the holder of an exploration permit has an exclusive right to apply for and receive a mining permit.

(4) Section 32(8) of the Act provides that permits that are subject to an application for a subsequent permit remain in force until that application has been determined.

4.6 Permit area

(1) This clause applies to Tier 1 and Tier 2 permits. The permit area of a Tier 3 permit is addressed in clauses 13.5 and 13.17.

(2) A prospecting permit will ordinarily only be granted over an unbroken area.

[25] Section 30(7) of the Act provides that rights to prospect, explore and mine are exclusive to the permit holder unless the permit provides otherwise. Section 30(8) of the Act provides that a permit conferring the same rights as a current permit over all or part of the same land and the same mineral may only be granted to another person with the prior written consent of the current permit holder.

(3) An exploration or mining permit will ordinarily be granted over an unbroken area, except if the exploration or mining is to be carried out in respect of both Crown owned and privately owned minerals.

(4) Any application for a subsequent permit, an extension of land ("EOL"), an extension of duration, a relinquishment, or the surrender of land will ordinarily be declined if the area retained is a broken area, unless special circumstances apply. Special circumstances may include (without limitation) any of the following:

(a) where the proposed activity is to be carried out in respect of Crown owned and privately owned minerals:

(b) an exploration permit application or an extension of duration application covers several discrete deposits and the objective is to appraise whether the deposits can be effectively mined as a single project:

(c) a mining permit application covers several discrete deposits that will be mined as a single project:

(d) an extension of duration application to enable the permit holder to complete rehabilitation work.

(5) In approving an area to be retained after a change in permit area, the Minister will ordinarily consider—

(a) whether the area remaining under permit is consistent with the work programme, having regard to the size of the area sought to be relinquished and the size of the area remaining under the permit; and

(b) the effect that the shape and location of the area remaining under permit has on the geological continuity of—

(i) the area remaining under permit; and

(ii) the relinquished area; and

(c) the practical viability of later permitting the relinquished area.

(6) Any application for a permit, or change to a permit that results in a change to the permit area, will ordinarily be declined if the proposed permit area includes connecting land of convenience that in the Minister's opinion cannot effectively be worked.

(7) Under section 42A of the Act, the Minister may, subject to such conditions as they think fit, authorise a permit holder to carry out geophysical surveys on land adjacent to the land to which the permit relates.

(8) Subclause (7) does not apply if another permit or existing privilege gives the holder of that permit or existing privilege the exclusive right to prospect for the same mineral on adjacent land.

(9) An authorisation granted under section 42A of the Act—

(a) is subject to the provisions of the Act as if the authorisation were a permit of the same type as the permit held by the permit holder and referred to in subclause (7); but

(b) an authorisation granted under subclause (7) does not authorise any activity other than the carrying out of geophysical surveys.

4.7 Applications for permits

(1) Applications for permits must be made in accordance with the Crown Minerals (Minerals Other than Petroleum) Regulations 2007.

(2) Applications may be made online via the Online Permitting System, or with use of the relevant forms which are available on the NZP&M website. NZP&M prefers applicants to make use of the Online Permitting System where possible.

(3) Section 29A(1)(d) of the Act provides that a Tier 1 or Tier 2 permit application must include "any other information prescribed in the Regulations." The Crown Minerals (Minerals Other than Petroleum) Regulations 2007 require many permit applications to include "a map of the permit area." The Crown Minerals (Minerals Other than Petroleum) Regulations 2007 provide that such a map must enable the boundaries of the permit area to be accurately located and relocated, and that such a map must include (among other things)—

(a) title and reference information; and

(b) any other information that will aid in the relocation of the area to which the map or plan relates.

(4) When assessing whether the map included in a Tier 1 or Tier 2 permit application meets these requirements, the Chief Executive will rely on the NZP&M Mapping Standards for Minerals Permit Applications which are published on the NZP&M website.

(5) Requirements for applications for Tier 3 permits are set out in clause 13.2.

4.8 Further information and amendments to applications

(1) An applicant may be required to—

(a) clarify an application:

(b) provide further information:

(c) provide a technical presentation.

(2) If the Minister considers that the area of land to which a permit application relates is not justified or the Minister has any concerns about the proposed work programme or that land, the Minister will ordinarily—

(a) notify the applicant, giving reasons; and

(b) give the applicant a reasonable opportunity to respond; and

(c) consider any response.

(3) A person who applies under the AWPO method may, at any time before the application is substantively processed, apply to NZP&M to change—

(a) the land concerned:

(b) the minerals concerned:

(c) the applicant's identification and contact details.

(4) If NZP&M considers that the amendment would substantively change the application, it will ordinarily decline to allow the amendment and will process the application as originally submitted (unless the application is withdrawn).

4.9 Operators and non-operators

(1) Permits may be held by individuals, companies or groups of companies. A "permit holder" may therefore be one person,[26] or more than one person in a joint venture, partnership or other structure. Where there is more than one person they are referred to in the Act and in this Programme as "permit participants". Each person who makes up a permit holder holds a "participating interest".[27] The permit records each person's share.

(2) Section 27 of the Act requires each permit to have an Operator. The Operator is the person who is responsible for the day-to-day management of activities under the permit. The Operator must be a permit participant (that is, hold a specified share of the permit).[28]

4.10 Commencement of permits

(1) All permits will specify a commencement date. The commencement date will be determined by the Minister and will ordinarily be the date on which the applicant is notified that the Minister has agreed to grant the permit. However, the Minister may determine a later date after considering—

(a) work programme commitments and stages; and

(b) any reasonable requests by the applicant for a particular commencement date.

(2) Section 35(9) of the Act provides that the Minister may, on application by the holder of a Tier 1 or Tier 2 permit, amend a permit's commencement date if satisfied that the permit holder has been prevented from starting activities by delays in obtaining consents under any Act or delays in obtaining access to land under this Act, but only if those delays have not been caused or contributed to by default on the part of the permit holder.

(3) Before the commencement of a permit, the applicant must not do any prospecting, exploring or mining in the land to which the permit relates – for example, geophysical or geochemical surveying – or any work requiring land access. The applicant may, however, initiate the process of obtaining necessary land access and resource consents and undertake engagement with iwi or hapū.

[26] A "person" in this context means a natural person or a corporate body or other legal entity.

[27] "Participating interest" is defined in section 2(1) of the Act as "in relation to a permit, a specified undivided share of the permit expressed as a percentage recorded on the permit".

[28] Clause 13 of Schedule 1 of the Act exempts "existing privileges" from this requirement.

4.11 Form of a permit

(1) A permit will include the following:

(a) the name of the permit participants, and the Operator; and

(b) the mineral(s) covered by the permit; and

(c) the approved work programme; and

(d) the duration of the permit; and

(e) a schedule detailing the area of the permit (including a map); and

(f) schedules detailing the conditions of the permit. There will usually be schedules that set out—

(i) general conditions; and

(ii) land to which the permit relates; and

(iii) the work programme; and

(iv) royalties (issued for mining permits only); and

(g) whether the permit is a Tier 1 permit, or a Tier 2 permit or Tier 3 permit.

(2) The work programme approved by the Minister will be part of the permit and a public document. Other information provided with the permit application to support and explain the work programme will not form part of the permit.

(3) Any change to the permit's conditions (see chapter 12) will be recorded as a certificate to the permit.

4.12 Register of permits

(1) Section 91 of the Act requires the Chief Executive to keep a public register of permits. This includes: some of the information in clause 4.11(1) above; the contact details of permit participants and of the Operator; and changes, transfers and leases. This is kept electronically on a database maintained by NZP&M. A map showing the location of current minerals prospecting, exploration and mining permits in New Zealand is also available.

4.13 Release of information

(1) Subject to the exceptions in subclause (2) below, all reports, records, samples and other information[29] provided by a permit holder under the Act and the Crown Minerals (Minerals Other than Petroleum) Regulations 2007 will be publicly available after the earlier of—

(a) five years after the date on which the information was obtained by the permit holder; or

[29] "Information" includes summaries, interpretations, reprocessing and models derived from the information.

(b) after the permit (including every subsequent permit, in so far as the information relates to land covered by both the subsequent permit and the original permit) ceases to be in force.[30]

(2) Exceptions are—

(a) summary information about surveys and drilling programmes (but not underlying data), which will be made public immediately; and

(b) information in connection with mineral reserves, resources and production, which may be published in accordance the Crown Minerals (Minerals Other than Petroleum) Regulations 2007; and

(c) information obtained under a non-exclusive prospecting permit, which will not be publicly available until the earlier of—

(i) 15 years after the date on which it was obtained by the permit holder; or

(ii) the closure of a competitive tender process (see clause 6.9) for the area to which the information relates, except that the information may not be released earlier than five years after it was obtained; and

(d) information obtained under exploration or mining permits that are surrendered as part of an amalgamation of permits by the same permit holder (see clause 12.7) where and to the extent that the amalgamated (extended) permit covers the same area; and

(e) royalty calculations and payments, which will remain confidential.

(3) NZP&M will give permit holders at least 15 working days' notice before releasing any mineral reserves or resources information under subclause (2)(b).

(4) The Chief Executive may publish on an internet site they maintain or in any other way they consider appropriate, any or all of the information supplied to them by a permit holder (see subclause (1)) at any time after the information is required to be made available under sections 90(6) – (8) of the Act.

4.14 Regulations relating to permits

(1) The Regulations named in this clause are the regulations made under the Act which are relevant to this Programme and which are in force as at the date this Programme is issued. The regulations relevant to prospecting, exploring and mining for minerals may change after this Programme is issued (see footnote 3).

(2) The Crown Minerals (Minerals Other than Petroleum) Regulations 2007 set out detailed requirements relating to—

(a) the information that must be included in applications for permits, changes of permits and other matters; and

(b) the information that must be included in notices relating to activities of permit holders and other matters; and

[30] Section 90 of the Act.

(c) the reports, records, samples and related matters that permit holders must supply.[31]

(3) These matters are covered in more detail in the relevant chapters of this Programme (particularly chapter 11).

(4) The Crown Minerals (Minerals Fees) Regulations 2016 set out the annual and other fees payable with respect to minerals permits.

(5) The Crown Minerals (Royalties for Minerals Other than Petroleum) Regulations 2013 set out rates and provisions for the payment of royalties on mineral production. These regulations also set out royalty statement and royalty return requirements for all minerals permit holders required to pay royalties. However, clause 4 of Schedule 1 of the Act provides that the rate of any royalties to be calculated under an existing permit (that is, every permit that existed immediately before 24 May 2013), or a subsequent permit granted in exchange for the existing permit, must continue to be calculated in accordance with the minerals programme that applied when the existing permit (or, if there were permits prior to the existing permit, the initial permit) was granted. Royalty rates for permits granted under the Minerals Programme for Minerals other than coal and petroleum (1996),[32] the Minerals Programme for Coal (1996)[33] and the Minerals Programme for Minerals (Excluding Petroleum) (2008)[34] can be found in each of these respective programmes, which are available on the NZP&M website.

4.15 Clearance from the Health and Safety Regulator

(1) Section 33A of the Act provides that, where an activity authorised by a permit requires an authorisation to be granted under regulations made under the Health and Safety at Work Act 2015, then that activity cannot be carried out until—

(a) it has been authorised under the Health and Safety at Work Act 2015 (or regulations made under that legislation); and

(b) the Health and Safety Regulator[35] has advised the Chief Executive that the activity has been authorised; and

(c) the Chief Executive has notified the permit holder that the Health and Safety Regulator has given its approval or consent.

4.16 Provision of information to other regulatory agencies

(1) Section 90E of the Act allows the Minister, and in some cases the Chief Executive, to provide any information or a copy of any document held by them under the Act to specified regulatory agencies if the Minister or Chief Executive considers that the information or document may assist the regulatory agency to exercise its powers or perform its duties under the legislation it administers in relation to a permit or permit application. The agencies are the Health and Safety Regulator, the Environmental Protection Authority, a

[31] Additional information on reporting requirements is provided in the Mineral & Coal Digital Data Submission Standards & Reporting Guidelines 2023, available on the NZP&M website.

[32] Minerals Programme for Minerals other than coal and petroleum (1996), Chapter 15.

[33] Minerals Programme for Coal (1996), Chapter 15.

[34] Minerals Programme for Minerals (Excluding Petroleum) (2008), Part 9.

[35] "The Health and Safety Regulator" means WorkSafe New Zealand or the relevant designated agency.

consent authority under the Resource Management Act 1991, and Maritime New Zealand. The information will be subject to the same confidentiality provisions as apply to NZP&M.

5. Permits: Matters the Minister must consider and be satisfied about before granting a permit

5.1 Introduction

(1) Chapter 5 applies to Tier 1 and Tier 2 permits and permit applications only. Section 29A of the Act sets out the matters the Minister must consider and be satisfied about before deciding to grant a Tier 1 or Tier 2 permit to a permit applicant.

(2) Section 29A of the Act requires the Minister to be satisfied—

(a) that the proposed work programme is consistent with—

(i) the purpose of the Act; and

(ii) the purpose of the proposed permit; and

(iii) good industry practice; and

(b) that the applicant is highly likely to comply with the conditions of, and give proper effect to, the proposed work programme, taking into account—

(i) the applicant's technical capability; and

(ii) the applicant's financial capability; and

(iii) any relevant information on the applicant's failure to comply with permits or rights to prospect, explore or mine in New Zealand or internationally, or to comply with conditions in respect of those permits or rights; and

(c) that the applicant is highly likely to comply with the relevant obligations under the Act or the Regulations in respect of reporting and the payment of fees and royalties; and

(d) that, for Tier 1 exploration or mining permits, the proposed Operator has, or is highly likely to have by the time relevant work under any granted permit is undertaken, the capability and systems that are likely to be required to meet the health, safety and environmental requirements for the types of activities proposed under the permit.

(3) This chapter sets out how the Minister will interpret and apply those provisions.

(4) The Minister must also take into account their obligation under section 4 of the Act to have regard to the principles of the Treaty | te Tiriti (see chapter 2).

(5) Section 29B of the Act enables a bid for a Tier 1 exploration permit in response to a competitive tender to state that it is to be considered in accordance with section 29B, which applies the provisions of section 29A in a modified way (see clause 5.5).

(6) Section 29C of the Act requires the Minister to have regard to feedback provided in iwi engagement reports and at annual review meetings about the quality of an applicant's engagement(s) with iwi and hapū (in their capacity as a current or previous permit holder or privilege holder). The Minister may also have regard to other feedback from iwi or hapū about the applicant's engagement(s) with them (in their capacity as a current or previous permit holder or privilege holder) (see clause 5.6).

5.2 Work programmes

(1) All applications for Tier 1 or Tier 2 permits must include a proposed work programme for the permit.

(2) In determining whether the proposed work programme is consistent with the purpose of the Act, the Minister will consider the matters set out in clauses 1.2 and 1.3 as applicable.

(3) In determining whether the proposed work programme is consistent with the purpose of the proposed permit, the Minister will consider (without limitation)—

(a) for prospecting permits, the matters set out in chapter 8:

(b) for exploration permits, the matters set out in chapter 9:

(c) for mining permits, the matters set out in chapter 10.

(4) In determining whether the proposed work programme is consistent with good industry practice, the Minister will consider the matters set out in clauses 1.3(10) and (11) as applicable.

5.3 Complying with and giving effect to the proposed permit and work programme

(1) The applicant for a Tier 1 or Tier 2 permit will be required to provide detailed information in support of its application to enable the Minister to consider whether the applicant is highly likely to comply with, and give proper effect to, the proposed work programme. The Minister may, at their discretion, decline a permit application based on the applicant's technical capability, financial capability, or previous compliance record, without proceeding to consider any other aspects of the application. The factors the Minister will take into account in making that determination are outlined below (without limitation).

Technical capability

(2) The Minister will focus on the technical capability of the proposed Operator to undertake responsibility for day-to-day management of the proposed work programme in accordance with good industry practice. This will include reviewing the Operator's previous and current record in undertaking work programmes that are similar to the proposed work programme.

Financial capability

(3) The Minister will ordinarily be satisfied that an applicant is highly likely to have the financial capability to comply with, and give proper effect to, the proposed work programme, where it can demonstrate that it has sufficient funding, or has the ability to raise sufficient funding, to do so. To demonstrate this, the Minister expects to be provided the following information (without limitation):

(a) the level of financial commitment required to carry out the proposed work programme as well as evidence that supports the applicant's ability to meet those costs:

(b) where an applicant already has financial commitments in the form of other permits or licences, the applicant will be expected to provide evidence that they have an ability to continue to fund existing commitments in addition to the proposed work programme.

(4) The Chief Executive may publish guidance on how an applicant can demonstrate financial capability on the NZP&M website.

Applicant's failure to comply with other permits or licences

(5) It will ordinarily count against, but not necessarily preclude, the granting of a permit if the applicant, or a related party,[36] does not have a good record of compliance with the conditions of a previous or current permit or licence, whether in New Zealand or internationally.

(6) "Relevant information" for the purposes of section 29A(2)(b)(iii) of the Act (see clause 5.1(2)(b)(iii) above) includes information that, in the Minister's view, is material, relates to or has a bearing on the type of activity or activities proposed under the permit application, and relates to compliance in the previous ten years. Matters the Minister may consider include (without limitation)—

(a) whether the applicant (or a related party) has failed to comply with any petroleum permits, minerals permits or licences granted in New Zealand or internationally:

(b) whether any petroleum permits, minerals permits or licences held by the applicant (or a related party) in New Zealand or internationally have been revoked for non-compliance:

(c) whether the applicant (or a related party) has complied with committed work programme conditions associated with current or previously held petroleum permits, minerals permits or licences in New Zealand or internationally.

(7) If the Minister may otherwise grant a permit, but has concerns about the applicant's record of compliance with other permits or rights, the Minister will raise these concerns with the applicant and inform the applicant of the matter or matters the Minister considers to be relevant to the granting of the permit. Before making a decision, the Minister will consider any comments that the applicant makes.

Likelihood of compliance with reporting obligations and payment of fees and royalties

(8) In considering whether the applicant is highly likely to comply with reporting obligations and obligations to pay fees and royalties, the Minister will take account of the record of the applicant (or a related party) of compliance with reporting and payment obligations under other permits or licences.

Access to Schedule 4 land (including Schedule 4 land in the common marine and coastal area)

(9) Section 61 of the Act has the effect of precluding access to Crown land and land in the marine and coastal area described in Schedule 4 of the Act for all activities except certain activities described in section 61(1A) (see clause 3.2 and footnote 21) and, in the case of land in the marine and coastal area described in Schedule 4, unless the requirements of section 54A have also been met. If a Tier 1 or Tier 2 permit application or application for an EOL involves activities that could not be carried out because access to the land described in Schedule 4 is precluded by section 61 of the Act and (where applicable) section 54A, the Minister will not consider or grant the permit.

[36] "Related party" in relation to a permit holder, applicant or bidder has the same meaning (with all necessary modifications) as in the Crown Minerals (Royalties for Minerals Other than Petroleum) Regulations 2013.

(10) Accordingly, the following practices will apply:

(a) an application for a prospecting or exploration permit or an EOL for a prospecting or exploration permit will not be considered or granted by the Minister over Schedule 4 land except where—

(i) any impact on the surface of the land is within the excepted activities in section 61(1A) of the Act (see clause 3.2 and footnote 21); and

(ii) the work programme will provide geological or geophysical information that would help to identify the potential for mining outside of or under Schedule 4 land:

(b) applications for Tier 1 or Tier 2 mining permits or extensions of land for Tier 1 or Tier 2 mining permits will not be considered or granted by the Minister over Schedule 4 land except where a mineral resource can be accessed from adjacent land and any impact on the surface of the Schedule 4 land is within the excepted activities in section 61(1A) of the Act.

5.4 Initial assessment for Tier 1 exploration and mining permits of the Operator's capability to meet health and safety and environmental requirements

(1) Before deciding to grant a Tier 1 exploration or mining permit, the Minister must be satisfied that the proposed Operator has, or is highly likely to have by the time relevant work under any granted permit is undertaken, the capability and systems that are likely to be required to meet the health, safety and environmental requirements for the type of activities proposed under the permit.

(2) Section 29A(3) of the Act provides that, to satisfy themself on this issue, the Minister—

(a) is only required to undertake a high-level preliminary assessment; and

(b) must seek the views of the Health and Safety Regulator and may, but is not required to, seek the views of any other regulatory agency; and

(c) may, but is not required to, rely on the views of the regulatory agencies; and

(d) is not required to duplicate any assessment processes that a regulatory agency may be required to undertake.

(3) Section 29A(4) of the Act provides that, for the avoidance of doubt, any decision by the Minister to grant a permit does not limit or have any effect or bearing on the requirements of the relevant health and safety and environmental legislation.

(4) If, in response to a request from the Minister, the Health and Safety Regulator provides a clear view on whether the proposed Operator has the capability and systems that are likely to be required to meet health and safety requirements for the types of activities proposed under the permit, the Minister may rely on that view and will not ordinarily consider further the matters outlined in subclause (6) below.

(5) Where the Minister has sought the views of regulatory agencies responsible for environmental legislation, the Minister will consider any views received from those agencies before making a decision.

(6) The Minister will also consider as appropriate whether the proposed Operator is currently undertaking similar activities in New Zealand or comparable jurisdictions—

(a) if the proposed Operator is currently undertaking such activities, then, in the absence of clear evidence to the contrary, the Minister will ordinarily be satisfied that the proposed Operator is highly likely to have the capability and systems to be able to meet health and safety and environmental requirements for the types of activities proposed under the permit:

(b) if the proposed Operator is not currently undertaking similar activities in New Zealand or comparable jurisdictions, the Minister will ordinarily be satisfied, in the absence of clear evidence to the contrary, that the proposed Operator is highly likely to have the capability and systems to be able to meet health and safety and environmental requirements for the types of activities proposed under the permit if the Operator can show—

(i) an understanding of New Zealand's regulatory requirements relating to health and safety and the environment as those requirements apply to the type of activities proposed under the permit, including any iwi and hapū consultation processes prescribed in the relevant legislation; and

(ii) an understanding of the health and safety and environmental risks relating to the type of activities proposed under the permit; and

(iii) that it has, or is highly likely to have by the time the relevant activities are undertaken—

(A) appropriate systems, processes and capabilities for complying with the requirements in subclause (6)(b)(i) above; and

(B) appropriate systems, processes and capabilities for managing health and safety and environmental risks relating to the type of activities proposed under the permit; and

(C) personnel with appropriate qualifications and experience relating to health and safety and environmental requirements and risks, as they apply to the type of activities proposed under the permit.

(7) If the Minister would otherwise grant a permit, but has concerns about the applicant's ability to meet expected health and safety and environmental requirements for the activities proposed under the permit, the Minister will raise these concerns with the applicant and inform the applicant of the matter or matters the Minister considers to be relevant to the granting of the permit. Before making a decision, the Minister will consider any comments the applicant makes.

(8) As the Act makes clear, the processes and considerations in this clause 5.4 are not designed nor intended to duplicate or substitute for the processes and requirements of the agencies responsible for the administration of the relevant legislation (including the Health and Safety at Work Act 2015, the Resource Management Act 1991, the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012, and the Maritime Transport Act 1994).

5.5 Applications for Tier 1 exploration permits under section 29B

(1) Section 29B of the Act enables a tender (bid) for a Tier 1 exploration permit under a competitive tender (see clauses 6.9 – 6.11) to state that the tender is to be considered in accordance with section 29B. The competitive tender offer must specify a date which is the latest acceptable reassessment date. The tender's proposed work programme must contain an acceptable reassessment date.

(2) Section 29B(2) of the Act provides that the Minister must be satisfied about the matters in sections 29A(2)(b) and (d) (see clause 5.1(2) above) only in relation to work that will be undertaken before the reassessment date.

(3) Section 29B(3) of the Act provides that where a permit is granted under the provisions of section 29B, work cannot be undertaken after the reassessment date unless, before that date, upon application by the permit holder, the Minister is satisfied, about the matters in sections 29A(2)(b) and (d) in relation to that work.

(4) The purpose of section 29B of the Act is to enable the Minister to consider and grant a Tier 1 exploration permit where the bidder for the permit, at the time the permit is applied for in a competitive tender process, is not able to meet the requirements of sections 29A(2)(b) and (d) for the exploration drilling part of its bid. The Minister's consideration of the matters in sections 29A(2)(b) and (d) with regard to drilling is deferred until shortly before the permit holder must commit to undertake drilling or surrender the permit.

(5) The matters the Minister will consider in applying the provisions of section 29B of the Act are the same as the matters the Minister will consider in applying the provisions of section 29A, as set out in clauses 5.2 - 5.4 above, with all necessary modifications to take account of the two stage process that applies under section 29B for considering the matters in sections 29A(2)(b) and (d). Specifically, the matters in clauses 5.3(2) and (3) and 5.4 will be considered in relation to proposed work up to the reassessment date, and will be considered again on application by the permit holder before the reassessment date in relation to drilling work.

5.6 Minister's consideration of feedback from iwi and hapū

(1) Section 29C of the Act provides that where an applicant is a previous or current permit holder, is or was required to submit an iwi engagement report in their capacity as a previous or current permit holder, and they are applying for a Tier 1 permit, then the Minister—

(a) must have regard to feedback provided in iwi engagement reports (see clause 11.9) and at annual review meetings about the quality of the applicant's engagement(s) with iwi or hapū in the applicant's capacity as a previous or current permit holder; and

(b) may have regard to any other feedback from iwi or hapū about the quality of the applicant's engagement(s) with iwi or hapū, in the applicant's capacity as a previous or current permit holder.

(2) The Minister may publish guidance on the NZP&M website about—

(a) how they will have regard to the feedback of iwi or hapū for the purposes of subclause (1)(a); and

(b) whether, and if so how, they will have regard to other feedback from iwi or hapū about the quality of the applicant's engagement(s) with iwi or hapū for the purposes of subclause (1)(b).

6. Methods of allocating permits

6.1 Introduction

(1) Chapter 6 applies to the allocation of Tier 1 and Tier 2 permits only, except as expressly provided in this chapter and in chapter 13.

(2) The following methods are available for allocating Tier 1 or Tier 2 permits or for extending the land to which a Tier 1 or Tier 2 permit relates:

(a) **AWPO**: Under this method a permit will be granted to the first application with an acceptable work programme (subject to chapter 5). This method may be used for Tier 1 or Tier 2 permit applications for available land or minerals to which NAA or competitive tender allocation do not apply (see clauses 6.3 – 6.6). This method is also available for the granting of non-exclusive prospecting permits as set out in clauses 4.4 and 6.12. This method is available for Tier 3 permit applications (see chapter 13):

(b) **NAA**: Land with NAA status in respect of certain mineral group(s) is subject to a time-bound competitive allocation process, as set out in clauses 6.7 and 6.8 below. This method may be used for Tier 1 or Tier 2 permit applications but cannot be used for Tier 3 permit applications:

(c) **competitive tender allocation**: A competitive tender allocation process may be used for Tier 1 or Tier 2 permits if the Minister considers there is likely to be significant competitive interest in the land (see clauses 6.9 – 6.11 below). The competitive tender allocation process cannot be used for Tier 3 permits.

Land status decisions for permit allocations

(3) Subclauses (4) – (6) apply to Tier 3 permits as well as Tier 1 and 2 permits (see clause 13.5).

(4) Land ceases to be subject to a permit in respect of particular mineral group(s) (see subclause (5) below) when a permit (excluding non-exclusive permits) for that mineral group(s) over that land (the former permit)—

(a) expires under section 35 of the Act (or its extension of duration expires under section 36 of the Act); or

(b) is relinquished under section 35B or section 35C of the Act; or

(c) is revoked under section 39 of the Act; or

(d) is surrendered under section 40 of the Act, except where—

(i) the surrendered land is in exchange for the granting of a subsequent permit; or

(ii) the surrendered land is in exchange for the granting of an EOL to an adjacent permit under clause 12.7; or

(iii) the surrendered land is subject to an application to extend land to which a mining permit relates under clause 12.5; or

(iv) the permit vests in the Crown as if it were personal property under section 40(2) of the Act.

(5) No more than 60 working days after land ceases to be subject to a permit under subclause (4), the Minister will determine which allocation method will apply in respect of the particular mineral group(s) in that land. NZP&M will give notice on its website that the land is either—

(a) available for AWPO applications, as set out in clauses 6.3 – 6.6; or

(b) subject to NAA status, as set out in clauses 6.7 and 6.8; or

(c) reserved under section 28A of the Act for possible competitive tender allocation.

(6) Until the Minister makes a determination under subclause (5), the land referred to in subclause (4) will be unavailable for permit applications in respect of the relevant mineral group(s). If the Minister determines that the land will be subject to NAA status as set out in clauses 6.7 and 6.8, NAA status will not ordinarily commence until at least 40 working days after the land ceases to be subject to a permit.

6.2 Overlapping permit applications

(1) Where an application for a permit or an application to extend the land to which a permit relates is made and there is already an underlying non-exclusive permit or privilege over the same land and for the same mineral group, this clause applies. Applications for a permit or applications to extend the land to which a permit relates described in this subclause are referred to as applications for an “Overlapping Permit” or “Overlapping Land Extension”.

(2) Subject to subclause (4) below, applications for an Overlapping Permit or Overlapping Land Extension will not be considered, unless the applicant has the consent of the underlying permit or existing privilege holder (see sections 25(7) and 30(8) of the Act).

(3) Where an applicant for an Overlapping Permit or Overlapping Land Extension has the consent of the underlying permit or existing privilege holder, the Minister will ordinarily grant the Overlapping Permit or Overlapping Land Extension if doing so is consistent with the purpose of the Act and subject to the relevant requirements of this Programme.

(4) No consent is required from the holder of the underlying permit or existing privilege where the application for an Overlapping Permit or Overlapping Land Extension is, as appropriate—

(a) for a subsequent permit (see clause 4.5); or

(b) to amalgamate the permit holder’s adjacent permits (see clause 12.7); or

(c) for a mineral in a different mineral group to the permit or existing privilege (see clause 4.2).

(5) For the avoidance of doubt, subclauses (2) – (4) apply regardless of whether the applicant is a related party of the permit holder for the existing permit.

(6) An application for an Overlapping Permit or Overlapping Land Extension will not be considered over land that is already the subject of an application for a permit or an application to extend the land to which a permit relates, unless—

(a) equal priority applies (see clauses 6.5(4) and 6.8(3), and chapter 7); or

(b) both applications are for a non-exclusive permit (see clauses 4.4 and 6.12).

(7) Where an application for an Overlapping Permit or Overlapping Land Extension has been received by the Minister in accordance with subclause (3), and the underlying permit ceases to exist prior to the application being decided, the Minister will ordinarily continue to consider the application unless the Minister considers the purpose of the Act would be better met by declining the application and determining an allocation method for the underlying land in accordance with clause 6.1(2).

(8) Where subclause (7) applies and the Minister has decided to consider the Overlapping Permit application, the Minister may determine an allocation method in accordance with clause 6.1(2) for all or some of the land that was the subject of the underlying permit but is not part of the overlapping area.

(9) The Minister will not consider any application for an Overlapping Permit or Overlapping Land Extension that, in the Minister's opinion, is being made to avoid the requirements of section 36(4) of the Act (which relate to when an application for an extension of duration must be received by the Minister).

AWPO allocation method

6.3 General information about AWPO applications

(1) The AWPO allocation method provides a method for an application for a Tier 1, Tier 2, or Tier 3 permit with an acceptable work programme to be considered, and applies to all available land in accordance with clause 6.4.

(2) An application for a Tier 3 permit, or an application to extend the land to which a Tier 3 permit relates, can only be made over land available under the AWPO allocation method.

(3) An AWPO application for a Tier 1 exploration or mining permit for minerals other than gold or silver must include a report that states the ownership of the minerals applied for, unless the application is for an offshore area.

(4) A permit will only be granted over land available for allocation if the applicant's work programme is acceptable to the Minister.

(5) This method also provides for—

(a) priority to be given to holders of existing privileges who, before the privilege expires, apply for a mining permit in respect of all or part of the land to which the existing privilege relates; and

(b) a mining permit for a special purpose mining activity that enables historical mining methods to be demonstrated.

(6) If NZP&M receives an AWPO (other than a AWPO for a Tier 3 permit)—

(a) before the hours of business, the application will be treated as having been received at 9.00am on that working day; or

(b) after the hours of business, the application will be treated as having been received at 9.00am on the next working day.

(7) For the purpose of subclause (6), “hours of business” means 9.00am to 5.00pm on any working day.

6.4 Land covered by AWPO applications

(1) AWPO applications, and applications to extend the land to which a permit relates (under clause 12.5), will not be considered over the following land:

(a) land that is subject to a permit other than a non-exclusive permit or existing privilege, except as expressly provided in clause 6.2; or

(b) land that is the subject of a permit application for a mineral of the same mineral group as the AWPO application; or

(c) land that is—

(i) expressly excluded by this Programme from being available for permitting, by a notice under section 28A of the Act; or

(ii) subject to a notice prohibiting access under section 62 of the Act (see clause 3.2(6)); or

(iii) expressly excluded by or under any enactment; or

(d) land that has NAA status for the relevant mineral group(s); or

(e) land that is subject to a competitive tender for the relevant mineral group(s) under this Programme (see clause 6.9) or land that is subject to a competitive allocation process under the Minerals Programme for Petroleum; or

(f) land that has been recognised by the Crown as being of particular importance to the mana of iwi or hapū and excluded from this Programme (see clause 3.1).

(2) AWPO applications, and applications to extend the land to which a permit relates (under clause 12.5), will be considered over all land not excluded under subclause (1).

6.5 Priority of AWPO permit applications

(1) A person who is first to make an AWPO application for a defined area of land (in accordance with clause 6.4, but excluding NAA) has first priority to have their application assessed.

(2) If the Minister declines to grant an application that has first priority under subclause (1), or if that application is withdrawn, the practice is that the land in question is again available for permitting under the AWPO method.

(3) Later AWPO applications that are made over all or part of the same land will be treated as if they overlap an area not available for allocation (see clause 6.4), and the procedures in clause 6.6 apply.

(4) The following applications for Tier 1 and Tier 2 permits, provided they are received by NZP&M on the same working day and are made in respect of all or part of the same land and any mineral that belongs to a common mineral group, have equal priority and will be assessed in competition under chapter 7:

(a) two or more AWPO applications for prospecting, exploration or mining permits; or

(b) two or more applications to extend the land to which a permit relates; or

(c) one or more AWPO applications for a permit and one or more applications to extend the land to which a permit relates.

(5) For the avoidance of doubt, where an application is made for a Tier 3 permit that is received by NZP&M on the same working day as an application for a Tier 1 or Tier 2 permit of a kind described in subclause (4) and is in respect of all or part of the same land and any mineral that belongs to a common mineral group, the Tier 3 permit application will not be considered further unless none of the competing Tier 1 or Tier 2 permit applications are successful.

6.6 Overlapping AWPO permit applications

(1) The Minister will ordinarily not consider an AWPO permit application, or an application to extend the land to which a permit relates, and the applicant will be notified accordingly, if an overlap exists between the land covered by the application and—

(a) land that is subject to a permit (other than a non-exclusive permit) or existing privilege, except as expressly provided in clause 6.2; or

(b) an area that is not available for allocation (see clause 6.4).

(2) In order to reduce the chances of an AWPO permit application not being considered under subclause (1), the application may state that it excludes land that is subject to a permit, an existing privilege, or a permit application that is pending determination (excluding an application for a non-exclusive permit), or the permit applicant may provide evidence that the current holder of the existing permit or privilege consents to a permit being granted.

Newly available acreage

6.7 General information about NAA

(1) The mineral group(s) to which NAA status applies will be some or all of the mineral group(s) to which the former permit (under clause 6.1(4)) related and may include any other mineral group(s) for which there is no existing permit in force.

(2) NAA status of land—

(a) commences when NZP&M gives notice on its website, under clause 6.1(5), that NAA status applies with respect to the particular mineral group(s) in that land; and

(b) ends at 5.00pm on the last working day of the 40 working day period that starts on the first working day after the day on which NAA status commenced.

(3) An application in respect of NAA will only be considered over all or one part of one NAA.

(4) The Crown Minerals (Minerals Other than Petroleum) Regulations 2007 set out reporting requirements for the holder of the former permit referred to in clause 6.1(4). The holder of the former permit will not be eligible to apply for the land that has become available under NAA if it does not comply with those regulations.

6.8 Priority of applications for NAA

(1) An application for a permit in respect of NAA will only be processed according to the NAA method from the time that NAA status terminates.

(2) If NZP&M receives only one permit application, or only one application to extend the land to which a permit relates, for all of one NAA or one part of one NAA, ordinarily the application will be considered as if it were an AWPO application.

(3) The following applications that are received by NZP&M will be given equal priority and will be assessed as competing applications under chapter 7:

(a) as illustrated by example in plan A1 in Schedule 2, two or more applications for a permit for—

(i) all of the same NAA; or

(ii) the same part of the same NAA; and

(b) as illustrated by example in plan A2 in Schedule 2, two or more applications for a permit if—

(i) each application is for one part of the same NAA; and

(ii) each of those parts overlaps with each of the other parts; and

(c) as illustrated by example in plan A3 in Schedule 2, three or more applications for a permit if—

(i) each application is for one part of the same NAA; and

(ii) subclause (3)(b)(ii) above does not apply; and

(iii) each part overlaps with at least one other part; and

(iv) the parts overlap to form one unbroken area; and

(d) as illustrated by example in plan B1 in Schedule 2, two or more applications to extend the land to which a permit relates if the land that is to be added by each application is—

(i) all of the same NAA; or

(ii) the same part of the same NAA; and

(e) as illustrated by example in plan B2 in Schedule 2, two or more applications to extend the land to which a permit relates if—

(i) the land that is to be added by each application is one part of the same NAA; and

(ii) each of those parts overlaps with each of the other parts; and

(f) as illustrated by example in plan B3 in Schedule 2, three or more applications to extend the land to which a permit relates if—

(i) the land that is to be added by each application is one part of the same NAA; and

(ii) subclause (3)(e)(ii) above does not apply; and

(iii) each part overlaps with at least one other part; and

(iv) the parts overlap to form one unbroken area; and

(g) as illustrated by example in plan C1 in Schedule 2, one or more applications for a permit and one or more applications to extend the land to which a permit relates, if each application for a permit and each application to extend the land is for—

(i) all of the same NAA; or

(ii) the same part of the same NAA; and

(h) as illustrated by example in plan C2 in Schedule 2, one or more applications for a permit and one or more applications to extend the land to which a permit relates, if—

(i) each application for a permit and each application to extend the land is for one part of the same NAA; and

(ii) each of those parts overlaps with each of the other parts; and

(i) as illustrated by example in plan C3 in Schedule 2, one or more applications for a permit and one or more applications to extend the land to which a permit relates, if—

(i) each application for a permit and each application to extend the land is for one part of the same NAA; and

(ii) subclause (3)(h)(ii) above does not apply; and

(iii) each part overlaps with at least one other part; and

(iv) the parts overlap to form one unbroken area.

(4) For the avoidance of doubt, where an application is made for a Tier 3 permit that is received by NZP&M on the same working day as an application for a Tier 1 or Tier 2 permit of a kind described in clause 6.8(3) and is in respect of all or part of the same land and any mineral that belongs to a common mineral group, the Tier 3 permit application will not be considered further unless none of the competing Tier 1 or Tier 2 permit applications are successful.

Competitive tender allocation

6.9 General information about competitive tender allocation

(1) If the Minister considers there to be significant competitive interest for exploration or mining permits for minerals in a defined area of high prospectivity, the Minister may allocate permits by staged work programme bidding or cash bonus bidding—

(a) **staged work programme bidding** involves parties submitting bids to undertake a work programme to explore for mineral resources. The term ‘staged’ refers to the fact that work programmes can include later stages of contingent work, depending on the results of the earlier stage or stages. Subject to the other matters the Minister must consider and be satisfied about before granting a permit (see chapter 5), the permit will ordinarily be granted to the party proposing to undertake a work programme that has the best information-gathering value and that is most likely to find mineral deposits in a timely manner, provided the work programme is technically appropriate and credible (see clause 6.11); and

(b) **cash bonus bidding** involves parties submitting bids to pay cash for an exploration permit. The party making the highest cash bid (subject to meeting other requirements) wins the tender. The cash payment is in addition to royalty and fee payment obligations. Permits will not be granted on the basis of competing work programmes, although minimum work programme requirements may be specified as part of the competitive tender.

(2) Staged work programme bidding will be used in most circumstances. Cash bonus bidding is only likely to be used when there is high prospectivity (for example, after a discovery or discoveries) and when there is particularly strong competitive interest in permits. Cash bonus bidding is not considered further in this Programme.

(3) If the Minister decides to hold a competitive tender, a notice will ordinarily include (without limitation)—

(a) the type of permit offered; and

(b) the land and minerals to which the permit relates; and

(c) the manner in which tenders must be submitted, and the time by which tenders must be received by the Minister, in order for the tenders to be valid; and

(d) the conditions to which any permit granted pursuant to the tender will be subject; and

(e) how bids will be evaluated, including what happens when some competing bids are made under section 29A of the Act and other bids are made under section 29B of the Act (see chapter 5); and

(f) any application fee.

(4) Bids for a staged work programme for a permit area will be assessed according to the criteria set out in the public notice.

6.10 Reservation of land

(1) Section 28A(1A) of the Act provides the Minister with the power to declare (by notice in the Gazette) that specified land will not be available for specified permits for a specified time (with a maximum period of three years from the date on which the notice is published in the Gazette) if the Minister believes this is necessary to better meet the purpose of the Act (see clause 3.1).

(2) Where the Minister declares that during a specified period, specified kinds of permit will only be granted in respect of specified land by allocation by competitive tender, the area of land

to which the specified kinds of permits already in place apply will not be extended to include any of the specified land.

(3) After an area of land has been reserved, an investigation may be carried out to determine whether or not a competitive tender should be held. This investigation will ordinarily include the following:

(a) a technical evaluation of the area of the competitive tender;[37] and

(b) consultation with iwi and hapū concerning the proposal to hold a competitive tender; and

(c) an evaluation of the likely interest in a competitive tender, which may include calling for expressions of interest in a possible tender by staged work programme or cash bonus bidding.

6.11 Procedures for processing staged work programme bids

(1) The processing of staged work programme bids will usually be completed within three months after the closing of applications. The notice of the tender will ordinarily set out the Minister's expected timing for processing bids. Bidders will be informed if processing will take longer than this.

(2) If there is only one bid for an area and its work programme is not considered acceptable, the bidder may be requested to modify the proposed work programme to a level that is acceptable to the Minister, if this would generally be in the interest of ensuring continuing mineral exploration in New Zealand. Otherwise the bid will be declined.

(3) If no acceptable bids are received for an area, the Minister will ordinarily inform all bidders for that area about this and invite them to resubmit modified bids within a specified timeframe.

(4) Other than in the circumstances referred to in subclauses (2) and (3) above, applicants will not be allowed to modify or improve a bid once it is submitted.

(5) Once a permit has been granted, all applicants will be informed in writing of the outcome of their application.

(6) The Minister will ordinarily decline all bids if there is no acceptable bid or modified bid (as provided for in subclauses (2) and (3)).

Non-exclusive prospecting permit applications

6.12 Non-exclusive prospecting permit applications

(1) This method involves a non-exclusive prospecting permit being granted over land available for allocation if the applicant's work programme is acceptable to the Minister.

[37] The Minister will ordinarily need to be satisfied that there is sufficient information on the mineral potential or mineral resources of the area to support a competitive tender of either exploration or mining permits. A technical or data package to promote the competitive tender may be prepared.

(2) Non-exclusive prospecting permit applications will be considered over all land that is not explicitly excluded from having a permit granted over it by this Programme or any enactment.

(3) If a non-exclusive prospecting permit is applied for over an area containing one or more exploration or mining permits or privileges for minerals within the same mineral group, clause 6.2 applies.

7. Procedures for applications with equal priority

7.1 Notification of equal priority applications

(1) Chapter 7 applies to Tier 1 and Tier 2 permit applications only.

(2) If there are equal priority permit applications, NZP&M will inform each applicant that their application has equal priority with one or more other applications.

(3) NZP&M may request each applicant to provide, within ten working days, any information that may be needed to clarify their application, including—

(a) where, in the land to which the permit would relate, the applicant proposes to undertake the substance of the work programme and direct the bulk of expenditure; and

(b) the rationale for that work and expenditure.

7.2 Equal priority applications to be assessed in their entirety and in accordance with relevant criteria set out in this Programme

(1) If this Programme requires two or more applications to be given equal priority (or to be considered in competition), then in determining whether or not to grant a permit or to extend the land to which a permit relates (as the case may be), the Minister will ordinarily assess each of the applications—

(a) in their entirety; and

(b) in accordance with the relevant criteria that—

(i) are set out in this chapter and throughout the rest of this Programme; and

(ii) apply to each of the applications.

(2) Where this Programme requires two or more permit applications to be given equal priority, after ranking the permit applications (in accordance with clauses 7.3 – 7.7 as applicable), the Minister will consider, for the top-ranked application or applications—

(a) the matters in sections 29A(2)(b) and (c) of the Act, to determine whether the applicant is highly likely to comply with and give effect to its proposed work programme and comply with the relevant obligations under the Act or the Regulations (see clauses 5.1 and 5.3); and

(b) with regard to applications for Tier 1 permits for exploration or mining, section 29A(2)(d) of the Act, which relates to whether the applicant has, or is highly likely to have, by the time the relevant work in any granted permit is undertaken, the capability and systems that are likely to be required to meet health and safety and environmental requirements (see clauses 5.1 and 5.4).

(3) The assessment in subclause (2) above may result in changes to the ranking, including rejection of one or more top-ranked applications. As noted in chapter 5, unless section 29B of the Act applies (see clause 5.5), the Minister must be satisfied about all of the matters set out in section 29A(2) of the Act before granting a permit.

7.3 Equal priority prospecting permit applications

(1) In assessing prospecting permit applications with equal priority,[38] the Minister will ordinarily consider any or all of the following matters (without limitation), in addition to the matters in chapters 5 and 8:

(a) whether each work programme is appropriate and sufficiently comprehensive—

(i) to achieve the objective of identifying land that is likely to contain the mineable mineral resource:[39] and

(ii) to add materially to the knowledge about the mineral within the area of land:

(b) the merits of—

(i) where, on the land to which the permit application relates, the applicant proposes to undertake the substance of the work programme:

(ii) the proposed expenditure:

(iii) the proposed scheduling of prospecting activities and how the expenditure is to be allocated to those activities:

(iv) the rationale for that work and expenditure.

(2) For the avoidance of doubt, the matters referred to in subclause (1) above are in addition to, and not instead of, other relevant criteria set out in this Programme.

7.4 Equal priority exploration permit applications

(1) In assessing exploration permit applications with equal priority,[40] the Minister will ordinarily consider any or all of the following matters (without limitation), in addition to the matters in chapters 5 and 9:

(a) how appropriate and comprehensive each work programme is, given the geological knowledge of the area and any exploration results to date:

(b) the merits of—

(i) where, on the land to which the permit application relates, the applicant proposes to undertake the substance of the work programme:

(ii) the proposed expenditure:

(iii) the proposed scheduling of exploration activities and how the expenditure is to be allocated to those activities:

(iv) the rationale for that work and expenditure:

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[38] This includes an application to extend the land of a prospecting permit.

[39] The terms “exploitable mineral deposit” and “mineable mineral resource” are used in the Regulations. With the exception of chapter 10 of this Programme (see clause 10.1(4) and footnote 44), the term “mineable mineral resource” is used throughout this Programme to refer to both a “mineable mineral resource” and an “exploitable mineral deposit”.

[40] This includes an application to extend the land of an exploration permit.

(c) the information-gathering potential of the proposed work:

(d) whether the work is to be committed, rather than contingent.

7.5 Equal priority mining permit applications

(1) In assessing mining permit applications with equal priority,[41] the Minister will ordinarily consider (without limitation) the proposed scheduling of mining and the appropriateness of the proposed technical approach to the proposed works, given the geology and the nature of the mineral resource.

(2) For the avoidance of doubt, the matters referred to in subclause (1) above are in addition to, and not instead of, other relevant criteria set out in this Programme.

7.6 Equal priority exploration and mining permit applications

(1) If an exploration permit application has equal priority with a mining permit application, the Minister's assessment of the applicants' proposed work programmes will ordinarily consider the proposed technical approach to the proposed works, given the geology and the nature of any mineral resource defined.

(2) The Minister will ordinarily give priority to considering the mining permit application, subject to it meeting other relevant criteria set out in this Programme and better meeting the purpose of the Act than the exploration permit application.

7.7 Prospecting permit application competing with exploration or mining permit applications

(1) If a prospecting permit application has equal priority with either an exploration or a mining permit application, the Minister will give priority to considering the exploration or mining permit application.

(2) Section 28 of the Act provides that the Minister must not grant a prospecting permit if there is substantial interest in exploring for or mining the mineral in all or part of the land to which the prospecting permit application relates, unless special circumstances apply.

[41] This includes an application to extend the land of a mining permit.

8. Prospecting permits

8.1 Introduction

(1) Section 23 of the Act provides that the purpose of a minerals prospecting permit is to authorise the permit holder to prospect for minerals as specified in the permit. The definition of "prospecting" in the Act provides that this term:

"(a) means any activity undertaken for the purpose of identifying land likely to contain mineral deposits or occurrences; and

(b) includes the following activities—

(i) geological, geochemical, and geophysical surveying:

(ii) aerial surveying:

(iii) taking samples by hand or hand held methods:

(iv) taking small samples offshore by low-impact mechanical methods".[42]

(2) Minerals prospecting permits are intended for preliminary or reconnaissance investigations where the mineral potential of an area is not already well understood. On this basis, applications for prospecting permits for coal, alluvial gold and any mineral where the mineral potential is well understood will generally be declined, as the resource potential is well-established.

(3) The Minister will ordinarily—

(a) decline to grant a prospecting permit for coal over delineated coalfields or in relation to alluvial gold over known alluvial gold fields:

(b) in the case of other minerals, grant a prospecting permit (and any extension of duration) only if the applicant proposes—

(i) to use new or improved sampling, analytical or survey techniques, including those providing higher resolution of data or enhanced detection levels; or

(ii) to prospect for any mineral that has not previously been prospected for in all or part of the same permit area under any previous prospecting permit:

(c) grant a prospecting permit (and any extension of duration) for the minimum period necessary to meet the conditions of the work programme.

8.2 Assessment of work programmes

(1) The Minister will ordinarily decline a prospecting permit application unless the proposed work programme—

(a) has as its purpose to identify land likely to contain exploitable mineral deposits; and

[42] Section 2(1) of the Act.

(b) will add materially to the knowledge about the minerals within the area and is appropriate to the size and term of the permit sought.

8.3 General matters to be considered for assessment of work programmes

(1) In assessing the proposed work programme, the Minister will ordinarily consider any or all of the following matters (without limitation):

(a) the geology of the land that will be covered by the work programme:

(b) any prospecting, exploration or mining previously carried out over all or part of that land. In considering previous prospecting, exploration or mining, the Minister will ordinarily have regard to—

(i) how long ago the activities were undertaken; and

(ii) the type and appropriateness of investigations undertaken; and

(iii) the methods and analytical techniques that were used; and

(c) the existing knowledge of the mineral resources of the land:

(d) the proposed prospecting activities, including the extent to which the work programme proposes to use new or improved sampling, analytical or survey techniques:

(e) the minimum level of expenditure indicated:

(f) whether the proposed prospecting activities will investigate the full extent of the land to be covered by the permit:

(g) the time the applicant estimates will be required—

(i) to carry out the proposed prospecting work; and

(ii) to process and analyse the results.

8.4 Area

(1) Ordinarily a prospecting permit—

(a) for an onshore area will be no larger than 500 square kilometres; or

(b) for an offshore area will be no larger than 5,000 square kilometres.

(2) The Minister may grant a prospecting permit of a larger size if they consider that competitive interest in the area is likely to be low or if a larger area is necessary to enable efficient and effective prospecting of the area.

8.5 Duration

(1) Sections 35(1) and (2) of the Act provide that—

(a) a prospecting permit expires—

(i) four years after the commencement date specified in the permit; or

(ii) if an earlier expiry date is specified in the permit, on that date; and

(b) a prospecting permit may not be extended beyond four years after the commencement date specified in the permit.

(2) The Minister will ordinarily grant a prospecting permit specifying—

(a) an expiry date that is up to two years after the commencement date; and

(b) in accordance with section 35B of the Act, an amount of land that must be relinquished if an extension of duration is granted (see clause 12.6).

9. Exploration permits

9.1 Introduction

(1) Section 23 of the Act provides that the purpose of a minerals exploration permit is to authorise the permit holder to explore for minerals as specified in the permit. "Exploration" is defined in the Act as "any activity undertaken for the purpose of identifying mineral deposits or occurrences and evaluating the feasibility of mining particular deposits or occurrences of one or more minerals; and includes any drilling, dredging, or excavations (whether surface or subsurface) that are reasonably necessary to determine the nature and size of a mineral deposit or occurrence".[43]

(2) Section 30(2) of the Act provides that the holder of a minerals exploration permit also has the rights of a minerals prospecting permit holder, in accordance with the conditions of the permit and within the area of the permit.

(3) The Minister will ordinarily grant an exploration permit if they are satisfied that the objective of the exploration is—

(a) to identify at least a mineral resource or deposit in the proposed permit area; or

(b) to determine the feasibility of mining particular mineral resources.

9.2 Assessment of work programmes

(1) A work programme for an exploration permit should consist of two distinct stages: ordinarily one three-year stage and one two-year stage. A work programme will not ordinarily have commitment deadlines at any time other than the end of each stage.

(2) In the case of a Tier 1 exploration permit application, the Minister will ordinarily decline a proposed work programme for that application unless, in addition to the requirements of clause 9.1 above, the proposed work programme includes the following minimum work commitments (it may also include other work commitments):

(a) exploration targets for drilling, which will be finalised within the first stage of the work programme; and

(b) drilling and other exploration activities that are appropriate to assessing the scale and prospectivity of the identified exploration targets, or that are directed at increasing the level of geological confidence of a mineral resource or deposit.

(3) Where the drilling and other exploration activities carried out under a Tier 1 or Tier 2 exploration permit involve the establishment of a test pit, the volume of materials extracted from that test pit as a test pit sample or bulk sample must not exceed a volume agreed in the work programme for the exploration permit (being a volume that is consistent with the purpose of an exploration permit as provided in section 23 of the Act and which does not amount to mining).

[43] Section 2(1) of the Act.

9.3 General matters to be considered for assessment of work programmes

(1) In assessing a proposed work programme, the Minister will ordinarily consider any or all of the following matters (without limitation):

(a) the geology of the land to which the permit application relates, including whether the land contains defined exploration targets or is contiguous to defined exploration targets:

(b) past prospecting, exploration or mining activities that may be relevant to the land covered by the permit application:

(c) the technical approach to be taken when exploring the land to which the permit application relates, and the stated objectives of the work programme:

(d) whether the proposed exploration is in accordance with good industry practice and provides for exploration over the full extent of the land to which the permit application relates; and whether the proposed key exploration activities are contingent on activities that are considered to be prospecting in nature:

(e) the timing and quantities of committed work, particularly drilling:

(f) the time the applicant estimates is required to undertake both the committed and contingent exploration work proposed and to process and analyse the results:

(g) the minimum exploration expenditure indicated for each stage, including the expectation of increased expenditure in line with more intensive exploration activities:

(h) for a subsequent exploration permit, the extent (if any) to which the land to which the application relates is reduced to focus on specific identified exploration targets or a mineral resource:

(i) whether the proposed exploration work programme will provide adequate information to enable a decision to be made before the permit expires to pursue either—

(A) the commercial development of a particular mineral resource; or

(B) an application for an extension of duration; or

(C) an application for an appraisal extension.

9.4 Area

(1) Ordinarily an exploration permit will be no smaller than 150 hectares.

9.5 Duration

(1) Sections 35(5) and (6) of the Act provide that—

(a) a minerals exploration permit expires—

(i) ten years after the commencement date specified in the permit; or

(ii) if an earlier expiry date is specified in the permit, on that date; and

(b) a minerals exploration permit may not be extended beyond ten years after the commencement date specified in the permit, unless it is extended further under section 35A of the Act to appraise a discovery (see clause 9.6 below).

(2) The Minister will ordinarily grant an exploration permit specifying—

(a) an expiry date that is up to five years after the commencement date; and

(b) in accordance with section 35C of the Act, an amount of land that must be relinquished if an extension of duration is granted (see clause 12.6).

9.6 Extension of duration to appraise a discovery

(1) Section 35A of the Act provides that an exploration permit holder may apply for an appraisal extension to determine the extent and characteristics of a discovery in order to determine whether the requirements for a mining permit can be met, if—

(a) the permit holder has made a discovery that has the potential to lead to the grant of a mining permit; and

(b) the duration of the permit is insufficient to carry out the appraisal work for the discovery; and

(c) the Minister is satisfied that the appraisal work programme is sufficient to carry out the appraisal work.

(2) Section 35A(1) of the Act provides that an appraisal extension may have a duration of up to four years. However, section 35A(4) of the Act provides that the Minister may grant a further extension of not more than four years subject to the same provisions in the Act as for an application for an initial appraisal extension (see subclause (1)).

(3) In assessing the adequacy of an appraisal work programme submitted with an application to extend the duration of an exploration permit, the Minister will ordinarily consider any or all of the following matters (without limitation):

(a) the nature of the proposed appraisal work:

(b) the extent and physical characteristics of the discovery, and the technical approach to better defining these characteristics:

(c) estimates of mineral resources, which for Tier 1 permits, are made in accordance with a recognised reporting code:

(d) whether the proposed appraisal work is necessary and adequate to advance knowledge of a discovery or resource to allow determination of whether an economically mineable mineral resource or deposit is present:

(e) the proposed staging and timing of the appraisal work, including whether the work programme specifies decision points that will lead to the completion, within the period of the extension, of mine feasibility and technical studies for the development and mining of the discovery:

(f) whether the permit holder has complied with the conditions of the permit, the Crown Minerals (Minerals Other than Petroleum) Regulations 2007, and the Act.

(4) The Minister will ordinarily extend the duration of the appraisal extension if the permit holder satisfies the Minister that the appraisal work programme cannot be completed within the original appraisal extension period and that the permit holder is taking all practicable steps to advance appraisal of the discovery.

(5) An appraisal extension is not granted for the purpose of allowing further general exploration.

(6) An application for an appraisal extension must contain the information required by the Crown Minerals (Minerals Other than Petroleum) Regulations 2007 and may be made via the Online Permitting System or with use of the relevant forms which are available on NZP&M's website. NZP&M prefers applicants to make use of the Online Permitting System where possible.

(7) Section 36(4) of the Act provides that the application for an appraisal extension must be received by the Minister not later than six months before the expiry of the permit, unless the Minister is satisfied that there are compelling reasons why a permit holder could not comply with this requirement.

(8) Any application for a mining permit must be submitted before the appraisal extension expires. Section 32(8) of the Act provides that the appraisal extension will continue in force until a decision has been made on the mining permit application.

9.7 Area of an appraisal extension

(1) Section 35A of the Act provides that the area of an appraisal extension must be restricted to the land in the permit to which the Minister determines it is likely that the discovery relates.

(2) In determining the area of an appraisal extension the Minister will take into account that it may be difficult to be precise about the actual limits of a mineral resource before the appraisal work is completed. The Minister's objective will be to allow the permit holder a reasonably sufficient area of land to enable them to appraise the discovery, and allow for mine development.

(3) As a condition of granting an appraisal extension, the Minister may require that the area of the extension be re-considered at a specified time. If, after consulting with the permit holder, the Minister considers that all of the permit area is no longer required for appraisal purposes, the Minister may reduce the area of the appraisal extension to the area that continues to be required.

(4) If there is more than one discovery, the Minister will ordinarily include both (or all) discoveries in the area of the appraisal extension.

10. Mining permits

10.1 Introduction

(1) Chapter 10 applies to Tier 1 and Tier 2 mining permits only.

(2) Section 23 of the Act provides that the purpose of a minerals mining permit is to authorise the permit holder to mine for the minerals specified in the permit. "Mining" is defined in section 2(1) of the Act as meaning "to take, win, or extract, by whatever means, a mineral existing in its natural state in land, or a chemical substance from [that mineral]".

(3) Section 30(3) of the Act provides that the holder of a minerals mining permit also has the rights of a minerals exploration permit holder (and therefore also of a minerals prospecting permit holder) in accordance with the conditions of the permit and within the area of the permit.

(4) The Minister will ordinarily grant a mining permit if satisfied that—

(a) the permit applicant has identified and delineated at least a mineable mineral resource;[44] and

(b) the area of the permit is appropriate; and

(c) the objective of the mining permit is to economically deplete the mineable mineral resource to the maximum extent practicable in accordance with good industry practice.

10.2 Matters that may be considered by the Minister

(1) In considering whether a mineable mineral resource has been sufficiently delineated to support the granting of a mining permit, or in assessing any proposed work programme[45] (or modified work programme), the Minister will ordinarily consider any or all of the following matters (without limitation):

(a) the geology and occurrences of minerals within the land to which the mining permit application (or application for extension of duration) relates:

(b) the applicant's knowledge of the geology and extent of the mineral resource that the applicant proposes to extract:

(c) estimates of mineable mineral resources (which may include inferred, indicated and measured resources) and the accompanying documentation on input data, methodology, quality control and validation of the mineral resource estimates:

(d) the applicant's mining studies, which, at a minimum, should include mine design, scheduling and production, resource recovery, and economic viability:

[44] The terms "exploitable mineral deposit" and "mineable mineral resource" are used in the Regulations. The term "deposit" is defined in the Act. For the purposes of chapter 10 of this Programme, "mineable mineral resource" refers to an exploitable mineral deposit, a mineable mineral resource and a deposit.

[45] This includes any work programme required by the Minister in connection with an application for an extension of duration of a mining permit.

(e) project economics – in particular the financial viability and technical constraints, and the proposed level of expenditure in relation to the scale and extent of the proposed operations:

(f) whether the proposed mining operations are in accordance with good industry practice.

(2) For Tier 1 permit applications, estimates of mineral resources or reserves are required by the Crown Minerals (Minerals Other than Petroleum) Regulations 2007 to be made in accordance with one of the recognised reporting codes, and be accompanied by—

(a) documentation on input data, methodology, quality control, and validation of the resource or deposit; and

(b) a spatial definition of the areas to which the figures in the estimates apply; and

(c) a statement of the criteria used to determine the estimates; and

(d) a statement of whether the estimates are made on the basis of a scoping, pre-feasibility, or feasibility study, or some other basis.

(3) For Tier 1 permits, the Crown Minerals (Minerals Other than Petroleum) Regulations 2007 require the preparation of a report on any alternative mine development plans that have been identified, which must include details of the projected ultimate recovery of the resource under each plan and a statement as to why these options have not been pursued. The Minister may require the application of specific discount rates to help rank alternative development options. Ordinarily, the discount rate will be 3% as a proxy for the social rate of time preference.[46] In addition, a discount rate of 10% may be applied as a proxy for the cost of capital of a (hypothetical) large, diversified mineral explorer and producer. The latter discount rate will be used to confirm that the preferred development option or options using the social time preference discount rate is or are commercially viable; if this is not the case, any non-viable options will not be considered further.

10.3 Assessment of mining permit area

(1) In considering whether the land to which a permit application relates (or any EOL to which a permit relates) is appropriate, the Minister will ordinarily consider the following matters (without limitation):

(a) the delineation of the mineral resource; and

(b) the proposed work programme and other relevant matters set out in clause 10.2 above; and

(c) the extent to which the area of land under application covers the delineated mineral resource; and

(d) the area of land required to develop the mineral resource.

(2) A mining permit (or any EOL) will ordinarily be granted over an unbroken area, unless the Minister considers that special circumstances exist as set out in clause 4.6.

[46] The social rate of time preference discounts future benefits and costs based on the way that society values present, as opposed to future, consumption.

(3) The Minister will ordinarily decline a mining permit application if the application is made for an area adjoining a current mining permit held by the applicant or a related party, and either—

(a) the Minister considers that it is being sought to avoid payment of royalty to the Crown; or

(b) it would be more appropriate for the current permit to be extended.

10.4 Area

(1) Ordinarily a Tier 2 mining permit will be of a size no larger than—

(a) 50 hectares in the case of a gold mining operation in the bed of a river or a beach; or

(b) 200 hectares in the case of any other Tier 2 permit.

10.5 Extensions of land

(1) The Minister will ordinarily grant an EOL to which a mining permit relates if satisfied that—

(a) the permit holder has delineated a mineable mineral resource; and

(b) the mineable mineral resource is generally contiguous with the mineral resource to which the mining permit applies; and

(c) the area of the permit extension is appropriate, having regard to the considerations in clause 10.3; and

(d) the objective of extending the land is to economically deplete the mineable mineral resource to the maximum extent practicable in accordance with good industry practice; and

(e) extending the land will not be inconsistent with any or all of the matters considered under clauses 12.2 and 12.5.

(2) For Tier 1 permits, estimates of mineral resources and ore reserves made under subclauses (1)(a) and (1)(b) must be made in accordance with a recognised reporting code, and be accompanied by—

(a) documentation on input data, methodology, quality control, and validation of the resource or deposit; and

(b) a spatial definition of the areas to which the figures in the estimates apply; and

(c) a statement of the criteria used to determine the estimates; and

(d) a statement of whether the estimates are made on the basis of a scoping, pre-feasibility, or feasibility study, or some other basis.

10.6 Duration

(1) A Tier 2 mining permit will ordinarily be granted for a period of no more than ten years if the permit is a permit for alluvial gold.

(2) In the case of a Tier 1 permit, or a Tier 2 mining permit to which subclause (1) above does not apply, if the Minister reasonably considers that the proposed mining of the mineral resources should take less than 40 years, then in determining the duration of a mining permit they will ordinarily consider (without limitation) any or all of the following matters:

(a) the estimated mineable mineral resources:

(b) the proposed production schedule:

(c) the timing of the mine development:

(d) the proposed start date for production:

(e) any matters set out in clause 10.2 that in the Minister's opinion are relevant.

(3) Under section 36 of the Act, the duration of a mining permit may only be extended if—

(a) the permit holder satisfies the Minister that the discovery to which the permit relates cannot be economically depleted before the permit expires, and the Minister approves a new permit work programme, if required (see clause 12.6); or

(b) the permit holder requires an extension to complete mine-closure activities and rehabilitation work.

10.7 Special purpose mining activities

(1) A mining permit for a special purpose mining activity may be granted to enable historical mining methods to be demonstrated. These permits are likely to be applied for by historical societies, museum trusts or other similar bodies. Mining permits for special purpose mining activities will always be Tier 2 permits.

(2) A permit for a special purpose mining activity will ordinarily be granted if the Minister is satisfied that—

(a) the applicant seeks the mining permit to undertake mining operations for demonstrating historical methods of mining; and

(b) the applicant is a historical society, museum trust, or other similar party, including an educational institution.

(3) The Minister will not grant a permit for a special purpose mining activity if the area of the application exceeds five hectares.

10.8 Application for subsequent mining permit over more than one exploration permit

(1) Subject to section 32 of the Act and clauses 4.5 and clause 4.6, when the Minister has decided to grant a mining permit over land that is subject to more than one exploration permit held by the applicant, a single mining permit will ordinarily be granted, provided the

exploration permits relate to a common mineable mineral resource and the land to which the mining permit relates is an unbroken area.

10.9 Unit development approval of work programme for subsequent mining permit

(1) The Minister will ordinarily withhold approval of a proposed work programme, on the basis set out in subclause (2) below, if—

(a) a mineable mineral resource extends over two or more permits held by different parties, and the Minister has given a notice of unit development under section 46 of the Act; and

(b) one exploration permit holder applies for a subsequent mining permit before a unit development scheme has been approved; and

(c) the Minister has not yet considered the unit development scheme.

(2) The basis for withholding the approval is that the Minister is not reasonably able to determine, without an assessment in the context of the unit development scheme, whether or not the proposed work programme will avoid waste and unnecessary sterilisation of the mineable mineral resource.

10.10 Evaluation of unit development scheme

(1) In evaluating a proposed unit development scheme, the Minister will ordinarily consider any or all of the following matters (without limitation):

(a) the matters set out in clause 10.2 above:

(b) any approved work programme relating to any of the permits or existing privileges that are subject to the notice of unit development, or any work programmes submitted for approval and being considered:

(c) any conditions of the permits or existing privileges that are subject to the notice of unit development:

(d) proposals or agreements entered into by the relevant permit or existing privilege holders concerning obligations, liabilities and entitlements to production:

(e) whether exploration or prospecting work is proposed, with the aim of obtaining further information on the mineral resources of the area, or of updating knowledge of the mineable mineral resource and reducing uncertainty about the location and quality of the mineral.

10.11 Preparation of unit development scheme by Minister

(1) A unit development scheme that is prepared by the Minister under section 46(4) of the Act will ordinarily provide for any or all of the following matters (without limitation):

(a) estimating the production entitlement of each permit holder or existing privilege holder, by reference to the mineable mineral resource and reserves in the land to which each affected permit or existing privilege relates:

(b) whether one permit or existing privilege holder has incurred or may incur greater exploration, appraisal and development costs, or will provide more facilities than the other permit or existing privilege holder:

(c) effective mining of the mineable mineral resource in accordance with good industry practice with the objective of securing the maximum recovery of the mineral within technical and economic constraints:

(d) the production schedule for the mineable mineral resource:

(e) the liability of each permit or existing privilege holder for the costs of necessary mining operations:

(f) the obligations of each permit or existing privilege holder when undertaking mining operations:

(g) the need for a unit operating agreement that states the entitlement of each permit or existing privilege holder to the mineral obtained as a result of operations undertaken in accordance with the unit development scheme.

10.12 Staged work programmes for Tier 1 mining permits

(1) The Minister will consider a work programme that is set out in development stages. For example, this may be appropriate if a mineable mineral resource has been delineated but its long-term characteristics cannot be established other than by commercial production or mine development. The work programme may provide for a first stage of work and then for the permit holder to submit for the Minister's approval a work programme for the remainder of the permit's term or for the subsequent stage.

(2) If a staged development is proposed, the applicant will need to demonstrate that the staged development will not unreasonably prejudice the resource's economic recovery. An understanding of how each stage is intended to fit with further possible stages will need to be shown.

(3) The Minister may require options to be included in the work programme for reducing the size of the permit area or for amending the duration of the permit after the first stage, if it is established that the extent of the mineable mineral resource or amount of reserves is less than originally forecast.

(4) The Minister will not ordinarily approve a work programme that is set out in development stages where the work that the applicant proposes to carry out in the first stage (or any other stage) is work that the Minister considers better suited to an appraisal extension.

10.13 Commencement of mining

(1) In general, mining operations will be expected to start as soon as possible. However, the Minister may consider a work programme in which mining starts after the commencement date of the minerals mining permit. In doing so, the matters the Minister may take into account include—

(a) whether development of the mine will be in coordination with the development of other minerals mining permits and there is a logical development progression proposed that

will result in all the permits being developed to ensure maximum economic recovery; and

(b) whether the permit applicant wishes to delay development until new infrastructure required for transporting or processing the minerals has been constructed.

10.14 Processes where the Minister withholds approval of a work programme

(1) Sections 43 and 44 of the Act provide specific processes for where the Minister considers that a work programme submitted by the applicant for the purposes of obtaining a mining permit subsequent to an exploration permit is not satisfactory.

(2) Section 43 of the Act provides that the Minister may not withhold approval of the proposed work programme unless—

(a) the proposed work programme is contrary to good industry practice;[47] or

(b) approval would be acting contrary to this Programme.

(3) Sections 43 and 44 of the Act provide that—

(a) the Minister must notify the applicant that the work programme is not approved; and

(b) the applicant may, within a reasonable period specified by the Minister, submit a modified work programme; and

(c) the Minister must approve or withhold approval of the modified work programme within six months; and

(d) the Minister may not withhold approval of a work programme or modified work programme without first informing the applicant of the reasons for proposing to withhold approval and providing a reasonable opportunity for the applicant to make representations to the Minister on the matter; and

(e) if the Minister withholds approval of a work programme or modified work programme the applicant may refer the matter to arbitration under section 99 of the Act. The arbitrator's decision is binding on the Minister.

10.15 Rehabilitation

(1) Environmental protection provisions relating to rehabilitation are set by regional authorities under the Resource Management Act 1991 (onshore and up to 12 nautical miles offshore) and the Environmental Protection Authority under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (in New Zealand's exclusive economic zone and continental shelf). Other relevant legislation includes the Health and Safety at Work Act 2015 and the Maritime Transport Act 1994.

(2) The Minister may include provisions in a mining permit work programme for rehabilitation in accordance with good industry practice.

[47] "Good industry practice" is defined in section 2(1) of the Act. This definition and the Minister's interpretation of the phrase is set out at clauses 1.3(10) and (11).

11. Permits (General): Management of permits and obligations of permit holders

Obligations of the permit holder

11.1 Obligations of the permit holder

(1) Chapter 11 relates to the main obligations of Tier 1 and Tier 2 permit holders only. Matters relating to the main obligations of Tier 3 permit holders are set out in clause 13.8.

(2) The main obligations of the permit holder are to—[48]

(a) carry out the work programme specified in the permit; and

(b) comply with the conditions of the permit and all other obligations under it; and

(c) operate in accordance with good industry practice (see clauses 1.3(10) and (11)); and

(d) report annually to NZP&M on specified matters; and

(e) attend an annual work programme meeting where the permit is a Tier 1 permit and the permit holder is required to attend the meeting by the Chief Executive; and

(f) calculate and pay royalties (prescribed in the Crown Minerals (Royalties for Minerals Other than Petroleum) Regulations 2013, the relevant minerals programme or an existing privilege), and submit royalty returns (in accordance with the Crown Minerals (Royalties for Minerals Other than Petroleum) Regulations 2013); and

(g) pay fees prescribed in the Crown Minerals (Minerals Fees) Regulations 2016; and

(h) notify the Minister of, and obtain consent to, specified events and transactions (see clauses 12.8 – 12.13 on transfers and dealings); and

(i) lodge information and data in accordance with the Crown Minerals (Minerals Other than Petroleum) Regulations 2007; and

(j) comply with the Act, the Regulations, and this Programme; and

(k) comply with the Health and Safety at Work Act 2015 and regulations made under that Act; and

(l) prepare an annual report to the Minister of the permit holder's engagement with iwi or hapū and attend any meeting, as required by the Chief Executive, to discuss an iwi engagement report (or draft iwi engagement report).[49]

[48] See sections 33, 33C, 33CA, 33D and 34 of the Act.

[49] These obligations apply to all Tier 1 permit holders as well as all Tier 2 permit holders of a class or kind specified in the Regulations. At the time this Programme came into force, no Tier 2 permit holders were required by the Regulations to prepare an annual report to the Minister of the permit holder's engagement with iwi or hapū or to attend any meeting to discuss an iwi engagement report.

(3) Other obligations include to—

(a) co-operate with any enforcement officer; and

(b) keep records for at least seven years after the year to which they relate, or two years after the end of a permit to which they relate, whichever is the longer. The records a permit holder is required to keep include (without limitation): financial records, commercial records (including feasibility studies) and scientific and technical records.

(4) Section 100(2) of the Act provides that it is an offence to fail to comply with permit conditions and with the Act. Under section 101(2) of the Act, every person who commits an offence against section 100(2) is liable on summary conviction to be fined.

(5) The Minister may also revoke a permit if the permit holder has contravened or is contravening the Act, the Regulations, or any of the conditions of a permit (see clause 12.15).

(6) Section 25(5) of the Act provides that a permit must not be granted if a monetary deposit or bond that is required by the Minister as security for compliance with the conditions of the permit has not been deposited with the Chief Executive. Monetary deposits or bonds will not ordinarily be required.

11.2 Coal seam gas

(1) As noted in clause 1.6, coal seam gas is petroleum, and therefore is not covered by this Programme. However, the holders of coal mining permits and existing privileges have an incidental right to extract, collect and release coal seam gas, where it is necessary and reasonable to do so in conjunction with the safe management of coal mining operations. This right does not give coal operators a right of ownership of the gas or the right to sell or trade gas.

(2) The holder of a coal permit or existing privilege who wants to sell or trade gas, including that associated with coal mining, must apply for a petroleum mining permit.

(3) To avoid potential interference issues between coal and petroleum activities, if a petroleum permit targeting coal seam gas is granted and overlaps with an existing coal mining permit or existing privilege, the holder of the coal mining permit or existing privilege is required to provide to the petroleum permit holder a five-year development plan for the existing coal mine, showing the location and extent of the area of the mining permit or existing privilege in which mining is proposed for the following five years. This will include a three-year rolling coal extraction zone, which will be excluded from any non-minimum impact petroleum activities by the petroleum permit holder unless the holder of the underlying coal mining permit or existing privilege gives written consent.

(4) When a coal mining permit is granted over the area of an existing petroleum permit that is held for the purpose of prospecting for, exploring for, or mining coal seam gas, the Minister will require the holders of both permits to adhere to a coordination procedure similar to that in subclause (3) above.

(5) For the avoidance of doubt, if a minerals permit targeting coal resources is granted and overlaps with an existing petroleum permit targeting coal seam gas, the petroleum permit holder must provide to the mineral permit holder a five-year development plan for the existing coal seam gas operation, showing the location and extent of the permit area in which coal seam gas extraction is proposed for the following five years. This will include a

three-year rolling coal seam gas extraction zone, which will be excluded from any non-minimum impact mineral activities by the mineral permit holder unless the underlying petroleum permit holder gives written consent.

11.3 Annual summary reporting by Tier 1 permit holders

(1) Under the Crown Minerals (Minerals Other than Petroleum) Regulations 2007, a Tier 1 permit holder must submit to NZP&M, by not later than 31 March, an annual summary report covering the previous calendar year. Detailed requirements are set out in Parts 6, 7 and 8 of Schedule 4 of the Crown Minerals (Minerals Other than Petroleum) Regulations 2007.

(2) Under clauses 14 and 18 of Schedule 1 of the Act, holders of existing privileges are required to report in accordance with section 90 of the Act and the Crown Minerals (Minerals Other than Petroleum) Regulations 2007.

(3) The annual summary report must include a report on activities carried out under the permit, including the extent of compliance with the work programme, as follows:

(a) an exploration permit holder must provide, where applicable, information on—

(i) the number of holes and the total number of metres drilled; and

(ii) whether any mine feasibility studies were carried out; and

(iii) the number of any geochemical samples and any bulk samples; and

(iv) estimates of total in-ground resources; and

(v) an up-to-date estimate of the resource, prepared in accordance with a recognised reporting code, which may include:

(A) inferred, indicated, and measured mineral resources; and

(B) probable and proved reserves; and

(vi) estimates provided under subclause (3)(a)(v) above must be accompanied by—

(A) a spatial definition of the areas to which the figures in the estimates apply; and

(B) a statement of the criteria used to determine the estimates; and

(C) a statement of whether the estimates are made on the basis of a scoping, pre-feasibility, or feasibility study, or some other basis; and

(vii) a list of all reports relevant to the prospecting and exploration activity under the permit that were created in the past year:

(b) a mining permit holder must provide information on—

(i) a summary of mine production for the past year; and

(ii) an estimate of planned mine production for the next year or, if no production is planned, a statement, with reasons, to that effect; and

(iii) a summary of the mining and processing methods proposed to be employed at the operation in the next year; and

(iv) a plan in digital format of all mine workings and planned development and the timing of this development; and

(v) a summary of the status of consents or applications for consents (including access arrangements and resource consents) that affect the ability of the permit holder to give proper effect to the permit; and

(vi) estimates of total in-ground resources; and

(vii) an up-to-date estimate of the resource, prepared in accordance with a recognised reporting code, which may include—

(A) inferred, indicated and measured mineral resources; and

(B) probable and proved reserves; and

(viii) a summary of any exploration and prospecting activity undertaken in the past year; and

(ix) a statement of whether the resource and reserves estimates are made on the basis of a scoping, pre-feasibility, or feasibility study, or some other basis; and

(x) to accompany the resource and reserves estimates, a spatial definition of the areas to which those estimates apply; and

(xi) a statement of the criteria used for defining the resource and reserves estimates; and

(xii) a list of all reports relevant to prospecting, exploration, and mining activity under the permit that were created in the past year.

(4) When preparing an annual activity summary report, NZP&M recommends permit holders refer to the guidance contained in the Guide to Completing and Submitting Plans for Mines and Tunnels (or any successor to that guide).

(5) The annual expenditure report must report on total expenditure on prospecting and exploration undertaken over the previous year, broken down into—

(a) prospecting and exploration (including mapping, geochemical, geophysical, drilling, appraisal, and data compilation); and

(b) other expenditure (including consents and administration).

(6) A Tier 1 permit holder must also submit to NZP&M, at the same time as the annual activity and expenditure report(s), a report on the permit holder's engagement with those iwi or hapū whose rohe (area) includes some or all of the permit area or who otherwise may be directly affected by the permit (an iwi engagement report: see clause 11.9).

11.4 Annual summary reporting by Tier 2 permit holders

(1) Under the Crown Minerals (Minerals Other than Petroleum) Regulations 2007, a Tier 2 permit holder must submit to NZP&M, by not later than 31 March each year, an annual

summary report (or reports) covering the previous calendar year. The detailed requirements are set out in Parts 6, 7 and 9 of Schedule 4 of the Crown Minerals (Minerals Other than Petroleum) Regulations 2007.

(2) The annual activity and expenditure summary report(s) must include—

(a) a report on activities undertaken under the permit, as follows—

(i) prospecting and exploration permit holders must include information on—

(A) the number of holes and the total number of metres drilled; and

(B) whether any mine feasibility studies were carried out; and

(C) the number of any geochemical samples and any bulk samples; and

(ii) mining permit holders must include information on—

(A) mine production for the past year; and

(B) an estimate of planned mine production for the next year or, if no production is planned, the reasons why no production is planned; and

(iii) in addition, coal mining permit holders must provide an up-to-date estimate of the coal resource, including—

(A) total in-ground resources; and

(B) inferred, indicated and measured mineral resources; and

(C) proved and probable reserves; and

(b) a report on total expenditure on prospecting and exploration undertaken over the previous year, broken down into—

(i) prospecting and exploration (including mapping, geochemical, geophysical, drilling, appraisal, and data compilation); and

(ii) other expenditure (including consents and administration).

(3) Only Tier 2 permit holders of a class or kind specified in the Regulations are required to provide an iwi engagement report.

11.5 Technical reports, records and samples

(1) The Crown Minerals (Minerals Other than Petroleum) Regulations 2007 require permit holders to provide to NZP&M, not later than 40 working days after the close of the permit year, all technical reports and records of any prospecting, exploration or mining activities created in the immediately preceding permit year. Detailed requirements are set out in the Crown Minerals (Minerals Other than Petroleum) Regulations 2007. The Crown Minerals (Minerals Other than Petroleum) Regulations 2007 complement the reporting requirements for permit work programmes, so that all reports and records created in addition to those specifically required by permit conditions must also be submitted.

(2) The requirements include reports and records relating to—

(a) geological investigations, studies or reviews; and

(b) reviews of existing data; and

(c) geochemical surveys; and

(d) geophysical surveys; and

(e) programmes of costeans and bulk sampling; and

(f) drilling and shaft sinking; and

(g) mining feasibility studies that relate to, or include material relating to, mine design, scheduling, production, resource recovery, or economic viability.

(3) The Crown Minerals (Minerals Other than Petroleum) Regulations 2007 require permit holders to ensure that any core or samples collected are stored in a manner that minimises degradation. There are two means by which a permit holder may be required to lodge core and samples with NZP&M—

(a) when NZP&M has requested a representative sample of core and/or samples; or

(b) at the request of the Chief Executive, after the permit holder has given notice that it intends to dispose of core material.

11.6 Permit conclusion reports

(1) The Crown Minerals (Minerals Other than Petroleum) Regulations 2007 require specified information to be supplied after a permit has expired or been revoked, surrendered, partially surrendered, or relinquished. This information includes copies of all reports and records that relate to any activity begun but not completed under the permit before the permit was terminated, if the permit holder would have been required to supply those reports and records to NZP&M had the activity been completed.

11.7 Mineral reserves, resources and production information

(1) The Crown Minerals (Minerals Other than Petroleum) Regulations 2007 require Tier 1 permit holders (and Tier 2 permit holders for coal) to provide a summary of mineral reserves, resources and production.

(2) The Crown Minerals (Minerals Other than Petroleum) Regulations 2007 allow NZP&M to publish this information, for public interest reasons, for each mineral type in relation to exploration and mining permits. Information on estimates of total in-ground resources, any measured mineral resources, any proved and probable reserves, and production, for each mineral type may be made publicly available from time to time. This also applies to existing privileges.

Annual work programme review meeting

11.8 Annual work programme review meeting for Tier 1 permit holders

(1) Section 33D of the Act provides that the Chief Executive may require the holders of Tier 1 permits to attend an annual review meeting to monitor progress against the work programme and provide an opportunity for discussions, including with any other person or regulatory agency the Chief Executive has invited to the meeting.

(2) To elaborate, the purpose of the meeting is to—

(a) review progress by the permit holder, or a holder of multiple permits, against the work programme or work programmes; and

(b) discuss expectations, risks and key decisions for the period ahead; and

(c) discuss, where applicable, the next stage of the work programme(s); and

(d) review the permit holder's report on its engagement with relevant iwi and hapū; and

(e) inform other regulatory agencies about the permit holder's activities relevant to each agency's responsibilities, and improve the overall coordination of regulatory activities (for the other regulatory agencies that will be involved, see subclauses (8) and (9) below).

(3) The timing, location, duration and agenda of the meeting will be set by NZP&M after consulting with the permit holder. Ordinarily, the meeting will—

(a) take place in the second or third quarter of the year (after annual activity and expenditure reports have been submitted in the first quarter); and

(b) be scheduled with at least 20 working days' notice.

(4) NZP&M may request the permit holder (or Operator) to provide information on the matters in subclause (2) above if the information has not already been provided in the permit holder's annual summary report(s) (see clause 11.3).

(5) Section 33D of the Act provides that the meeting must be attended by at least one representative of the Operator who has sufficient seniority, expertise and knowledge to enable full discussion of the work programme and permit conditions. Representatives of other holders of the permit may also attend the meeting.

(6) A draft record of the meeting will be prepared by NZP&M and circulated to the meeting participants for comment. NZP&M will prepare a final record after considering any comments, and will circulate it to the meeting participants. Where meeting participants did not attend the entire meeting for reasons of commercial confidentiality, NZP&M may circulate a draft and final record of the meeting to those participants that redacts material as appropriate.

(7) As a guideline, NZP&M will aim to—

(a) circulate a draft record of the meeting within 20 working days of the meeting; and

(b) provide 15 working days for comment by participants; and

(c) provide a final record within 20 working days of the end of the period for comments.

(8) The Chief Executive must invite to the annual meeting other regulatory agencies they think are likely to have regulatory oversight of the activities under the permit(s) (see subclause (9) below). The Chief Executive may also invite the appropriate Minister (as defined in section 2A of the Act) if the permit holder has an access arrangement (or has applied, or intends to apply, for an arrangement) in respect of Crown land. NZP&M will consult with the permit holder and the regulatory agencies about the parts of the meeting in which it would be desirable to involve other regulatory agencies, and about confidentiality requirements. For the avoidance of doubt, any involvement of other regulatory agencies in an annual review meeting is not a substitute for the permit holder meeting those agencies' own regulatory requirements, and does not relieve the permit holder from meeting all other applicable legislative and regulatory requirements.

(9) Other regulatory agencies that may be invited under subclause (8) include—

(a) the Environmental Protection Authority:

(b) a consent authority under the Resource Management Act 1991:

(c) Maritime New Zealand:

(d) the Health and Safety Regulator:

(e) the Department of Conservation.

(10) NZP&M may also call a meeting with the Operator at any time outside the annual work programme meeting cycle as appropriate – for example, in the final year of a stage of a mineral exploration permit, or following a discovery.

Iwi engagement and annual review meetings

11.9 Iwi engagement and annual review meetings about iwi engagement reports

(1) Section 33C of the Act requires Tier 1 permit holders, and Tier 2 permit holders of any class or kind specified in the Regulations, to provide an annual report (an "iwi engagement report") to the Minister on the permit holder's engagement with iwi or hapū whose rohe (area) includes some or all of the permit area or who otherwise may be directly affected by the permit. The iwi engagement report must be made at the time and in the manner specified in the Regulations.

(2) The purpose of the iwi engagement report is to encourage permit holders to engage with relevant iwi and hapū in a positive and constructive manner and to enable NZP&M to monitor progress in this regard.

(3) Before providing an iwi engagement report to the Minister, the permit holder must—

(a) provide a draft iwi engagement report to iwi or hapū whose rohe (area) includes some or all of the permit area or who otherwise may be directly affected by the permit; and

(b) give those iwi or hapū a reasonable opportunity to comment on the draft iwi engagement report.

(4) The iwi engagement report must include any comments provided by the iwi or hapū described in subclause (4).

(5) The iwi engagement report should note any engagement with or notification to iwi and hapū that has taken place as a requirement of any other legislation.

(6) The iwi engagement report may include information about any reasonable attempts made by a permit holder to engage with relevant iwi or hapū in circumstances where the iwi or hapū chose not to engage with the permit holder.

(7) NZP&M may, as appropriate, discuss with relevant iwi and hapū the outcome of the review of the permit holder's iwi engagement report, as part of NZP&M's ongoing discussions and liaison with iwi and hapū.

(8) Where a permit holder is required to prepare an iwi engagement report and any iwi or hapū referred to in subclause (1) asks the Chief Executive to arrange an annual review meeting, then the Chief Executive may require the relevant permit holder to attend, once in each permit year, a review meeting. The purpose of the review meeting is to discuss an iwi engagement report or draft iwi engagement report (including any matter relating to the quality of engagement by the permit holder with relevant iwi or hapū).

(9) When deciding whether or not to exercise their discretion under subclause (8) and require a permit holder to attend a review meeting, the Chief Executive will consider a range of factors, including—

(a) feedback about the permit holder contained in iwi engagement reports; and

(b) any reasons provided by iwi or hapū regarding why they are seeking a review meeting regarding the permit holder.

(10) If the Chief Executive arranges an annual review meeting under subclause (8), they—

(a) must invite all iwi or hapū identified in an iwi engagement report or a draft iwi engagement report as a relevant iwi or hapū; and

(b) must invite any other iwi or hapū whom the Chief Executive considers to be directly affected by the permit; and

(c) must give all invited iwi or hapū a reasonable opportunity to confirm their attendance; and

(d) may invite any regulatory agency that the Chief Executive thinks is likely to have regulatory oversight of the activities under the permit.

(11) If the Chief Executive arranges an annual review meeting under subclause (8), the review meeting must be—

(a) attended by at least one representative of the Operator who has sufficient seniority, expertise, and knowledge to enable full discussion of the work programme and conditions of the permit; and

(b) held on a date and at a place notified to the attending iwi or hapū and the permit holder by the Chief Executive (which must be at least 20 working days after the date of notification).

12. Changes to permits

Changes to permits

12.1 Applications to change permits: Introduction and processes

(1) With the exception of clauses 12.9 and 12.10, chapter 12 applies to changes to Tier 1 and Tier 2 permits only. Matters relating to changes to Tier 3 permits are set out in chapter 13.

(2) Section 36 of the Act provides that a permit holder may apply to change a permit in the following ways:

(a) to amend permit conditions, and in particular the approved work programme:

(b) to extend the land area of the permit:

(c) to change the minerals to which the permit relates:

(d) to extend the duration of the permit.

(3) An application to change a permit must be made in accordance with the Crown Minerals (Minerals Other than Petroleum) Regulations 2007. Applications may be made via the Online Permitting System, or with use of the relevant forms which are available on the NZP&M website. NZP&M prefers applicants to make use of the Online Permitting System where possible.

(4) Section 36(4) of the Act requires that any application to extend the duration of a mining permit or an exploration permit (for the purposes of an appraisal extension under section 35A of the Act) (see clauses 12.6(5) – (8)) must be received not later than six months before the expiry of the permit. However, the Minister may accept an application to extend the duration of a mining permit at a date later than six months before the expiry of the permit if the Minister considers there are compelling reasons why the six-month requirement could not be complied with.

(5) Section 36(4B) of the Act requires that any application to amend a permit (except for an application referred to in subclause (4)) must be received not later than 90 days before the "due date".[50] The Minister may accept an application after 90 days before the due date, but not later than the due date, if the Minister considers there are compelling reasons why the 90-day requirement could not be complied with (see section 36(4C) of the Act).

(6) Without limiting the matters that the Minister may consider, the following may be "compelling reasons" for receiving a late application:

(a) that the information required for the application either did not exist or could not have been known in sufficient time to make the application earlier than 90 days or six months before the due date (as the case may be):

[50] "Due date" means—

(a) the expiry of the permit; or

(b) a specified date, if the application is to change work in a work programme that must be carried out by the specified date or is to change the specified date.

(b) force majeure reasons (that is, causes that are beyond the control of the permit holder and that do not involve default or negligence on its part).[51]

(7) Delays in obtaining agreement between permit participants or delays in obtaining other legal or financial agreements will not be considered to be "compelling reasons" for receiving a late application.

(8) When a change is made to a permit, the permit register will be updated accordingly.

12.2 Applications to change work programme conditions

(1) When assessing an application to change a Tier 1 or Tier 2 permit's work programme conditions, the Minister—

(a) will ordinarily consider whether the change would be inconsistent with the criteria on which the permit was granted; and

(b) if the permit was allocated through a competitive process, will consider whether the proposed change to the work programme would result in a work programme that is materially inferior to the work programme on which the bid in that process was made; and

(c) will ordinarily consider any or all of the following matters (without limitation):

(i) prospecting, exploration or mining carried out under the permit, and the results:

(ii) whether the proposed change to the work programme will facilitate the activities under the permit, or adjacent or related permits held by the same permit holder or related parties for the same mineral group, being carried out more effectively:

(iii) whether the proposed change to the work programme is in accordance with good industry practice:

(iv) for prospecting and exploration permits, whether the proposed change to the work programme has the objective of, in a timely manner, identifying a mineral resource or deposit in the permit area, or evaluating the feasibility of mining particular mineral resources or reserves, and provides for prospecting or exploration over the full extent of the permit area:

(v) other work programme obligations the permit holder has for adjacent or related permits for the same mineral group:

(vi) any previous changes to the permit work programme:

(vii) whether the proposed change is sought due to an inability to obtain an access arrangement under the Act or consents under any other enactment, where the inability has not been caused or contributed to by negligence, delay or default on

[51] Force majeure events are those that, in the Minister's opinion, are beyond the reasonable control of the permit holder and could not reasonably be anticipated, controlled, mitigated or prevented by the permit holder and that are not caused or contributed to by the permit holder. They will ordinarily only suspend the performance of a work programme for the period of the event or its aftermath. They do not include normal commercial circumstances and risks, such as changes in commodity prices, difficulties in obtaining joint venture partners, disputes or difficulties with joint venture partners, difficulties in raising capital, or avoidable delays in obtaining exploration or mining equipment.

the permit holder's part and the permit holder is making all reasonable efforts to progress the matter:

(viii) whether the permit holder is being prevented from carrying out work by delays in obtaining one or more access arrangements to private land, where, in the Minister's opinion—

(A) those delays have not been caused or contributed to by any failure or default on the part of the permit holder; and

(B) the permit holder can demonstrate a clear record of planning, early engagement with landowners, and reasonable offers to landowners; and

(C) the permit holder is making all reasonable efforts to progress access arrangements:

(ix) unavoidable delays in progressing prospecting, exploration or mining in accordance with the work programme due to any unforeseen natural or other disaster beyond the permit holder's control:

(x) whether the permit holder is unable to progress work because there is a need for legal agreements to be in place and these have not been finalised, where negligence, delay or default on the part of the permit holder has not caused or contributed to these agreements not being finalised and the permit holder is making all reasonable efforts to progress the matter:

(xi) whether an amendment to the work programme is necessary to give effect to the Minister's agreement to extend either the area of land covered by the permit or the duration of the permit or the minerals to which the permit relates:

(xii) whether the amendment is sought because the terms of an access arrangement under the Act do not allow for certain activities to be undertaken or affect the timing of certain activities. In this case, the Minister may consider any concerns about land access to undertake the activities that the Minister or NZP&M had raised with the permit holder before granting the permit.

12.3 Applications to change other permit conditions

(1) In assessing an application to change permit conditions that are not work programme conditions, the Minister will ordinarily consider (without limitation) whether the change would be inconsistent with the criteria on which the permit was granted.

12.4 Applications to change the minerals to which a permit relates

(1) In considering whether to grant an application to change the minerals to which a permit relates, the Minister will ordinarily consider any or all of the following matters (without limitation):

(a) the merits of any geological evidence in support of the application:

(b) how the permit holder proposes to prospect for, explore for, or mine an additional mineral:

(c) any impact the change of minerals may have on the permit work programme obligations and other permit conditions:

(d) any complementary applications made at the same time that seek a change to the conditions of the permit or the land to which the permit relates:

(e) any request or comment from iwi and hapū arising from consultation with them.

12.5 Applications to extend the land to which a permit relates

(1) In considering whether to grant an application to extend the land to which a Tier 1 or Tier 2 permit relates, the Minister will ordinarily consider any or all of the following matters (without limitation):

(a) the results of prospecting, exploration or mining work undertaken under the permit up to the date of application:

(b) the prospecting, exploration or mining work that is to be undertaken over the additional land, and how this relates to that undertaken or planned under the current permit:

(c) whether extending the land to which the permit relates will enable the permit holder to more effectively prospect, explore or mine:

(d) any requests or comments from iwi and hapū arising from consultation with them:

(e) any other complementary requests to change the permit.

(2) Applications to extend the land to which a Tier 1 or Tier 2 permit relates will only be considered for land that is available under clause 6.4.

(3) As a condition to agreeing to extend the land covered by a Tier 1 or Tier 2 permit, the Minister may require—

(a) an amendment to the permit's work programme conditions:

(b) a surrender of areas of the permit that are not required for ongoing work under the permit.

(4) The Minister may decline to consent to an EOL if the Tier 1 or Tier 2 permit holder (or a related party) has not complied with other conditions of the permit, the Crown Minerals (Minerals Other than Petroleum) Regulations 2007 or the Act.

12.6 Application to extend the duration of a permit

Prospecting

(1) The Minister will ordinarily grant an extension of duration of a prospecting permit, provided—

(a) the total permit duration is not more than a period of four years from the permit's date of commencement; and

(b) the extension is sought in respect of an area of land that is unbroken (subject to clause 4.6) and that is not more than one half of the area comprised in the permit.

(2) In considering whether to grant an extension of duration of a prospecting permit, the Minister will ordinarily consider any or all of the following matters (without limitation):

(a) those matters set out in clause 8.3 that the Minister considers to be relevant:

(b) the timing and appropriateness of the proposed technical approach, given prospecting results to date and the geology of the permit area:

(c) whether the extension is being sought to enable the applicant to complete or extend a work programme already under way, and the Minister is satisfied that an extension is justified from a geological perspective:

(d) any commitment to a significant increase in expenditure on prospecting over that for the original term of the permit:

(e) whether the permit holder (or, where the Minister considers appropriate, a related party) has complied with the conditions of the permit, the Crown Minerals (Minerals Other than Petroleum) Regulations 2007 and the Act.

Exploration

(3) The Minister will ordinarily grant an extension of duration of an exploration permit, provided—

(a) the total permit duration is not more than a period of ten years after the permit's date of commencement; and

(b) the extension is sought in respect of an area of land that is unbroken (subject to clause 4.6) and that is not more than the greater of—

(i) one half of the area covered by the permit; or

(ii) 150 hectares.

(4) In considering whether a proposed work programme will provide for the satisfactory exploration of the land in respect of which the extension of duration is sought, the Minister will ordinarily consider any or all of the following matters (without limitation):

(a) the results of exploration activities undertaken by the permit holder in the permit area to date:

(b) whether the proposed work programme has the objective of increasing the level of geological confidence of a resource or of evaluating the feasibility of mining a particular mineral resource:

(c) those matters set out in clause 9.3 that the Minister considers to be relevant:

(d) the timing and appropriateness of the proposed work, given the exploration to date and the geology of the land to which the permit relates:

(e) any commitment to an increase in both exploration and expenditure on exploration over that for the original term of the permit:

(f) whether the permit holder has complied with the conditions of the permit, the Crown Minerals (Minerals Other than Petroleum) Regulations 2007 and the Act.

(5) Section 35A of the Act provides that an exploration permit holder may apply for an appraisal extension to determine the extent and characteristics of a discovery in order to determine whether the requirements for a mining permit can be met, if—

(a) the permit holder has made a discovery that has the potential to lead to the grant of a mining permit; and

(b) the duration of the permit is insufficient to carry out the appraisal work for the discovery; and

(c) the Minister is satisfied that the appraisal work programme is sufficient to carry out the appraisal work (see clause 9.6).

Mining

(6) Section 36 of the Act provides that the duration of a mining permit may only be extended if—

(a) the permit holder satisfies the Minister that the discovery to which the permit relates cannot be economically depleted before the permit expires, and the Minister approves a new permit work programme, if required; or

(b) the permit holder requires an extension to complete mine-closure activities and rehabilitation work.

(7) In evaluating an application for a mining permit's duration to be extended, the Minister will ordinarily—

(a) either approve a new work programme, or determine that a new work programme is not required, on the basis of considerations applicable to mining permits set out in this chapter; and

(b) consider the extent to which the inability to deplete the resource during the term of the permit is due to force majeure events;[52] and

(c) ensure that any such extension is only for such period as the Minister considers reasonable to enable the permit holder to economically deplete the resource; and

(d) consider whether the permit holder (or, where the Minister considers appropriate, a related party) has complied with the conditions of the permit, the Crown Minerals (Minerals Other than Petroleum) Regulations 2007 and the Act.

(8) Section 36(4) of the Act provides that an application to extend the duration of a mining or exploration permit must be made not later than six months before the expiry of the permit, unless the Minister is satisfied that there are compelling reasons why a permit holder could not comply with this requirement.

[52] See footnote 51 for force majeure events.

12.7 Applications to amalgamate adjacent permits

(1) The holder of a Tier 1 or Tier 2 permit (which may consist of related companies) that holds, for the same mineral resource, two or more adjacent exploration permits, or two or more adjacent mining permits (referred to as “current permits” in this clause) may apply to amalgamate the current permits by surrendering all but one of them, and extending the land to which the remaining current permit (referred to as the “primary permit”) relates.

(2) The Minister must not grant an application to amalgamate adjacent permits if doing so would be inconsistent with the purpose of the Act or be inconsistent with the criteria on which the permits were granted.

(3) In considering whether to grant an application to amalgamate adjacent permits, the Minister must consider—

(a) the results of prospecting, exploration or mining work undertaken up to the date of the application; and

(b) the area of each of the current permits, and the extent to which they share a common boundary; and

(c) whether a mineable mineral resource has been delineated; and

(d) the degree of certainty that there is one continuous mineral resource spanning the current permits, as follows:

(i) for exploration permits, the Minister must consider whether the current permits cover a single deposit that can most effectively be explored by a single work programme covering the full extent of the combined area; and

(ii) for mining permits, the Minister must consider whether the current permits are part of the same mining operation; and

(e) whether amalgamating the current permits will enable the permit holder to more effectively explore or mine.

(4) If the royalty provisions that apply to each of the current permits differ, the primary permit will be the current permit to which the most recent royalty provisions apply.

(5) In granting an application to amalgamate adjacent permits, the Minister will ordinarily require changes to the conditions of the primary permit – in particular, the work programme and expiry date. The Minister will require—

(a) that the revised work programme provides for working the full area of the amalgamated permit (the revised work programme of the primary permit must not be materially inferior to the combined work programmes of the current permits); and

(b) that the revised expiry date of the primary permit will ordinarily be the earliest of the expiry dates of the current permits.

(6) If the Minister declines to grant an application to amalgamate adjacent permits, the current permits will not be surrendered.

(7) For the avoidance of doubt, the matters referred to in subclause (3) are in addition to, and not instead of, other relevant criteria set out in this Programme.

Transfers and dealings

12.8 Change of Operator

(1) Section 41C of the Act provides that an Operator may only be changed with the prior consent of the Minister.

(2) Section 41C of the Act provides that an application to change the Operator must be made by the permit holder, and jointly with the proposed new Operator if that Operator is not already an existing permit participant.

(3) Section 41C of the Act provides that the Minister may consent to a change of Operator only if—

(a) the Minister is satisfied that the permit holder, given the change in Operator, is highly likely to comply with and give proper effect to the work programme and comply with obligations relating to reporting and payment of fees and royalties; and

(b) for Tier 1 permits for exploration or mining—

(i) the Health and Safety Regulator has advised the Chief Executive that it is satisfied that the proposed new Operator has met or is highly likely to meet any requirements of the Health and Safety at Work Act 2015 and regulations made under it for day-to-day management of activities under the permit; and

(ii) the Minister is satisfied that the proposed Operator has, or is highly likely to have, by the time the relevant work in the permit is undertaken, the capability and systems that are likely to be required in relation to the types of activities to be carried out under the permit to meet the environmental requirements of the Maritime Transport Act 1994, Resource Management Act 1991 and Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012.

12.9 Transfer of interests in a permit

(1) Section 41 of the Act provides that the transfer of all or part of an interest in a permit requires the consent of the Minister.

(2) Section 41 of the Act provides that the Minister may only grant consent if they are satisfied that the transferee is highly likely to be able to comply with the conditions of the permit and give proper effect to the permit. The Minister may request a statement of financial capability from the transferee and supporting information.

(3) Matters the Minister will take into account include (without limitation) whether—

(a) the permit holder, following the transfer, will continue to have the financial and technical capability to give proper effect to the permit (see clauses 5.3(2) – (4)); and

(b) the prospecting, exploration or mining activities that the transferee (or a related party) is involved with, in New Zealand or internationally, may affect the transferee's capability to meet its obligations under the permit.

(4) Sections 92 and 92A of the Act provide specific processes for transfers of permits following the death, bankruptcy or liquidation of a permit holder.

12.10 Changes of control: permit participants other than Operators of a Tier 1 permit

(1) Section 41AG of the Act requires a permit participant (other than a permit participant who is an Operator of a Tier 1 permit) to notify the Minister if—

(a) it is a body corporate and knows, or ought reasonably to know, that it has undergone a change of control; or

(b) it knows, or ought reasonably to know, that a body corporate that has provided a guarantee for the permit participant's obligations under the permit has undergone a change of control.

(2) Section 41AA of the Act defines "change of control".

(3) Section 41AG(3) of the Act requires the permit participant (other than a permit participant who is an Operator of a Tier 1 permit) to—

(a) provide the notification to the Minister within three months after the permit participant becomes aware, or ought reasonably to have become aware, of the matters described in subclause (1) occurring; and

(b) provide with the notice—

(i) a copy of the agreement or document that specifies the change of control; and

(ii) a statement from the permit participant that it has the financial capability to meet its obligations under the permit (see clause 5.3(3) for a description of the matters the Minister will consider when assessing the financial capability of the permit participant to meet its obligations under the permit); and

(iii) in the case of a change of control of a permit participant that is an Operator of a Tier 2 permit, a statement from the permit participant that it has the technical capability to meet its obligations under the permit.

(4) A statement given under subclauses (3)(b)(ii) — (iii) must be signed—

(a) if the permit participant or guarantor is a company, on behalf of all the directors by at least two directors of the company or, if the company has only one director, by that director; or

(b) if the permit participant or guarantor is not a company, by a person responsible for the management of the permit participant or guarantor.

(5) The Chief Executive may publish guidance on how a permit holder can demonstrate financial capability on the NZP&M website. Guidance directed at permit holders will also be relevant to how permit participants and guarantors may demonstrate financial capability for the purposes of a change of control.

(6) The Minister may request additional information as may be appropriate to the circumstances of a particular application and permit participant (including whether they are an individual or company).

(7) Where a permit participant is unable to provide the information referred to in any guidance on the NZP&M website, or requested by the Minister under subclause (6), the participant should raise this with NZP&M as soon as possible with a view to exploring whether

alternative information may be available and adequate in any particular case to clearly demonstrate how the proposed work programme will be funded.

(8) Section 41AG(5) of the Act provides that, if required by the Minister, a permit participant must provide to the Minister, information or documents relevant to the financial capability of the person acquiring control, which may be—

(a) general information about that person's financial capability; or

(b) information specific to the matters referred to in subclauses (3)(b)(ii) and (iii) above.

(9) Section 41AG(6) of the Act provides that where a permit participant who is an Operator undergoes a change of control, the permit participant must provide to the Minister, information or documents which may be—

(a) general information about the relevant person's technical capability;[53] or

(b) information about the technical capability of the relevant person to meet its obligations under the permit.

(10) A permit participant is only required to provide information to the Minister under subclauses (8) and (9) if the Minister requests the information or documents not later than three months from the date on which the permit participant notified the Minister of the change of control in accordance with section 41AG of the Act.

(11) Section 41AG(8) of the Act provides that the Minister may revoke the permit in accordance with the process set out in section 39 in certain circumstances where the change of control requirements in section 41AG are not met (see clause 12.15).

12.11 Changes of control: Operator of a Tier 1 permit

(1) Section 41AB of the Act provides that a change of control of a body corporate that is an Operator of a Tier 1 permit requires the prior consent of the Minister. The definition of "change of control" in section 41AA of the Act applies here.

(2) Section 41AC of the Act provides that the application for consent to a change of control must—

(a) be made by the relevant person (or persons where there is more than one relevant person); and

(b) be made at least three months before the date on which the proposed change of control takes effect; and

(c) include the name of each relevant person and particulars about how the change of control will be undertaken and when it will take effect;[54] and

[53] Where a permit participant is a corporate body, a "relevant person" is an "incoming person". "Incoming person" means "a person who obtains a controlling interest in a body corporate that is undergoing a change of control."

[54] If the "relevant person" is a corporate body, the application must include the name of each—

(a) director of the corporate body; and

(b) shareholder or member of the corporate body (as described in section 41AC(4) of the Act).

(d) be accompanied by—

(i) a copy of any agreement or other document that specifies the change of control; and

(ii) information or documents which show the permit holder will, given the proposed change of control (see section 41AE(1) of the Act)—

(A) have the financial capability to meet its obligations under the permit (see clause 5.3(3)); and

(B) be highly likely to comply with, and give proper effect to, the work programme for the permit; and

(C) be highly likely to comply with the relevant obligations under the Act or the Regulations in respect of reporting and the payment of fees and royalties; and

(D) in the case of a Tier 1 permit for exploration or mining, the Operator, after undergoing the change of control, has, or is highly likely to have by the time the relevant work in the permit is undertaken, the capability and systems that are likely to be required to meet the health and safety and environmental requirements of all specified Acts for the types of activities to be carried out under the permit.

(3) Under section 41AC of the Act, if the Minister is satisfied that there are compelling reasons why a relevant person could not make an application for a change of control at least three months before the date on which the proposed change of control takes effect, the Minister may agree to receive the application by a later date (so long as that date is not later than the date on which the proposed change of control takes effect).

(4) Section 41AD of the Act provides that, if requested to do so, a permit participant or a relevant person must provide to the Minister information or documents relevant to the matters described in subclause (2)(d)(ii).

(5) Section 41AE of the Act provides that the Minister may consent to a change of control of the Operator only if the Minister is satisfied that the permit holder, given the proposed change of control, will meet the requirements of the matters described in subclause 2(d)(ii).

(6) Section 41AF of the Act provides that the Minister may revoke the permit in accordance with the process set out in sections 41AF and 39(5) – (7) if a change of control of the Operator of a Tier 1 permit is made without the prior consent of the Minister (see clause 12.15).

12.12 Dealings

(1) Section 41B of the Act provides that dealings for Tier 1 permit participants are not legally valid unless the Minister consents to them. A “dealing” is any agreement (other than a transfer of interest in a permit or a mortgage or other charge) that imposes on any participant in a permit any obligation relating to the sales or proceeds of production, if—

(a) a reasonable person would consider that the agreement—

(i) has not been entered into on an arm’s length basis; or

(ii) is not on arm’s length terms; or

(iii) is otherwise not on a fair market basis; or

(b) the term of the agreement is 12 months or longer.

(2) Section 41B of the Act provides that an application to the Minister for consent to the dealing must be made within three months of the agreement that contains the proposed dealing and be accompanied by a copy of the agreement. Applications must contain any information prescribed in the Crown Minerals (Minerals Other than Petroleum) Regulations 2007 and be made using any applicable form that is available on the NZP&M website.

(3) Where the Minister consents to a dealing under section 41B(2) of the Act, that consent and any corresponding permit conditions will apply to all subsequent Tier 1 permits granted in relation to the same permit participant in respect of the same minerals and the same land unless the Minister directs otherwise at the time the consent is given.

(4) If a permit participant is uncertain whether an agreement is a dealing that falls within the provisions of section 41B(4)(a) of the Act (see subclause (1)(a) above), they should apply to the Minister for consent.

(5) As noted in subclause (1) above, the term “dealing” refers to any agreement (other than a transfer of interest in a permit or a mortgage or other charge) that imposes on any Tier 1 permit participant any obligation relating to the sales or proceeds of production. It therefore includes (without limitation) mineral sales agreements and overriding royalty agreements.

(6) In an application for consent to a dealing falling within the provisions of section 41B(4)(a) of the Act, the permit participant must provide full details of: the transaction, its purpose, the reasons why it may not be on an arm’s length basis, or not on arm’s length terms, or not at fair market value, and why, in the permit participant’s view, that is justified in the circumstances.

(7) In providing this assessment the permit participant must consider and provide sufficiently detailed information on all of the factors referred to in subclause (9) below, to the extent that they are relevant, to enable the Minister to make their assessment.

(8) In assessing an application for consent to dealings falling within the provisions of sections 41B(4)(a) and (b), the Minister will consider whether the agreement could adversely affect the royalties that will be paid under the permit. This may happen, for example, if a permit participant or permit holder has entered into an agreement to sell production from a permit at a specified price that is less than an arm’s length price.

(9) The matters the Minister may consider include (without limitation)—

(a) the point of sale and the point of valuation:

(b) the nature of the market for the grade of the mineral being sold or transferred:

(c) the average price of any mineral sold at arm’s length by the permit holder during the reporting period:

(d) the terms of relevant contracts or sales agreements and the quantities specified in them:

(e) the state of the market at the time the prices in the contracts for sales were set:

(f) the provisions of the contracts or sales agreements relating to the variation or renegotiation of prices:

(g) prices paid to producers of similar products elsewhere in arm's length transactions:

(h) prices recommended by international associations of governments of countries producing the mineral product.

(10) After considering the application, the Minister may—

(a) determine that the agreement is a dealing and consent to the dealing (with or without conditions); or

(b) determine that the agreement is a dealing and decline to consent to the dealing; or

(c) determine that the agreement is not a dealing and notify the permit holder that consent is not required.

(11) The Minister may impose conditions when consenting to a dealing. Conditions may, among other things, require the terms of the agreement, including the sale price of minerals, to be amended within a period specified by the Minister.

12.13 General provisions on transfers of interests, changes of control and dealings

(1) Applications for consent to transfers and dealings must contain the information prescribed in the Crown Minerals (Minerals Other than Petroleum) Regulations 2007 and may be made online using the Online Permitting System, or with use of the relevant forms which are available on the NZP&M website. NZP&M prefers applicants to make use of the Online Permitting System where possible.

(2) Either an original or a true copy of the agreement must be forwarded with the application. The Minister must have complete information about the transaction(s) for which consent is being sought. Agreements will not be accepted if the applicant has deleted or withheld information relating to matters such as permit interests and obligations that affect mining from the permit and the proceeds of the mining.

(3) Subject to the Official Information Act 1982, agreements will be kept confidential to NZP&M.

(4) If the Minister has concerns about any of the matters outlined in clauses 12.8 – 12.12 above, the Minister will raise these with the applicant and inform the applicant of the factor or factors that the Minister considers to be relevant to making a decision. The Minister will consider any response from the applicant before making a decision.

(5) The time taken to assess and make decisions on applications will depend on—

(a) the extent and quality of the information provided in support of the application; and

(b) the level of complexity of the transaction; and

(c) available resources.

As a guide, straightforward applications are likely to be dealt with within 20 working days. However, applications that are more complex, that are incomplete, or that require more investigation may take several months.

(6) The Minister will not ordinarily consent to a transfer or dealing until any money owing to the Crown (whether fees or royalties) has been paid.

(7) Section 41D of the Act provides that the Minister may impose conditions on a consent to a transfer, dealing or change of Operator, as the Minister sees fit.

(8) Any conditions of the Minister's consent to a transfer or dealing become conditions of the permit.

Surrender of permits

12.14 Surrender of all or part of a Tier 1 or Tier 2 permit

(1) Section 40 of the Act provides that a permit holder may apply to surrender a permit or part of a permit by—

(a) lodging an application (which must contain the information prescribed in the Crown Minerals (Minerals Other than Petroleum) Regulations 2007 and be made online via the Online Permitting System, or with use of the relevant forms which are available on the NZP&M website). NZP&M prefers applicants to make use of the Online Permitting System where possible; and

(b) paying any money owing to the Crown under the Act; and

(c) providing information and records as required by the permit, the Regulations or the Act.

(2) Section 40 of the Act provides that, despite the requirements in subclauses (1)(b) and (c) above, the Chief Executive may, at their discretion, approve the surrender application notwithstanding that all money owing has not been paid or that records and information have not been provided as required.

(3) Subject to subclauses (1) and (2) above and to clause 4.6, surrender of part of the area of a permit will ordinarily be accepted provided the remaining land under the permit is an unbroken area.

(4) Section 40 of the Act provides that upon acceptance of the surrender of a permit (whether in whole or in part), the Chief Executive must lodge a surrender of the permit with—

(a) the Registrar-General of Land, if the permit was granted before 21 August 2003; or

(b) the Registrar of the Māori Land Court, if the permit was granted in respect of Māori land.

(5) Section 40 of the Act provides that if a permit is surrendered in whole or in part, and payments have been made to the Crown in respect of the surrendered area (for example, annual fees that are paid in advance), then the permit holder is entitled to a refund of so much of the payments as have been made in respect of the surrendered land after the date of surrender.

(6) Information and reports lodged in relation to the surrendered area are publicly available for reference or copying from the date of surrender unless an exception applies (see clause 4.13).

(7) Specific requirements relating to surrender are set out in the Crown Minerals (Minerals Other than Petroleum) Regulations 2007.

(8) Section 40 of the Act provides that the surrender of a permit does not release the permit holder from any liability in respect of—

(a) the permit up to the date of surrender; or

(b) any act under the permit up to the date of surrender that gives rise to a cause of action.

Revocation of permits

12.15 Revocation of a permit

(1) The grounds for revocation of a permit are set out in sections 39, 41AB, 41AG and 41A of the Act. Sections 39 and 41AF of the Act outline the procedure the Minister must follow to revoke a permit.

(2) Section 39 of the Act provides that the Minister may revoke a permit or transfer a permit to the Minister if the Minister is satisfied a permit holder has breached a condition of the permit, the Act or the Regulations.

(3) The Minister will ordinarily commence a revocation process under section 39 of the Act where an invoice for annual fees or royalties has not been paid more than 30 days after the due date of the invoice.

(4) Sections 41A(6) and 41AG(8) of the Act provide that the Minister may revoke a permit in accordance with the procedure set out in section 39 if—

(a) the permit is a Tier 1 permit and—

(i) the permit participant is a body corporate and knows, or ought reasonably to know, that it is undergoing a change of control and it has not notified the Minister of the matters described in clause 12.10(3); or

(ii) the permit participant knows, or ought reasonably to know, that a body corporate which has provided a guarantee for the permit participant's obligations under the permit has undergone a change of control and the permit participant has not notified the Minister of the matters described in clause 12.10(3); or

(iii) in the case of a change of control of a permit participant who is an Operator, the Minister is not satisfied that, following the change of control, the permit holder has the financial or technical capability to meet its obligations under the permit; or

(b) the Minister is not satisfied that the permit holder, following a change of control of a permit participant, is capable of meeting its financial obligations under the permit (see clause 12.10).

(5) Section 41AB of the Act provides that the Minister may revoke a permit if the permit Operator of a Tier 1 permit (that is a body corporate) undergoes a change of control without obtaining the prior consent of the Minister.

(6) Before deciding to revoke a permit under sections 39 or 41AF of the Act, the Minister must notify the permit holder in writing of their intention to revoke the permit. The notice must—

(a) set out the grounds on which the Minister intends to revoke the permit; and

(b) in the case of a notice given under section 41AF, state that it is being provided under that section; and

(c) give the permit holder 40 working days to—

(i) in the case of a notice given under section 39 either remove the grounds for revocation or provide reasons why the permit should not be revoked; or

(ii) in the case of a notice given under section 41AF either show that section 41AB(2) has not been contravened or provide reasons why the permit should not be revoked.

(7) Where the Minister intends to revoke a permit in the circumstances described in subclauses (4)(a)(iii) or (4)(b) above and where the change of control has been notified to the Minister, the Minister may only serve a notice under subclause (6) within three months after the later of the following events:

(a) the date on which the permit participant notifies the Minister of the change of control in accordance with sections 41AG(1) or 41A(1); or

(b) the date by which the permit participant provides to the Minister all of the information and documents requested under sections 41AG(5) or 41A(4) (if any).

(8) After the 40 working day period described in subclause (6) expires—

(a) section 39 of the Act provides that if the grounds for revocation have not been removed, and if after considering any reasons given by the permit participant in response to a notice referred to in subclause (6), the Minister still considers that there are grounds for revocation, the Minister may revoke or transfer the permit by giving written notice to the permit holder; and

(b) section 41AF of the Act provides that if the Minister is satisfied that section 41AB(2) has been contravened and the permit should be revoked, the Minister may revoke the permit by giving written notice to the permit holder.

(9) The revocation will take effect on the date that is specified in the notice issued under this clause.

(10) A permit holder may appeal the Minister's decision to revoke the permit to the High Court, but only on the grounds that it is erroneous in point of law. An appeal must be lodged within 20 working days after the date on which the Minister's notice was served. The permit continues in force until the appeal is determined (or until the permit expires if this is earlier).

(11) Section 39 of the Act provides that the Minister may transfer the permit to the Minister instead of revoking it. If the Minister replaces the permit holder the Minister may exercise the rights granted by the permit. The Minister may also offer the permit or any share in it for sale by competitive tender or otherwise.

(12) The Minister will ordinarily transfer the permit to themself only if there are good reasons to maintain continuous operation of activities under a permit, such as safety reasons or to avoid unnecessary waste of, or damage, to the resource. The Minister will ordinarily offer the permit for sale as soon as possible (this would ordinarily be through staged work programme bidding).

(13) The Minister must record the revocation or transfer on the register of permits, but need not record the reasons for the revocation or transfer.

(14) As soon as practicable after a permit is revoked, the Chief Executive must lodge a copy of the notice referred to in subclauses (6) or (7) with—

(a) the Registrar-General of Land, if the permit was granted before 21 August 2003; or

(b) the Registrar of the Māori Land Court, if the permit was granted in respect of Māori land.

(15) The revocation of a permit or transfer of a permit to the Minister will not release the permit holder from any liability in respect of—

(a) the permit, or any condition of it, up to the date of revocation; and

(b) any act under the permit up to the date of revocation that gives rise to a cause of action.

(16) The revocation of a permit is a very serious matter. The fact that a person has had a permit revoked may be a consideration counting against the granting of any future permits to that person and/or a related party (see clause 5.3(5)).

(17) The Minister will not commence a revocation process lightly. It is not possible to provide hard and fast rules on the application of revocation procedures because there are a significant number of potential breaches of permit conditions, the Regulations and the Act, and the circumstances of each case are likely to differ. However, subclauses (18) – (20) below provide high-level guidance.

(18) It is not the Minister's practice to use revocation in response to minor breaches of permit conditions (including breaches of the Regulations) – for example, a late filing of information – provided—

(a) the breach is not ongoing; and

(b) such breaches (or breaches of similar obligations) are not a frequent occurrence.

(19) The revocation process is likely to occur (without limitation) where—

(a) the permit holder has failed to comply with its committed work programme and has not sought and been granted a change of work programme conditions (and has not applied to surrender the permit):

(b) the permit holder has not submitted royalty returns or paid royalties:

(c) the permit holder frequently breaches due dates for the submission of royalty returns and payment of royalties:

(d) the permit holder has failed to pay annual fees:

(e) the permit holder frequently breaches due dates for the payment of fees:

(f) the permit holder frequently breaches due dates for the submission of notices and information.

(20) Revocation may occur following a serious failure or an ongoing failure or frequent failures to comply with the Health and Safety at Work Act 2015 where the Health and Safety Regulator

has notified the Chief Executive to that effect under section 33B of the Act.[55] It is not the Minister's practice to commence revocation proceedings for minor breaches of the Health and Safety at Work Act 2015 and regulations made under that Act. For the avoidance of doubt, sole responsibility for enforcement of the Health and Safety at Work Act 2015 rests with the Health and Safety Regulator.

[55] Section 33(1) of the Act requires permit holders to comply with the Health and Safety at Work Act 2015 and regulations made under that Act.

13. Tier 3 permits

13.1 Introduction

(1) This chapter applies to Tier 3 permits only.

(2) Section 2B(2A) of the Act defines a Tier 3 permit as a permit that—

(a) authorises mining for gold in the bed of a river (which includes a stream or creek) (a Tier 3 river permit), or on a beach (a Tier 3 beach permit), or both (a Tier 3 hybrid permit); and

(b) does not authorise mining for any other mineral; and

(c) applies to an area not exceeding 50 continuous hectares; and

(d) authorises work in accordance with the work programme set out in section 2BA (see subclause (3)); and

(e) is not a Tier 1 permit.

(3) The work programme for a Tier 3 permit is set out in section 2BA of the Act—

"(a) the permit holder will mine for gold:

(b) the permit holder may only use the following equipment:

(i) unpowered hand tools:

(ii) riffle boxes and associated equipment:

(iii) powered equipment not exceeding a combined total of 10 horsepower (or the equivalent of 10 horsepower) at any one time:

(iv) other similar equipment that is consistent with small-scale non-commercial gold mining:[56]

(v) equipment permitted by regulations:

(c) a work programme that is otherwise in accordance with requirements specified in regulations."

(4) The purpose of the Tier 3 permit class is to create a specific permit class for small-scale gold mining operations.

(5) Reflecting the small-scale nature of their operations, Tier 3 permit holders are not expected to operate at a scale that would require them to pay royalties. However, where the net sales revenue from a Tier 3 permit meets or exceeds the thresholds by which royalties are payable, relevant obligations and rates regarding the payment of royalties will apply.

(6) A Tier 3 permit is a minerals mining permit. Section 23 of the Act provides that the purpose of a mining permit is to authorise the permit holder to mine for the minerals specified in the

[56] Regulations may specify equipment that is prohibited for use in the context of a Tier 3 permit.

permit. "Mining" is defined in section 2(1) of the Act as meaning "to take, win, or extract, by whatever means, a mineral existing in its natural state in land, or a chemical substance from [that mineral]".

13.2 Methods of application

(1) An application for a Tier 3 permit, or an application to extend the land to which a Tier 3 permit relates, may only be made over land which is available for permitting through the AWPO process (clauses 6.3 – 6.6 will apply for this purpose).

(2) An application for a Tier 3 permit may not be made in relation to land which is designated as having NAA status (see clauses 6.7 and 6.8) or through a competitive tender process (see clauses 6.9 – 6.11).

(3) Section 29AB of the Act provides that an applicant for a Tier 3 permit must provide the following information to the Minister when they apply for a permit:

(a) the name and contact details of the proposed permit participants and the proposed Operator; and

(b) whether the activity that will be carried out under the permit will be carried out in the bed of a river, on a beach, or both; and

(c) any other information prescribed in the Regulations.

(4) The Regulations require mining permit applications (which include Tier 3 permit applications) to be accompanied by "a map of the permit area." The Regulations provide that such a map must enable the boundaries of the permit area to be accurately located and relocated, and that such a map must include (among other things)—

(a) title and reference information; and

(b) any other information that will aid in the relocation of the area to which the map or plan relates.

(5) When assessing whether the map included in a Tier 3 permit application meets these requirements, the Chief Executive will rely on the NZP&M Mapping Standards for Minerals Permit Applications which are published on the NZP&M website.

13.3 Evaluation of application for a Tier 3 permit

(1) There is no general right to a Tier 3 permit. Section 29AB(2) of the Act provides the Minister with a discretion about whether or not to grant a Tier 3 permit.

(2) The Minister will ordinarily grant a Tier 3 permit if satisfied that—

(a) the permit applicant is highly likely to comply with and give effect to the permit conditions, including the work programme, and the requirements to pay annual fees, submit the required reports and pay royalties (if applicable) (see clause 13.4); and

(b) the area of the permit is consistent with clause 13.5.

(3) The Minister may, at their discretion, decline a permit application based on material concerns with the applicant's technical capability, financial capability, or previous compliance record, without proceeding to consider any other aspects of the application.

(4) As part of having regard to the principles of the Treaty | te Tiriti (as required by section 4 of the Act), when deciding whether to grant a Tier 3 permit, the Minister will consider any feedback provided by relevant iwi and hapū including by reference to any Crown Minerals Treaty | te Tiriti Redress Commitments between the Crown and relevant iwi or hapū, and to any Statutory Frameworks (see clause 2.1(3)).

13.4 Assessment of applicant's likelihood of complying with relevant requirements

(1) When considering whether a permit applicant is highly likely to comply with and give effect to the permit conditions, including the work programme, and the requirements to pay annual fees and submit the required reports, the matters the Minister will consider include (without limitation)—

(a) the applicant's technical capability, and any relevant, previous, experience:

(b) the applicant's financial capability, which may include assessment of whether the applicant already owns the equipment required to carry out the work programme (for example, a suction dredge), the level of annual fees, the applicant's ability to cover those costs, and any other matter relevant to the applicant's ability to meet the cost of complying with, and giving effect to, the permit conditions:

(c) the applicant's likelihood of complying with reporting requirements, which may include consideration of any relevant compliance history of the applicant and related parties.[57]

(2) It will ordinarily count against, but not necessarily preclude, the granting of a Tier 3 permit if the applicant or a related party does not have a good record of compliance with the conditions of a previous or current permit or licence, whether in New Zealand or internationally, in the last ten years.

(3) If the Minister is in a position where they may otherwise grant a Tier 3 permit but have concerns about the applicant's record of compliance with other permits, licences, or rights, the Minister will raise these concerns with the applicant and inform the applicant of the matter or matters the Minister considers to be relevant to the granting of the Tier 3 permit. Before making a decision the Minister will consider any comments that the applicant makes.

13.5 Assessment of Tier 3 permit area

(1) For a Tier 3 permit, the land area must be—

(a) no more than 50 continuous (i.e. unbroken) hectares; and

(b) a beach or a river, or both; and

(c) available for a permit (see clauses 6.1(4) – (6)).

[57] "Related party" in relation to a permit holder, applicant or bidder has the same meaning (with all necessary modifications) as in the Crown Minerals (Royalties for Minerals Other than Petroleum) Regulations 2013.

(2) Any application for a Tier 3 permit will ordinarily be declined if the Minister considers that the proposed permit area—

(a) includes connecting land of convenience;[58] or

(b) in the case of a Tier 3 river permit, does not cover from riverbank to riverbank; or

(c) in the case of a Tier 3 beach permit, extends landward beyond an area which can be effectively worked under a Tier 3 beach permit; or

(d) in the case of a Tier 3 hybrid permit, does not cover from riverbank to riverbank and/or extends landward beyond an area which can be effectively worked under a Tier 3 beach permit.

(3) The Minister will ordinarily decline a Tier 3 permit application if the application is made for an area adjoining a current Tier 3 permit held by the applicant or a related party.

Schedule 4 land (including Schedule 4 land in the common marine and coastal area)

(4) The Minister will ordinarily not grant a Tier 3 permit directly over Schedule 4 land because some of the activities described in the work programme for a Tier 3 permit (as specified by the Act) do not involve the conduct of minimum impact activities and therefore access to that land is not permitted under section 61(1A) of the Act.

13.6 Overlapping Tier 3 permit applications

(1) Where an application for a Tier 3 permit or an application to extend the land to which a Tier 3 permit relates is made and there is already an underlying permit or privilege over all or some of the same land and for the same mineral group, clause 6.2 will apply(with all necessary modifications, including to reflect that the underlying permit or privilege may be exclusive) to the overlapping permit applications.[59]

13.7 Priority in time for Tier 3 permit applications

(1) Where multiple applications for a Tier 3 permit are made in relation to the same land, the Minister will not accept the second (and later) in time application(s) for a Tier 3 permit, or application(s) to extend the land to which a Tier 3 permit relates, as the case may be.

(2) The priority in time of Tier 3 permit applications will be determined by reference to the time and date on which an application was received by NZP&M, which will be determined by reference to the timestamp for receipt of the email or, as applicable, the timestamp of submission of the Online Permitting System application form.

(3) Subclause (1) only applies where each application was validly completed prior to submission. However, where the first in time application was not validly completed prior to submission (for example, because it lacked information which permit applicants are required to include under the Act, the Regulations, or this Programme, or because it included land

[58] "Connecting land of convenience" includes land that the Minister considers has been included in the proposed permit land area only for the purpose of ensuring an unbroken permit area.

[59] References in clause 6.2 to other clauses in this Programme will apply to overlapping Tier 3 permit applications unless the context requires otherwise.

which was not available for allocation), that application will be rejected, and the next earliest, valid, application will be considered instead.

(4) Where an application is made for a Tier 3 permit that is received by NZP&M on the same working day as an application for a Tier 1 or Tier 2 permit of a kind described in clauses 6.5(4) and 6.8(3), and is in respect of all or part of the same land and includes gold, the Tier 3 permit application will not be ranked above or equal to the Tier 1 or Tier 2 permit application.

13.8 Obligations of a Tier 3 permit holder

(1) The main obligations of a Tier 3 permit holder[60] are to—

(a) carry out the work programme specified in the permit; and

(b) comply with the conditions of the permit and all other obligations under it (permit conditions may require a permit holder to carry out environmental rehabilitation activities); and

(c) report annually to NZP&M on specified matters; and

(d) pay any applicable fees prescribed in the Regulations; and

(e) notify the Minister of and obtain consent to specified events and transactions (see clauses 13.12 – 13.14 on changes of Operator, transfers of interest, and changes of control); and

(f) comply with the Act, the Regulations and this Programme.

(2) Other obligations include to co-operate with any enforcement officer.

13.9 Applications to change Tier 3 permits: Timeframes

(1) Section 36A of the Act provides that a Tier 3 permit holder may apply to change a Tier 3 permit in the following ways:

(a) to extend the land area of the permit:

(b) to extend the duration of the permit.

(2) An application to change a Tier 3 permit must be made in accordance with the Regulations. Applications may be made via the Online Permitting System, or with use of the relevant forms which are available on the NZP&M website. NZP&M prefers applicants to make use of the Online Permitting System where possible.

(3) Section 36(4) of the Act has the effect that any application to extend the duration of a Tier 3 permit must be received not later than six months before the expiry of the permit. However, the Minister may accept an application to extend the duration of a Tier 3 permit at a date later than six months before the expiry of the permit if the Minister considers there are compelling reasons why the six-month requirement could not be complied with.

[60] See sections 33 and 34 of the Act.

(4) Section 36(4B) of the Act has the effect that that any application to extend the land to which a Tier 3 permit relates (except for an application referred to in subclause (1)) must be received not later than 90 days before the expiry of the permit. However, the Minister may accept an application at a date later than 90 days before the expiry of the Tier 3 permit (but not later than its expiry) if the Minister considers there are compelling reasons why the 90-day requirement could not be complied with.

(5) Without limiting the matters that the Minister may consider, the following may be 'compelling reasons' for receiving a late application for a Tier 3 permit:

(a) that the information required for the application either did not exist or could not have been known in sufficient time to make the application earlier than 90 days or six months before the expiry of the permit (as the case may be):

(b) force majeure reasons (that is, causes that are beyond the control of the permit holder and that do not involve default or negligence on its part).[61]

(6) A permit holder being unaware of the requirement to submit an application to extend the duration of a permit or an application to extend the land the subject of a permit not later than six months or 90 days (respectively) before the expiry of the permit will not be considered a compelling reason to accept a late application.

(7) When a change is made to a Tier 3 permit, the permit register will be updated accordingly.

13.10 Duration of Tier 3 permit

(1) A Tier 3 permit will be granted for an initial period of not more than ten years.

(2) Where an extension of duration is granted, that extension will be for a period of not more than a further ten years. The Minister may grant multiple extensions of duration to a Tier 3 permit.

(3) The duration of a Tier 3 permit may only be extended where the permit holder satisfies the Minister that the discovery to which the permit relates cannot be economically depleted before the expiry date of the permit. When assessing whether the discovery to which the permit relates could not be depleted before the expiry date of the permit, the Minister may consider whether the permit holder's inability to deplete the discovery was due to causes or reasons beyond the permit holder's control.

(4) The Minister may decline an application to extend the duration of a Tier 3 permit if the applicant has not complied with the conditions of their permit, the Act, the Regulations or this Programme.

13.11 Extension of land to which a Tier 3 permit relates

(1) The Minister will ordinarily grant an EOL to which a Tier 3 permit relates only if they are satisfied that—

(a) the extended permit would continue to meet the definition of "Tier 3 permit" as defined in the Act; and

[61] See footnote 51 for force majeure events.

(b) the extended permit area would remain consistent with clause 13.5.

(2) The Minister may decline an application to extend the land to which a Tier 3 permit relates if the applicant has not complied with the conditions of their permit, the Act, the Regulations or this Programme.

13.12 Change of Tier 3 Operator

(1) Section 27 of the Act requires each permit to have an Operator. The Operator is the person who is responsible for the day-to-day management of activities under the permit. The Operator must be a permit participant (that is, hold a specified share of the permit). For Tier 3 permits, the Operator may often be the permit holder.

(2) Section 41C of the Act provides that an Operator may only be changed with the prior consent of the Minister.

(3) Section 41C of the Act provides that an application to change the Operator must be made by the permit holder, and jointly with the proposed new Operator if that Operator is not already an existing permit participant.

(4) Section 41C of the Act provides that the Minister may consent to a change of Operator only if satisfied that the permit holder, given the change in Operator, is highly likely to comply with and give proper effect to the work programme and comply with obligations relating to reporting and payment of fees and royalties.

13.13 Transfer of interests in a Tier 3 permit

(1) Transfers of interests in a Tier 3 permit are provided for by section 41 of the Act (see clause 12.9 for a description of the process by which a transfer of an interest in a permit, including a Tier 3 permit, takes place).[62]

(2) The Chief Executive may publish guidance on transfers of interests by a Tier 3 permit holder on the NZP&M website.

13.14 Changes of control of a Tier 3 permit participant

(1) Changes of control of a Tier 3 permit participant are provided for by section 41AG of the Act (see clause 12.10 for a description of the process by which a change of control of a permit participant other than the Operator of a Tier 1 permit takes place).

(2) The Chief Executive may publish guidance on changes of control of a Tier 3 permit participant on the NZP&M website.

13.15 Annual summary reporting by Tier 3 permit holders

(1) Under the Regulations, a Tier 3 permit holder must submit to NZP&M, by not later than 31 March each year, an Annual Summary Report (“ASR”) covering the previous calendar year. The detailed requirements are set out in the Regulations.

[62] Sections 92 and 92A of the Act provide specific processes for transfers of permits following the death, bankruptcy or liquidation of a permit holder (including a Tier 3 permit holder).

(2) The ASR must include the following information:

(a) whether mining activities have been confined to the permit area; and

(b) the number of days on which mining activities took place; and

(c) the amount of gold recovered under the permit.

13.16 Other relevant legislation and obligations

(1) Environmental protection provisions relating to rehabilitation are set by local authorities under the Resource Management Act 1991 (onshore and up to 12 nautical miles offshore).

(2) The Minister may include rehabilitation obligations (in accordance with good industry practice) as a condition of a Tier 3 permit.

(3) A Tier 3 permit holder may be required to seek other consents, approvals or authorisations to carry out activities under the permit. These may include (without limitation)—

(a) resource consents under the Resource Management Act 1991:

(b) land access arrangements entered under section 54 of the Act:

(c) access arrangements in relation to Crown land or land in the common marine and coastal area under section 61 of the Act:

(d) any authorisations or approvals required under the Health and Safety at Work Act 2015 and associated regulations.

13.17 Surrender of all or part of a Tier 3 permit

(1) Section 40 of the Act provides that a Tier 3 permit holder may apply to surrender a Tier 3 permit or part of a Tier 3 permit by—

(a) lodging an application (which must contain the information prescribed in the Regulations); and

(b) paying any money owing to the Crown under the Act; and

(c) providing information and records as required by the Tier 3 permit, the Regulations or the Act.

(2) An application under subclause (1)(a) must be made online via the Online Permitting System, or with use of the relevant forms which are available on the NZP&M website. NZP&M prefers applicants to make use of the Online Permitting System where possible.

(3) Section 40 of the Act provides that, despite the requirements in subclauses (1)(b) and (c) above, the Chief Executive may, at their discretion, approve the surrender application notwithstanding that all money owing has not been paid or that records and information have not been provided as required.

(4) Subject to subclauses (1) and (3) and to clause 13.5, surrender of part of the area of a Tier 3 permit will only be accepted provided the remaining land under the Tier 3 permit is a continuous (i.e. unbroken) area.

(5) Section 40 of the Act provides that if a Tier 3 permit is surrendered in whole or in part, and payments have been made to the Crown in respect of the surrendered area (for example, annual fees that are paid in advance), then the Tier 3 permit holder is entitled to a refund that is equivalent to the amount of payments that have been made in respect of the surrendered land after the date of surrender.

(6) Information and reports lodged in relation to the surrendered area may be made publicly available in response to an information request from the date of surrender unless an exception applies. The information release and protection provisions in the Act and as set out in clause 4.13 will apply.

(7) Specific requirements relating to surrender are set out in the Regulations.

(8) Section 40 of the Act provides that the surrender of a permit does not release the Tier 3 permit holder from any liability in respect of—

(a) the Tier 3 permit up to the date of surrender; or

(b) any act under the Tier 3 permit up to the date of surrender that gives rise to a cause of action.

13.18 Revocation of a Tier 3 permit

(1) Section 39 of the Act provides that the Minister may revoke a permit, including a Tier 3 permit, in specific circumstances, subject to various procedural requirements (see clause 12.15 for a description of the process by which the revocation of a permit, including a Tier 3 permit, takes place).

13.19 Changing existing Tier 2 permits to Tier 3 permits

(1) A permit that is a Tier 2 permit at the close of 24 September 2025 is described in this Programme as an “Existing Tier 2 permit”. Existing Tier 2 permit holders may make a proposal to the Minister, under clause 45 of schedule 1 of the Act, to change an Existing Tier 2 permit to be a Tier 3 permit in accordance with this clause if the proposal is made before 5.00pm on 11 December 2026.

(2) Clause 45 of schedule 1 of the Act provides that to change an Existing Tier 2 permit to be a Tier 3 permit, the permit holder must make a proposal to the Minister which proposes changes to the permit so that it meets the requirements of a Tier 3 permit. The proposal must replace the work programme for the Existing Tier 2 permit with the work programme set out in section 2BA of the Act. Depending upon what the Existing Tier 2 permit authorises the permit holder to do, the proposal may include (without limitation)—

(a) reducing the permit area to 50 hectares or less:

(b) only authorising the mining of gold.

(3) If the Minister accepts the proposal, the changes proposed by the permit holder are made to the Existing Tier 2 permit and the permit becomes a Tier 3 permit.

(4) If the Minister does not accept the proposal, the Existing Tier 2 permit will not become a Tier 3 permit.

(3) If a Tier 2 permit holder wants to change a Tier 2 permit to become a Tier 3 permit after 11 December 2026 at 5.00pm, the Tier 2 permit holder must apply to change their permit to a Tier 3 permit under section 36(1)(b) of the Act.

Schedule 1: Definitions

In this Programme, unless the context requires otherwise:[63]

Act means the Crown Minerals Act 1991.

applicant includes a bidder in a competitive tender process (except where the context requires otherwise).

application includes a bid in a competitive tender process (except where the context requires otherwise).

appropriate Minister means in relation to Crown land or land in the common marine and coastal area—

(a) the Minister charged with the administration of the land; or

(b) if the land is part of the common marine and coastal area, the Minister described in paragraph (a) and the Minister of Conservation (if they are not the Minister described in that paragraph); or

(c) if neither of paragraphs (a) and (b) apply, the Minister of Lands.

If, after paragraphs (a) – (c) have been applied and there is uncertainty about who the appropriate Minister is, the Governor-General may designate the appropriate Minister.

ASR means an annual summary report in relation to a Tier 3 permit prepared in accordance with the Regulations.

AWPO means acceptable work programme offer.

change of control, in relation to a body corporate, means that a person obtains a controlling interest in the body corporate.

Chief Executive means "the chief executive of the department that, with the authority of the Prime Minister, is responsible for the administration of the Act."

common marine and coastal area is defined in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011, as "the marine and coastal area other than—

(a) specified freehold land located in that area; and

(b) any area that is owned by the Crown and has the status of any of the following kinds:

(i) a conservation area within the meaning of section 2(1) of the Conservation Act 1987:

(ii) a national park within the meaning of section 2 of the National Parks Act 1980:

(iii) a reserve within the meaning of section 2(1) of the Reserves Act 1977; and

[63] Some definitions in this Programme differ from the definition of the same term in the Petroleum Programme.

(c) the bed of Te Whaanga Lagoon in the Chatham Islands."

Connecting land of convenience includes land that the Minister considers has been included in the proposed permit land area only for the purpose of ensuring an unbroken permit area.

Crown Minerals Protocol means a protocol entered between the Crown and iwi or hapū which sets out how the Crown will engage with a particular iwi or hapū over matters relating to Crown minerals permits.

Crown Minerals Treaty | te Tiriti Redress Commitments means an arrangement entered between the Crown and iwi or hapū which forms part of the redress provided by the Crown under a Treaty of Waitangi | te Tiriti o Waitangi settlement and includes: Crown Minerals Protocols, Minerals Relationship Instruments, Relationship Agreements and Energy and Resources Accords.

day means the period from 9.00am to 5.00pm. If an event occurs before 9.00am, it will be deemed to have occurred on that day. If an event occurs after 5.00pm, it will be deemed to have occurred on the following day.

dealing means any agreement (other than a transfer of interest in a permit or a mortgage or other charge) that imposes on any participant in a permit any obligation relating to the sales or proceeds of production, if—

(a) a reasonable person would consider that the agreement—

(i) has not been entered into on an arm's length basis; or

(ii) is not on arm's length terms; or

(iii) is otherwise not on a fair market basis; or

(b) the term of the agreement is 12 months or longer.

Due date means—

(a) the expiry of the permit; or

(b) a specified date, if the application is to change work in a work programme that must be carried out by the specified date or is to change the specified date.

EOL means extension of land.

enactment has the same meaning as in section 13 of the Legislation Act 2019.

existing privilege has the meaning set out in paragraphs (a), (b), (c) and (e) of the definition of "existing privilege" set out in section 2(1) of the Act.

Existing Tier 2 permit means a permit that is a Tier 2 permit at the close of 30 June 2025.

exploration means "any activity undertaken for the purpose of identifying mineral deposits or occurrences and evaluating the feasibility of mining particular deposits or occurrences of 1 or more minerals; and includes any drilling, dredging, or excavations (whether surface or subsurface) that are reasonably necessary to determine the nature and size of a mineral deposit or occurrence; and **to explore** has a corresponding meaning."

good industry practice, “in relation to an activity, means acting in a manner that is technically competent and at a level of diligence and prudence reasonably and ordinarily exercised by experienced operators engaged in a similar activity and under similar circumstances, but (for the purposes of this Act) does not include any aspect of the activity regulated under environmental legislation.”

Health and Safety Regulator means WorkSafe New Zealand or the relevant designated agency.

Incoming person means “a person who obtains a controlling interest in a body corporate that is undergoing a change of control.”

Iwi or hapū and **iwi and hapū** includes, as the context requires, iwi, hapū, hapū clusters, and Post Settlement Governance Entities (including Post Settlement Governance Entities established to represent legal entities such as Taranaki Maunga and Te Awa Tupua).

MBIE means the Ministry of Business, Innovation and Employment.

mineable mineral resource means—

(a) in the case of chapter 10 of this Programme, a “mineable mineral resource”, “exploitable mineral resource” (as those terms are used in the Crown Minerals (Minerals Other than Petroleum) Regulations 2007) and a “deposit” (as defined in the Act); and

(b) in the case of all other chapters of this Programme, both a “mineable mineral resource” and an “exploitable mineral deposit” (as those terms are used in the Crown Minerals (Minerals Other than Petroleum) Regulations 2007).

Minister means, unless the context requires otherwise, “the Minister who, under the authority of a warrant or with the authority of the Prime Minister, is responsible for administration of the Act.”

mineral has the meaning set out in section 2(1) of the Act.

mineral group means one of the following particular mineral groups: metallic minerals, non-metallic minerals, coal, or industrial rocks and building stones.

minimum impact activity means any of the following:

“(a) geological, geochemical, and geophysical surveying:

(c) taking samples by hand or hand held methods:

(ba) taking small samples offshore by low-impact mechanical methods:

(c) aerial surveying:

(d) land surveying:

(e) any activity prescribed as a minimum impact activity:

(f) any lawful act incidental to any activity to which paragraphs (a) to (e) relate—

to the extent that it does not involve any activity that results in impacts of greater than minimum scale and in no circumstances shall include activities involving—

(g) the cutting, destroying, removing, or injury of any vegetation on greater than a minimum scale; or

(h) the use of explosives; or

(i) damage to improvements, stock, or chattels on any land; or

(j) any breach of the provisions of this or any other Act, including provisions in relation to protected native plants, water, noise, and historic sites; or

(k) the use of more persons for any particular activity than is reasonably necessary; or

(l) any impacts prescribed as prohibited impacts; or

(m) entry on land prescribed as prohibited land."

mining means—

(a) means to take, win, or extract, by whatever means,—

(i) a mineral existing in its natural state in land; or

(ii) a chemical substance from a mineral existing in its natural state in land; but …

(c) does not include prospecting or exploration for a mineral or chemical substance referred to in paragraph (a).

NAA means newly available acreage.

NZP&M a brand name used by the Resource Markets branch of the Ministry of Business, Innovation and Employment a group within the Ministry of Business, Innovation and Employment (or any successor government organisation that is responsible for administering the Crown Minerals Act 1991).

Online Permitting System means the online system for making applications relating to permits which is maintained on the NZP&M website.

Operator means the operator of a minerals permit, and means the person described in section 27 of the Act.

participating interest means "in relation to a permit, a specified undivided share of the permit expressed as a percentage recorded on the permit."

permit year means the period of 12 months from the commencement of a permit, or any successive period of 12 months from an anniversary of the commencement of a permit.

petroleum has the meaning set out in section 2(1) of the Act.

prospecting means—

(a) any activity undertaken for the purpose of identifying land likely to contain mineral deposits or occurrences; and

(b) includes the following activities:

(i) geological, geochemical, and geophysical surveying:

(ii) aerial surveying:

(iii) taking samples by hand or hand held methods:

(iv) taking small samples offshore by low-impact mechanical methods.

recognised reporting code means the most recent version of one of the following: the Canadian National Instrument 43-101 standard of disclosure of minerals projects or the South African Code for the reporting of exploration results, mineral resources and mineral reserves.

Regulations means, unless the context clearly requires otherwise: the Crown Minerals (Minerals Fees) Regulations 2016, the Crown Minerals (Minerals Other than Petroleum) Regulations 2007 and the Crown Minerals (Royalties for Minerals Other than Petroleum) Regulations 2013. Note that these are the Regulations made under the Act which are relevant to this Programme and in force as at the date this Programme has been issued. There may be other regulations made under the Act after this Programme is issued which are relevant to activities carried out under it. The Minister and Chief Executive will comply with the regulations in force as at the time of their decision-making.

related party in relation to a permit holder, applicant or bidder has the same meaning (with all necessary modifications) as in the Crown Minerals (Royalties for Minerals Other than Petroleum) Regulations 2013.

relevant iwi and hapū means iwi and hapū whose rohe (area) includes some or all of the permit area or who may be directly affected by a permit.

relevant excepted activities include those—

(a) that are necessary for the construction, use, maintenance, or rehabilitation, of an emergency exit or service shaft for an underground mining operation, where these cannot safely be located elsewhere, provided that it does not result in—

(i) any complete stripping of vegetation over an area exceeding 100 square metres; or

(ii) any permanent adverse impact on the profile or surface of the land that is not a necessary part of any activity specified in paragraph (a):

(b) that do not result in—

(i) any complete stripping of vegetation over an area exceeding 16 square metres; or

(ii) any permanent adverse impact on the profile or surface of the land that is not a necessary part of any activity specified in paragraph (a):

(c) a minimum impact activity (see footnote 22):

(d) gold fossicking carried out in an area designated as a gold fossicking area under section 98 or 98A of the Act:

(e) any special purpose mining activity carried out in accordance with a mining permit.

relevant person means an incoming person.

relinquish means the process by which an area of permit land is excluded from the permit concerned by the operation of sections 35B or 35C of the Act.

sovereign risk means the risk that the government may unexpectedly change significant aspects of its policy and investment regime and the legal rights applying to investors to the detriment of investors.

Statutory Frameworks are legislation that provides a framework under which the rights and interests of iwi and hapū to certain minerals can be recognised (see clause 2.1(4)).

Tier 3 beach permit means a Tier 3 permit that authorises mining for gold on a beach.

Tier 3 hybrid permit means a Tier 3 permit that authorises mining for gold both in the bed of a river and on a beach.

Tier 3 river permit means a Tier 3 permit that authorises mining for gold in the bed of a river (including a stream or creek).

Treaty | te Tiriti means the Treaty of Waitangi | te Tiriti o Waitangi.

working day means any day except—

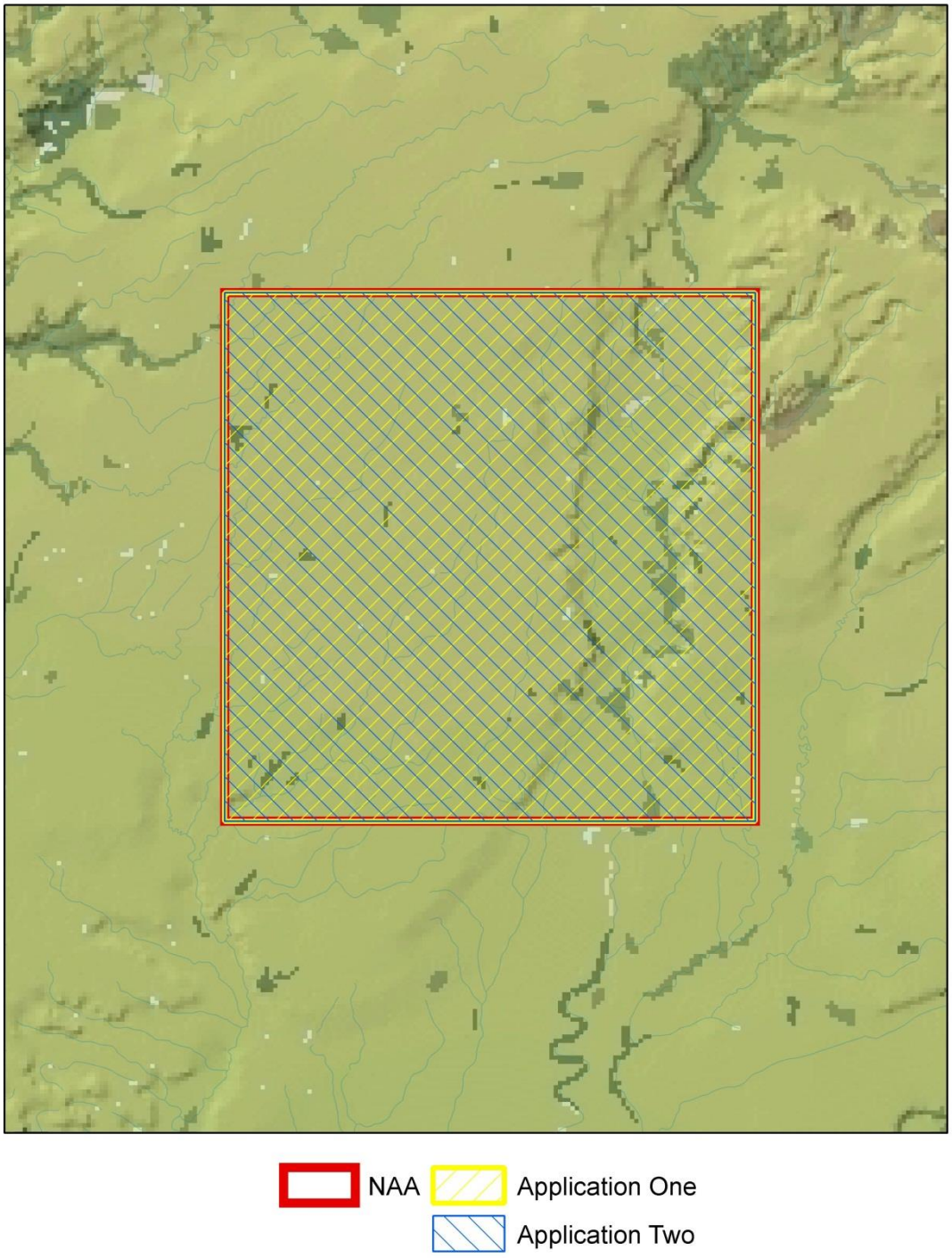
(a) a Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's birthday, Te Rā Aro ki a Matariki/Matariki Observance Day, and Labour Day; and

(b) if Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday; and

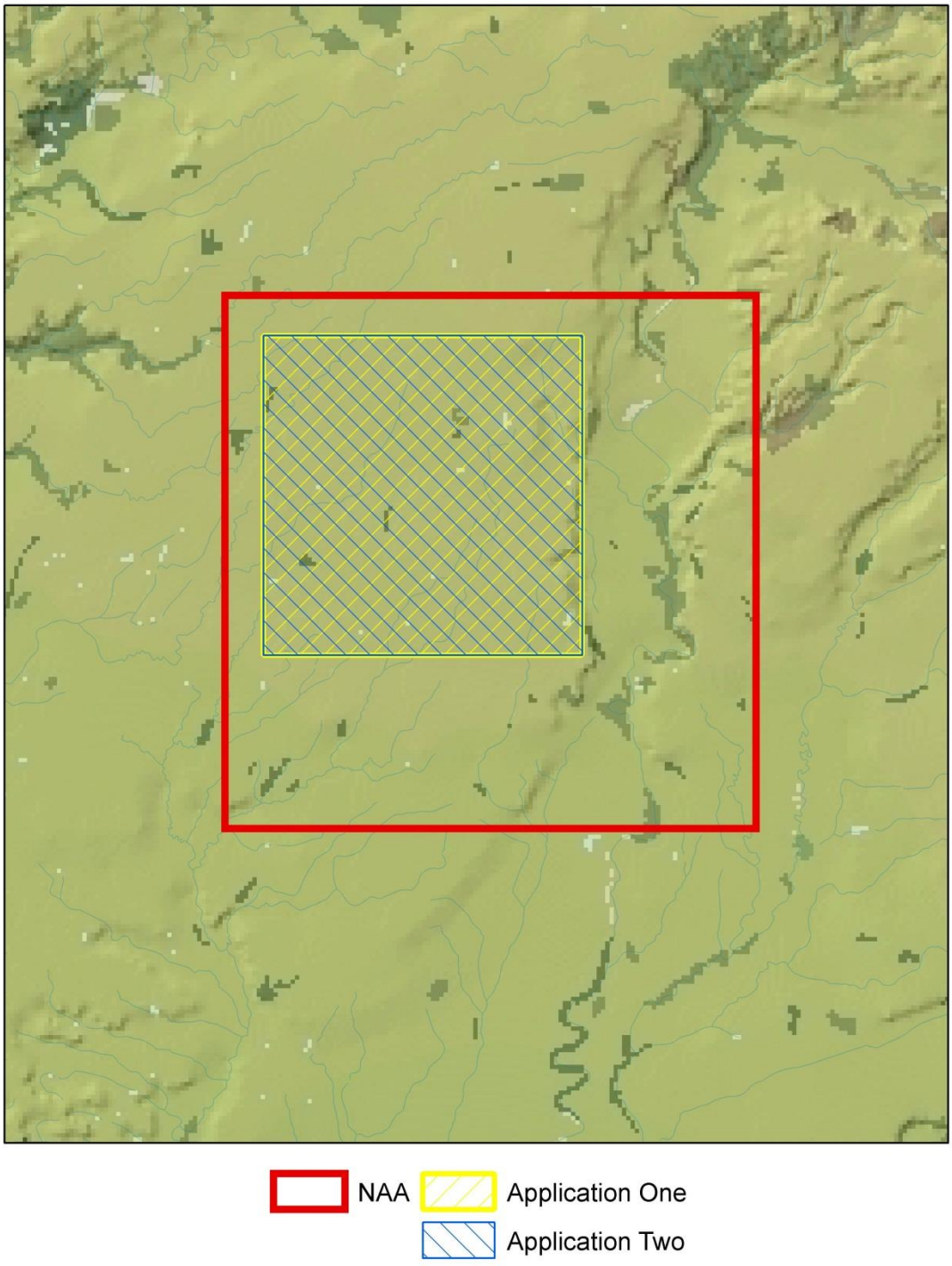
(c) a day in the period commencing with 20 December in any year and ending with 15 January in the following year.

Schedule 2: Drawings to illustrate clause 6.8(3)

Plan A1: Example for clause 6.8(3)(a)(i)

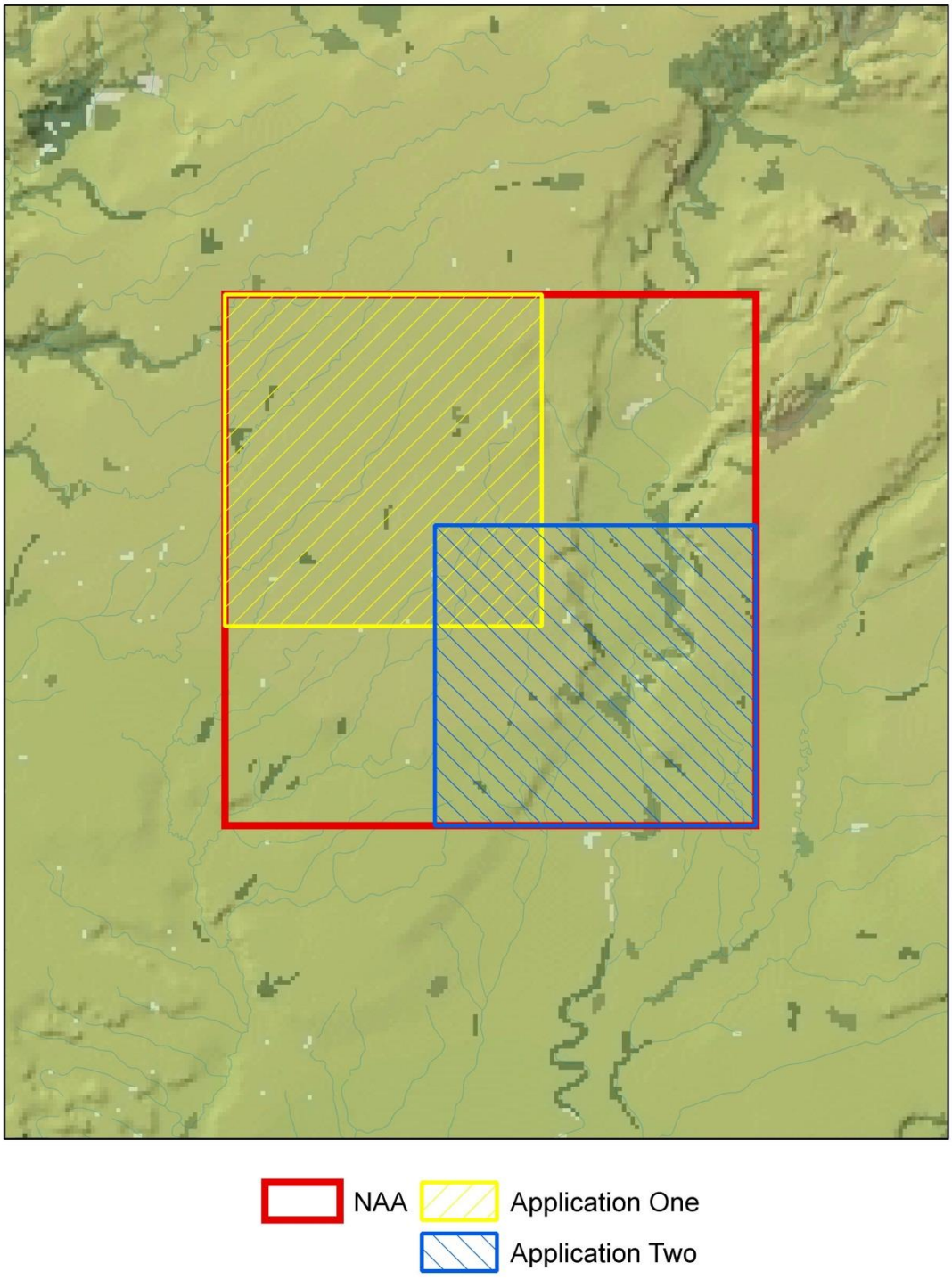


Plan A1 continued: Example for clause 6.8(3)(a)(ii)

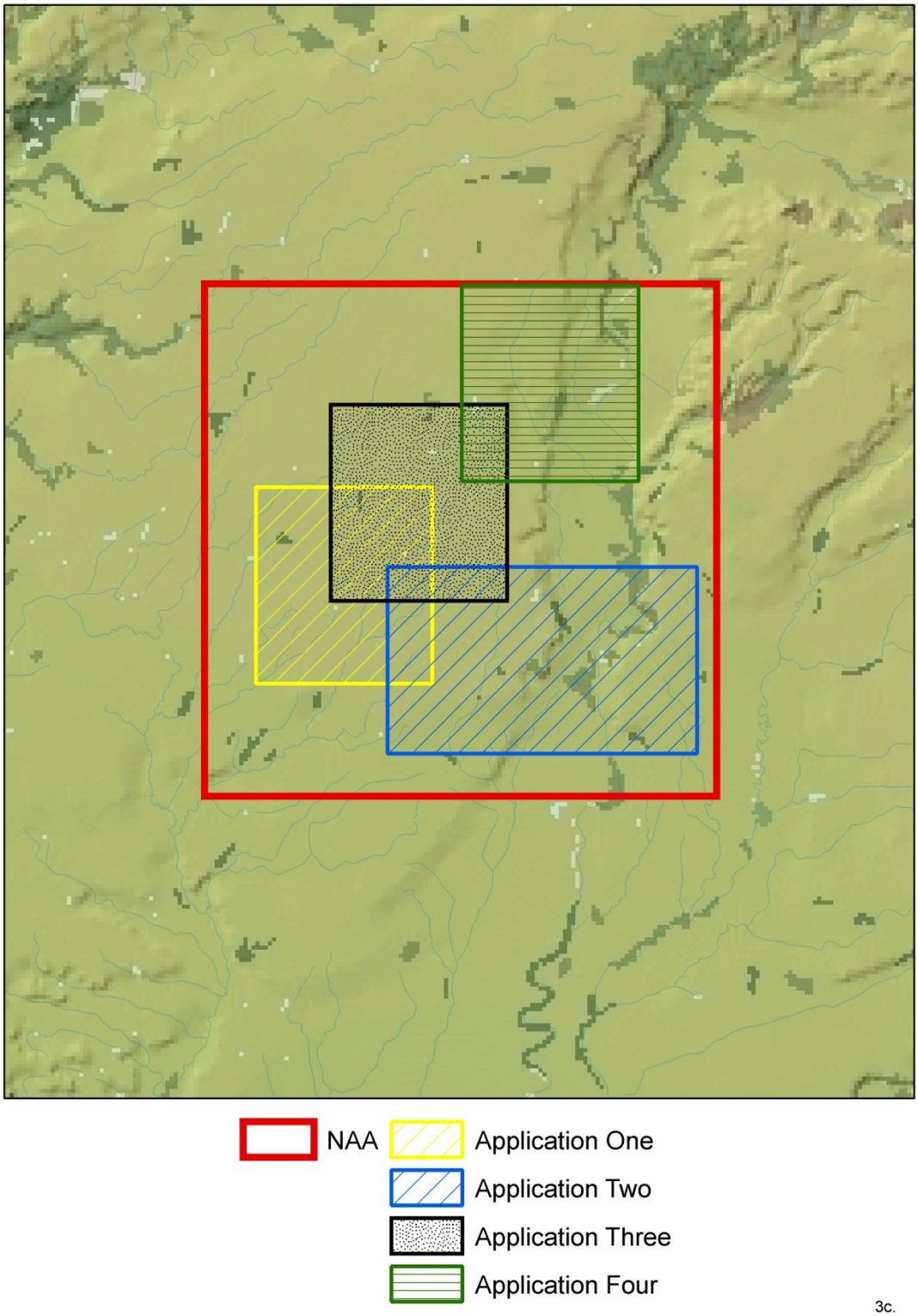


3a(ii).

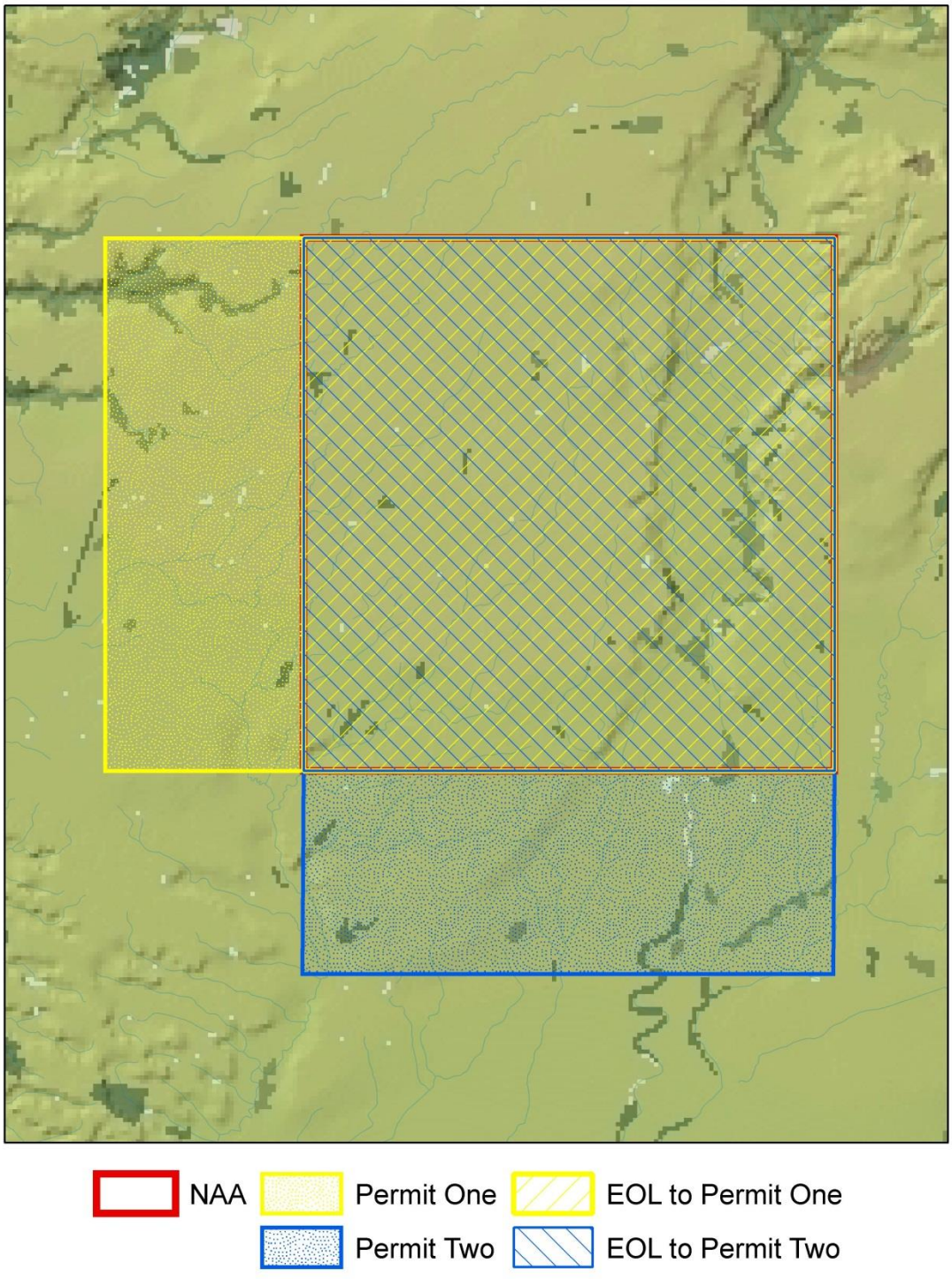
Plan A2: Example for clause 6.8(3)(b)



Plan A3: Example for clause 6.8(3)(c)

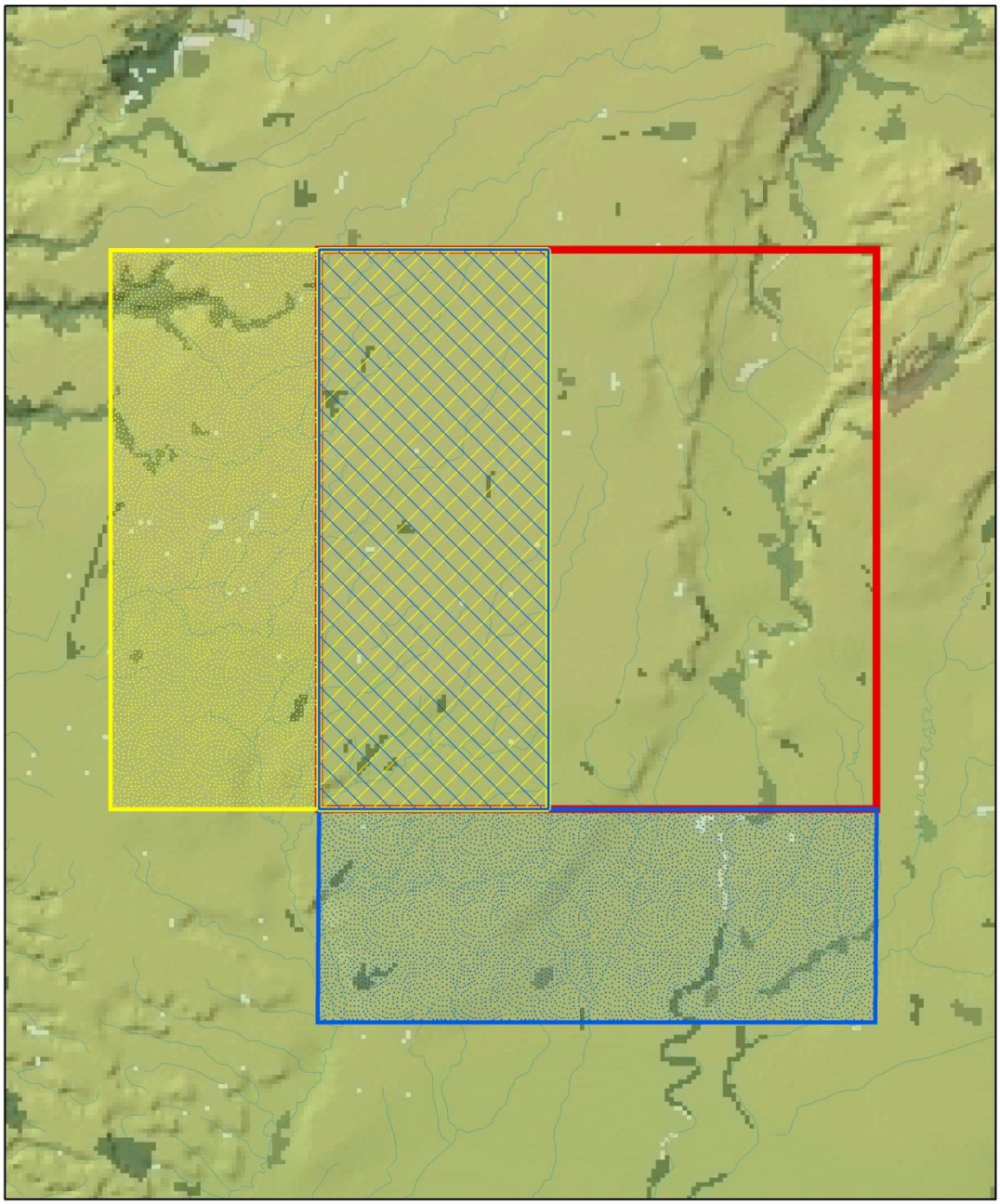


Plan B1: Example for clause 6.8(3)(d)(i)



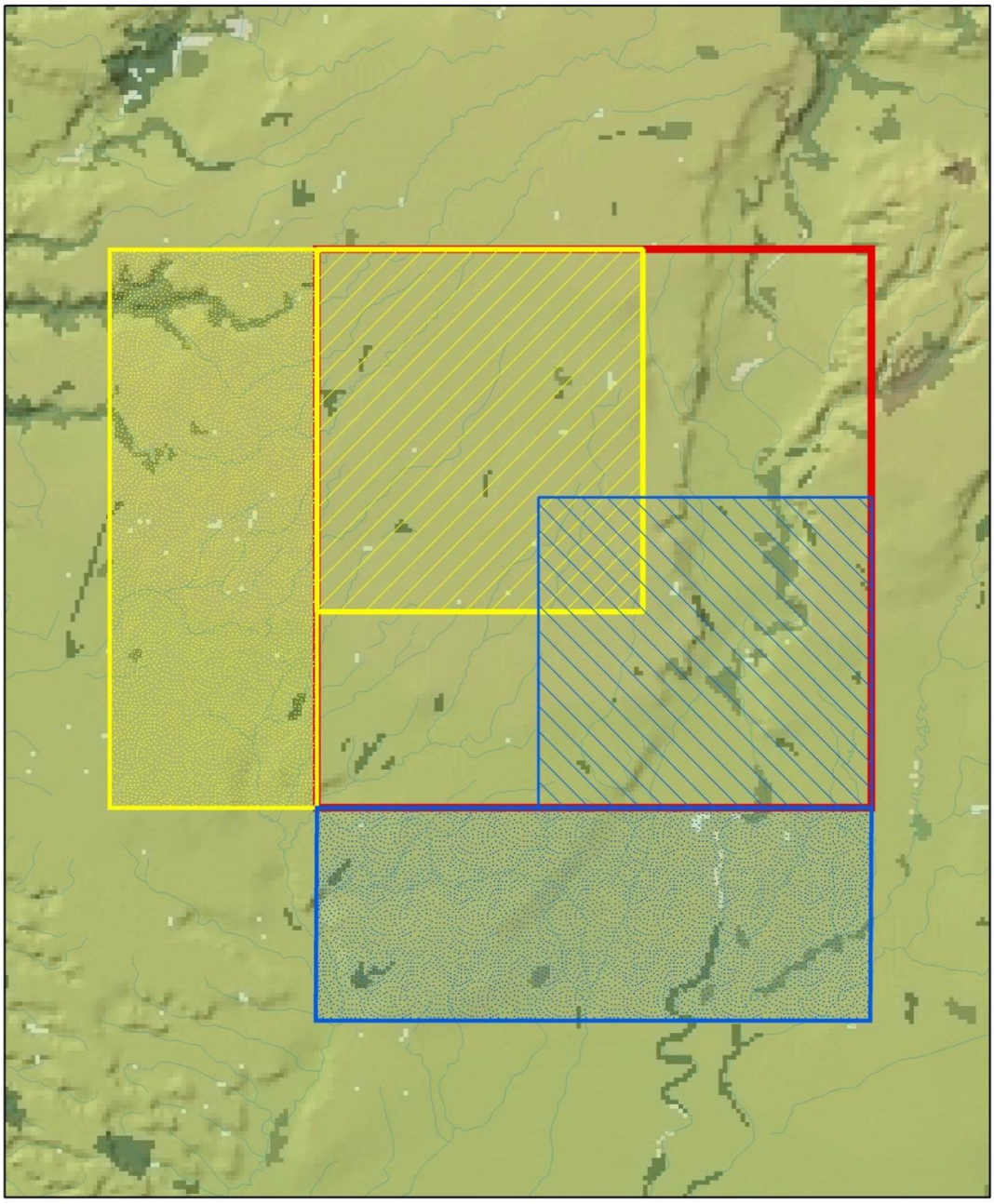
EOL = Extension of Land

Plan B1 continued: Example for clause 6.8(3)(d)(ii)



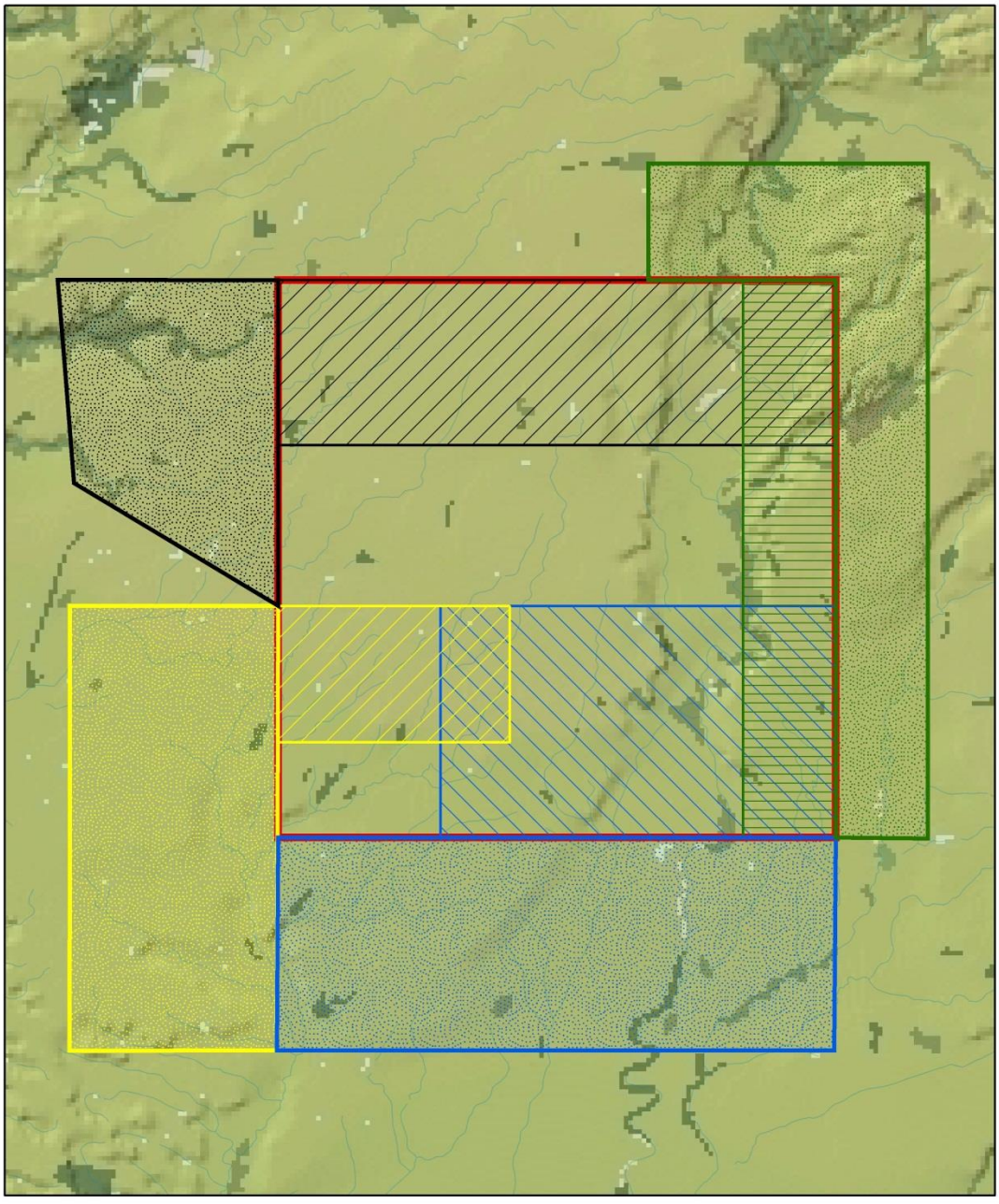
EOL = Extension of Land

Plan B2: Example for clause 6.8(3)(e)

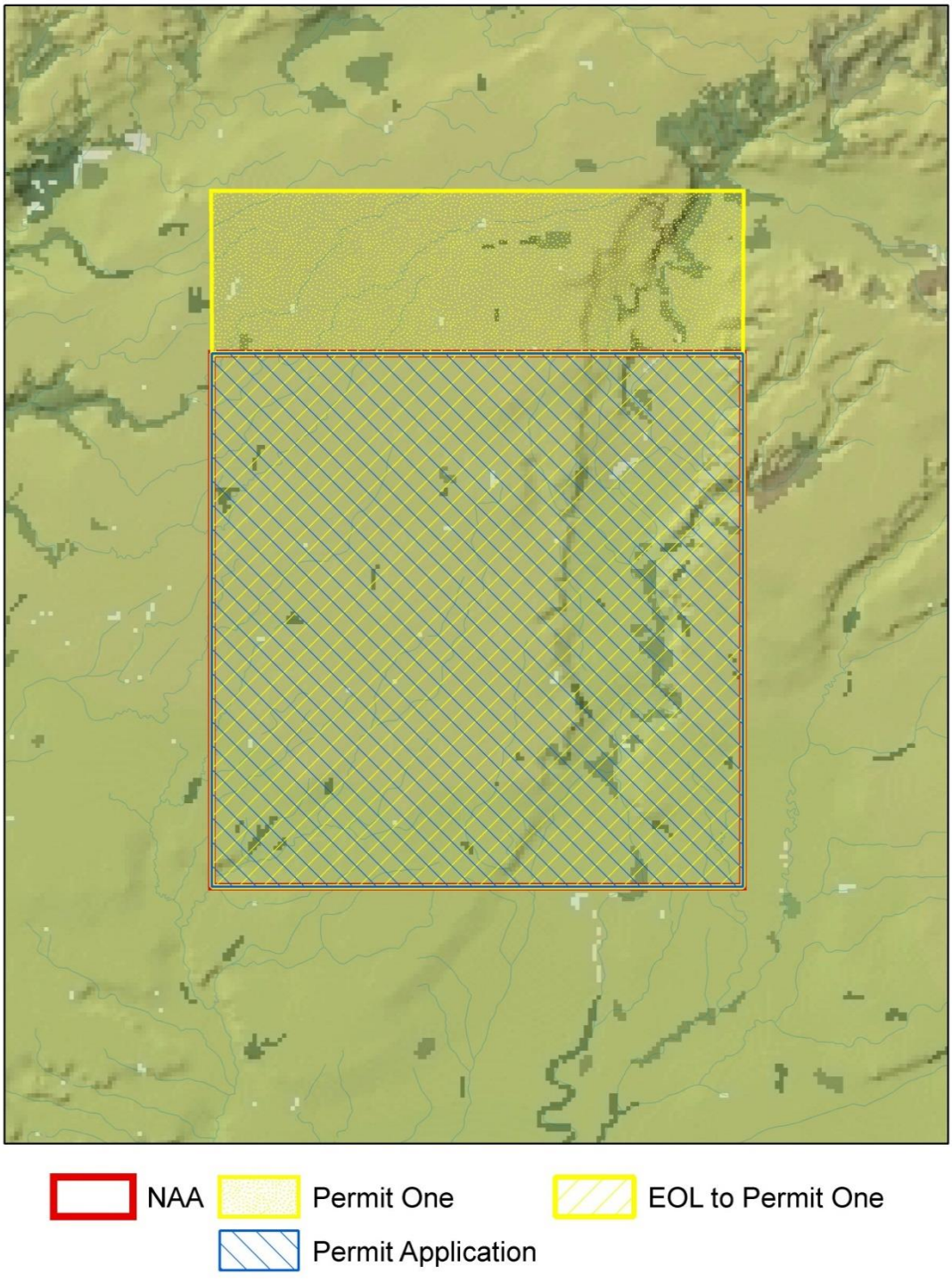


EOL = Extension of Land

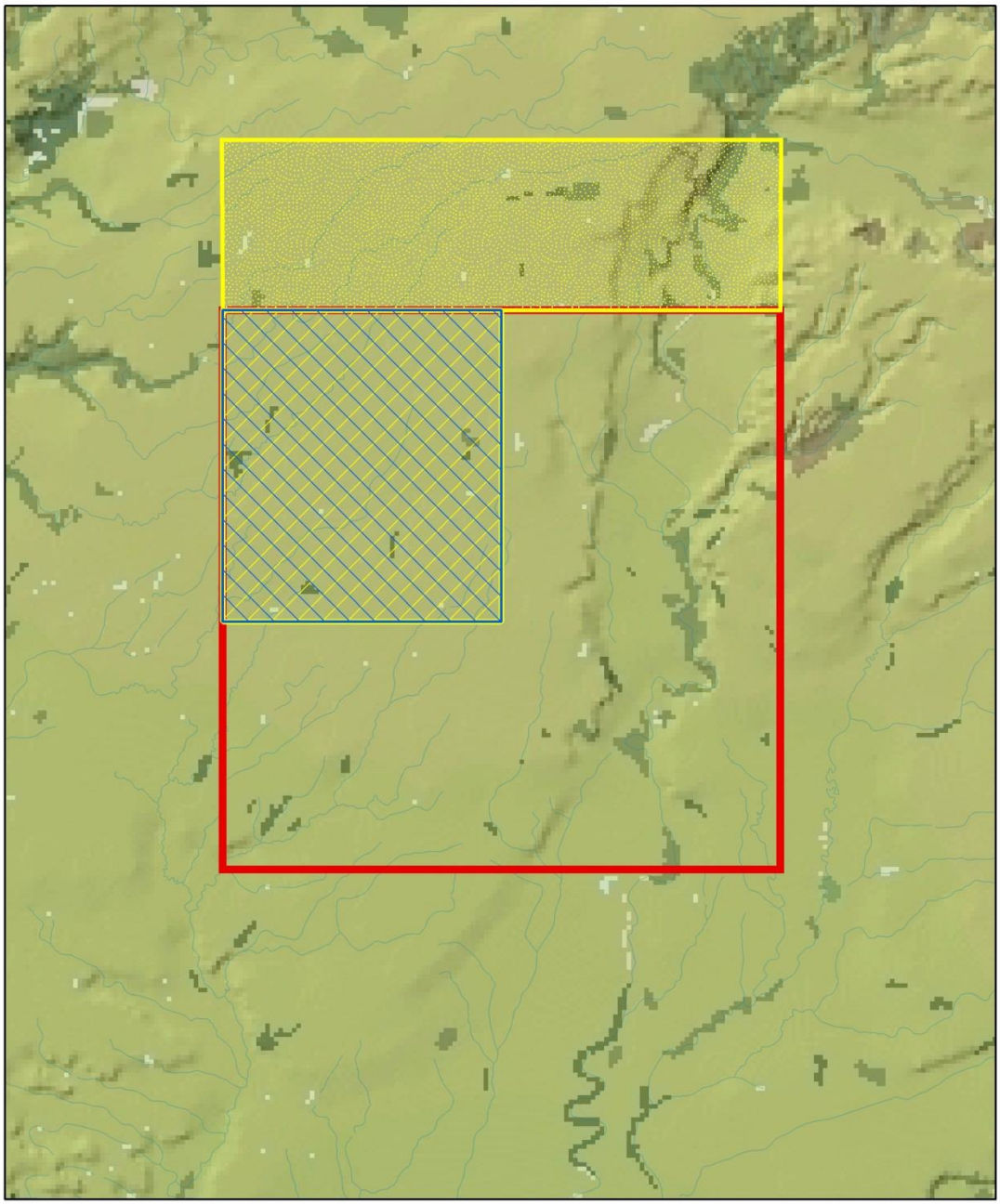
Plan B3: Example for clause 6.8(3)(f)



Plan C1: Example for clause 6.8(3)(g)(i)

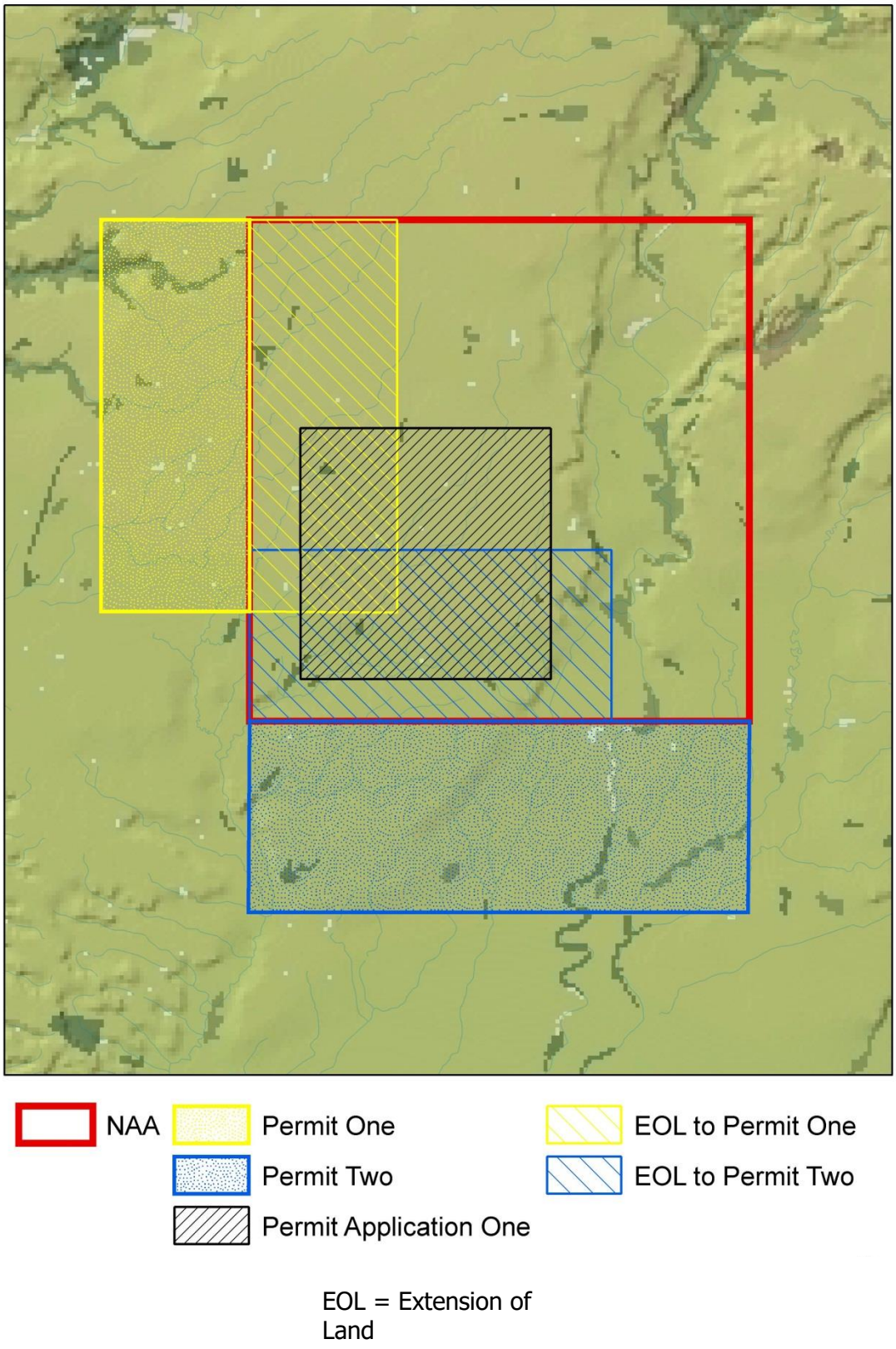


Plan C1 continued: Example for clause 6.8(3)(g)(ii)

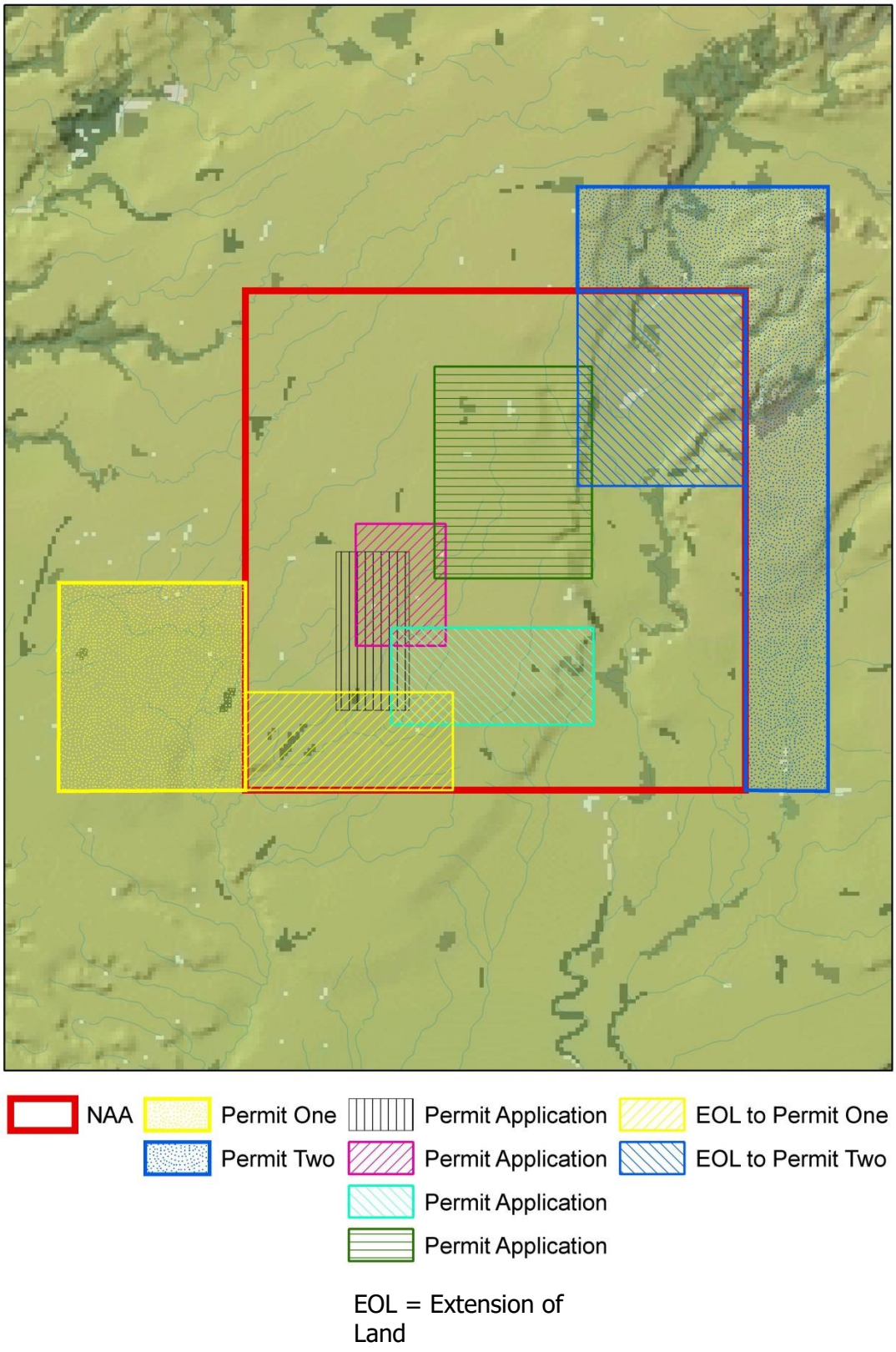


EOL = Extension of Land

Plan C2: Example for clause 6.8(3)(h)



Plan C3: Example for clause 6.8(3)(i)



Te Kāwanatanga o Aotearoa
New Zealand Government

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