NEW ZEALAND
PETROLEUM & MINERALS

Petroleum Programme

(Minerals Programme for 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)
Hīkina Whakatutuki – Lifting to make successful

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Contents

1. About this Programme

1.1 Introduction

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

(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.

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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) to (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 (Petroleum Fees) Regulations 2016, the Crown Minerals (Petroleum) Regulations 2007 and the Crown Minerals (Royalties for Petroleum) Regulations 2013 (see clause 4.11).

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 petroleum 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.

(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 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 in 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 the matters 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 petroleum

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

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

(2) "Petroleum" is defined in section 2(1) of the Act.[7] Section 10 of the Act provides that all petroleum existing in its natural condition in land[8] (whether or not the land has been alienated from the Crown) shall be the property of the Crown, notwithstanding anything to the contrary in any Act or in any Crown grant, certificate of title, lease, or other instrument of title.

(3) "Prospecting", "exploration" and "mining" are defined terms in the Act.[9]

(4) 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, including petroleum. The government does not wish to undertake these activities itself, although it may from time to time undertake seismic survey or other prospecting activities for the purpose of providing information to promote interests in New Zealand's petroleum estate.

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

(5) 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 petroleum 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 petroleum resources.

(6) An important component of promoting prospecting, exploration and mining is minimising sovereign risk[10] for investors by providing for a stable and coherent regulatory regime for petroleum.

Interpretation of "for the benefit of New Zealand"

(7) 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 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 petroleum resources.

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[7] "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".

[8] "Land" "includes land covered by water; and also includes the foreshore and seabed to the outer limits of the territorial sea" (section 2(1) of the Act).

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

[10] "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.

(8) 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

(9) The words "the efficient allocation of rights to prospect for, explore for, and mine [petroleum]" 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 petroleum resources 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);[11] 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.

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

(10) The words "the effective management and regulation of the exercise of … rights [to prospect for, explore for, and mine petroleum]" 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"

(11) 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."

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

[11] In this Programme, "applicant" includes a "bidder" in a public tender process (except where the context requires otherwise). Similarly, "application" includes a "bid" in a public tender process (except where the context requires otherwise).

Personnel and procedures

(a) At all times the operator of a petroleum permit ("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, production operations, and field development are designed and conducted to maximise economic petroleum recovery and minimise wastage within reasonable technical and economic constraints.

(c) In the planning of processes and mining operations, provision is made for unexpected field behaviour.

(d) Mining operations do not result in the inefficient production of petroleum or the inefficient storage of petroleum, whether on the surface or underground. "Inefficient" includes where there is unnecessary waste and where maximum economic recovery is precluded.

(e) To facilitate sound field appraisal and development and production, there is ongoing definition of the hydrocarbon accumulation in terms of volumes in place, recoverable reserves, and producibility parameters.

Risk management

(f) 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

(g) Prospecting, exploration/appraisal and mining operations are conducted so as to ensure that good quality data is acquired, within reasonable economic and technical constraints. Sufficient data needs to be acquired to test the understanding of a play, lead or prospect in a Petroleum Exploration Permit ("PEP"). In appraisal and development, sufficient data needs to be acquired to enable understanding of reservoir development and to resolve uncertainties that affect the success of petroleum recovery.

Interpretation of "a fair financial return"

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

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

(a) that petroleum is a non-renewable resource; and

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

(c) that petroleum prospecting, exploration and mining is a high-risk, high-cost and high-reward activity; and

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

(15) 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 production of petroleum, including from the start of production.

(16) Overall these considerations lead to a royalty regime that—

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

(b) provides for an accounting profits royalty so that the Crown shares in the benefits if a petroleum 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 petroleum resources. There is a wide range of other legislation that affects or relates to prospecting for, exploring for, and mining petroleum.

(2) The following is a non-exhaustive list of other legislation that is relevant to prospecting for, exploring for, and mining petroleum:[12]

(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 petroleum facilities, are to be managed:

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

(f) the Marine Mammals Protection Act 1978, which provides for the protection, conservation and management of marine mammals:[13]

[12] This 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 petroleum may change after this Programme has been issued.

[13] Marine Mammal Protection Notices made under the Marine Mammals Protection Act 1978 restrict activities such as seismic surveys.

(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,[14] 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 in relation to Crown minerals.[15] 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.

(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 and bidders for permits to prospect for, explore for, and mine petroleum, 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.

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[14] "Common marine and costal 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".

[15] 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).

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 petroleum (where the Act and/or Regulations apply to the existing privilege) and to all applications for permits for petroleum (or related activities) received on and after this date.[16]

[16] 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.

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);[17] and

(b) it specifies the matters on which iwi and hapū must be consulted (see clauses 2.3, 2.5 and 2.6); and

(c) it sets out principles and procedures for consulting with iwi and hapū (see clauses 2.4 – 2.7, 2.10 and 2.11); and

(d) it specifies the matters of which iwi and hapū must be notified (see clauses 2.5(1), 2.5(3), 2.5(4), 2.6(1), 2.6(4), 2.6(5) and 2.9); and

(e) it sets out the circumstances in which the Minister must/may have regard to feedback provided by iwi and hapū (see clause 5.7).

(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 (including petroleum) 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):[18]

(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

[17] 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)

[18] The Crown has entered a number of Crown Minerals Protocols with iwi and hapū. Further detail is provided about these Protocols in clause 2.10. As at the date of this Programme, the Crown has entered 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 and the way in which the Crown consults with 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(4)). 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 petroleum permit holders 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 11.8); and

(b) it provides that petroleum permit holders may be required to attend an annual review meeting regarding their engagement with iwi or hapū (see clause 11.8).

(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 11.8), 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[19] will be consulted by the Minister or NZP&M on the following matters:

[19] 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".

(a) an application for a petroleum prospecting permit ("PPP"):

(b) an application for a non-tender (open market) PEP:

(c) the preparation of a PEP Round (see clause 2.5):

(d) an application for a petroleum mining permit ("PMP"):

(e) an application to extend the area of a permit:

(f) an application by a permit holder to explore for or mine a petroleum mineral that is not currently included in the permit.

(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 any 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 2.10).

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

(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 on a PEP Round

(1) NZP&M must give relevant iwi and hapū notice in writing of every proposal for a PEP Round (see clause 7.3) and must provide the following information:

(a) details of the proposal, including a map of the area being considered; and

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

(c) the proposed timing of the PEP Round; and

(d) any proposed conditions of the PEP Round.

(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 blocks (or whole blocks) not be included in the PEP Round.

(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 that recognise the particular characteristics of those areas.

(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 public tender. The Minister will comply with any relevant consultation requirements that arise from Crown Minerals Treaty | te Tiriti Redress Commitments and Statutory Frameworks (see clause 2.10).

(6) NZP&M must report to the Minister on the consultation with relevant iwi and hapū concerning the proposed PEP Round before the final decision on the blocks to be included in the Round is made.

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

(8) The process by which the Minister will have regard to the feedback of relevant iwi and hapū about a current or previous permit or privilege holder is set out in clause 5.7.

2.6 Consultation on permit applications outside of the PEP Round process

(1) When NZP&M has received an application for a PPP, PEP or PMP, or an application to extend the area of an existing permit or to change the petroleum minerals to which an existing permit relates, NZP&M must notify relevant iwi and hapū in writing and provide any or all of the following information (as applicable):

(a) 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 change to the petroleum minerals to which the permit relates.

(2) Relevant iwi and hapū will be asked to inform NZP&M of any issues or questions that they may have in relation to the application (of the type described in subclause (1)), and will have 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 application 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 that 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 2.10).

2.7 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 PEP Round or 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 PEP Round or a permit, or that activities within certain areas be subject to additional requirements, or that other PEP Round conditions be amended, the Minister will consider and make a decision on the request (see clause 2.8). 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 or a PEP Round:

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

2.8 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 a PEP Round 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) in the case of a permit application, how the proposed activity may affect the land which iwi or hapū have requested be excluded from a permit or PEP Round; and

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

2.9 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 for the allocation of permits (see clauses 2.5 and 2.6).

(2) NZP&M will notify relevant iwi and hapū following consent to change of an Operator, and change of control of an Operator (see clauses 12.7 and 12.10).

2.10 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.[20]

(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 the Act, the functions and powers of the Minister or MBIE under the Act, or the rights of iwi under the Act.

(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 PEP block offers; and

(iii) other PEP applications; and

(iv) amendments to PEPs; 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) newly available acreage; and

[20] 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 Petroleum Order 2025.

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

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

2.11 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 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 petroleum prospecting, exploration and mining

3.1 Land unavailable for petroleum 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.[21]

(3) Land south of latitude 60ºS is unavailable for petroleum permits, in recognition of the Protocol on Environmental Protection to the Antarctic Treaty.

(4) The Sugar Loaf Islands Marine Protected Area Act 1991 excludes petroleum mining operations and the issuing of permits over all specified land and water.

(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 specified period, specified kinds of permits—

(a) will only be granted in respect of specified land by public tender; 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 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

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

(c) the power to extend the duration of a permit (see clauses 6.3, 7.8 and 12.5); or

[21] 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-for-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 Petroleum Order 2025.

(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 4.3).

(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 with the appropriate Minister and the Minister. Decisions on variations to an existing access arrangement for petroleum permits (except where the variation is to allow access for the purpose of significant exploration or mining activities) will be made by the Minister. Decisions on variations to an existing access arrangement for petroleum permits (where the variation is to allow access for the purpose of significant exploration or mining activities) will be made by the appropriate Minister and the Minister.

(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, unless for the purpose of undertaking certain excepted activities.[22]

(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)[23] in respect of any Crown land may be made on the recommendation of the

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[22] Under section 61(1A) of the Act, "relevant excepted activities" for petroleum are—
(a) those 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:
(b) a minimum impact activity (see footnote 23).

[23] 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:

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.[24] Sections 49 – 80 of the Act set out provisions and procedures applying to petroleum permit holders seeking to obtain access to land. These are summarised below.

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:[25]

(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.

(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".

[24] Section 47 of the Act.

[25] 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).

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 petroleum 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 ten working days' notice of proposed land entry. The notice must detail the matters described in subclauses (4)(a) – (c) above.

Land owner/occupier agreement or arbitration

(6) For activities other than minimum impact activities, section 53(2) of the Act provides that the holder of a petroleum permit may not prospect, explore or mine in or on land to which the permit relates otherwise than 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) An access arrangement should as far as reasonably possible be determined amicably by good faith negotiation between the permit holder and each owner and occupier of the land.

(8) Where it has not been possible to agree on an access arrangement, section 63 of the Act allows the permit holder to serve a notice on each owner and occupier asking them to agree to the appointment of an arbitrator to determine an access arrangement on reasonable terms. Section 64 of the Act provides for an arbitrator to be appointed by the Chief Executive at the request of any one of these parties, including the permit holder, if agreement cannot be reached to appoint an arbitrator. Sections 65 and 67 – 75 of the Act set out procedures for arbitration.

(9) Further to subclause (8), 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.

(10) 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.

(11) 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) Section 8(1) of the Act provides that no person may prospect for, explore for, or mine petroleum unless they have a permit granted under the Act.

(2) The Act provides for permits for prospecting, exploration and mining. The purpose of PPPs, PEPs and PMPs, and the provisions relating to them, are covered in chapters 6, 7 and 8 of this Programme respectively.

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

4.2 Exclusivity of permits

(1) PPPs will only be granted to speculative prospectors on a non-exclusive basis (see clause 6.2).

(2) The rights under PPPs held by non-speculative prospectors, PEPs and PMPs to prospect, explore for, or mine petroleum are ordinarily exclusive to the permit holder. No other person may be granted a permit to prospect, explore for or mine petroleum within the area of a current permit without the prior written consent of the current permit holder.[26]

4.3 Rights to subsequent permits

(1) A PPP will ordinarily provide the PPP holder with the right to apply for a subsequent permit (see clauses 6.1(10) and 7.2(2)) if it is not held by a speculative prospector, and if no such right already exists in respect of the same land.[27]

(2) Section 32(3) of the Act provides that the holder of a PEP has a right to apply for and receive a PMP where the PEP holder has—

(a) discovered a deposit of petroleum as a result of its exploration activities;[28] and

(b) proposed a satisfactory work programme to mine that discovery.

(3) Detailed provisions relating to this right are set out in chapter 8.

(4) Section 30(5) of the Act sets out the circumstances in which the holder of a PMP for a specified discovery may apply for a subsequent PMP for a further discovery in the PMP area.

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[26] 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 in relation to 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.

[27] "No such right" means circumstances in which there is no other PPP with a right to apply for a subsequent permit or a PEP or PMP in respect of the same land.

[28] For the purposes of section 32 of the Act, deposit means a concentration or accumulation that is capable of being mined effectively and economically.

(5) 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.

4.4 Permits may be granted where there are non-petroleum minerals permits or licences

(1) Petroleum permits may be granted over land where there are non-petroleum minerals permits or licences.

(2) If a dispute arises between a petroleum permit holder and a non-petroleum minerals permit or licence holder – for example, over potential or actual interference with one another's mining operations – the parties should deal with the matter privately, taking into account access arrangements and possibly resource consents. If a dispute hinders or prevents a petroleum permit holder from fulfilling the work programme conditions of the permit, this may be grounds for seeking an amendment to those conditions (see clause 12.2).

4.5 Applications for permits

(1) Applications for permits must be made in accordance with the Crown Minerals (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) Where a permit is being allocated by public tender (for example, through a PEP Round), bids must be made in the manner advised by the Minister by way of the relevant tender notice issued in accordance with section 24 of the Act.

(4) Section 29A(1)(d) of the Act provides that a permit application must include "any other information prescribed in the regulations." The Crown Minerals (Petroleum) Regulations 2007 require many permit applications to include "a map of the permit area." The Crown Minerals (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.

(5) When assessing whether the map included in a permit application meets these requirements, the Chief Executive will rely on Mapping Standards guidance for petroleum applications if developed by NZP&M.

4.6 Operators and non-operators

(1) Permits may be held by individuals, companies or groups of companies. A "permit holder" may therefore be one person,[29] 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

[29] A "person" in this context refers to a natural person or corporate body or other legal entity.

this Programme as “permit participants”. Each person who makes up a permit holder holds a “participating interest”.[30] 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).[31]

4.7 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 request made by the applicant for a particular commencement date.

(2) Section 35(9) of the Act provides that the Minister may, on application by the permit holder, 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 and hapū.

4.8 Form of a permit

(1) A permit will include the following:

(a) the names of the permit participants and the Operator; and

(b) the approved work programme; and

(c) the duration of the permit; and

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

(e) schedules detailing the conditions of the permit (there will usually be a schedule that sets out general conditions, and a second schedule with conditions specific to that permit).

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[30] “Participating interest” is defined as—

“(a) in relation to a permit: a specified undivided share of the permit expressed as a percentage recorded on the permit; or

(b) in relation to a licence granted under Part 1 of the Petroleum Act 1937, means an undivided share of the licence that is recorded on the licence.”

[31] Clause 13 of Schedule 1 of the Act exempts “existing privileges” from this requirement.

(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.

4.9 Register of permits

(1) Section 91 of the Act requires the Chief Executive to keep a public register of permits. This includes:

(a) some of the information in clause 4.8(1) above; and

(b) the contact details of permit participants and of the Operator; and

(c) changes, transfers and leases.

(2) This is kept electronically on a database maintained by NZP&M. A map showing the location of current PPPs, PEPs, and PMPs in New Zealand is also available.

4.10 Release of information

(1) Subject to the exceptions in subclause (2) below, all reports, records, samples and other information[32] provided by a permit holder under the Act and the Crown Minerals (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

(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.[33]

(2) Exceptions are—

(a) summary information about surveys and wells (but not underlying data), which will be made public immediately:

(b) information obtained under a PPP, which will not be publicly available until the earlier of—

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

(ii) the closure of a PEP Round (see clause 7.3) for the area to which the information relates, except that the information may not be released earlier than five years after it was obtained:

(c) information obtained under a PPP held by a speculative prospector, which will not be publicly available until 15 years after the information was obtained (see clause 6.5):

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

[33] Section 90 of the Act.

(d) information obtained under PEPs or PMPs that are surrendered as part of an amalgamation of permits (see clause 12.6), if and to the extent that the amalgamated permit covers the same area:

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

(f) information received under the following sections in the Act which the Chief Executive is not required to send, make available, publish or otherwise disclose: 42B, 42C, 89ZB, 89ZC, 89ZD, 89ZE, 89ZF, 89ZK, 89ZL, 89ZM, 89ZY and 89ZZ:

(g) information obtained under a non-exclusive PPP, that commenced during the period starting on 19 December 2012 and ending on 29 November 2017, will not be made available for 21 years after the date on which the information was obtained by the permit holder (see Schedule 1, clause 43 of the Act).

(3) 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.

4.11 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 petroleum may change after this Programme is issued (see footnote 3).

(2) The Crown Minerals (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

(c) the reports, records, samples and related matters that permit holders must supply;[34] and

(d) flaring.

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

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

(5) The Crown Minerals (Royalties for Petroleum) Regulations 2013 set out rates and provisions for the payment of royalties on petroleum production from permits granted on and after 24 May 2013. These regulations also set out royalty statement and royalty return requirements for all petroleum permit holders required to pay royalties.

[34] Additional information on reporting requirements is provided in Petroleum Digital Data Submission Standards, available on the NZP&M website.

4.12 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.

4.13 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 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.

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

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

5.1 Introduction

(1) Section 29A of the Act sets out the matters the Minister must consider and be satisfied about before deciding to grant a permit to an applicant.

(2) Section 29A 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, the Crown Minerals (Petroleum) Regulations 2007 or the Crown Minerals (Royalties for Petroleum) Regulations 2013 in respect of reporting and the payment of fees and royalties; and

(d) that for PEPs or PMPs 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; and

(e) that for PEPs or PMPs the applicant is highly likely to comply with the relevant obligations relating to decommissioning or post-decommissioning.

(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 PEP in response to a public 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 clauses 5.6 and 7.6(4) – (6)).

(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 or bidder's previous engagement 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 previous engagement with them (in their capacity as a current or previous permit holder or privilege holder) (see clause 5.7).

5.2 Work programmes

(1) All applications for permits must include a proposed work programme for the permit, which may comprise committed activities, or committed and contingent activities.

(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 PPPs, the matters set out in clauses 6.1 and 6.2:

(b) for PEPs, the matters set out in clauses 7.1, 7.2, 7.5, 7.6, 7.9 and 7.11, as appropriate:

(c) for PMPs, the matters set out in clauses 8.1, 8.2, 8.3 and 8.4, as appropriate.

(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(11) and (12) as applicable.

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

(1) The applicant 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 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 (including both committed and contingent work).

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 an applicant to provide them with 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 their 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 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.

(5) Specific requirements and evaluation criteria regarding the financial capability of the applicant will ordinarily be specified for PEPs in a notice for a PEP Round (see clause 7.3).

Applicant's failure to comply with other permits or licences

(6) 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, or has surrendered a permit or licence without completing its committed work obligations.

(7) "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 bidder (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:

(d) whether the applicant (or a related party) has surrendered a permit without completing committed work programme obligations (in particular, obligations to drill exploration wells or complete seismic survey work).

(8) 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

[36] In this Programme, a person or entity will be a "related party" of a permit holder, applicant or bidder in the following circumstances:

(a) Entities are related parties of a permit holder if the entities directly or through one or more intermediaries exercise control over the permit holder or are controlled by, or are under common control with, the permit holder. Such entities may include, but are not limited to, holding companies, subsidiaries.

(b) Individuals are related parties of a permit holder if they own, directly or indirectly, an interest in the voting power of the permit holder that gives them significant influence over the permit holder.

(c) Key management personnel are related parties of a permit holder if they have authority and responsibility for planning, directing, and controlling the activities of the permit holder. Such key management personnel may include, but are not limited to, directors and officers of companies and close members of the families of those individuals.

(d) Entities are related parties of a permit holder if a substantial interest in their voting power is owned, directly or indirectly, by any person described in subclause (2) or (3) who is able to exercise significant influence over the entities. Such entities may include, but are not limited to, entities owned by directors or major shareholders of the permit holder and entities that have a member of key management in common with the permit holder.

To the extent that this definition applies to two or more permit participants (in their capacity as a permit participant rather than a permit holder), the definition applies for that purpose as if each reference to a permit holder were a reference to a permit participant.

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

(9) 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 land in the common marine and coastal area)

(10) 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 petroleum activities except certain activities described in section 61(1A) 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 (see clause 3.2 and footnote 22). If a permit application 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.

(11) Accordingly, the following practices will apply:

(a) applications for PPPs and PEPs 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 footnote 22); 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 PMPs will not be considered or granted by the Minister over Schedule 4 land except where a petroleum 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.[37]

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

(1) Before deciding to grant a PEP or PMP, 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 types of activities proposed under the permit.

(2) Section 29A(3) of the Act provides that to satisfy themself of the Operator's capability and systems to meet health and safety and environmental requirements for PEPs and PMPs, the Minister—

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

[37] Any grant of a permit does not imply that the relevant Ministers will enter into an access arrangement (see clause 3.2).

(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, or decisions made under, the relevant health and safety and environmental legislation with respect to permits, consents or other permissions.

(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 types 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 types 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. The applicant or bidder should be able to describe the health and safety management system that is proposed for use under the permit; and

(B) appropriate systems, processes and capabilities for managing health and safety and environmental risks relating to the types of activities proposed under the permit. The applicant or bidder should be able to describe any known risks and due diligence that it may have conducted for the proposed permit; and

(C) personnel with appropriate qualifications and experience relating to health and safety and environmental requirements and risks, as they apply to the types of activities proposed under the permit. The applicant or bidder should be able to describe the likely organisational structure and roles that will be required to support its operation.

(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 (in particular the Health and Safety at Work Act 2015, the Resource Management Act 1991, the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012, the Maritime Transport Act 1994 and the Marine Mammals Protection Act 1978).

5.5 Complying with the requirements relating to decommissioning and post-decommissioning activities

(1) Before deciding to grant an application for a PEP or PMP, the Minister must be satisfied that the applicant is highly likely to comply with their decommissioning obligations and post-decommissioning obligations under Part 1B, Subpart 2 of the Act. These are discussed in chapter 13 of this Programme.

(2) When assessing whether an applicant is highly likely to comply with their decommissioning and post-decommissioning obligations under Part 1B, Subparts 2 and 3 of the Act, the Minister may take into account the following matters (without limitation):

(a) the applicant's history of compliance with decommissioning and post-decommissioning obligations under any previously obtained PEPs or PMPs:

(b) the applicant's history of compliance with relevant or similar obligations to carry out mine-closure activities and rehabilitation work under any previously obtained permits relating to minerals:

(c) the extent of potential field development activities and their implications for future decommissioning and post-decommissioning obligations:

(d) whether plans relating to undeveloped reserves (if any) have been incorporated into future cashflows:

(e) the forward-looking field life cashflow of the permit holder or licence holder (across all activities, whether or not captured by the relevant permit or licence):

(f) metrics relating to the permit holder's or licence holder's solvency, liquidity, and profitability (including, without limitation, their current ratio of assets to liabilities, their operating margin, and the ratio of their net worth to the decommissioning cost estimate).

(3) Where multiple persons are party to the application, the Minister will ordinarily assess the likelihood that each applicant will fund and meet their own participating interest of the obligations, and then amalgamate these assessments to determine the overall likelihood of compliance.

5.6 Applications for PEPs under section 29B

(1) Section 29B of the Act enables a tender (bid) for a PEP under a public tender (see clause 7.2) to state that the tender is to be considered in accordance with section 29B. To qualify to use that section, the offer must specify a date that is the latest acceptable reassessment date and the tenderer's proposed work programme must contain a 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 it will be a condition of the permit that 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 PEP where the bidder for the permit, at the time the permit is applied for in a public tender process, is not able to meet the requirements of sections 29A(2)(b) and (d) for later parts of the applicant's proposed work programme. The Minister's consideration of the matters in sections 29A(2)(b) and (d) of the Act with regard to drilling is deferred until before the permit holder must undertake such work.

(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 of the Act, 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 proposed reassessment date, and will be considered again on application by the permit holder before the reassessment date in relation to subsequent work.

5.7 Minister's consideration of feedback from iwi or hapū

(1) Where an applicant or bidder is a previous or current permit or privilege holder and is or was required to submit an iwi engagement report in their capacity as a previous or current permit or privilege holder, then the Minister—

(a) must have regard to feedback provided in the iwi engagement report(s) (see clause 11.8) 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 or privilege 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 or privilege 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 or bidder's previous engagement with iwi or hapū for the purposes of subclause (1)(b).

6. Prospecting permits

6.1 Introduction

(1) Section 23 of the Act provides that the purpose of a PPP is to authorise the permit holder to prospect for petroleum deposits or occurrences. 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".[38]

(2) Section 28 of the Act provides that, unless satisfied "special circumstances" apply, the Minister will not grant a PPP if—

(a) the prospecting proposed in the application is unlikely to materially add to the existing knowledge of the mineral in all or part of the land to which the application relates; or

(b) there exists, at the time of the application, "substantial interest" in exploring for or mining the mineral in all or part of the land to which the application relates.

(3) For the purposes of subclause (2)—

(a) "special circumstances" may include (without limitation) granting a non-exclusive PPP to a speculative prospector; and

(b) "substantial interest" in exploring for or mining the mineral in all or part of the land to which the application relates will exist where an application has been received for a PEP, PMP or an extension of land ("EOL") from a PEP or PMP for the same mineral and with respect to the same land within three months of an application for a PPP and the application satisfies the requirements of the Act to grant the permit or EOL.

(4) When NZP&M receives an application for a PPP, it will consult relevant iwi and hapū (see clauses 2.3 and 2.6).

Speculative PPPs

(5) An applicant for a non-exclusive PPP can apply for a determination that they have the status of a speculative prospector. The resulting "speculative prospecting permit" is subject to different information protection and confidentiality provisions than other prospecting permits (see clauses 6.5(2) – (6)).

(6) Section 90C(7) of the Act provides that a "speculative prospector" is a non-exclusive PPP holder who carries out activities under the PPP solely for the purpose of on-selling the information obtained on a non-exclusive basis to petroleum explorers and producers.

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

(7) When deciding whether the applicant for a non-exclusive PPP is a speculative prospector, the Minister will take into account—

(a) the applicant's business model; and

(b) the purpose for which they propose to obtain information under the permit; and

(c) the activities of any related companies (for example, if the applicant is owned in part or in whole by, or is the ultimate subsidiary of, a company that is in the business of petroleum exploration and production); and

(d) the applicant's business history; and

(e) whether the applicant is a member of a relevant international trade association, such as the EnerGeo Alliance.

Notification of change in circumstance and removal of speculative prospector status

(8) Section 90C(3) of the Act provides that if at any point a PPP holder with speculative prospector status becomes aware that it no longer qualifies for this status, it must notify the Minister within ten working days.

(9) Sections 90C(4) and (5) of the Act provide that the Minister can remove a PPP holder's status as a speculative prospector, after considering any comments made by the PPP holder, if the Minister considers that the speculative prospector's business activities are not consistent with those of a speculative prospector (for example, if it provides or sells data exclusively to one petroleum explorer) (see subclause (6) above).

PPPs other than speculative PPPs

(10) A PPP other than a speculative PPP will ordinarily confer exclusive rights to prospect, and a right to subsequently apply for, and be granted, a PEP in accordance with section 32(1) of the Act.

6.2 Allocation of PPPs

(1) Applications for PPPs may be made at any time over land available for petroleum permitting (see clause 3.1).

(2) An application for a PPP must include the application fee as set out in the Crown Minerals (Petroleum Fees) Regulations 2016.

(3) An application for a PPP will not be considered in the following circumstances:

(a) the application does not include the information required to be provided by the Regulations; or

(b) the acceptance of the application would be contrary to a notice issued under section 28A of the Act; or

(c) the application is over a broken area.

(4) The matters the Minister must consider when deciding whether to grant a PPP are specified in chapter 5 (and section 28 of the Act).

(5) In terms of the matters in chapter 5, before granting a PPP the Minister will need to be satisfied that—

(a) the proposed work programme is consistent with—

(i) the purpose of the Act (see clauses 1.2 and 1.3); and

(ii) the purpose of a PPP (see section 23(1) of the Act); and

(iii) good industry practice in respect of the proposed activities (see clauses 1.3(11) – (12)); and

(b) the applicant is highly likely to comply with, 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, or conditions in respect of those permits or rights, to prospect, explore, or mine in New Zealand or internationally (see clause 5.3); and

(c) 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.

Applications for non-exclusive PPPs - speculative prospectors

(6) An applicant for a non-exclusive PPP under section 23A of the Act may also apply to have speculative prospector status (see clauses 6.1(5) – (7)). When an application for a non-exclusive PPP is received along with an application for speculative prospector status, the Minister will assess whether the application satisfies the requirements of the Act (including for speculative prospector status) before deciding whether to grant the permit.

(7) If the Minister determines that an applicant for a non-exclusive PPP does not have speculative prospector status, the application for a non-exclusive PPP will be declined or may be withdrawn by the applicant. If the application is declined or withdrawn, the applicant may apply for a PPP in accordance with the process set out in subclauses (8) – (13). An application for a non-exclusive PPP that is not made by a speculative prospector will not be considered as part of the process described in subclauses (6) – (7).

Applications for PPPs – non-speculative prospectors

(8) When an application is made for a PPP by an applicant that does not seek speculative prospector status, it will be subject to an open market application process and will be recorded publicly on NZP&M's website (the "Initial PPP Application").

(9) The particulars of any application described in subclauses (8) or (10) that will be recorded publicly on NZP&M's website are—

(a) the identity of the applicant; and

(b) the proposed permit area; and

(c) the proposed work programme (to the level of detail ordinarily included in a publicly accessible permit certificate).

(10) Any other person (other than a person applying for a PPP who seeks speculative prospector status) may submit an application for a PPP, a PEP or an EOL for a PEP, PMP or PML (a "PPP Competitor Application") over part or all of the area of the Initial PPP Application within three months of the Initial PPP Application being received and recorded publicly on NZP&M's website (the "PPP Period of Competition").[39] Once received by NZP&M, PPP Competitor Applications will also be recorded publicly on NZP&M's website. For the avoidance of doubt, an application for a PPP by a person seeking speculative prospector status will be considered under subclauses (6) and (7) rather than (8) – (11).

(11) No competing applications will be accepted after the PPP Period of Competition has elapsed.

Order in which PPP Competitor Applications will be decided

(12) PPP Competitor Applications will be decided in the following order (as relevant to the circumstances):

(a) an EOL for a PMP will be decided first:

(b) an EOL for a PEP will be decided second:

(c) an application for a PEP under the open market application process will be decided third (see clause 7.1(1)):

(d) the Initial PPP Application will be decided last (subject to subclause (13)).

(13) If the only PPP Competitor Applications that are received or remain to be determined are for PPPs which seek rights in relation to all or some of the same land as the Initial PPP Application, the Initial PPP Application will be decided first (with the subsequent applications (the "Subsequent PPP Applications") being decided in the order in which they were received).

(14) If more than one Subsequent PPP Application is received on the same day, the application which NZP&M considers (following an initial assessment) is likely to best meet the purpose of the Act will be decided first in accordance with the requirements of subclause (5).

How applications for PPPs by non-speculative prospectors will be decided

(15) The open market application process described in clause 7.2(7) will apply (with all necessary modifications) where an application for a PPP by a non-speculative prospector is received.

6.3 Duration

(1) Subject to subclause (2) below, a PPP will ordinarily have a duration of up to two years.

(2) If an applicant proposes a committed and credible work programme that the Minister agrees justifies a longer period for completion (for example, for large multi-staged far frontier basin screening), the Minister may grant a PPP with a duration of more than two years (up to a maximum of four years).

[39] NZP&M will measure time periods (other than 'working days' – see Schedule 1 definitions) in accordance with sections 54 – 57 of the Legislation Act 2019.

(3) Applications to extend the duration of PPPs are addressed in clause 12.5(1).

6.4 Area

(1) There are no specific size limitations for a PPP, except that—

(a) the area will not exceed the area to be prospected under the proposed work programme; and

(b) in the case of a PPP other than a PPP held by a speculative prospector, the area will ordinarily not exceed the area allowed for a PEP.

(2) The conditions of PEPs and PMPs may provide that the right to prospect for petroleum under the permit is non-exclusive. Permit conditions may also provide that—

(a) the PPP holder must obtain the written consent of the underlying permit holder before beginning activities over the same area as the underlying permit; and

(b) the underlying permit holder must not unreasonably withhold consent or impose unreasonable conditions on the proposed activities of the PPP holder; and

(c) if there is a dispute over either of these matters, the Minister may make a determination, which will be binding on both permit holders.

(3) Without restricting the conditions that may be considered reasonable, the Minister will ordinarily consider that the following types of conditions proposed by an underlying permit holder are reasonable:

(a) restrictions designed to avoid or minimise interference with or disruption to the activities of the underlying permit holder:

(b) restrictions designed to avoid or minimise health and safety risks:

(c) observance of procedures and practices intended to maintain good relationships with relevant iwi or hapū or landowners:

(d) a requirement, in the case of a speculative prospector (see clause 6.5), that the underlying permit holder may purchase data from the speculative prospector on the same commercial terms as any other party.

(4) As a guideline, the Minister will ordinarily consider that the following types of conditions proposed by an underlying permit holder are not reasonable (unless both parties agree):

(a) a requirement for the PPP holder to make payments in cash or in kind (including discounted rates not available to other parties for the purchase of data from a speculative prospector) for undertaking activities in the area of the underlying permit; and

(b) restrictions on the use of data acquired by the PPP holder.

6.5 Confidentiality of data

(1) Different information protection and confidentiality provisions apply to information acquired and provided to NZP&M under a PPP depending on whether or not the PPP holder is a "speculative prospector".[40]

Information acquired by a PPP holder that is not a speculative prospector

(2) Section 90(7) of the Act provides that information provided to NZP&M by a PPP holder (that is not a speculative prospector) must be released to the public on the earlier of 15 years after it has been obtained by the PPP holder or the conclusion of a public tender for PEPs over the area, provided that any release is not earlier than five years after the information has been obtained by the PPP holder. Section 90A of the Act provides that the information must not be released before that time except under specified circumstances.

Information acquired by a speculative prospector

(3) Section 90(8) of the Act provides that information provided to NZP&M by a non-exclusive PPP holder (other than a non-exclusive PPP holder of the type referred to in subclause (4)) that is a speculative prospector must be released to the public by NZP&M 15 years after it has been obtained by the PPP holder. Section 90A of the Act provides that the information must not be released before that time except under specified circumstances. This is irrespective of whether the area has been included in a public tender for PEPs.

(4) The reference to 15 years in subclause (3) is to be read as 21 years in any case where the non-exclusive PPP commenced during the period starting on 19 December 2012 and ending on 29 November 2017.

(5) Section 90D of the Act provides that where a permit holder purchases or licences data that relates to the permit from a speculative prospector, it must submit that data to the Chief Executive as if it had itself obtained the data under its permit. Such data must be clearly identified as acquired from a speculative prospector and it will then be subject to the 15 year release period.

(6) The objective of the extended confidentiality period for data acquired by speculative prospectors is to encourage the acquisition of prospectivity information by specialist companies for on-selling on a non-exclusive basis under a restricted non-transferrable data user licence[41] or similar arrangement to petroleum exploration and mining companies. An extended confidentiality period improves the commercial viability of undertaking speculative prospecting activities.

[40] Information provided to NZP&M is also subject to the Official Information Act 1982.

[41] See the EnerGeo Alliance Statement of Principles for Non-Exclusive (Multi-Client) Geophysical Data Licensing.

7. Exploration permits

7.1 Introduction

(1) Section 23 of the Act provides that the purpose of a PEP is to authorise the permit holder to explore for petroleum resources. "To explore" 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 … and includes any drilling … that [is] reasonably necessary to determine the nature and size of a mineral deposit or occurrence".[42]

Allocation processes

7.2 Allocation processes

(1) PEPs may be allocated by the following public tender processes:

(a) staged work programme bidding; or

(b) cash bonus bidding.

(2) PEPs may also be allocated—

(a) by way of the open market application process (see clauses 7.2(7) – (15)); or

(b) to the holder of a PPP with a subsequent right to apply for a PEP where the PPP holder exercises that right.

Staged work programme bidding

(3) Staged work programme bidding involves parties submitting bids to undertake a work programme to explore for petroleum 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.

(4) Under staged work programme bidding, the PEP 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 petroleum deposits in a timely manner, provided the work programme is technically appropriate and credible (see clause 7.6), and subject to the other matters the Minister must consider and be satisfied about before granting a permit (see chapter 5).

Cash bonus bidding

(5) Cash bonus bidding involves parties submitting bids to pay cash for a PEP. 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. PEPs will not be granted on the basis of competing work programmes, although minimum work programme requirements may be specified as part of the PEP Round.

(6) Staged work programme bidding will be used under most circumstances. Cash bonus bidding is only likely to be used when there is high prospectivity (for example, after a

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

discovery or discoveries) and when there is particularly strong competitive interest in permits. Cash bonus bidding is not considered further in this Programme.

Open market applications

(7) Unless land has been reserved for allocation in accordance with a declaration made under section 28A of the Act or is otherwise unavailable for petroleum permitting (see chapter 3), open market applications for PEPs may be made at any time over any land that is not already subject to a permit with an exclusive right to prospect, explore or mine. An open market application for a PEP may be made over land subject to a permit with an exclusive right to prospect, explore or mine if the applicant obtains the prior written consent of the permit holder. The open market application process will also apply (with all necessary modifications) where NZP&M receives an application for a PPP as described in clause 6.2(8).

(8) An open market application for a PEP made under subclause (7) must—

(a) be for an unbroken area in accordance with the Crown Minerals (Petroleum) Regulations 2007; and

(b) contain the information required to be included in an application by the Crown Minerals (Petroleum) Regulations 2007; and

(c) include an application fee as set out in the Crown Minerals (Petroleum Fees) Regulations 2016; and

(d) contain sufficient information to allow for an evaluation of the application under sections 29A and 29C of the Act (if applicable); and

(e) propose a staged exploration work programme (see clauses 7.5 – 7.10), including—

(i) key and secondary deliverables; and

(ii) committed and contingent stages separated by commit or surrender obligations; and

(iii) partial relinquishment obligations which the Minister may otherwise impose in accordance with section 35C of the Act.

(9) Other requirements which apply to an open market application for a PEP are included elsewhere in chapter 7 (see, for example, clauses 7.8 and 7.10 which relate to the duration and area of a PEP respectively).

(10) Once an open market application for a PEP (the “Initial Application”) has been received it will be recorded publicly on NZP&M’s website.

(11) Any other person may submit an open market application for a PEP (a “Competing Application”) over part or all of the area of the Initial Application within three months of the Initial Application being received and recorded publicly on NZP&M’s website (the “Period of Competition”).[43] Competing Applications will also be recorded publicly on NZP&M’s website once received.

[43] NZP&M will measure time periods (other than “working days” – see Schedule 1 definitions) in accordance with sections 54 – 57 of the Legislation Act 2019.

(12) The particulars of any Initial Application or Competing Application that will be recorded publicly on NZP&M's website are—

(a) the identity of the applicant; and

(b) the proposed permit area; and

(c) the proposed work programme (to the level of detail ordinarily included in a publicly accessible permit certificate).

(13) No Competing Applications will be accepted after the Period of Competition has elapsed.

(14) That portion of a Competing Application that does not overlap an Initial Application will be regarded as if it were an Initial Application, such that any other person may submit an open market application for a PEP (or apply for an EOL) over that portion of land within three months of it being received and recorded publicly on NZP&M's website.

(15) The Initial Application and all Competing Applications received within the Period of Competition will be ranked on an overlapped area(s) basis, and evaluated as if they were bids (applications) received in a staged work programme bid round (clauses 7.6 and 7.7 apply with all necessary modifications), with the exceptions that—

(a) the Minister will provide the Initial Applicant with an opportunity to modify or improve its work programme even if it is acceptable; and

(b) in cases where applications are ranked as being of equivalent or near-equivalent merit, the Minister may prefer to grant a PEP to the person who made the Initial Application; and

(c) the Minister may consult iwi and hapū on the top-ranked application (and any other application) in accordance with clause 2.6.

Applications for a PEP by the holder of a PPP with a subsequent right to apply for a PEP

(16) An application for a PEP by the holder of a PPP with a subsequent right to apply for a PEP must—

(a) be for an unbroken area in accordance with the Crown Minerals (Petroleum) Regulations 2007; and

(b) contain the information required to be included in an application by the Crown Minerals (Petroleum) Regulations 2007; and

(c) include an application fee as set out in the Crown Minerals (Petroleum Fees) Regulations 2016; and

(d) contain sufficient information to allow for an evaluation of the application under sections 29A and 29C of the Act (if applicable); and

(e) propose a staged exploration work programme (see clauses 7.5 – 7.10), including—

(i) key and secondary deliverables; and

(ii) committed and contingent stages separated by commit or surrender obligations; and

(f) comply with any partial relinquishment obligations which the Minister may otherwise impose in accordance with section 35C of the Act.

(17) Other requirements which apply to an application for a PEP by the holder of a PPP with a subsequent right to apply for a PEP are included elsewhere in chapter 7 (see, for example, clauses 7.8 and 7.10 which relate to the duration and area of a PEP respectively and clause 7.9 which relates to work programme requirements).

7.3 PEP Rounds

(1) From time to time, the Minister may hold a PEP Round. This will ordinarily consist of a public tender for a number of PEPs. The Minister will ordinarily seek nominations from interested parties on areas for inclusion in upcoming PEP Rounds. Areas where prospecting under PPPs held by speculative prospectors has been undertaken will ordinarily be included in upcoming PEP Rounds where requested by interested parties.

(2) Consultation will be undertaken with iwi and hapū (see clause 2.5) and may also be undertaken with industry, government departments, relevant Crown entities and local authorities before decisions are made about the timing and location of blocks on offer.

(3) The process for each PEP Round will ordinarily start in the previous year, and permits will be awarded by the end of the year of the PEP Round. There will generally be a period of three to six months for interested parties to formulate and lodge a bid.

(4) PEP Rounds may be held over areas that are subject to PPPs held by speculative prospectors. PEP Rounds will not include areas subject to a PPP with an exclusive right to prospect, or to a PEP, PMP or PML without the prior written consent of the permit or licence holder.[44]

(5) The notice for a PEP Round will ordinarily include (without limitation)—

(a) the areas (blocks) available for tender or bid, including—

(i) the specification of the area of each block;[45] and

(ii) whether bids may be made for combinations of blocks; and

(iii) any maximum number of blocks that can be combined in a bid; and

(b) the type of bids invited (for example, staged work programme bids); and

(c) the time by which bids must be received and the place where bids must be received; and

[44] A request for an area to be included in a PEP Round, notwithstanding that the area is already subject to a PEP or a PMP for conventional petroleum resources, may be made by a person wishing to explore for gas hydrates (see chapter 10), or vice versa.

[45] Blocks will typically be graticular defined by NZGD2000 latitudes and longitudes rounded to the nearest minute, except where a block boundary abuts a non-rounded existing permit, or a geographic feature such as a national park, the territorial sea or the coastline. Blocks may be either single contiguous areas defined by NZP&M (usually onshore) or larger regions, basins or sub-basins comprising smaller blocks (usually defined by a five or ten minute latitudes and longitudes grid) from which companies may assemble multiple contiguous ten minute blocks for a preferred customised combination of blocks to bid on.

(d) any minimum requirements for bids, such as minimum work programme requirements; and

(e) the conditions that will be attached to any permit that is granted – for example, relinquishment requirements; and

(f) how bids will be evaluated, including what happens when—

(i) some competing bids are considered under section 29A of the Act and other bids are considered under section 29B (see chapter 5); or

(ii) competing bids involve differing but overlapping blocks; and

(g) specific requirements and evaluation criteria regarding the financial capability of the applicant; and

(h) any application fee.

(6) Section 24(3) of the Act provides that the Minister must not accept any bid that does not comply in a material way with the requirements of the notice.

7.4 Reservation of land

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

(2) This power will ordinarily only be used for petroleum where the Minister considers that land should be reserved for allocation by public tender through a future PEP Round.

(3) 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 public 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 (see clause 12.4).

(4) Reservation of land for PEP allocation via a public tender will not affect applications for speculative prospecting permits.

7.5 Staged work programme bids

(1) Bids (permit applications) for PEP Rounds will ordinarily consist of—

(a) a committed work programme (including timetables), called "the first stage"; and

(b) one or more subsequent stages consisting of contingent work. At specified times the PEP holder will either commit to undertake this subsequent work or surrender the permit.

(2) Where applicants submit staged work programme bids, the proposed stages must be unambiguous, must have clear completion dates, and must specify clearly, in relation to subsequent contingent work, dates at which the applicant must either commit to carrying out the work or surrender the permit.

(3) The Minister may include minimum work programme requirements as a condition of bids for particular blocks – for example, that bids must include—

(a) an undertaking (which may be contingent) to drill one or more exploration wells within a particular timeframe or timeframes; and

(b) a structured work programme (committed and/or contingent) to achieve at least the minimum work programme requirements.

7.6 Evaluation criteria for staged work programme bids

(1) If there is more than one bid for a block, the applicants' proposed exploration work programmes will be ranked according to the Minister's view of—

(a) the potential of the proposed work to make a petroleum discovery in a timely manner; and

(b) its information-gathering value.

(2) When considering the matters in subclause (1) above, the Minister will also take into account—

(a) the technical credibility of the bid and, in particular—

(i) the applicant's demonstrated understanding of the geology and potential plays, leads or prospects of the area; and

(ii) the timing and appropriateness of the proposed technical approach to working the area; and

(b) any timetables proposed for making decisions to commit to drilling one or more wells or surrendering the permit. Timetables with earlier "commit or surrender" dates will ordinarily be favoured ahead of those with later dates; and

(c) whether work is committed or contingent. Committed work will be favoured ahead of contingent work.

(3) In general, exploration programmes will be rated according to the work categories listed below. The work categories are listed in decreasing order of their information-gathering value—

(a) well drilling: the number and timing of exploration wells proposed to be drilled, target depths, and the comprehensiveness of the evaluation of well data:

(b) major geophysical surveying: the quantity, quality and coverage of 3 Dimensional and 2 Dimensional seismic surveys and other techniques and the relevance of any proposed programmes:

(c) geophysical data reprocessing (taking existing seismic data over the permit area and reprocessing it using new or different techniques in order to aid its reinterpretation): the quantity, quality and coverage and the relevance of reprocessing proposals:

(d) minor geophysical surveys (for example: gravity; magnetic and passive fluorescence; and resistivity), geochemical surveys and general geological studies.

(4) After ranking the bids, the Minister will consider, for the top-ranked bid or bids—

(a) the matters in section 29A(2)(b) of the Act, which relate to whether the applicant is highly likely to comply with and give proper effect to its proposed work programme (see clauses 5.1 and 5.3). Where a bid is considered under section 29B of the Act, this consideration will apply to the proposed work programme up to the reassessment date; and

(b) the matters in section 29A(2)(c) of the Act, which relate to whether the applicant is highly likely to comply with the relevant reporting obligations and payment of fees and royalties (see clauses 5.1 and 5.3); and

(c) the matters in section 29A(2)(d) of the Act, which relate to whether the proposed Operator has, or is highly likely to have, by the time the relevant work under the permit is undertaken, the capability and systems that are likely to be required to meet the health and safety and environmental requirements (see clauses 5.1 and 5.4). Where a bid is considered under section 29B of the Act, this consideration will apply to the proposed work programme up to the reassessment date; and

(d) the matters in section 29A(2)(e) of the Act, which relate to whether the applicant is highly likely to comply with the relevant obligations relating to decommissioning and post-decommissioning contained in Subparts 2 and 3 of Part 1B of the Act.

(5) The assessment referred to in subclause (4) above may result in changes to the ranking, including rejection of one or more top-ranked bids. As noted in chapter 5, the Minister must be satisfied about all of the matters set out in section 29A(2) of the Act, modified as applicable for applications considered under section 29B, before granting a permit.

(6) Where some competing top-ranked bids are considered under section 29A of the Act and others are considered under section 29B and the Minister is satisfied that the requirements of section 29A or 29B as applicable are met, the Minister will ordinarily give preference to the bid or bids made under section 29A but may grant the PEP in respect of the bid that in the Minister's opinion will best meet the purpose of the Act.

7.7 Processes for staged work programme bidding and grant of PEPs

(1) The Minister may, among other things—

(a) decide not to award any PEPs (the Minister is not required to accept the best bid or any bids):

(b) ask an applicant to clarify an aspect of their bid or provide further information or a technical presentation. However, no applicant will be given the opportunity to modify or improve a bid (except if there is only one bid and the bid is not acceptable: see subclause (1)(d) below):

(c) if there are no acceptable bids, invite all applicants to re-submit modified bids within a specified period. The modified bids will then be considered as if they were the original bids:

(d) if there is only one bid but it is not acceptable, request the bidder to improve its bid.

(2) If there are competing applications for a block, but the applicants propose to pursue distinct exploration programmes in separate parts of the block, the Minister may split the permit area and grant more than one PEP.

(3) If the Minister considers that the two leading (highest ranked) applications have complementary interests and expertise but their work programmes cannot be separated geographically, the Minister may propose to the applicants that they re-submit a combined work programme. In doing so, the Minister may not reveal to any applicant any information about the bid or identity of the other applicant without the explicit permission of that other applicant. If either party declines to submit a combined work programme, the original competing bids will be considered in the normal way.

(4) The Minister may award only part of a block (or parts of a group of blocks applied for as one permit) if the Minister is not satisfied that the proposed work sufficiently covers the area applied for. In this instance, the applicant may decline the award of the permit.

(5) The Minister will not ordinarily grant more than one PEP over a prospect that has been identified to the satisfaction of the Minister during the bidding process. This may require the Minister to split blocks when determining permit areas and granting PEPs. The policy objective is to minimise the risk of requiring unitisation following a discovery (see clauses 8.11 – 8.13).

(6) The Minister may invite a bidder to accept a work programme proposed by the Minister where, as a result of deciding to grant permits to other bidders, blocks that were part of the bidder's bid remain available. The Minister may consult with the bidder on the proposed invitation before making the invitation.

(7) Where there is only one acceptable work programme bid for a block or blocks and where that bid has been submitted under section 29A of the Act but the Minister is not satisfied that the bidder meets the requirements of section 29A, the Minister may invite the bidder to amend its bid to state that it is to be considered under section 29B.

(8) The processing of staged work programme bids will usually be completed within five months after the closing date for applications. Applicants will be notified if processing will take longer than this.

(9) As far as possible, applicants will be notified of the outcome of their bids before any statements are made to the media about the outcome of the PEP Round. Details of unsuccessful applicants and applications will not be given to the media or disclosed to other parties (unless required under the Official Information Act 1982 or otherwise required by law).[46]

(10) The granting of a PEP will be subject to the conditions of grant that were advertised in the notice for the PEP Round, unless those conditions are modified by agreement with the applicant. The Minister will not agree to any modifications that the Minister considers to be substantial.

Terms and conditions

7.8 Duration

(1) Sections 35(3) and (4) and 36(3) of the Act provide that—

(a) a PEP may have a duration of up to 15 years; and

[46] For example, by an order of a court of competent jurisdiction.

(b) the duration of a PEP may not be extended except for—

(i) appraisal work (see clauses 7.12 – 7.14); or

(ii) to enable the PEP holder to complete their decommissioning obligations under Part 1B, Subpart 2 of the Act (see clause 12.5(2)).

(2) The Minister may set different durations (up to 15 years) for any or all blocks as part of the terms and conditions of a PEP Round (see clause 7.3). In setting the maximum duration of a PEP for a block the Minister will take into account the following considerations (without limitation):

(a) whether blocks are onshore or offshore; and

(b) geographic remoteness; and

(c) water depth; and

(d) the extent of previous exploration in an area and relevant geological information about the area; and

(e) whether the PEP is for conventional resources or for gas hydrates (see chapter 10).

(3) Ordinarily, the Minister will set shorter durations for blocks that are onshore, for offshore blocks that are in shallower water and not geographically remote, and for blocks where extensive geological information is already available.

(4) PEPs will ordinarily be granted for the maximum duration set for a block. Whether the PEP runs to its full duration (or is surrendered earlier) will depend on—

(a) the work programme for each stage of the PEP being completed satisfactorily (see clause 7.9); and

(b) agreement on a committed work programme for the next or subsequent stage of the PEP (see clause 7.9).

Extension of duration of existing PEPs

(5) Clause 7 of Schedule 1 of the Act provides that the duration of existing PEPs may be extended—

(a) up to 15 years from the commencement of the PEP in accordance with the requirements of sections 36(1) – (4) of the Act (see clause 12.5(2)); or

(b) in accordance with section 35A of the Act (see clause 7.12).

Onshore PEPs

(6) Where a proposed PEP area includes onshore land, subject to subclause (9) below, the Minister will ordinarily decline an open market application for a PEP or an application for a PEP by the holder of a PPP with a subsequent right to apply for a PEP if the applicant's proposed work programme is for a duration of more than ten years.

(7) Where an existing PEP has a duration of five years and is largely or wholly onshore, the Minister's practice is, on application by the PEP holder, to grant an extension to the duration

of the PEP to ten years from the commencement date of the PEP. An extension provided under this subclause is subject to the following conditions:

(a) the PEP holder must have undertaken the work programme for the existing permit in a timely and effective manner; and

(b) the PEP holder must propose a work programme that includes at least one exploration well during the extension of duration; and

(c) the PEP holder must relinquish at least 50% of the area of the PEP five years after the commencement of the PEP.

(8) Where an existing PEP has a duration of ten years and is largely or wholly onshore, the Minister's practice is not to grant an extension of duration.

(9) Despite subclauses (6) – (8), the Minister may also grant an extension to the duration of the PEP to enable the PEP holder to complete their decommissioning obligations under Part 1B, Subpart 2 of the Act (see clauses 13.4 – 13.8).

Offshore PEPs

(10) Subject to subclause (15), where a proposed PEP area includes land in the Offshore Taranaki area (as defined in Schedule 1 of this Programme) the Minister will ordinarily decline an open market application for a PEP or an application for a PEP by the holder of a PPP with a subsequent right to apply for a PEP if the applicant's proposed work programme is for a duration of more than 12 years.

(11) Where an existing PEP has a duration of five years and is largely or wholly offshore, the Minister's practice is, on application by the PEP holder, to grant an extension to the duration of the PEP to 12 years or 15 years from the commencement date of the PEP (see subclause (14)). An extension provided under this subclause is subject to the following conditions:

(a) the PEP holder must have undertaken the work programme for the existing PEP in a timely and effective manner; and

(b) the PEP holder must propose a work programme for the following five years that—

(i) meets or exceeds any minimum work requirements set at the commencement of the PEP; and

(ii) includes at least one exploration well; and

(c) the PEP holder must undertake, as part of the application, that by the end of the tenth year after the PEP has commenced, it will either—

(i) commit to drill at least one further exploration well during the remaining period of the extension; or

(ii) surrender the PEP.

(12) Where an existing PEP has a duration of ten years and is largely or wholly offshore, the Minister's practice is, on application by the PEP holder, to grant an extension to the duration of the PEP to 12 years or 15 years from the commencement date of the permit (see subclause (14)). An extension provided under this subclause is subject to the following conditions:

(a) the PEP holder must have undertaken the work programme for the existing PEP in a timely and effective manner; and

(b) the PEP holder must undertake, as part of the application, that by the end of the eleventh year after the PEP has commenced, it will either—

(i) commit to drill at least one exploration well during the period of the extension, in addition to any well or wells committed to under the existing PEP or required as part of minimum work programme conditions; or

(ii) surrender the PEP.

(13) Where an existing PEP has a duration of 12 years and includes land in the Offshore Taranaki area, the Minister's practice is not to grant an extension of duration.

(14) The duration that may be applied for under subclauses (11) and (12) – that is, 12 years or 15 years from the commencement date of the PEP – will be determined by the Minister for all existing offshore PEPs based on the considerations in subclause (2) above. The available duration for each PEP, as well as the proportion of the area that must be relinquished at specified dates after the commencement of the PEP (see subclause (18) below), will be notified to eligible PEP holders.

(15) Despite subclauses (10) – (14), the Minister may grant an extension to the duration of the PEP to enable the PEP holder to complete their decommissioning obligations under Part 1B, Subpart 2 of the Act (see clauses 13.4 – 13.8).

(16) The holder of an existing PEP may apply for an extension of duration under subclauses (7) or (11) at any time after three years after commencement of the PEP or under subclause (12) at any time after seven years after the commencement of the PEP.

(17) The provisions of clause 7.9 of this Programme, with all necessary modifications, will apply with respect to setting work programmes for extensions of duration under subclauses (7), (11) and (12) of this clause 7.8.

(18) The provisions of clause 7.10 of this Programme, with all necessary modifications, will apply to setting relinquishment obligations for extensions of duration under subclauses (7), (11) and (12) of this clause 7.8.

7.9 Work programmes

(1) Ordinarily, a work programme under a PEP will have stages that correspond to the committed and contingent stages in the proposed work programme submitted with the bid or application of the successful bidder or applicant.

(2) Ordinarily, the work programme for the first stage of a PEP will consist of the committed work programme of the successful bidder or applicant.

Key and secondary deliverables

(3) The Minister will ordinarily not grant a PEP where the PEP is being allocated by a method other than a public tender process (see clause 7.2(1)), if the proposed work programme does not include—

(a) two exploration wells (committed and/or contingent); and

(b) in each stage of the proposed work programme (where stages are separated by commit or surrender obligation(s)), at least one activity other than a commit or surrender obligation that the applicant considers crucial to the success of the PEP (i.e. a key deliverable).

(4) The work programme for each committed stage will consist of—

(a) key deliverables, which will be the components of the work programme that the Minister considers to be crucial to the success of the PEP. The key deliverables will be identified as such in the work programme for the PEP and have timeframes and milestones; and

(b) secondary deliverables (such as technical studies and minor reprocessing).

(5) Performance against these deliverables and milestones, in particular the key deliverables, will be reviewed during annual work programme review meetings (see clause 11.7).

(6) The Minister will not consent to changes to the conditions of the PEP (see clauses 12.1 and 12.2) with respect to key deliverables within a stage, other than in the circumstances specified in clause 12.2.

(7) Changes to conditions relating to secondary deliverables in the work programme are not required and failure to meet secondary objectives will not be a cause for revocation (see clause 12.15).

Transition from one stage to the subsequent stage

(8) In the final year of a committed stage of a PEP, the transition to the subsequent stage will ordinarily be addressed at an annual work programme review meeting or at a separate meeting. Before the end of the stage, any revisions to the subsequent (contingent) stage of the work programme that was initially submitted with the PEP application should be agreed by both parties and become the new committed work programme for the subsequent stage.

(9) If the parties cannot agree on an amended work programme, the Minister will determine the required work programme, which will be consistent with the contingent work programme the PEP holder submitted when the bid was made, subject to any modifications the Minister considers reasonable to take account of the results of work done under the PEP.

(10) If a contingent stage has not been bid or is not applicable (for example, later in the life of the PEP), the parties must agree on a new work programme for the subsequent stage that is consistent with any minimum work programme requirements set in the PEP Round (for example, to drill a well), this Programme and the provisions of the Act. If the parties cannot agree on a work programme the Minister will determine a work programme that, in the Minister's view, is consistent with any minimum work requirements set in the PEP Round and the provisions of the Act. Before making a determination, the Minister will consider any views expressed by the PEP holder on the proposed work programme.

(11) Provisions to the effect of subclauses (8) – (10) above will be included in all relevant PEPs granted after this Programme comes into effect.

(12) The PEP (and the work programme) will be amended by the Minister to record the new committed work programme for the next stage. An application to change the conditions of the PEP is not required.

(13) If, at the end of a stage, the PEP holder decides not to commit to a new work programme (agreed or determined as above), it must surrender the PEP. In doing so, it will remain in

'good standing', provided it has completed the key deliverables of the previous stage and complied with the other provisions of the Act and the PEP.[47] In 'good standing' means that the fact that the PEP has not gone to its full duration will not be considered to be a failure to comply with the conditions of a PEP when the Minister considers future applications for a PEP (see clause 5.3).

(14) As with the first stage, the committed work programme for the second or subsequent stage will consist of key and secondary deliverables, and the same provisions as for the first stage (subclauses (3) – (9), (11) and (12) above) will apply to the second stage, and so on.

Timetable for each stage

(15) The timetable for each stage set by the Minister will allow sufficient time, in the Minister's opinion, to—

(a) complete the key deliverables for the stage, including, where applicable, processing information; and

(b) agree on the committed work programme for the next stage; and

(c) record the new committed work programme on the PEP.

Failure to perform work

(16) If a PEP holder fails to achieve committed key work programme deliverables—

(a) the Minister may revoke the PEP (see clause 12.15); and

(b) the revocation will be noted on the record of the PEP and will be taken into account when the Minister considers whether the permit holder is highly likely to comply with, and give proper effect to, proposed work programmes included in future permit applications (see clause 5.3). This provision applies irrespective of whether the PEP is surrendered.

7.10 Permit areas and relinquishment obligations

(1) Areas available for permitting through a PEP Round will be decided as part of the PEP Round process, and the area of a PEP will be set when the PEP is granted.

(2) The Minister will ordinarily decline an open market application for a PEP or an application for a PEP by the holder of a PPP with a subsequent right to apply for a PEP if the proposed permit area is greater than—

(a) 10,000 square kilometres, where the PEP area does not include land in the Offshore Taranaki area or onshore land; or

(b) 2,500 square kilometres and includes land in the Offshore Taranaki area;[48] or

(c) 250 square kilometres and includes onshore land.

[47] If the permit is not surrendered the permit holder will be non-compliant with the conditions of the permit and the Minister may commence a revocation process (see clause 12.15).

[48] The definition of "Offshore Taranaki area" is included in Schedule 1 of this Programme.

(3) Section 35C of the Act enables the Minister to impose up to two relinquishment obligations on a PEP requiring the relinquishment of a total area that may not exceed 75% of the original permit area.

(4) The Minister may—

(a) set relinquishment obligations in the notice of a PEP Round; or

(b) request that bids in a PEP Round include relinquishment undertakings at the conclusion of committed and contingent stages; or

(c) impose partial requirements for up to 75% of the permit area when granting a PEP via an open market application process or in response to an application for a subsequent PEP by a PPP holder, even if no such partial relinquishments have been proposed by the applicant.

(5) The timing of any relinquishments, which will ordinarily be at the completion of a stage in the work programme, and the amount of the area to be relinquished, will ordinarily be set at the commencement of the PEP.

(6) The PEP holder must apply for and obtain the Minister's approval for the proposed areas to be relinquished. The retained area following a relinquishment must ordinarily be contiguous (unbroken). However, the Minister will consider a relinquishment where the retained area is not contiguous if there are strong geological or geophysical reasons for this and each part of the retained area has its own work programme. The Minister may also consider—

(a) whether the remaining area is consistent with the work programme; and

(b) what effect the shape and location of the retained area has on the viability of subsequently offering the relinquished area in a PEP Round process.

(7) The Minister will not ordinarily consent to an application for a change of conditions regarding the timing and amount of the relinquishment obligations set at the start of the permit.

(8) The Minister will ordinarily decline an open market application for a PEP or an application for a subsequent PEP by the holder of a PPP if the applicant's proposed work programme does not include the following partial relinquishment obligations:

(a) where the proposed permit area includes onshore land—

(i) for a proposed PEP of up to ten years duration and of less than ten square kilometres in area, 10% of the permit area within 48 months of the PEP's commencement and a further 10% of the permit area within 84 months of the PEP's commencement; or

(ii) for a proposed PEP of ten years duration and of less than 100 square kilometres in area, 25% of the permit area within 48 months of the PEP's commencement and a further 25% of the permit area within 84 months of the PEP's commencement; or

(iii) for a proposed PEP of up to ten years duration and of 100 square kilometres in area or more, 50% of the permit area within 48 months of the PEP's commencement and a further 25% of the permit area within 84 months of the PEP's commencement; or

(b) where the proposed permit area includes land in the Offshore Taranaki area—

(i) for a proposed PEP of up to 12 years duration and of less than 100 square kilometres in area, 25% of the permit area within 60 months of the PEP's commencement and a further 25% of the permit area within 108 months of the PEP's commencement; or

(ii) for a proposed PEP of 12 years duration, and of 100 square kilometres in area or more, 50% of the permit area within 60 months of the PEP's commencement and a further 25% of the permit area within 108 months of the PEP's commencement; or

(c) where the proposed PEP area includes any other offshore land, for a proposed permit of up to 15 years duration, 50% of the permit area within 72 months of the PEP's commencement and a further 25% of the permit area within 120 months of the PEP's commencement.

Appraisal and appraisal extensions

7.11 Discoveries and appraisal work programmes

(1) The Crown Minerals (Petroleum) Regulations 2007 require permit holders to notify NZP&M as soon as practicable and not later than 20 working days after the date of a discovery of petroleum. The date of a discovery of petroleum is the date on which a discovered petroleum accumulation is determined to exist by the permit holder.

(2) A discovered petroleum accumulation is determined to exist when one or more exploratory wells have established through testing, sampling, and/or logging the existence of a significant quantity of potentially recoverable hydrocarbons and therefore have established a known accumulation. In the absence of a flow test or sampling, the discovery determination requires confidence in the presence of hydrocarbons and evidence of producibility, which may be supported by suitable producing analogues. In this context, "significant" means that there is evidence of a sufficient quantity of petroleum to justify estimating the in-place quantity demonstrated by the well(s) and for evaluating the potential for commercial recovery.

(3) NZP&M will require the PEP holder to attend a meeting to enable NZP&M to better understand the nature of the discovery and the PEP holder's intentions with respect to appraisal of the discovery and for continued exploration of the wider permit area.

(4) The PEP holder's plans for and progress on appraising the discovery will be kept under review at annual work programme review meetings (see clause 11.7), bearing in mind that an extension of duration to appraise a discovery (pursuant to section 35A of the Act) will not be granted if an appraisal work programme for the discovery could have been completed within the duration of the PEP (see clause 7.12(1)(b) below).

7.12 Extension of duration for appraisal

(1) Section 35A of the Act provides that the Minister may grant an extension of duration of a PEP to appraise the extent and characteristics of a discovery where—

(a) the PEP holder has made a discovery that has the potential to lead to a PMP; and

(b) the duration of the PEP does not allow sufficient time for the PEP holder to appraise the discovery; and

(c) the work programme in relation to the appraisal is adequate to appraise the discovery.

(2) An appraisal extension will not be granted for the purpose of allowing further general exploration. It is also not a means to produce petroleum as an alternative to obtaining a PMP.

(3) The appraisal work programme may include key and secondary deliverables (see clauses 7.9(3) – (7)).

(4) An application for an appraisal extension must contain the information required by the Crown Minerals (Petroleum) Regulations 2007 and 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.

(5) Sections 36(4) and (4A) of the Act provide that the application for an appraisal extension must be made not later than six months before the expiry of the PEP unless the Minister is satisfied that there are compelling reasons why a PEP holder could not comply with this requirement (see clauses 12.1(5) – (8)).

(6) Where a discovery is made later than six months before the expiry of the PEP, the Minister will be satisfied that this is a compelling reason why the PEP holder could not comply with the six-month deadline. Guidance on other matters the Minister may consider to be "compelling reasons" is provided in clauses 12.1(5) – (8).

7.13 Duration of an appraisal extension

(1) Section 35A of the Act provides that an appraisal extension may have a duration of up to four years. 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 clause 7.12).

(2) Any application for a PMP 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 PMP application.

7.14 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 PEP 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 petroleum field before the appraisal work is completed. The Minister's objective will be to allow the PEP holder a reasonably sufficient area of land to enable it to appraise the discovery, and allow for petroleum field development.

(3) As a condition of granting an appraisal extension, the Minister may require that the area of an appraisal extension be re-considered at a specified time. If, after consulting with the PEP holder, the Minister considers that all of the original 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.

7.15 Minister may allow the sale of production

(1) As part of a PEP (including an appraisal extension), the Minister may allow the PEP holder to sell the production of a well-testing programme. Royalty rates for PEPs are specified in the Crown Minerals (Royalties for Petroleum) Regulations 2013.

8. Mining permits

8.1 Introduction

(1) Section 23 of the Act provides that the purpose of a PMP is to authorise the PMP holder to mine petroleum. "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]", and "includes the injection of petroleum into…and the extraction of petroleum from an underground gas storage facility" (see clause 10.7).

8.2 Allocation process

(1) PMPs are most commonly allocated to a PEP holder who has discovered a petroleum accumulation within the PEP area (see clause 7.11). The restrictions associated with the land available for a PMP are included in clause 3.1.

(2) Section 32(3) of the Act provides that the holder of a PEP has an exclusive right to apply for, and to receive, a PMP, provided the PEP holder meets all of the following requirements:

(a) The PEP holder must—

(i) apply, before the expiry of the PEP, to surrender the PEP to the extent that it relates to the land in which the discovery exists; and

(ii) meet the criteria and considerations set out in the Act for granting a permit which include (without limitation) that the proposed work programme is consistent with (see chapter 5)—

(A) the purpose of the Act (see clauses 1.2 and 1.3); and

(B) the purpose of a PMP (see section 23(3) of the Act); and

(C) good industry practice in respect of the proposed activities (see clauses 1.3(11) – (12)); and

(b) the Minister must be satisfied that a petroleum field has been discovered as a result of activities authorised by the PEP.

(3) If the requirements described in subclause (2) are met, the PEP holder will be granted a PMP in exchange for the surrendered PEP area.

(4) Section 32(8) of the Act provides that if an application for a PMP has not been determined before the PEP expires, the PEP will continue in force until the Minister determines the application.

(5) Section 43 of the Act provides that the Minister must approve the proposed work programme (and grant the PMP) within six months of receiving the proposed work programme or notify the applicant that the Minister is withholding approval of the proposed work programme. In the latter event, specific provisions apply (see clause 8.8).

(6) An application for a PMP should be on the prescribed form (see clause 4.5).

(7) When NZP&M receives an application for a PMP, it will consult relevant iwi and hapū (see clauses 2.3 and 2.6).

8.3 Evaluation of an application

(1) The criteria and considerations for evaluating an application are referred to in clauses 8.2(1) and (2) above. A key preliminary consideration is to confirm that the applicant for a PMP has identified and delineated a petroleum field that can be effectively mined within technical and economic constraints.

(2) The Minister will also consider the following matters:

(a) the geology of the PMP application area; and

(b) the nature, extent, and physical and chemical characteristics of the petroleum to be extracted and produced; and

(c) estimates of petroleum in place and recoverable petroleum reserves; and

(d) proposed operations in respect of production and reservoir management; and

(e) alternative field development plans, and whether the proposed plan is optimal in terms of the purpose of the Act, the maximum recovery of economic reserves, and good industry practice (see clauses 1.3(11) and (12)); and

(f) proposed operations in respect of processing and transport facilities, and decommissioning operations; and

(g) the proposed production profile and the proposed start date for production; and

(h) any condition of an initial PEP that that PEP had specified should also be included in a later PMP;[49] and

(i) any market or economic considerations that are relevant to determining maximum economic recovery.

(3) If the Minister requires alternative field development plans to be evaluated to ensure the proposed plan is optimal in terms of the purpose of the Act, maximum recovery of economic reserves and good industry practice, 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.[50] In addition, a discount rate of 10% may be applied as a proxy for the cost of capital of a (hypothetical) large, diversified petroleum 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.

8.4 Staged work programmes

(1) The Minister will consider a work programme that is set out in development stages. For example, this may be appropriate if a petroleum reservoir has been identified but its long term performance characteristics cannot be established other than by commercial production. The work programme may provide for a first stage of work and then for the PMP holder to submit

[49] Sections 32(5) and (5A) of the Act.

[50] The social rate of time preference discounts future benefits and costs based on the way that society values present, as opposed to future, consumption.

for the Minister's approval a work programme for the remainder of the PMP'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 field'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 PMP after the first stage, if it is established that the extent of the reservoir or amount of reserves is less than originally forecast.

8.5 Permit area

(1) The area of a PMP will be determined by the Minister after consulting with the PMP applicant and after considering—

(a) geological information submitted to demonstrate the area of the field; and

(b) information showing that the field can be developed within economic and technical constraints; and

(c) what will be reasonably sufficient to enable the PMP holder to carry out the activities authorised by the PMP.

(2) In deciding on the permit area, the Minister will recognise that while the general extent of a field can be ascertained using geological, geophysical and engineering data, it can be difficult to clearly define the limits of a petroleum field.

8.6 Duration

(1) The appropriate duration of a PMP will be determined by the Minister. In deciding this, the Minister will consult with the PMP applicant and will take into account such matters as—

(a) the estimated reserves of the petroleum field to be produced; and

(b) the planned production programme; and

(c) any potential for enhanced production; and

(d) the time required to conclude mining activities and to comply with decommissioning obligations (which may include rehabilitating the site or sites as necessary).

(2) Sections 35(7) and (8) of the Act provide that a PMP must not have a duration longer than 40 years, except where an extension of duration is granted (see clause 12.5).

8.7 Commencement of production

(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 PMP. The matters the Minister may take into account include—

(a) whether development of the petroleum field will be in co-ordination with the development of other PMPs and there is a logical development progression proposed

that will result in all the PMPs being developed to ensure maximum economic recovery; and

(b) whether the PMP applicant wishes to delay development until new infrastructure required for transporting or processing the petroleum has been constructed.

8.8 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 purpose of obtaining a PMP subsequent to a PEP 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 (see clauses 1.3(11) and (12));[51] or

(b) approval would be 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.

(4) If the Minister withholds approval of a work programme or modified work programme the applicant may refer the matter to arbitration under section 44 of the Act. The arbitrator's decision is binding on the parties.

8.9 Field development plans and notice of (expected) cessation

(1) The holder of a PMP granted under the Act or a PML must submit a field development plan and a notice of expected cessation to the Chief Executive at the following times:

(a) at the prescribed times (if any):

(b) within a specified time of the occurrence of prescribed events (if any):

(c) on request from the Minister, within any reasonable time specified in the request.

(2) A field development plan must—

[51] "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(11) and (12).

(a) detail the planned development of the field over its anticipated productive life; and

(b) be accurate as at the date of submission to the Chief Executive; and

(c) contain the prescribed information (if any); and

(d) meet any further prescribed requirements.

(3) A notice of expected cessation must—

(a) specify when the holder of a PMP or a PML currently expects the field to permanently cease production; and

(b) contain the prescribed information (if any); and

(c) meet any further prescribed requirements.

(4) Where the field permanently ceases production, the holder of a PMP or a PML must give the Chief Executive notice of that cessation as soon as practicable and not later than 20 working days after cessation.

(5) If the requirements of subclauses (1) – (4) duplicate or overlap with the conditions of a PMP or PML that existed prior to 2 December 2021, the provisions of Part 1B Subpart 2 of the Act (which relate to decommissioning) or any conditions imposed under that subpart, prevail to the extent of any inconsistency (see chapter 13).

8.10 Decommissioning

(1) Environmental protection provisions relating to decommissioning 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 legislation relevant to decommissioning includes the Health and Safety at Work Act 2015 and the Maritime Transport Act 1994.

(2) More generally, the requirements relating to decommissioning under the Act are discussed in detail in chapter 13 of this Programme.

Unit development

8.11 Initiating a unit development scheme

(1) Section 46 of the Act provides that where a petroleum discovery extends over the area, or parts of the area, of more than one PMP or PML, the Minister may, at the request of one or more of the PMP or PML holders or on their own initiative, issue a notice requiring all the relevant PMP and PML holders to co-operate in preparing a development scheme for working and developing the petroleum field as a unit. In doing so, the Minister must be satisfied that unit development is needed in order to secure the maximum ultimate recovery of the petroleum.[52]

[52] The maximum ultimate recovery of petroleum depends on sound petroleum reservoir management, avoiding wastage, and a production programme that accords with good industry practice. Without an overall petroleum field management or development scheme, maximum ultimate recovery of petroleum may not be achieved. For example,

(2) Section 46 of the Act provides that the notice must specify the area to which the unit development scheme must apply and the time period for submitting a scheme.

(3) Section 46 of the Act gives the Minister the power to require permit holders to suspend or reduce production from one or more wells until a unit development scheme is in place. Before issuing a notice to this effect, the Minister must consult with the affected parties.

(4) The Minister will not issue a notice requiring submission of a unit development scheme if they consider that the relevant PMP and PML holders are co-operating adequately to achieve a unified development. For example, this could be achieved by adjacent PMPs and PMLs having complementary work programmes, determined by mutual co-operation.

8.12 Evaluation of a unit development proposal

(1) Section 46 of the Act provides that where the Minister decides not to approve a unit development scheme submitted in response to a notice (see clause 8.11(1) above), the Minister must provide reasons for doing so, and invite the PMP holders to submit a modified unit development scheme within a specified reasonable period.

(2) The Minister will assess unit development schemes using the same considerations as for the assessment of an application for a PMP (see clause 8.3(2)), amended as appropriate. The Minister will also take into account—

(a) any approved work programmes relating to any of the PMPs subject to the notice of unit development, or any work programmes submitted for approval and under consideration; and

(b) any conditions of the PMPs or PMLs that are subject to the notice of unit development; and

(c) proposals or agreements entered into by the relevant PMP and PML holders concerning obligations, liabilities and entitlement to production.

(3) Where the Minister approves or determines a unit development scheme, a certificate or endorsement to that effect will be issued in respect of each of the affected PMPs or PMLs.

8.13 Preparation of a unit development scheme by the Minister

(1) Section 46 of the Act provides that if a unit development scheme or modified unit development scheme is not submitted to the Minister within the period specified in the relevant notice or within any extended period agreed to (and the notice has not subsequently been cancelled), or if the modified unit development scheme is not approved, then the Minister must prepare a unit development scheme that in their opinion is fair and equitable to all the PMP and PML holders. The PMP holders will be required to conduct mining activities and to perform in accordance with that scheme and to observe the conditions of the scheme.

(2) The matters that the Minister will consider when determining a unit development scheme include—

(a) each PMP and/or PML holder's production entitlement. This will require a determination of the petroleum in place and estimates of moveable and recoverable reserves in each affected permit. Other factors that may be relevant are whether one PMP or PML

this may be due to a failure to use enhanced recovery techniques, such as pressure maintenance through gas or water techniques and gas cycling.

holder has incurred or may incur greater exploration, appraisal and development costs, or will provide more facilities; and

(b) the need for reservoir management consistent with good industry practice and for the balancing of production from different parts of the field; and

(c) the production profile for the petroleum field and depletion scenarios (which must be in accordance with good industry practice); and

(d) the technical merits, risks, costs and benefits of alternative field development plans. Where discount rates are used, the rates in clause 8.3(3) will apply; and

(e) each PMP and/or PML holder's liability for the costs of necessary ongoing mining activities; and

(f) each PMP and/or PML holder's obligations in respect of liability under the Act and the carrying out of mining activities; [53] and

(g) the need for a unit operating agreement (this may be imposed as a condition of the unit development scheme, with the agreement to be reached by the affected PMP or PML holders within a specified period).

(3) Section 46 of the Act provides that if the Minister incurs costs in determining the unit development scheme (for example, because of the need to obtain independent expert advice), these costs must be paid by the PMP holders and/or PML holders, with the share of costs determined as the Minister thinks fit.

[53] Sections 102 and 103 of the Act.

9. Flaring, incinerating and venting

9.1 Introduction

(1) "Flaring" is the burning off of natural gas as a waste product when it is uneconomic to sell or conserve it, or in emergencies when accumulations of gas become a safety concern; flaring can be associated with both exploration and mining activities. "Incinerating" is the burning off of waste gas in an incineration unit. "Venting" is the direct release of natural gas into the atmosphere.

(2) The Resource Management Act 1991, the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 and the Climate Change Response Act 2002 control the environmental effects of flaring and venting.

9.2 General provisions on flaring, incinerating and venting

(1) As required by the purpose of the Act and section 33(1)(b) of the Act, and under the Minister's interpretation of the purpose of the Act (see clauses 1.2 and 1.3), all activities and operations must be designed and conducted so as to maximise economic petroleum recovery and minimise wastage, within reasonable technical and economic constraints.

(2) The Crown Minerals (Petroleum) Regulations 2007 limit the circumstances in which permit holders may flare or vent petroleum. In summary, these are—

(a) as a consequence of an emergency shutdown:

(b) as a consequence of equipment failure (but petroleum may not be flared for more than seven days):

(c) during initial well-testing operations (petroleum may not be flared on more than 30 days, irrespective of how long it is flared during any given day):

(d) under a PMP work programme approved by the Minister:

(e) with the Chief Executive's written consent.

(3) Applications for the Chief Executive's consent to flare petroleum must be made in accordance with the Crown Minerals (Petroleum) Regulations 2007 and may be made via the Online Permitting System or with use of the relevant forms which are available on the NZP&M's website. NZP&M prefers applicants to make use of the Online Permitting System where possible.

9.3 Evaluation of applications for consent to flare or vent

(1) In evaluating an application the Chief Executive may consider—

(a) whether alternatives for the use of gas are available and economically viable (including the feasibility of re-injection and transportation for use through existing or new gas-gathering systems):

(b) whether shut-ins may cause damage to equipment and hamper reservoir performance while facilities are installed to avoid wastage of gas:

(c) the value of information derived from well-testing operations in terms of design of development plans that will maximise economic recovery:

(d) the effect of any flaring restriction on the net present value of a development option under a PMP or PMP application using the discount rates specified in clause 8.3(3).

9.4 Conditions of consents to flare

(1) The Crown Minerals (Petroleum) Regulations 2007 provide that the Chief Executive may grant an application to flare or vent petroleum with any conditions they see fit. The Crown Minerals (Petroleum) Regulations 2007 set out the types of conditions that (without limitation) may be applied. In general, the conditions aim to minimise flaring and venting.

(2) The duration of a consent to flare petroleum will be at the Chief Executive's discretion.

(3) Similar conditions may apply to any mining work programme approved by the Minister.

(4) As a matter of policy—

(a) permit holders will be expected to implement practical and economic options for collecting and using gas; and

(b) consent to vent gas will not be granted (gas may only be vented following equipment failure or as a consequence of an emergency shutdown).

(5) The Crown Minerals (Royalties for Petroleum) Regulations 2013 set out royalty provisions for flared gas.

10. Unconventional petroleum resources and underground gas storage

10.1 Introduction

(1) This chapter sets out practices and procedures concerning the following unconventional petroleum resources:

(a) gas hydrates; and

(b) coal seam gas.

(2) This chapter also sets out policies and procedures for underground gas storage.

(3) Permits granted for both conventional and unconventional petroleum will include provisions providing for overlapping permits as set out in this chapter, and for processes and requirements for the co-ordination of activities between permit holders and determination of disputes.

Gas hydrates

10.2 Gas hydrates: Introduction

(1) As noted in clause 4.2, PEPs and PMPs provide a right to explore and mine that is exclusive to the permit holder, except that permits for gas hydrates may overlap permits for conventional petroleum resources (and vice versa).

(2) The provisions of this Programme dealing with the following issues apply to permits for gas hydrates in the same manner as to conventional petroleum resources (with all necessary modifications):

(a) regard to the principles of the Treaty | te Tiriti (chapter 2); and

(b) land available for petroleum permits (chapter 3); and

(c) general provisions relating to permits (chapter 4); and

(d) matters the Minister must consider and be satisfied about before granting permits (chapter 5); and

(e) management of permits and obligations of permit holders (chapter 11); and

(f) changes to permits (chapter 12), as applicable and subject to the provisions in this chapter 10 on gas hydrates; and

(g) decommissioning requirements relating to petroleum infrastructure or a well (chapter 13).

10.3 Gas hydrate prospecting permits

(1) The purpose of a gas hydrate prospecting permit (“P(H)PP”) is to authorise the P(H)PP holder to prospect for gas hydrate(s).

(2) The provisions in this Programme relating to PPPs (chapter 6) also apply to P(H)PPs.

10.4 Gas hydrate exploration permits

(1) The purpose of a petroleum (gas hydrate) exploration permit ("P(H)EP") is to authorise the P(H)EP holder to explore for gas hydrate resources. It does not convey a right to explore for, or prospect for, conventional petroleum resources or any other Crown owned mineral. This will be included as a condition in any P(H)EP which is issued by the Minister.

(2) P(H)EPs provide an exclusive right for P(H)EP holders to explore for gas hydrate resources in a particular area.

(3) The Minister will ordinarily make P(H)EPs available only through PEP Rounds.

(4) The matters the Minister must consider before granting P(H)EPs are the same as those specified in chapter 5 of this Programme.

(5) Before granting a P(H)EP, the Minister will need to be satisfied that the work proposed under the work programme is likely to identify gas hydrate systems and evaluate the feasibility of mining gas hydrate in the particular area.

(6) The Minister may grant a P(H)EP that overlaps a PEP for conventional petroleum resources (and vice versa). Where the underlying PEP existed before this Programme came into effect, a P(H)EP will not be granted without the prior written consent of the underlying PEP holder. Where the PEP was granted after this Programme came into effect, the Minister will consult with the PEP holder and consider any views they express before deciding whether to grant a P(H)EP.

(7) Where P(H)EPs and PEPs overlap, the holder of the permit that was granted later in time must obtain the written consent of the first or underlying permit holder before commencing activities over the same area as the underlying permit. The underlying permit holder must not unreasonably refuse permission or impose unreasonable conditions on the proposed activities of the other permit holder. If there is a dispute over this matter, the Minister may make a determination, which will be binding on both parties. Guidelines on the types of conditions the Minister will ordinarily consider reasonable and unreasonable are provided in clauses 6.4(3) and (4).

(8) The Minister will not grant a P(H)EP that overlaps the area of a PMP or petroleum licence for conventional petroleum resources (or a PEP that overlaps the area of a P(H)MP) without the written consent of the first or underlying permit or licence holder.

(9) P(H)EPs will be granted by the Minister for a term set by the Notice for the PEP Round.

(10) The Minister will not grant an appraisal extension unless satisfied about the matters set out in section 35A of the Act (see clause 7.12).

Area

(11) There are no specific size limits for a P(H)EP, but the area may not exceed the area to be explored under the proposed work programme.

Relinquishment

(12) Relinquishment obligations may be imposed as a condition of a P(H)EP and will be set out in the notice for a public tender for a P(H)EP.

Discoveries and appraisal work programmes

(13) Permit holders that discover[54] gas hydrate resources must notify the Chief Executive of the discovery as soon as practicable. NZP&M will require the permit holder to attend a meeting to enable NZP&M to better understand the nature of the discovery and the permit holder's intentions for the wider permit area.

(14) P(H)EP holders are entitled to undertake a programme of appraisal under their P(H)EPs.

(15) The Minister may grant an appraisal extension (extension of duration) if the Minister is satisfied about the matters set out in section 35A of the Act (see clause 7.12).

10.5 Gas hydrate mining permits

(1) A petroleum (gas hydrate) mining permit ("P(H)MP") gives the P(H)MP holder the right to mine gas hydrate resources.

(2) In considering whether to grant an application for a P(H)MP, the Minister will—

(a) consider whether the application meets the same requirements as for a conventional PMP (see chapters 5 and 8); and

(b) consider whether the mining operation is technically feasible and can be undertaken safely, and whether it will interfere with other petroleum permits in the area; and

(c) determine an appropriate royalty that ensures a fair financial return to the Crown.

(3) The Minister will not ordinarily grant a P(H)MP unless satisfied that production is likely to begin within a negotiated period.

(4) The Minister will not grant a P(H)MP that overlaps the area of a PMP or petroleum licence for conventional petroleum resources (and vice versa) without the written consent of the first or underlying permit or licence holder.

(5) If the Minister is satisfied that the matters in subclauses (2) and (3) can be met, the Minister may grant a P(H)MP on conditions set in accordance with the Act, in exchange for the surrendered exploration permit area.

Coal seam gas

10.6 Coal seam gas

(1) Coal seam gas is petroleum as defined in the Act. The provisions of this Programme that apply to permits to prospect for, explore for, and mine conventional petroleum resources also apply to coal seam gas.

(2) 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 mining permit operators a right of ownership of the gas or the right to sell or trade gas.

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[54] For gas hydrates, the term "discover" refers to the identification of gas hydrate resources that the permit holder considers to be potentially mineable using known extraction techniques.

(3) The holder of a coal mining permit or existing privilege that wants to sell or trade gas, including that associated with coal mining, must apply for a PMP.

Co-ordination with existing coal mining operations

(4) 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 must provide to the petroleum permit holder a five year development plan for the existing coalmine, 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 holder gives written consent.

Co-ordination with new coal mining operations

(5) 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 co-ordination procedure similar to that in subclause (4) above.

(6) For the avoidance of doubt, if a minerals permit targeting coal resources overlaps with an existing petroleum permit targeting coal seam gas, the petroleum permit holder must provide to the minerals 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 minerals activities by the minerals permit holder unless the underlying petroleum permit holder gives written consent.

Underground gas storage

10.7 Underground gas storage

(1) Section 2(1) of the Act defines an “underground gas storage facility” as a natural reservoir into which petroleum is injected in a gaseous state for subsequent extraction.

(2) Underground gas storage facilities provide a useful mechanism for storing gas for later use when it has a higher value – for example, for use in gas-fired electricity generation.

(3) The use of a natural reservoir as an underground gas storage facility requires a PMP covering the natural reservoir and the operation of the underground gas storage facility.

(4) A PMP may include or be amended to include an underground gas storage facility where the gas to be injected into the reservoir is mined from the same area as the permit, provided that—

(a) none of the gas to be injected into the reservoir is subject to a sales agreement before it is injected into the reservoir; and

(b) none of the gas to be injected into the reservoir is mined under another permit.

(5) If either of the circumstances in subclauses (4)(a) and (b) above are not met, a new PMP must be applied for, and, where applicable, the area of an existing permit must be reduced to exclude the area of the PMP covering the area of the underground gas storage facility.

(6) Where the area of the proposed facility is subject to a PML under the Petroleum Act 1937, the licence holder must apply for a PMP covering the proposed facility before operating the facility.

(7) The provisions of the Act, the Crown Minerals (Petroleum) Regulations 2007 and this Programme that apply to PMPs apply with all necessary modifications to PMPs that include an underground gas storage facility. Without limitation, these include provisions relating to—

(a) exclusivity of permits (see clause 4.2):

(b) matters the Minister must be satisfied about before granting a permit (see chapter 5):

(c) requirements relating to the management of permits and the obligations of permit holders (see chapter 11):

(d) changes to permits (see chapter 12):

(e) decommissioning obligations relating to petroleum infrastructure or a well (see chapter 13).

(8) Special royalty provisions apply to permits for underground gas storage facilities. These are specified in the Crown Minerals (Royalties for Petroleum) Regulations 2013.

11. Permits (General): Management of permits and obligations of permit holders

Obligations of a permit holder

11.1 Obligations of a permit holder

(1) The main obligations of a permit holder[55] 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; and

(c) operate in accordance with good industry practice (see clauses 1.3(11) and (12)); and

(d) report annually to NZP&M on specified matters (see clause 11.2); and

(e) attend an annual work programme review meeting with NZP&M (see clause 11.7); and

(f) calculate and pay royalties (prescribed in the Crown Minerals (Royalties for Petroleum) Regulations 2013 or an existing privilege), and submit royalty returns; and

(g) pay fees prescribed in the Crown Minerals (Petroleum Fees) Regulations 2006; and

(h) notify the Minister of, and obtain consent to, specified events and transactions (see clauses 12.7 – 12.13 on transfers, changes of control and dealings); and

(i) lodge information and data in accordance with the Crown Minerals (Petroleum) Regulations 2007 (see clauses 11.3 – to 11.6); and

(j) comply with decommissioning obligations in relation to petroleum infrastructure and wells (see chapter 13); and

(k) comply with the Act, Regulations and this Programme; and

(l) comply with the Health and Safety at Work Act 2015 and regulations made under that Act; and

(m) 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).

(2) 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.

[55] See sections 33, 33C, 33CA, 33D and 34 of the Act.

(3) 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.

(4) 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).

(5) 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.

Reports, records and samples

11.2 Annual reporting by a permit holder

(1) Permit holders must submit to NZP&M an activity and expenditure report (or reports) covering the previous calendar year no later than 31 March in each year. The detailed requirements are set out in Part 4 of the Crown Minerals (Petroleum) Regulations 2007.

(2) The annual activity and expenditure report must include—

(a) a report on all activities undertaken under the permit, including the extent of compliance with the work programme and, as appropriate—

(i) PPP and PEP holders must include information on all field investigations, surveys, reprocessing of data and drilling activities:

(ii) PMP holders must include information on production rates, well stimulation activities, various reservoir metrics, drilling, survey activity, and proposed mining activity for the next 12 months; and

(b) a report on expenditure over the previous year.

(3) Permit holders must also submit to NZP&M, at the same time as the annual activity and expenditure report, a report 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 11.8).

11.3 Notice of activities

(1) The Crown Minerals (Petroleum) Regulations 2007 require permit holders to notify NZP&M of their intention to carry out the following exploration and production activities (at least the number of working days stated below prior to commencement of the activity):

(a) geochemical, gravity, magnetic or seismic surveys (at least 15 working days):

(b) commencement of well drilling operations (at least 15 working days):

(c) commencement of well stimulation operations (including hydraulic fracturing) (at least ten working days):

(d) commencement of well workover operations (at least ten working days):

(e) commencement of well testing operations (at least ten working days):

(f) abandonment of a well (before the abandonment operation commences).

(2) The Crown Minerals (Petroleum) Regulations 2007 require permit holders to notify NZP&M of the following exploration and production activities as soon as practicable (within the number of working days stated below):

(a) discovery of a hydrocarbon accumulation (within 20 working days):

(b) completion of a well producing, or associated with producing, petroleum (within 20 working days):

(c) suspension of well drilling operations (within 20 working days):

(d) conclusion of well stimulation operations (including hydraulic fracturing) (within ten working days):

(e) conclusion of well workover operations (within ten working days):

(f) conclusion of well testing operations (within ten working days).

11.4 Operation reports, records, and samples

(1) The Crown Minerals (Petroleum) Regulations 2007 require permit holders to provide reports and records to NZP&M after the conclusion of specified survey and drilling operations. Detailed requirements are set out in the Crown Minerals (Petroleum) Regulations 2007.

(2) The main requirements for reports, records, and samples relate to—

(a) surveys:

(b) daily drilling reports:

(c) well workover reports:

(d) well testing reports:

(e) well completion and well stimulation and testing:

(f) well abandonment:

(g) drill cuttings:

(h) core analysis:

(i) core samples and sidewall core samples:

(j) microfossil and petrographic material:

(k) oil samples.

11.5 Permit conclusion reports

(1) The Crown Minerals (Petroleum) Regulations 2007 require specified information to be supplied after a permit expires or is surrendered or revoked. This includes copies of all reports and records that relate to plays, leads and prospects that have been identified in the permit area during the permit holder's tenure.

11.6 Petroleum reserves and resources

(1) The Crown Minerals (Petroleum) Regulations 2007 require permit holders to provide annual reports, using standardised approaches, on petroleum reserves and resources, gas deliverability on installed infrastructure, and related information.

(2) The Crown Minerals (Petroleum) Regulations 2007 allow the Chief Executive to publish this information (in some cases on an aggregated basis) for public interest reasons, and to verify and validate estimates of reserves and resources.

Annual work programme review meeting

11.7 Annual work programme review meeting

(1) Section 33D of the Act provides that the Chief Executive may require the holders of petroleum permits to attend an annual review meeting to monitor progress against the work programme and to 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 against the work programme; and

(b) discuss expectations, risks, and key decisions for the period ahead; and

(c) discuss, where applicable, the next stage of the work programme (see clause 7.9); and

(d) review the permit holder's report on its engagement with 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 co-ordination 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 activity and expenditure reports (see clause 11.2).

(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 permit participants 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 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 include—

(a) the Environmental Protection Authority; and

(b) a consent authority under the Resource Management Act 1991; and

(c) Maritime New Zealand; and

(d) the Health and Safety Regulator; and

(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 PEP (see clause 7.9), or following a discovery (see clause 7.11).

11.8 Iwi engagement and annual review meetings about iwi engagement reports

(1) Section 33C of the Act requires petroleum permit holders to provide an annual 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 (an "iwi engagement report"). 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 (3).

(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) 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.

(7) 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 iwi or hapū).

(8) When deciding whether or not to exercise their discretion under subclause (7) 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 an iwi engagement report; and

(b) any reasons provided by iwi or hapū regarding why they are seeking a review meeting regarding the permit holder.

(9) If the Chief Executive arranges an annual review meeting under subclause (7), 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.

(10) If the Chief Executive arranges an annual review meeting under subclause (7), 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 and 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) Section 36 of the Act provides that a permit holder may apply to change a permit in the following ways:

(a) to amend the permit conditions, and in particular the approved work programme:

(b) to extend the land area of the permit:

(c) to extend the duration of the permit.

(2) Although section 36 of the Act allows for a change of the minerals to which a permit relates, this will not apply to petroleum permits. Where—

(a) a petroleum permit holder wants to prospect for, explore for, or mine a non-petroleum mineral, it will need to apply for a non-petroleum minerals permit:

(b) a petroleum permit holder wants to prospect for, explore for, or mine gas hydrates, it will need to apply for a separate petroleum permit for gas hydrates (see chapter 10).

(3) An application to change a permit must be made in accordance with the Crown Minerals (Petroleum) Regulations 2007. Applications can 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 PMP or a PEP (for the purposes of an appraisal extension under section 35A of the Act) must be received not later than six months before the expiry of the permit (see clauses 7.12 and 12.5(3) – (7)). However, the Minister may accept an application to extend the duration of a PMP or a PEP (for the purposes of an appraisal extension) 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 (see section 36(4A) of the Act).

(5) Section 36(4B) of the Act requires that any application to amend a permit (except for an application relating to a matter described in subclause (4))[56] must be received not later than 90 days before the "due date".[57] 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).

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[56] Applications for an appraisal extension (see clause 7.12) or to extend the duration of a PMP (see clause 12.5) must be received six months before the due date.

[57] "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.

(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); and

(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).[58]

(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 programmes

Prospecting

(1) The Minister will ordinarily consent to an application to change the work programme of a PPP held by a speculative prospector.

(2) The Minister will consider all other applications to change the work programmes of other PPPs by having regard to whether the proposed change will serve the purpose of the Act.

(3) Despite subclauses (1) and (2) above, the Minister may require PPP holders wishing to make major changes to their work programme to surrender the PPP and submit a new application.

Exploration

(4) The Minister will not consent to a change to the key deliverables of the current stage of a work programme (see clause 7.9), including to the duration of the stage, except in the following circumstances:

(a) a force majeure event prevents the PEP holder from carrying out work in accordance with the approved work programme:[59]

(b) there are unavoidable delays in obtaining a drilling rig or seismic survey vessel. Unavoidable delays are those that, in the Minister's opinion, could not have been managed or overcome by the PEP holder without incurring excessive (uneconomic) costs:[60]

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[58] 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. A force majeure event 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 oil prices, difficulties in obtaining farm-in partners, disputes or difficulties with joint venture partners, difficulties in raising capital, or avoidable delays in obtaining a drilling rig or seismic survey vessel.

[59] See footnote 58 on force majeure.

[60] A delay in obtaining a drilling rig or seismic survey vessel will not be unavoidable where, with proper foresight and planning (including entering into early commitments with suppliers), the delay could have been avoided. A permit holder is expected to negotiate with suppliers early enough to enable rig clubs to be formed and contract negotiations to be concluded. A delay will also not be unavoidable if it has been caused by the permit holder's failure to commit to meeting the costs involved for commercial reasons.

(c) new geological or geophysical evidence clearly demonstrates, in the Minister's opinion, that there is a justifiable need to change some elements or the timing of the work programme, and this would not materially reduce the value of the work programme. The PEP holder must have used its best endeavours to comply with the existing work programme, and must have identified the geological or geophysical problem and notified the Minister of the problem at the earliest reasonable opportunity:

(d) the PEP holder is being, or has been, prevented from progressing exploration work by delays in obtaining consents under the Act or any other Act, and—

(i) those delays have not been caused or contributed to by any failure or default on the part of the PEP holder; and

(ii) the PEP holder has applied for consents under the relevant legislation in sufficient time to obtain them under normal circumstances; and

(iii) the PEP holder is making, or has made, all reasonable efforts to progress these applications—

the Minister may seek and take into account the views of the consenting authority on these matters:

(e) the PEP holder is being, or has been, prevented from progressing exploration work by delays in obtaining one or more access arrangements to land, where, in the Minister's opinion—

(i) those delays have not been caused or contributed to by any failure or default on the part of the PEP holder; and

(ii) the PEP holder can demonstrate a clear record of planning, early engagement with landowners, and reasonable offers to landowners;[61] and

(iii) the PEP holder is making, or has made, all reasonable efforts to progress access arrangements:

(f) agreeing to the change is necessary to give effect to a decision by the Minister to extend the area of the PEP or the duration of the PEP:

(g) the PEP holder is being, or has been, prevented from fulfilling a work programme condition by a dispute with a non-petroleum or non-conventional petroleum permit holder (see clause 4.4):

(h) there are any other circumstances that have arisen which—

(i) are outside of the control of the PEP holder; and

(ii) have significantly impeded or impacted the ability of the PEP holder to carry out key deliverables of the work programme (or are currently doing so) and are circumstances for which a change in the key deliverables to the work programme would be consistent with—

[61] The Minister will ordinarily consider (without limitation) that offers to landowners are reasonable if the permit holder can demonstrate that similar offers have been agreed to by landowners in similar circumstances in the previous three years.

(A) the purpose of the Act; and

(B) provisions relevant to the approval and progression of work programmes.

(5) The Minister may decline to consent to a change to the work programme if the PEP holder has not complied with other conditions of the PEP, the Regulations or the Act.

(6) Consent to changes in the secondary deliverables in a work programme is not required (see clause 7.9).

(7) PEP holders are not required to apply for a change to work programme conditions when a new work programme is agreed between the PEP holder and the Minister for a subsequent stage of the PEP, as the new work programme conditions will be automatically recorded in the PEP (see clause 7.9).

Mining

(8) An application to change a mining work programme will be considered by the Minister taking into account the same matters as for the grant of the PMP (see chapter 8).

(9) The Minister will also consider the following matters (without limitation) when considering an application to change a PMP:

(a) whether the proposed change will facilitate a more efficient development of the resource:

(b) whether there will be a material reduction in production over time as a result of the proposed change:

(c) whether agreeing to the change is necessary to give effect to a decision by the Minister to extend the area covered by the PMP:

(d) any force majeure event that has prevented or may be preventing the PMP holder from progressing mining operations in accordance with the approved work programme:[62]

(e) whether the PMP holder has complied with the other conditions of the PMP, the Regulations and the Act.

12.3 Changes to a PMP work programme required by the Minister

(1) Section 37 of the Act provides for the work programme of a PMP to be changed if this is necessary to maximise the economic recovery of the petroleum in accordance with good industry practice (see clauses 1.3(11) and (12)).

(2) Section 37 of the Act provides that if, on the basis of information received by the Minister on the characteristics and extent of the field, the Minister considers that a change in the work programme is necessary, the Minister must notify the PMP holder of the proposed change and set out the reasons why it is being proposed.

(3) Section 37 of the Act provides that if the PMP holder and the Minister cannot agree on the proposed changes, the PMP holder may notify the Minister, within 30 days after being notified

[62] See footnote 58 on force majeure.

of the proposed change or within any further time that the Minister may allow, that the PMP holder requires the matter to be determined by an independent expert.

(4) Sections 37 and 38 of the Act set out provisions and processes for the appointment of the independent expert and for their determination.

(5) The provisions in sections 37 and 38 of the Act are not expected to be utilised other than in exceptional circumstances. The Minister will take into account the investment implications of activating the provisions in section 37 of the Act. In the first instance, it is expected that the Minister and the PMP holder will discuss the issues in good faith and use reasonable endeavours to agree on amendments to the work programme.

12.4 Extension of the land area to which a permit relates

Prospecting

(1) The Minister will ordinarily grant an EOL to a speculative prospector where, and to the extent that, the speculative prospector requires additional land to undertake an expanded work programme.

(2) In the case of an exclusive PPP, the Minister—

(a) will not grant an EOL for a PPP (including if held by a speculative prospector) if there is another PPP, PEP, PMP or PML in force in respect of any of the land to which the application relates, without the consent of the underlying permit holder:

(b) will not grant an EOL for a PPP (other than a PPP held by a speculative prospector) if the land has been reserved via section 28A of the Act for PEP allocation via public tender:

(c) will not ordinarily grant an EOL for a PPP that is not held by a speculative prospector if the proposed area of the PPP (assuming the EOL were to be granted) is greater than the maximum area allowed for a PEP over that land.

Exploration, including an appraisal extension

(3) Where an application for an EOL is made over an area of land that is already subject to a petroleum permit or licence, the Minister will only grant an EOL if the existing permit or licence holder gives their written consent to that occurring.

(4) The Minister will not ordinarily grant an EOL for an area of land that has been released for consultation as part of a PEP Round.

(5) Where the Minister has made a declaration under section 28A(1A) of the Act, the Minister will not grant an EOL in relation to the land specified and kind of permit specified in that declaration.

(6) The Minister may decline to consent to an EOL if the PEP holder (or a related party) has not complied with other conditions of the PEP, the Regulations, or the Act or if the Minister is not otherwise satisfied of the matters set out in subclauses (7) and (8) below (as appropriate).

(7) If the PEP holder has made a discovery, the Minister may grant an EOL, subject to the PEP holder agreeing to an appraisal work programme that is satisfactory to the Minister, where the Minister is satisfied that—

(a) the discovery extends beyond the boundary of the permit area; and

(b) the area of the extension sought is necessary in order to appraise the discovery.

(8) If the PEP holder's application for an EOL is based only on seismic and other geotechnical information (and not on a discovery), the Minister may grant an EOL where—

(a) the Minister is satisfied that—

(i) the PEP holder has identified a clearly defined, drill-ready prospect that extends beyond the boundary of the permit area; and

(ii) the area of the extension sought is necessary in order to explore the prospect; and

(iii) there is little or no competitive interest in the area from other permit holders in the region (see subclause (9) below); and

(b) the PEP holder commits, as part of the application, to drill an exploration well (in addition to any existing well obligations in the PEP work programme) for the prospect before—

(i) the expiry of the PEP; or

(ii) 18 months after the date on which the application is granted, for an onshore PEP, or 30 months after the date on which the application is granted, for an offshore PEP—

whichever is earlier.

(9) To determine whether there is competitive interest in the area of the requested EOL (that is, whether subclause (8) applies) the Minister will provide 15 working days for other permit holders in the region to identify any alternative prospects that extend from their permit areas into the area over which the EOL has been applied for.[63] Where one or more alternative clear prospects are identified by other permit holders to the satisfaction of the Minister, the Minister may—

(a) decline the EOL application; and

(b) reserve the land of the requested EOL for a future PEP Round (see clause 7.4).

(10) An EOL application in respect of a PEP may be made within three months of an open market application for a PPP or PEP (see clauses 6.2(10) and (12) and 7.2(14)). In such circumstances, the application for an EOL in respect of a PEP will be prioritised over the application for a PPP and ranked against any other application(s) received for a PEP in accordance with the provisions of this Programme as if it were an application for a PEP over an overlapping area.

Mining

(11) The Minister may grant an extension of the area of a PMP only if—

(a) the area of the proposed extension is not already subject to a petroleum permit or licence held by another permit holder, or the underlying permit or licence holder has given their prior written consent; and

[63] When asking whether there is competitive interest from other permit holders in the area of the proposed EOL, the details of the justification for the application for the EOL will not be disclosed to other permit holders.

(b) the petroleum field has been demonstrated, as a consequence of exploration or mining activities, to extend beyond the boundaries of the current PMP; and

(c) the PMP holder proposes to mine the petroleum field within a period the Minister considers reasonable; and

(d) the PMP holder has complied in all material respects with the conditions of the PMP, the Regulations and the Act.

(12) The holder of a PMP may apply for an EOL within three calendar months of an open market application for a PPP or PEP being recorded publicly on NZP&M's website (see clauses 6.2(8) and 7.2(10)) for the same land. Such an EOL application will be decided by the Minister before the application for a PPP or PEP is decided.

General

(13) As a condition of agreeing to extend the land covered by a permit, the Minister may require—

(a) an amendment to the permit's work programme conditions:

(b) a surrender of area of the permit.

Geophysical surveys outside the area of a permit

(14) 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.

(15) Subclause (14) 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.

(16) An authorisation granted under section 42A of the Act 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 (13). However, an authorisation granted under section 42A of the Act does not authorise any activity other than the carrying out of geophysical surveys.

12.5 Extension of the duration of a permit

Prospecting

(1) For a PPP other than one held by a speculative prospector, an extension of duration will not ordinarily be granted. If an extension of duration is granted other than to a speculative prospector, the total duration of the permit will not exceed four years. For a PPP held by a speculative prospector, an extension of duration may be granted with a duration of more than two years (up to a maximum of four years after the PPP's commencement date), if an applicant proposes a committed and credible work programme that the Minister agrees justifies a longer period for completion (for example, for large multi-staged far frontier basin screening).

Exploration

(2) The durations of PEPs (and the process by which those durations may be extended) are discussed in clause 7.8. The duration of a PEP may be extended in accordance with section

35A of the Act.[64] The duration of a PEP may also be extended to enable the PEP holder to complete their decommissioning obligations under Part 1B, Subpart 2 of the Act (see chapter 13).

Mining

(3) Section 36(5) of the Act provides that the duration of a PMP may not be extended unless the PMP holder—

(a) satisfies the Minister that the discovery to which the PMP relates cannot be economically depleted before the PMP expiry date; and

(b) where required to do so by the Minister, submits a work programme which is approved by the Minister in the same manner (with any necessary modifications) as a work programme which is approved under section 43 of the Act.

(4) In evaluating an application for an extension of the duration of a PMP, the Minister will—

(a) either approve a new work programme (where they require an applicant to submit a new work programme), or determine that a new work programme is not needed, on the basis of the considerations applicable to PMPs set out in chapter 8; and

(b) consider the extent to which the inability to deplete the discovery during the term of the PMP is due to force majeure events;[65] and

(c) ensure that any such extension is only for such a period as the Minister considers reasonable to enable the PMP holder to economically deplete the discovery; and

(d) consider whether the PMP holder (or a related party) has complied with the conditions of the PMP, the Regulations and the Act.

(5) The Minister may also extend a PMP to enable the PMP holder to complete their decommissioning obligations under Part 1B, Subpart 2 of the Act (see chapter 13).

(6) Sections 36(3) and (4A) of the Act provide that an application for an extension of duration of a PMP must be received no later than six months before the expiry of the PMP but that the Minister may agree to accept an application at a later date agreed by the Minister if the Minister is satisfied that there were “compelling reasons” why the six-month deadline could not be met (see clause 12.1(4)).

(7) Guidance on matters the Minister may consider to be “compelling reasons” is provided in clauses 12.1(6) and (7).

12.6 Amalgamation of adjacent permits

(1) A permit holder who holds two or more adjacent PEPs or two or more adjacent PMPs (referred to in this clause as “current permits”) may apply to amalgamate the current permits through surrendering one (or more) of the permits in exchange for an EOL of an adjacent permit of the same type over some or all of the area of the surrendered permit.

[64] The process by which an extension may be granted under that section is discussed at clauses 7.12 and 12.1.

[65] See footnote 58 on force majeure.

(2) In considering whether to grant an application to amalgamate current permits, the Minister will 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 there is one continuous petroleum prospect spanning the current permits, as follows:

(i) for PEPs, the Minister must be satisfied that the current permits cover a single prospect that can most effectively be explored by a single work programme:

(ii) for PMPs, the Minister must be satisfied that the current permits are part of the same mining operation; and

(d) whether amalgamating the current permits will enable the permit holder to more efficiently explore or mine.

(3) The Minister will not allow amalgamation of current permits unless the work programme is equivalent to or better than the combined work programmes of the current permits. Ordinarily the conditions for amalgamation will be determined based on—

(a) the shortest remaining duration of the current permits; and

(b) the work programmes and conditions and reporting requirements of each current permit; and

(c) ensuring that the work programme provides for working the full area of the amalgamated permit.

(4) If the Minister declines to grant an application to amalgamate current permits, the application to surrender the current permit or permits will be deemed to be withdrawn.

(5) Where current permits are amalgamated in accordance with this clause, the permit holder of the amalgamated permit will be required to carry out and meet the costs of decommissioning all—

(a) petroleum infrastructure and wells put in place or used for the purposes of carrying out, or otherwise related to, activities authorised by the current permit;[66] and

(b) relevant older petroleum infrastructure and relevant older wells.[67]

[66] "Petroleum infrastructure" and "well" are defined in sections 89F and 89D of the Act respectively (see clause 13.1).

[67] "Relevant older petroleum infrastructure" and "relevant older well" are defined in sections 89H and 89I of the Act respectively (see clauses 13.6 and 13.7).

Transfers, changes of control or changes of operator, and dealings

12.7 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—

(i) comply with, and give proper effect to, the work programme and comply with obligations relating to reporting and payment of fees and royalties; and

(ii) in the case of a PEP or PMP, comply with the decommissioning and post-decommissioning obligations in the Act (see chapter 13); and

(b) the Minister is satisfied that in the case of a PEP or PMP the proposed new 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; and

(c) 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 that Act for day-to-day management of activities under the permit (see clause 5.4).

12.8 Transfer of interest 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—

(a) the conditions of the permit and give proper effect to the permit; and

(b) in the case of a PEP or PMP, the relevant decommissioning obligations in Part 1B Subparts 2 and 3 of the Act.

(3) As a condition of consent to a transfer of interest, the Minister may require provision of an appropriate outgoing guarantee (see section 41I of the Act).[68]

[68] An “outgoing guarantee” is defined in Chapter 13 - Decommissioning (see footnote 81 below).

(4) To inform their decision on whether or not to grant consent to a transfer of interest, the Minister may request a statement of financial capability from the transferee and supporting information.

(5) The Chief Executive may publish guidance on how a permit holder can demonstrate financial capability on the NZP&M website.

(6) Before consenting to a transfer of interest, the Minister must also be satisfied that an acceptable financial security arrangement (whether existing, altered, or new) is or will be in place within the time specified by the Minister and will be maintained for a time specified by the Minister (see sections 89L and 89T of the Act and clause 13.8).

(7) Sections 92 and 92A of the Act provide specific processes for transfers of permits following death, bankruptcy, or liquidation of a permit participant.

12.9 Changes of control of permit participants of a PPP (other than an Operator of a PPP)

(1) Section 41AG of the Act requires a permit participant of a PPP (other than a permit participant who is an Operator of a PPP) to notify the Minister if it is a body corporate and knows, or ought reasonably to know, that it 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 of a PPP (of a kind described in subclause (1)) 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).

(4) A statement given under subclause (3)(b)(ii) must be signed—

(a) if the permit participant 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 is not a company, by a person responsible for the management of the permit participant.

(5) 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 relevant person,[69] which may be—

[69] Where a permit participant is a corporate body, a “relevant person” is “a person who is:

(a) in the case of a prospecting permit for petroleum, an incoming person; or

(a) general information about the relevant person's financial capability; or

(b) information specific to the matters referred to in subclause (3)(b)(ii) above.

(6) A permit participant is only required to provide information to the Minister under subclause (5) if the Minister requests the information or documents no later than three months from the date on which the permit participant notifies the Minister of the change of control in accordance with section 41AG of the Act.

(7) 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).

12.10 Changes of control of permit participants of PEPs and PMPs and Operators of PPPs

(1) Section 41AB of the Act provides that a change of control of a body corporate that is a permit participant of a PEP or a PMP or the Operator of a PPP requires the prior consent of the Minister.

(2) Section 41AA(1) of the Act defines “change of control”.

(3) 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;[70] and

(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 in control (see section 41AE(1) of the Act)—

(A) have the financial capability to meet its obligations under the permit; and

(B) be highly likely to comply with, and give proper effect to, the work programme for the permit; and

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(b) in the case of an exploration or mining permit for petroleum, an incoming person or an outgoing person.”

“Incoming person” means “a person who obtains a controlling interest in a body corporate that is undergoing a change of control”.

[70] 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).

(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 PEP or PMP, be highly likely to comply with the relevant decommissioning obligations in Part 1B, Subparts 2 and 3 of the Act (see chapter 13); and

(iii) information or documents which show, in the case of a PEP or PMP, that 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.

(4) Under section 41AC of the Act, if the Minister is satisfied 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).

(5) 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 (3)(d)(ii).

(6) 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 in control, will meet the requirements of the factors described in subclauses (3)(d)(ii) and 3(d)(iii), as the case may be.

(7) As a condition of consent to a change of control, the Minister may require provision of an appropriate outgoing guarantee (see section 41I of the Act).

12.11 Changes of control of guarantors

(1) Section 41A of the Act requires a permit participant to notify the Minister if 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 (other than a body corporate that has provided an outgoing guarantee for those obligations) has undergone a change of control.

(2) Section 41A(2) of the Act requires the permit participant 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; and

(iii) a statement from the guarantor that it has the financial capability to meet its obligations under the guarantee.

(3) A statement given under subclauses (2)(b)(ii) – (iii) must be signed—

(a) if the permit participant 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 is not a company, by a person responsible for the management of the permit participant.

(4) Section 41A(4) 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 relevant person, which may be—

(a) general information about the relevant person's financial capability; or

(b) information specific to the matters referred to in subclauses (2)(b)(ii) and (iii) above.

(5) A permit participant is only required to provide information to the Minister under subclause (4) if the Minister requests the information or documents no later than three months from the date on which the permit participant notifies the Minister of the change of control in accordance with section 41A of the Act.

(6) Section 41A(6) 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 41A are not met (see clause 12.15).

12.12 Dealings

(1) Section 41B of the Act provides that dealings for permit participants of Tier 1 permits 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 sale 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 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 (Petroleum) Regulations 2007 and 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) 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 petroleum 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 or is not 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 permit participant any obligation relating to the sales or proceeds of production. It therefore includes (without limitation) petroleum sales agreements and overriding royalty agreements.

(6) In the 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—

(a) the transaction; and

(b) its purpose; and

(c) 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

(d) 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 a dealing falling within the provisions of sections 41B(4)(a) and (b) of the Act, 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 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 petroleum being sold or transferred:

(c) the average price of any petroleum 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 petroleum products elsewhere in arm’s length transactions:

(h) prices recommended by international associations of governments of countries producing the petroleum 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 petroleum, to be amended within a period specified by the Minister.

12.13 General provisions on transfers of interest, changes of control and dealings

(1) Applications for consent to transfers and dealings must contain the information prescribed in the Crown Minerals (Petroleum) Regulations 2007 and 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.

(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 transactions 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 production from the permit and the proceeds of this production.

(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 12.7 – 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 and 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 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 (Petroleum) Regulations 2007 and 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); 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 unless the Minister considers it is in the interests of the Crown to acquire the permit for the purposes of reallocation or some other reason, the surrender—

(a) must be accepted by the Chief Executive if everything is in order and, in the case of a partial surrender, the Minister has approved the area to be surrendered; and

(b) takes effect when the Chief Executive accepts it.

(3) The Minister will not ordinarily approve the area for a partial surrender of a permit or licence under section 40(7A) of the Act until after the permit or licence holder (or other liable party) has met their decommissioning obligations in relation to the area to be surrendered under Part 1B, Subpart 2 of the Act (see clause 13.4 and sections 89N and 89V of the Act).

(4) 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.

(5) Subject to subclauses (1) – (4) above, surrender of part of the area of a permit will be accepted provided the remaining land under the permit is an unbroken area.

(6) 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.

(7) 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 has been made in respect of the surrendered land after the date of surrender.

(8) 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 4.10).

(9) 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.

(10) Permit holders, licence holders and other persons have decommissioning obligations that must be met before surrender of the permit or licence (see chapter 13). The Chief Executive will consider the extent of compliance with decommissioning obligations as part of determining whether everything is in order before accepting a surrender application under section 40(2)(a) of the Act.

(11) Specific requirements relating to surrender are set out in the Crown Minerals (Petroleum) Regulations 2007.

(12) If the permit holder surrenders the permit before committed work programme obligations have been met, the Minister may take that into account as a failure to comply with permit conditions when considering whether to grant any future permit (see clause 5.3).

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 themself if the Minister is satisfied a permit holder has breached a condition of the permit, or a provision of 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) in the case of a permit participant in a PPP (other than a permit participant who is an Operator of a PPP)—

(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 12.9(3); or

(ii) the Minister is not satisfied that the permit holder, following a change of control of a permit participant, is capable of meeting its financial or technical obligations under the permit (see clause 12.9):

(b) 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 12.9(3).

(5) Section 41AB of the Act provides that the Minister may revoke a permit if an Operator of a PPP (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 of the Act, 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 of the Act 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 of the Act either show that section 41AB(2) has not been contravened or provide reasons why the permit should not be revoked.

(7) 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 the Minister still considers that there are grounds for revocation, the Minister may revoke 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.

(8) The revocation will take effect on the date that is specified in the notice issued under this clause.

(9) 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).

(10) Section 39 of the Act provides that the Minister may transfer the permit to themself 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 public tender or otherwise.

(11) 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 petroleum production. The Minister will ordinarily offer the permit for sale as soon as possible.

(12) The Minister must record the revocation or transfer on the register of permits, but need not record the reasons for the revocation or transfer.

(13) As soon as practicable after a permit is revoked, the Chief Executive must lodge a copy of the notice referred to in subclause (6) 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.

(14) The revocation of a permit or transfer of the 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.

(15) 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(7)).

(16) 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 (17) – (20) below provide high-level guidance.

(17) 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.

(18) It is also not the Minister's practice to use the revocation process for non-performance of secondary deliverables (see clause 7.9).

(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 and paid royalties:

(c) the permit holder frequently breaches due dates for the submission of royalty returns and payment of royalties:

(d) 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.[71] 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.

(21) The revocation of a permit does not release a permit holder from its obligations in respect of decommissioning (see chapter 13).

[71] 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. Decommissioning

13.1 Introduction

(1) "Decommissioning" is an activity undertaken under an enactment, regulatory standard, or regulatory requirement[72] to take out of service permanently petroleum infrastructure[73] or a well[74] used for prospecting or exploring for, or mining of, petroleum. Section 89E of the Act provides a detailed definition of "decommissioning" for the purposes of the Act.

(2) Examples of decommissioning activities include removing petroleum infrastructure, plugging and abandoning wells, and undertaking site restoration.

(3) If there are no enactments, standards, or requirements relating to the method of decommissioning a particular item of petroleum infrastructure, that infrastructure must be decommissioned by totally removing it (subject to any exemptions granted or in accordance with the Regulations made under the Act).

(4) Under the Act the Minister has the power to make decisions relating to decommissioning petroleum infrastructure and wells and to impose requirements for acceptable financial

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[72] For example, decommissioning activities might be undertaken under the Resource Management Act 1991, the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012, and the Health and Safety at Work Act 2015.

[73] Section 89F of the Act provides that "petroleum infrastructure"—

"(a) means—

(i) a structure (within the meaning of section 101A) or vessel used onshore or offshore for the purpose of exploring for, or mining of, or processing, petroleum—

(A) up until the point when the petroleum enters infrastructure used by a person other than a current permit holder or licence holder; and

(B) up until the point when the infrastructure is used for distributing or transporting the petroleum, or otherwise ceases to be part of the system for producing petroleum:

(ii) any equipment attached to, or used in connection with, a structure, well, vessel, or site, including cables, pipelines, flow-lines, gas lift lines, umbilicals, manifolds, and moorings:

(iii) any other prescribed thing or class of thing used in connection with, prospecting or exploring for, or mining of, petroleum; but

(b) does not include—

(i) a well:

(ii) any unmoored ship:

(iii) any vehicle:

(iv) any other prescribed thing or class of thing."

[74] Section 89D of the Act provides that "well"—

"(a) means a borehole drilled or re-entered for the purposes of exploring for, appraising, or extracting petroleum; and

(b) includes—

(i) any borehole used for injection or reinjection purposes; and

(ii) any down-hole pressure-containing equipment; and

(iii) the wellhead; and

(iv) any other prescribed thing."

security arrangements[75] to secure the performance of decommissioning obligations and related matters.

(5) This chapter sets out—

(a) decommissioning obligations that apply to petroleum permit holders, holders of petroleum licences, and transferees of permits and licences; and

(b) reporting and recordkeeping obligations that relate to decommissioning; and

(c) how the Minister will ordinarily make decisions relating to exemptions and deferrals, financial capability assessments, financial security arrangements,[76] and any other matters relating to decommissioning.

(6) In this chapter, use of the terms “permit”, “permit holder” and “permit participant” should be taken to also mean “licence”, “licence holder” and “person with a participating interest in a licence” unless expressly stated otherwise in a clause.

(7) Section 89C of the Act states that the decommissioning requirements in Part 1B, Subpart 2 of the Act and the requirements regarding field development plans and notices of cessation in sections 42B and 42C of the Act, prevail over conditions of a permit imposed before 2 December 2021 in the event, and to the extent, of any overlap or inconsistency with those conditions. From 2 December 2021, each permit and licence is deemed to contain a condition that reflects this requirement (see clause 8.9).

13.2 Objectives of decommissioning regime

(1) The Minister considers that, consistent with the scheme of the Act, the overarching objectives of the decommissioning regime, as provided in Part 1B, Subpart 2 of the Act and described in chapter 13 of this Programme, include—

(a) to ensure that decommissioning activities are carried out in line with the expectations and standards set out in the Act or other legislation; and

(b) to provide a clear and flexible regime for provision of financial securities; and

(c) to mitigate the financial risk to the Crown where permit holders and other relevant persons fail to carry out decommissioning activities to an appropriate standard at their own cost; and

(d) to provide for post-decommissioning liability.

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[75] Section 89D of the Act provides that “acceptable financial security arrangement” means a financial security arrangement that the Minister is satisfied operates in an acceptable way and provides an acceptable level of security, in accordance with sections 89ZL, 89ZM, and 89ZN of the Act, the Regulations, and the relevant minerals programme, in relation to the performance of obligations imposed on persons under Subpart 2 of Part 1B of the Act (relating to decommissioning).

[76] Section 89D of the Act provides that “financial security arrangement” means 1 or more financial securities to secure the obligations imposed on persons under Subpart 2 of Part 1B of the Act (relating to decommissioning) and may—

“(a) include financial securities of the same kind or different kinds:

(b) relate to 1 permit or licence or more than 1 permit or licence or both:

(c) be held by 1 or more permit or licence holders or permit participants or other persons:

(d) include any other variations relating to each financial security, comprised in the financial security arrangement, or the operation of each of those financial securities.”

13.3 Conditions relating to decommissioning

(1) Section 89G of the Act provides that the Minister may impose or vary conditions on a permit holder relating to the decommissioning of petroleum infrastructure or a well at any of the following times:

(a) on granting a permit; or

(b) on giving consent to a transfer of all or part of a participating interest in a permit, or to a change of control; or

(c) when agreeing or determining the amount or kind of financial security required; or

(d) when specifying a timetable for decommissioning; or

(e) on receiving consent from the affected permit holder.

(2) Examples of permit conditions relating to the decommissioning of petroleum infrastructure or a well that the Minister may impose or vary include (without limitation)—

(a) conditions requiring the permit holder to plug and abandon a well[77] upon completion of exploration or mining activities:

(b) conditions requiring the permit holder to decommission items of petroleum infrastructure upon completion of exploration or mining activities:

(c) conditions about the financial security arrangement required to be put in place and maintained by or on behalf of the permit holder (see clauses 13.21 – 13.28 in relation to financial security arrangements more generally, including other decisions the Minister may make in relation to such arrangements).

13.4 Timeframes for decommissioning obligations

(1) The Chief Executive will issue to any person who is liable to—

(a) carry out decommissioning activities relating to petroleum infrastructure (or meet the cost of those activities); or

(b) plug and abandon wells (or meet the cost of doing so),

— a certificate (a "decommissioning certificate") that specifies the date on which those obligations take effect as soon as practicable after they take effect.

(2) The date recorded on a decommissioning certificate is, absent proof to the contrary, conclusive evidence of when obligations take effect to—

[77] Section 89Q of the Act provides that a well is "plugged and abandoned" when—

"(a) the well is sealed in order to make it permanently inoperable; and

(b) the sealing is conducted in accordance with any relevant enactment or standard, and the requirements of any regulatory authority; and

(c) the wellhead is removed; and

(d) any remediation of the site required by another enactment is completed; and

(e) any other prescribed action required to plug and abandon the well is completed."

(a) carry out decommissioning activities relating to petroleum infrastructure; or

(b) plug and abandon wells; or

(c) meet decommissioning costs.

(3) Subject to any exemption or deferral granted, a person who is liable to carry out decommissioning activities relating to petroleum infrastructure or to plug and abandon wells (or meet the cost of those activities) must carry out their decommissioning obligations before the earliest of the following:

(a) in a case where production permanently ceases in the area of the current permit or licence before the permit or licence expires,—

(i) by a date or dates agreed with the Minister for the completion of the decommissioning and the completion of earlier milestones in the decommissioning process; or

(ii) if there is no such agreed date or dates by a date that is two years before the expiry of the current licence or permit, by a date or dates specified by the Minister by notice in writing to the person:

(b) the expiry or surrender of the current permit:

(c) in a case where only part of the current permit area or licence area is to be relinquished or surrendered, before the Minister approves the partial relinquishment or surrender of the permit.

13.5 Matters the Minister will consider when agreeing or specifying timeframes for decommissioning obligations

(1) When considering what date or dates to agree (or, failing agreement, specify) for completion of decommissioning obligations and milestones, the Minister will consider the matters listed in section 89O (or, as appropriate, section 89W) of the Act, which are—

(a) the size of the field to be decommissioned; and

(b) the complexity of the required decommissioning; and

(c) the Subpart 2 (of Part 1B of the Act) decommissioning plan; and

(d) the decommissioning cost estimate; and

(e) the estimated date on which production in the field will cease; and

(f) the time required to comply with requirements under other enactments before decommissioning can commence or be completed.

(2) Both sections 89O and 89W of the Act include as a relevant consideration when making the decision under subclause (1) “any other matters the Minister considers relevant”. The other matters which the Minister considers relevant will vary in each case, however, they may include (without limitation)—

(a) the timeframe within which the current permit holder's cashflow from their operation of the petroleum infrastructure or wells remains positive or is able to be supported from the cashflow of other permits:

(b) any approved work programme to utilise petroleum infrastructure or wells in conjunction with any other PMP for the purpose of maximising total production:

(c) any appropriate plan[78] to utilise petroleum infrastructure or wells in conjunction with any other approved economic activity, for example the storage of greenhouse gas emissions:

(d) the availability of decommissioning services:

(e) the cost advantages of combining decommissioning activity across multiple permits:

(f) any exemptions or deferrals that have previously been granted in respect of a permit holder's decommissioning obligations (see clauses 13.9 and 13.10 below).

Decommissioning obligations for petroleum infrastructure and wells

13.6 Decommissioning obligations of current permit holders

(1) This clause applies only to current permit holders, not current licence holders. For decommissioning obligations of current licence holders see clause 13.7.

(2) Any person who holds a permit at the time a decommissioning obligation is due to be completed must (subject to any exemption or deferral that has been granted)—

(a) carry out (and meet the costs of) the decommissioning of all petroleum infrastructure put in place or used for purposes related to activities authorised by the current permit, and all "relevant older petroleum infrastructure":[79]

(b) where only part of the permit area is to be relinquished or surrendered, carry out (and meet the costs of) the decommissioning of all petroleum infrastructure located in that part of the permit area, and all "relevant older petroleum infrastructure":

(c) plug and abandon (and meet the costs of plugging and abandoning) all wells drilled or used for purposes related to activities authorised by the current permit, and all "relevant older wells":[80]

(d) where only part of the permit area is to be relinquished or surrendered, plug and abandon (and meet the costs of plugging and abandoning) all wells located in that part of the permit area, and all "relevant older wells."

(3) In addition, a permit holder acts in breach of their decommissioning obligations if, after giving notice of cessation of production under section 42C(3) of the Act, they fail to complete a

[78] The Minister will ordinarily only consider a plan to be appropriate for the purpose of clause 13.5(2)(c) if the plan is reasonably detailed and credibly supports the implementation of an appropriately consented work programme.

[79] In this context, "relevant older petroleum infrastructure" means any petroleum infrastructure described by sections 89H(1)(a)(i) – (ii) or section 89H(1)(a)(v) of the Act, and excludes any class, or item, of petroleum infrastructure declared not to be by the Regulations.

[80] In this context, "relevant older well" means any well described by sections 89I(1)(a)(i) – (ii) or sections 89I(1)(a)(v) – (vi) of the Act, and excludes any class of well declared not to be by the Regulations.

decommissioning milestone on time, or fail to obtain an extension to the completion date for that milestone once a decommissioning certificate has been issued (see clause 13.4(1)).

(4) If the current permit holder at the time a decommissioning obligation is due comprises two or more persons, each of those persons is jointly and severally liable to perform the permit holder's obligations in carrying out the decommissioning of petroleum infrastructure, plugging and abandoning wells, and meeting decommissioning costs.

(5) If the current permit holder is unable to perform their obligations in carrying out the decommissioning of petroleum infrastructure, plugging and abandoning wells, and meeting decommissioning costs, then if the Minister and the Minister of Finance have required an "outgoing guarantee" to be provided by an "outgoing person", the outgoing person may be required to meet the decommissioning costs.[81]

13.7 Decommissioning obligations of current licence holders

(1) This clause applies to current licence holders (not current permit holders). For decommissioning obligations of current permit holders see clause 13.6.

(2) Any person who holds a licence at the time a decommissioning obligation is due to be completed must (subject to any exemption or deferral that has been granted)—

(a) carry out (and meet the costs of) the decommissioning of all petroleum infrastructure put in place or used for purposes related to activities authorised by the current licence, and all "relevant older petroleum infrastructure";[82] and

(b) where only part of the licence area is to be relinquished or surrendered, carry out (and meet the costs of) the decommissioning of all petroleum infrastructure located in that part of the licence area, and all "relevant older petroleum infrastructure"; and

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[81] "outgoing guarantee" means a contract of guarantee provided to the Crown—

"(a) under which a guarantor agrees to answer to the Crown for the unmet costs of any debt, default, or liability of the current permit holder or current licence holder in the event that the current permit holder or current licence holder defaults on its obligation to carry out and meet the costs of decommissioning under any of sections 89J, 89K, 89R, and 89S; and

(b) that requires the guarantor to meet the total costs (or a lesser specified amount or proportion or an amount calculated in a specified manner) of decommissioning any petroleum infrastructure and wells, to the extent that—

(i) the petroleum infrastructure and wells were, at the time of the relevant transaction, in place or used for the purposes of carrying out, or otherwise related to, activities authorised by the permit or licence (whenever granted), and all relevant older petroleum infrastructure and relevant older wells; and

(ii) acceptable financial security arrangements (as defined in section 89D(1)) in place are insufficient to meet the costs of that decommissioning."

"outgoing person" means any of the following:

"(a) a person who ceases to have a controlling interest in a body corporate that is undergoing a change of control:

(b) a person who ceases to have all or part of an interest in a body corporate that is undergoing a change of control that results in another person acquiring a controlling interest in that body corporate:

(c) a person who transfers all or part of their participating interest in a permit or licence for petroleum, or transfers their licence for petroleum, to another person".

[82] In this context, "relevant older petroleum infrastructure" means any petroleum infrastructure described by sections 89H(1)(a)(iii) – (v) of the Act, and excludes any class, or item, of petroleum infrastructure declared not to be by the Regulations.

(c) plug and abandon (and meet the costs of plugging and abandoning) all wells drilled or used for purposes related to activities authorised by the current licence, and all "relevant older wells";[83] and

(d) where only part of the licence area is to be relinquished or surrendered, plug and abandon (and meet the costs of plugging and abandoning) all wells located in that part of the licence area, and all "relevant older wells."

(3) In addition, a licence holder acts in breach of their decommissioning obligations if, after giving notice of cessation of production under section 42C(3) of the Act, they fail to complete a decommissioning milestone relating to petroleum infrastructure they are responsible for on time, or fail to obtain an extension to the completion date for that milestone once a decommissioning certificate has been issued (see clause 13.4(1)).

(4) If the current licence holder at the time a decommissioning obligation is due comprises two or more persons, each of those persons is jointly and severally liable to perform the licence holder's obligations in carrying out the decommissioning of petroleum infrastructure, plugging and abandoning wells, and meeting decommissioning costs.

(5) If the current licence holder is unable to perform their obligations in carrying out the decommissioning of petroleum infrastructure, plugging and abandoning wells, and meeting decommissioning costs, then if the Minister and the Minister of Finance have required an "outgoing guarantee" to be provided by an "outgoing person", the outgoing person may be required to meet the decommissioning costs.

13.8 Transfer of permit or licence or participating interest in permit or licence

(1) When considering whether to consent to the transfer of a permit or licence, or a participating interest in a permit or licence (in whole or in part) and before consenting to the transfer, the Minister must be satisfied that an acceptable financial security arrangement (whether existing, altered, or new) is or will be in place within the time specified by the Minister and will be maintained for a time specified by the Minister.[84]

(2) As a condition of consent to a transfer of interest, the Minister may require provision of an appropriate outgoing guarantee (see section 41I of the Act).

Exemptions to and deferrals of decommissioning obligations

13.9 Exemptions

(1) Section 89Y of the Act provides that if they consider it appropriate, the Minister may exempt a permit holder from the requirements under the Act to decommission a particular item of petroleum infrastructure (in whole or in part) or to plug and abandon a particular well or to defer the time for complying with a requirement to decommission a particular item of petroleum infrastructure (in whole or in part) or to plug and abandon a particular well. An

[83] In this context, "relevant older well" means any well described by sections 89I(1)(a)(iii) – (vi) of the Act, and excludes any class of well declared not to be by the Regulations.

[84] For the avoidance of doubt, where—

(a) there is a single participating interest in a permit and it is transferred in its entirety; or

(b) there are multiple participating interests in a permit and these are all transferred together,

the effect will be the same whereby the permit itself will be transferred (as opposed to the transfer only being of the participating interest in the permit).

exemption has the effect that the permit holder does not need to meet the requirements of subpart 2 of Part 1B of the Act in relation to the exempt petroleum infrastructure or well and that the exempt petroleum infrastructure or well does not need to be included in a decommissioning plan (see clause 13.12), the decommissioning cost estimate (see clause 13.13) or the asset register (see clause 13.14).

(2) If the Minister grants an exemption, they must provide the permit holder with a notice of exemption that states the reasons for their decision. If the Minister declines to grant an exemption, they will inform the permit holder of the reasons for their decision.

(3) The Minister may grant an exemption either on their own initiative or on application by a permit holder.[85] However, before doing so, the Minister must be satisfied either that—

(a) the requirements from which an exemption is sought are unreasonable or inappropriate in the particular case; or

(b) events have occurred that make the requirements from which an exemption is sought unnecessary or inappropriate in the particular case; or

(c) the items of petroleum infrastructure or wells which are covered by the proposed exemption will be used by the person receiving the exemption for a purpose other than exploration for, or mining of, petroleum.

(4) For the purposes of subclause (3)(a), when the Minister is assessing whether the requirements from which an exemption is sought are unreasonable or inappropriate in the particular case, they may consider (without limitation)—

(a) the practicality, cost and risk associated with the removal activity:

(b) relevant international best practice (as determined by the Minister) including, for example, in relation to the removal of jacket piles and footings in the case of offshore petroleum infrastructure as well as onshore and offshore pipelines:

(c) a comparison between the total cost of removal if the exemption is not granted and the total cost of removal if the exemption is granted.

(5) For the purposes of subclause (3)(c), the Minister may consider the matters listed in section 89Z(2) of the Act.

(6) The Minister may grant an exemption on appropriate terms and conditions, amend an exemption, or revoke an exemption.

(7) The Minister may grant an exemption for an indefinite or limited period. In the case of an exemption for a limited period, the Minister may replace the exemption on or before its expiry.

(8) An exemption from decommissioning requirements under the Act does not exempt a person from complying with any obligations under another enactment.

13.10 Deferrals

(1) Section 89Y of the Act provides that the Minister may defer the time for a permit holder to comply with an obligation to decommission a particular item of petroleum infrastructure (in

[85] An application for an exemption must be made in any such manner, and accompanied with any such fee, as may be prescribed from time to time. Any applicable fees and/or forms will be published on the NZP&M website.

whole or in part) or to plug and abandon a particular well. However, the other requirements of subpart 2 of Part 1B of the Act will continue to apply to the relevant petroleum infrastructure/well throughout the deferral period.

(2) If the Minister grants a deferral, they must provide the permit holder with a notice of deferral that states the reasons for their decision. If the Minister declines to grant a deferral, they will inform the permit holder of the reasons for their decision.

(3) The Minister may grant a deferral either on their own initiative or on application by a permit holder.[86] However, before doing so, the Minister must be satisfied that deferral of the obligations in question to a later date is appropriate in the circumstances.

(4) The Minister may consider the matters listed in section 89ZA(2) of the Act when assessing the appropriateness of a deferral. These matters include "any other matter the Minister considers relevant".

(5) The other matters which the Minister considers relevant will vary in each case, however, they may include (without limitation)—

(a) evidence of an approved arrangement to decommission infrastructure that is common to more than one permit:

(b) the matters listed in clause 13.5(2).

(6) The Minister may grant a deferral on appropriate terms and conditions, amend a deferral, or revoke a deferral.

(7) The Minister may only grant a deferral for a specific time period. The Minister may replace a deferral on or before its expiry.

(8) A deferral of decommissioning obligations to the extent permitted under the Act does not have any effect on the timing for a person to comply with any obligations under another enactment.

Reporting obligations

13.11 Summary of reporting obligations

(1) Any person who is liable to carry out and meet the cost of decommissioning activities under the Act must submit to the Chief Executive decommissioning plans, decommissioning cost estimates, and decommissioning completion reports at the following times:

(a) any times prescribed by the Regulations; and

(b) within any specified times of the occurrence of any events prescribed for this purpose by the Regulations; and

(c) on request from the Minister, within any reasonable time specified in their request.

(2) A permit holder who is liable to carry out and meet the cost of decommissioning activities under the Act must submit to the Chief Executive an asset register at the following times:

[86] An application for a deferral must be made in any such manner, and accompanied with any such fee, as may be prescribed from time to time. Any applicable fees and/or forms will be published on the NZP&M website.

(a) any times prescribed by the Regulations; and

(b) within any specified times of the occurrence of any events prescribed for this purpose by the Regulations; and

(c) on request from the Minister, within any reasonable time specified in their request.

(3) A permit holder who is liable to carry out and meet the cost of decommissioning activities under the Act must—

(a) keep a record of any information prescribed by the Regulations as relevant and reasonably necessary to enable the Minister to monitor their financial position; and

(b) submit a copy of that information to the Minister at any times prescribed by the Regulations and on request from the Minister, within any reasonable time specified in their request.

(4) The Minister may, by written notice, require a permit holder who is liable to carry out and meet the cost of decommissioning activities under the Act to provide any further information that the Minister considers relevant and reasonably necessary for the monitoring and assessment of that person's financial position.

(5) A permit holder whom the Minister requires to provide further information must provide that information in the form and manner set out in the Minister's written notice, and within any reasonable time specified by the Minister's written notice.

(6) No obligation to supply information described in this clause of this Programme replaces or limits any other requirement for that person to supply information under the Act or another enactment.

13.12 Content of decommissioning plan

(1) A decommissioning plan must—

(a) describe the planned decommissioning activities[87] and the processes to be used to carry out those activities, and set out a proposed schedule for those activities; and

(b) be accurate as at the date of submission to the Chief Executive; and

(c) contain any information prescribed by the Regulations and meet any requirements prescribed by the Regulations.

(2) Specific requirements for information to be included in a decommissioning plan may be specified in the Regulations and/or may be explained in guidance published on the NZP&M website.

[87] "Planned decommissioned activities" are activities planned to carry out "decommissioning" work (as that term is defined in section 89E of the Act).

13.13 Content of decommissioning cost estimate

(1) A decommissioning cost estimate[88] must comply with any standards prescribed by the Regulations and meet any other requirements prescribed by the Regulations.

(2) The Minister may require the relevant permit holder to provide further information relating to a cost estimate.

(3) Specific requirements for information to be included in a decommissioning cost estimate may be specified in the Regulations and/or may be explained in guidance published on the NZP&M website.

13.14 Content of asset register

(1) An asset register must—

(a) be a complete and accurate list of all petroleum infrastructure and wells that the relevant permit holder is required to decommission (see clauses 13.6(2) and 13.7(2) for a description of the decommissioning obligations of a permit and licence holder respectively); and

(b) contain any information prescribed by the Regulations and meet any requirements prescribed by the Regulations.

(2) Specific requirements for information to be included in an asset register may be specified in the Regulations and/or may be explained in guidance published on the NZP&M website.

(3) A permit condition may require the permit holder to include on the asset register assets which are exempt from the decommissioning obligations.

13.15 Content of decommissioning completion report

(1) A decommissioning completion report must contain any information prescribed by the Regulations and meet any requirements prescribed by the Regulations.

(2) Specific requirements for information to be included in a decommissioning completion report may be specified in the Regulations and/or may be explained in guidance published on the NZP&M website.

Financial capability assessments

13.16 When the Minister may carry out a financial capability assessment

(1) At any time while the permit of a permit holder who is liable to carry out and meet the cost of decommissioning activities under the Act remains in force, the Minister may assess whether that permit holder is “highly likely” to have the financial capability to carry out and meet the costs of decommissioning (a “financial capability assessment”).

[88] A “decommissioning cost estimate” is an estimate of the costs to carry out anticipated “decommissioning” work (as that term is defined in section 89E of the Act).

13.17 Whether the Minister will exercise their discretion to carry out a financial capability assessment

(1) When deciding whether to carry out a financial capability assessment, the Minister may take into account—

(a) information received under a field development plan, decommissioning plan, decommissioning cost estimate, asset register, or other information obtained for monitoring of financial position (see clauses 8.9, and 13.11 –13.14 and 13.20):

(b) the circumstances of the particular permit holder:

(c) any information relating to current or emerging risks to the permit holder's ability to comply with their obligations under Subpart 2 of Part 1B of the Act:

(d) any other matters the Minister considers relevant.

(2) The Minister may request further information from the permit holder when deciding whether to carry out a financial capability assessment (see clause 13.11(4)).

(3) Circumstances of the particular permit holder that the Minister might take into account under subclause (1)(b) above when deciding whether to carry out a financial capability assessment include (without limitation) the kind and amount of any existing financial security arrangements in place to meet decommissioning obligations.

(4) Other matters that the Minister might consider relevant under subclause (1)(d) above when deciding whether to carry out a financial capability assessment include (without limitation)—

(a) whether a financial capability assessment has already been carried out to either establish or re-establish a baseline position (which the Minister might do or have done in response to activity changes, cost changes, or the lapse of a reasonable period of time):

(b) the extent of potential field development activities and their implications for future decommissioning obligations:

(c) whether plans relating to undeveloped reserves (if any) have been incorporated into future cashflows:

(d) the implications of the decommissioning cost estimate for the permit holder's point-in-time financial metrics and cashflow generation:[89]

(e) the completeness of the asset register, and the extent of its incorporation into the decommissioning plan:

(f) the results of the most recent financial capability assessment (if any):

(g) whether the permit holder has been granted an exemption under the Act (see clause 13.9).

(5) Where the Minister is considering the results of the most recent financial capability assessment under subclause (4)(f) above—

[89] The meanings of "point-in-time financial metrics" and "cashflow generation" in this context are elaborated in clause 13.18(4).

(a) financial capability assessments for a permit holder previously assessed as "highly likely" can ordinarily be expected to be undertaken every three to five years to re-establish a baseline (subject to there being no marked deterioration in financial position during that period); and

(b) financial capability assessments for a permit holder previously assessed as not "highly likely" can ordinarily be expected to be undertaken annually with consideration of the normal criteria, which include: financial securities held, a marked improvement (or deterioration) in the point-in-time and other financial metrics and the impact of each permit participant on the permit holder as a whole.

13.18 Process for how the Minister will carry out a financial capability assessment

(1) The Minister must apply a "highly likely"[90] threshold to assessing whether a permit holder has the financial capability to carry out and meet the costs of decommissioning under the Act (a financial capability assessment).

(2) When carrying out a financial capability assessment, the Minister may take into account—

(a) information received under a field development plan (see clause 8.9):

(b) any decommissioning plan, decommissioning cost estimate, asset register, or other information obtained for monitoring of financial position (see clauses 13.11 –13.14 and 13.20):

(c) any other information the Minister considers relevant.

(3) The Minister will ordinarily undertake a financial capability assessment by scoring a quantitative analysis of financial metrics supplemented by a qualitative assessment of related factors.

(4) Under the quantitative scoring method, the Minister will ordinarily consider, in the first instance—

(a) point-in-time metrics relating to the permit holder's solvency, liquidity, profitability and balance sheet capability (including, without limitation, the ratio of current assets to current liabilities, the operating margin, gearing measures and the ratio of net worth to the decommissioning cost estimate); and

(b) cashflow generation over the remaining life of the permit, including the ratio of free cash to the decommissioning cost estimate and the percentage change to the revenue assumptions which would result in the cashflow breaking-even with the decommissioning cost estimate.

[90] In order to provide further guidance and ensure a level of consistency between those being assessed under the financial capability provisions in the Act as to what the "highly likely" standard means in this specific context, the Minister may consider assessments of likelihood against the Professional Head of Intelligence Assessment (PHIA) "probability yardstick", of at least an 80% likelihood that the permit holder will have the financial capability to carry out and meet the costs of decommissioning. The PHIA "probability yardstick" has been adapted for use in this context with the objective of ensuring language such as "likely" and "highly likely" is converted into consistent probability-ranges. The Minister considers that this information is likely to be of assistance to any person wishing to use or understand the Act or the Regulations, consistent with section 14(2)(b) of the Act. The Minister will not ordinarily use the PHIA "probability yardstick" when assessing whether anything is "likely", "highly likely", or otherwise in any other context described in this Programme.

(5) Under the quantitative scoring method, the Minister will ordinarily place a 35% weighting on the point-in-time metrics described in subclause (4)(a), and a 65% weighting on cashflow generation as described in subclause (4)(b).

(6) The quantitative score assessed under subclauses (4) and (5) above may be adjusted, up or down, based on the Minister's qualitative assessment of other factors contained within the information available to the Minister under subclause (2).

(7) A score of no less than 80% of the maximum possible quantitative score will ordinarily mean the permit holder is considered "highly likely" to have the financial capability to carry out and meet the costs of decommissioning.

(8) Where a permit holder comprises more than one permit participant, the Minister will ordinarily assess the permit holder's overall financial capability based on an aggregated assessment of whether each participant is highly likely to meet its weighted share of the decommissioning costs (with the weighting based on the size of its participating interest at the time of calculation). The financial capability assessment will be carried out in accordance with subclauses (1) – (7).

(9) Despite anything to the contrary in subclause (8), where some permit participants (or proposed participants) do not meet the "highly likely" threshold, the Minister will assess whether the permit holder would remain "highly likely" to be financially capable if the other permit participants were to assume a larger proportionate share of the decommissioning obligations (without affecting the joint and several liability of the permit participants).

(10) After the Minister has completed a financial capability assessment, they must notify the permit holder who is the subject of that assessment of—

(a) the Minister's conclusion about whether the permit holder is highly likely to have the financial capability to carry out and meet the costs of decommissioning; and

(b) the reasons for that conclusion (for example, by providing the permit holder with information regarding the assessment of whether the permit participants are "highly likely" to have the financial capability to carry out and meet the costs of decommissioning).

13.19 Obligations to provide supporting information for financial capability assessments

(1) Section 89ZK of the Act requires that any person who may be subject to a financial capability assessment or any other person whom the Minister considers likely to hold information that is relevant and reasonably necessary[91] to carry out the financial capability assessment must—

(a) keep a record of any information prescribed by the Regulations as relevant and reasonably necessary to enable the Minister to carry out a financial capability assessment; and

(b) provide a copy of that information to the Minister at any times prescribed by the Regulations and on request from the Minister, within any reasonable time specified in their request.

[91] Examples of people whom the Minister might consider likely to hold such information include (without limitation) parent companies, banks, and auditors.

(2) The Minister may, by written notice, require a person described in subclause (1) to provide any further information that the Minister considers relevant and reasonably necessary to carry out the financial capability assessment.

(3) Specific requirements for information to be included in a request made under section 89ZK of the Act may be specified in the Regulations and/or may be explained in guidance published on the NZP&M website.

(4) A person whom the Minister requires to provide further information must provide that information in the form and manner set out in the Minister's written notice, and within any reasonable time specified by the Minister's written notice.

(5) No obligation to supply information described in this clause of this Programme replaces or limits any other requirement for that person to supply information under the Act or another enactment.

(6) Supporting information gathered by the Minister for the purpose of carrying out a financial capability assessment is subject to the information disclosure rules set out in section 90A of the Act.

13.20 Monitoring financial capability

(1) Section 89ZF of the Act provides that a permit holder who is or will be obliged to carry out and meet the costs of decommissioning must keep a record of any information required by the Regulations as relevant and reasonably necessary to enable the Minister to monitor the permit holder's financial position. The Minister may, by written notice, require the permit holder to provide any further information that the Minister considers relevant and reasonably necessary to monitor the permit holder's financial position.

(2) For the purpose of carrying out ongoing financial monitoring of permit holders, the Minister may review (without limitation)—

(a) field development plans, asset registers, decommissioning plans, cost estimates, and any other information provided by the permit holder as described in this chapter of this Programme:

(b) any other publicly available information:

(c) information relating to the administration of the permit including, for example, Annual Summary Reports, Annual Review meeting minutes and information provided at an Annual Review meeting.

Financial securities

13.21 Obligation to put in place and maintain an acceptable financial security arrangement

(1) Permit holders and licence holders must ensure there is in place and maintained an acceptable financial security arrangement on behalf of the Crown, of a kind and in an amount determined by the Minister. The requirements for permits and licences differ to the extent reflected in this clause and/or under the Act.

(2) If the financial security arrangement required includes a bond or monetary deposit paid to the Chief Executive, then—

(a) in the case that the financial security arrangement relates to a participating interest in a permit, section 97 of the Act (which sets out rights and processes for payment of interest and refunds on monetary deposits paid to the Chief Executive) applies (except section 97(4)); and

(b) in the case that the financial security arrangement relates to a licence or a participating interest in a licence, section 47H of the Petroleum Act 1937 applies.

(3) Where a permit does not have any petroleum infrastructure or wells that require decommissioning (for example, a PEP), the Minister will ordinarily accept a nominal security.

13.22 Information requests and proposals

(1) As part of the decommissioning requirements under the Act, the Minister will give each permit holder a notice requiring them to—

(a) advise the Chief Executive of the financial security arrangement that they consider appropriate (in any prescribed manner, and by any reasonable date that the Minister's notice specifies); and

(b) provide any information specified by the Minister to enable the Minister to determine an acceptable financial security arrangement.

(2) The Minister may give a permit holder further notice, requiring further information, while determining an acceptable financial security arrangement.

(3) If a permit holder already has in place a financial security arrangement that they consider appropriate, they may (in any prescribed manner, and by any reasonable date that the Minister's notice specifies) submit a proposal that the Minister approve the continuation of that security arrangement, either as is or with some modifications. When deciding whether to approve any such proposal, the Minister will undertake the same process (and consider the same matters) described in clause 13.23.

(4) A permit holder may propose a financial security arrangement that—

(a) relates to one or more permit(s):

(b) comprises more than one kind of financial security as part of the financial security arrangement:

(c) provides that the different financial securities that comprise the financial security arrangement will be held by different permit participants or related parties:

(d) includes any other terms and conditions relating to the financial securities that comprise the financial security arrangement and how they will be held.

(5) When deciding whether to approve a proposed financial security arrangement under subclause (4), the Minister will have regard to its complexity. In the case of a proposal submitted by multiple holders of participating interests in the same permit, the Minister will have particular regard to the following considerations when deciding whether to approve it:

(a) where there is a mixture of securities, and some securities are held jointly and others separately, whether there are valid reasons put forward by the permit participants to propose different kinds of security, and whether those reasons outweigh the added complexity of the arrangement; and

(b) the sum of the amount of the individual securities.

(6) The kinds of advice and information that the Minister might request from a permit holder to enable them to determine an acceptable financial security arrangement include (without limitation)—

(a) commentary on the matters which the Minister must have regard to under section 89ZM(1) of the Act:[92]

(b) the amount of the financial security the permit holder proposes holding, how that amount was calculated and the assumptions applied in the calculation of that amount (including assumptions about the amount of any tax or royalty refunds the permit holder may receive):

(c) any documents necessary or relevant to substantiate the permit holder's commentary or response under subclauses (6)(a) and (b) above:

(d) information on the amount of time which is reasonably necessary to put the securities in place.

(7) No obligation to supply information under the Act or the Regulations (described in this clause) replaces or limits any other requirement for that person to supply information under other provisions in the Act or another enactment.

(8) Supporting information gathered by the Minister for the purpose of determining an acceptable financial security arrangement is subject to the information disclosure rules set out in section 90A of the Act.

13.23 Minister's power to determine the acceptable financial security arrangement

(1) The Minister will determine the acceptable financial security arrangement to be put in place and maintained by or on behalf of a permit holder, and in doing so may impose any conditions the Minister considers appropriate. In determining the acceptable financial security arrangement required, the Minister may determine (without limitation)—

(a) the amount or the mechanism for determining the amount to be secured by each individual security:

(b) the time by which the financial security arrangement must be in place, and (where there are multiple securities forming part of the arrangement) the times by which each individual security must be in place:

(c) how the financial security arrangement is to be held, or (where there are multiple securities comprised in the arrangement) how each individual security is to be held, and who is to hold them:

(d) the circumstances in which one or more parties to each individual security will be released from their obligations to maintain that security:

(e) any other matters the Minister considers appropriate.

[92] These matters are described in greater detail in clause 13.23.

(2) When determining the acceptable financial security arrangement required, the Minister must take into account the following factors that are listed in section 89ZM(1) of the Act:

(a) the information (if any) provided by the permit holder under section 89ZL(2)(b) of the Act and any proposal under section 89ZL(3); and

(b) the prescribed criteria (if any) relating to acceptable financial security arrangements including, without limitation—

(i) the particular kinds and amounts of financial security; and

(ii) any prescribed or preferred hierarchy of financial securities; and

(iii) whether there is a preferred kind of financial security in the particular situation; and

(iv) the permit holder or other persons or classes of persons who may provide financial securities; and

(c) the following:

(i) the estimated cost of decommissioning;[93] and

(ii) the extent to which the amount to be secured will cover the estimated cost of decommissioning; and

(iii) the extent to which the financial security arrangement to be put in place will ensure that the Crown will obtain payment of the amount in the event the permit holder fails to carry out the decommissioning or separately meet those costs; and

(d) the circumstances of the particular permit holder; and

(e) the time needed for the particular permit holder to comply with their obligations under this subpart, and the time when work will need to start in order to achieve this; and

(f) the estimated administration costs to the particular permit holder of putting in place and maintaining the financial security arrangement for the required period; and

(g) any information relating to current or emerging risks to the permit holder's ability to comply with their obligations under this subpart; and

(h) the conclusions of the most recent financial capability assessment (if any); and

(i) any other matters the Minister considers relevant.

(3) When determining how the financial security arrangement (and/or each individual security forming part of it) is to be held, the Minister will consider all relevant factors listed in section 89ZM(1) of the Act, with particular regard to—

(a) any information they have obtained from the permit holder in response to the Minister's original notice requesting advice and information, whether as part of that response or as part of a proposal; and

[93] When considering the estimated cost of decommissioning, the Minister will have regard to the extent of the decommissioning work required (as set out in clauses 13.6 and 13.7) and any decommissioning cost estimates the Minister has received from the permit holder (as set out in clauses 13.11 and 13.13).

(b) any criteria prescribed by the Regulations relating to particular kinds and amounts of financial security (including any prescribed hierarchy of securities, and whether there is a preferred kind of security in the particular situation); and

(c) the extent to which different kinds of security will ensure the Crown's ability to obtain payment in the event that the permit holder fails to meet their decommissioning obligations (for example, as a consequence of insolvency).

(4) The following considerations are relevant to the Minister's assessment of the extent to which different kinds of security will ensure the Crown's ability to obtain payment:

(a) liquidity (or the ability to convert the security into cash in 30 days):[94]

(b) the credibility of the relevant security provider:[95]

(c) enforceability by the Crown.[96]

(5) When determining the amount, or the mechanism for determining the amount, to be secured by each individual security, the Minister will take into account all of the factors listed in section 89ZM of the Act. The Minister will ordinarily take into account those matters in the following way—

(a) the starting point will be that the total amount to be secured should match the estimated cost of decommissioning (referred to in this subclause as the "Starting Point"); and

(b) where the result of the permit holder's most recent financial capability assessment was "highly likely", the Minister will ordinarily reduce the Starting Point amount by 20% of its value. The resulting estimated amount to be secured is referred to in this subclause as "Outcome A"; and

(c) the Minister will then increase or decrease Outcome A by up to 20% of the value of the Starting Point to account for the other matters listed in section 89ZM(1) of the Act, having particular regard to—

(i) any emerging risk to the permit holder's ability to meet their decommissioning obligations (such as business costs and inflation, strained access to credit, or decarbonisation challenges); and

(ii) the permit holder's history of compliance with the Act and the Regulations (which is an "other matter that the Minister considers relevant")—

the resulting estimated amount to be secured is referred to in this subclause as "Outcome B"; and

(d) where a permit holder has obtained a parent company guarantee from an entity whose credit rating the Minister considers appropriately strong (which is an "other matter that the Minister considers relevant"), the Minister will reduce the amount of Outcome B, by

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[94] By way of example, an open-ended or multi-asset managed investment fund will ordinarily be more liquid than a close-ended or single-asset managed fund.

[95] By way of example, a security provider with a strong credit rating that is not a related party will ordinarily be more credible than a security provider with a weak credit rating that is a related party.

[96] By way of example, securities that are on demand, irrevocable, provided under New Zealand law, and free of any competing claims or securities are more enforceable than other bank securities. Similarly, securities held in foreign currencies or jurisdictions will be less enforceable if there are barriers to their enforcement in the relevant jurisdiction or foreign exchange restrictions apply across jurisdictions.

applying a discount of between 10-20% of the value of the Starting Point amount. The resulting estimated amount to be secured is referred to in this subclause "Outcome C"; and

(e) where a permit holder is eligible for any income tax, royalty, or other similar "refunds", (which is an "other matter the Minister considers relevant"), the Minister will reduce Outcome C by applying a reduction equal to the sum of those refunds, estimated based on the refunds which would be due at the time the estimated cost of decommissioning is prepared.

(6) Before determining the acceptable financial security arrangement to be required for a permit, the Minister may impose any terms and conditions they consider appropriate, having regard to the factors listed in section 89ZM(1) of the Act. Examples of terms and conditions that the Minister might impose include (without limitation)—

(a) designating the Crown as sole beneficiary:

(b) where a security has an expiry date, a predetermined renewal (or replacement) process:

(c) demand for payment of a bank security based solely on an assessment by the Crown that the permit holder failed to meet its financial security and/or decommissioning obligations (with no requirement for the Crown to provide evidence of the failure by the permit holder to meet those obligations)[97]:

(d) requiring who is to meet the cost of establishing and maintaining the security.

(7) Before determining the acceptable financial security arrangement to be required for a permit, the Minister may also direct how the financial security arrangement must operate, in accordance with any requirements prescribed by the Regulations.

13.24 Minister's power to alter one or more elements of a financial security arrangement

(1) The Minister may at any time require or allow the permit holder to—

(a) alter the amount, or mechanism for determining the amount, secured by one or more of the financial securities comprised in the financial security arrangement:

(b) alter any other requirements of the financial security arrangement or any financial security comprised in that arrangement (for example, by changing the person who must hold 1 or more financial securities, or the time by which 1 or more financial securities must be in place).

(2) When altering one or more elements of the financial security arrangement in accordance with subclause (1), the Minister will take into account the same considerations as when they initially determine the amount and kind of security (as set out in clauses 13.23(2)(b) – (i)).

(3) Other matters that the Minister may consider relevant for the purpose of assessing whether to alter one or more elements of the financial security arrangement (and the nature and extent of the alteration which they wish to require or allow) include (without limitation)—

[97] Ordinarily such a demand for payment would be discussed with the permit holder in advance.

(a) production shortfalls in the area of the relevant permit:

(b) changes in the credit rating of the relevant security provider:

(c) changes to the permit holder's financial capability assessment:

(d) changes to the permit holder's eligibility for a tax or royalty refund (for example, where tax losses negate any tax refund):

(e) changes in permit participants:

(f) a bank security not being renewed:

(g) changing risk factors associated with the permit holder.

Allowing a permit holder to reduce the total amount to be secured during decommissioning

(4) An example of a situation where the Minister may allow a permit holder to reduce the amount secured by the financial security arrangement is where the cost of decommissioning activities required to be carried out under a decommissioning plan have reduced (for example, because the decommissioning plan has been carried out for a period of time and petroleum infrastructure and/or wells have been decommissioned or because the cost of decommissioning petroleum infrastructure and/or wells has decreased). Alterations that the Minister may make to a financial security arrangement to reduce the amount secured in this situation include (without limitation)—

(a) reduction in the amount payable under any escrow account (for example, a nominal sum for an agreed period), after which time there may be a lower quarterly escrow account payment reflecting a lower decommissioning cost estimate:

(b) release of all or part of any bank securities comprised in the financial security arrangement:

(c) refunds of any cash-based securities comprised in the financial security arrangement.

(5) In considering whether to reduce the total amount to be secured in this situation, the Minister will also ordinarily consider (as "other relevant matters") the future cash generation of the permit holder including the net effect of the reduction on the level of royalties and income tax payable by and/or refundable to the permit holder.

13.25 Notification of decisions

(1) In any case where the Minister has determined the acceptable financial security arrangement required under section 89ZN of the Act, the Minister will give the affected permit holder a written notice that specifies—

(a) the amount or the mechanism for determining the amount to be secured by each individual security; and

(b) the time by which the financial security arrangement must be in place, and (where there are multiple securities forming part of the arrangement) the times by which each individual security must be in place; and

(c) how the financial security arrangement is to be held, or (where there are multiple securities comprised in the arrangement) how each individual security is to be held, and who is to hold them; and

(d) the circumstances in which one or more parties to each individual security will be released from their obligations to maintain that security; and

(e) any other matters the Minister considers appropriate; and

(f) a summary of the Minister's reasons for their decision; and

(g) if the Minister has imposed conditions on the financial security arrangement under section 89ZN(1)(b) of the Act, a summary of those conditions.

(2) In any case where the Minister has adjusted one or more elements of the financial security arrangement under section 89ZO of the Act, the Minister will give the affected permit holder a written notice that specifies—

(a) the required and permitted changes and, if applicable, the time by which the required changes must be made; and

(b) the Minister's reasons for the required changes.

(3) When deciding the time by which the affected permit holder must comply with a written notice, the Minister will consider (without limitation) any feedback received from the permit holder.

13.26 Objections to decisions

(1) A permit holder may object to a decision by the Minister to set, or adjust one or more elements of, the acceptable financial security arrangement required within 30 working days of receiving the Minister's notice as reflected in clause 13.25 above.

(2) An objection must be made by written notice to the Minister and include—

(a) reasons for the objection; and

(b) supporting evidence or other information; and

(c) commentary on the factors listed in section 89ZM(1) of the Act (also described in clause 13.23) that the objector considers relevant.

(3) The Minister must dismiss, or uphold in whole or in part, the objection within a reasonable time, after first giving the objector an opportunity to be heard.

(4) The Minister must send the following to the objector within 30 working days of making their decision on the objection:

(a) a copy of their decision and reasons; and

(b) written notice of any changes to be made to the financial security arrangement or amount of security required or permitted to be obtained, and of the times by which the permit holder must comply with such changes.

13.27 When the Minister will consider consenting to a permit holder using all or part of their security to carry out decommissioning

(1) If the acceptable financial security arrangement required includes a bond or a monetary deposit held either by the Chief Executive (under section 97 of the Act) or by a third party (for example, in an escrow account), then the permit holder may request the consent of the Minister to use all or part of the amounts held in the financial security arrangement to carry out decommissioning to which those security amounts relate.

(2) Ordinarily, the Minister will only consider a request under subclause (1) if it is made more than 45 working days before the permit holder requires the proceeds of the relevant security or securities for the decommissioning.

(3) When considering a request under subclause (1), the Minister will ordinarily consider (without limitation)—

(a) whether there is an agreed programme of work for a specified amount of early decommissioning work to take place over the course of a year; and

(b) whether the permit holder has met the costs of decommissioning not covered by cash-based securities (including an amount equal to the expected tax and royalty refunds); and

(c) the permit holder's proposed phasing for the use of the security; and

(d) how the completed decommissioning work will be verified; and

(e) the terms of any relevant financial security arrangement; and

(f) the proportion of the amount of the security the permit holder requests to use to carry out decommissioning relative to the estimated decommissioning costs; and

(g) any other matter the Minister considers relevant.

13.28 When the Minister does not need to call on a security

(1) Where a permit holder has met their decommissioning obligations, they will ordinarily be entitled to a refund of any cash-based security and/or return of any documentary security (for example, bank security), unless there is any further need for the security.

(2) The further need for the security under subclause (1) may arise, for example, when the security is relevant to meeting obligations under other permits.

Post-decommissioning

13.29 Post-decommissioning obligations

(1) Any person who is obliged to carry out and meet the costs of decommissioning, must also carry out, and meet the costs of, all post-decommissioning work required in relation to the relevant petroleum infrastructure or relevant wells.[98]

(2) Any person who is obliged to carry out post-decommissioning work under subclause (1) must—

(a) if the person is a body corporate, notify the Chief Executive as soon as practicable after—

(i) any change of control of the body corporate:

(ii) any change in the place where the body corporate is registered or has its head office:

(b) after receiving any monitoring report or documents relating to post-decommissioning remediation work, promptly send the report or documents to the Minister.

(3) The liability to carry out and meet the costs of all post-decommissioning work under subclause (1) continues indefinitely.

[98] "Post-decommissioning work" means—

"(a) monitoring decommissioned petroleum infrastructure and wells in order to determine if activities need to be undertaken under paragraph (b):

(b) activities carried out in relation to the remediation of—

(i) petroleum infrastructure that has been decommissioned but not removed:

(ii) a well that has been plugged and abandoned:

(iii) environmental damage or health and safety risks caused by a failure of the decommissioning of petroleum infrastructure or a well referred to in subparagraph (i) or (ii)."

Schedule 1: Definitions

In this Programme, unless the context requires otherwise:[99]

Act means the Crown Minerals Act 1991.

acceptable financial security arrangement means a financial security arrangement that the Minister is satisfied operates in an acceptable way and provides an acceptable level of security, in accordance with sections 89ZL, 89ZM, and 89ZN of the Act, the Regulations, and the relevant minerals programme, in relation to the performance of obligations imposed on persons under Subpart 2 of Part 1B of the Act (relating to decommissioning).

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.

applicant includes a bidder in a public tender process (except where the context requires otherwise).

application includes a bid in a public tender process (except where the context requires otherwise).

change of control, in relation to a body corporate, means either of the following:

(a) that a person obtains a controlling interest in the body corporate; or

(b) in the case of an exploration or mining permit for petroleum, that a person ceases to have 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 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:

[99] Some definitions in this Programme differ from the definition of the same term in the Minerals Programme 2025.

(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."

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.

decommissioning cost estimate is an estimate of the costs to carry out anticipated "decommissioning" work (as that term is defined in section 89E).

deposit means, for the purposes of section 32 of the Act, a concentration or accumulation that is capable of being mined effectively and economically.

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 refers to any prospecting licence or mining licence granted under Part 1 of the Petroleum Act 1937 or authorisation granted under Part 2 of that Act, and has the

meaning set out in paragraph (d) of the definition of “existing privilege” set out in section 2(1) of the Act.

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.”

financial security arrangement means 1 or more financial securities to secure the obligations important on persons under Subpart 2 of Part 1B of the Act (relating to decommissioning) and may—

“(a) include financial securities of the same kind or different kinds:

(b) relate to 1 permit or 1 licence or 1 or more than 1 permits or licences or both:

(c) be held by 1 or more permit or licence holders or permit participants or other persons:

(d) include any other variations relating to each financial security, comprised in the financial security arrangement, or the operation of each of those financial securities.”

flaring means the burning off of natural gas as a waste product when it is uneconomic to sell or conserve it, or in emergencies when accumulations of gas become a safety concern; flaring can be associated with both exploration and mining activities.

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.

incinerating means the burning off of waste gas in an incineration unit.

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).

land includes land covered by water and also includes the foreshore and seabed to the outer limits of the territorial sea.

MBIE means the Ministry of Business, Innovation and Employment.

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 administration of the Act.”

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.

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; and

(b) includes—

(i) the injection of petroleum into an underground gas storage facility; and

(ii) the extraction of petroleum from an underground gas storage facility; but

(a) does not include prospecting or exploration for a mineral or chemical substance referred to in paragraph (a).

no such right means circumstances in which there is no other PPP with a right to a subsequent permit or a PEP or PMP in respect of the same land.

NZP&M means New Zealand Petroleum & Minerals, 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 petroleum permit, and means the person described in section 27 of the Act.

Offshore Taranaki area means the area comprising 94,251 square kilometres bounded by the following lines of latitude and longitude connecting the following turning points:

(a) commencing at a point (37° 10' 00.00" S and 174° 35' 27.62" E); then

(b) proceeding west to a point (37° 10' 00.00" S and 172° 40' 00.00" E); then

(c) proceeding south to a point (37° 30' 00.00" S and 172° 40' 00.00" E); then

(d) proceeding west to a point (37° 30' 00.00" S and 171° 00' 00.00" E); then

(e) proceeding south to a point (38° 20' 00.00" S and 171° 00' 00.00" E); then

(f) proceeding east to a point (38° 20' 00.00" S and 171° 20' 00.00" E); then

(g) proceeding south to a point (38° 30' 00.00" S and 171° 20' 00.00" E); then

(h) proceeding east to a point (38° 30' 00.00" S and 171° 30' 00.00" E); then

(i) proceeding south to a point (38° 40' 00.00" S and 171° 30' 00.00" E); then

(j) proceeding east to a point (38° 40' 00.00" S and 171° 40' 00.00" E); then

(k) proceeding south to a point (38° 50' 00.00" S and 171° 40' 00.00" E); then

(l) proceeding east to a point (38° 50' 00.00" S and 171° 50' 00.00" E); then

(m) proceeding south to a point (39° 10' 00.00" S and 171° 50' 00.00" E); then

(n) proceeding west to a point (39° 10' 00.00" S and 171° 40' 00.00" E); then

(o) proceeding south to a point (39° 30' 00.00" S and 171° 40' 00.00" E); then

(p) proceeding west to a point (39° 30' 00.00" S and 171° 30' 00.00" E); then

(q) proceeding south to a point (40° 00' 00.00" S and 171° 30' 00.00" E); then

(r) proceeding west to a point (40° 00' 00.00" S and 171° 20' 00.00" E); then

(s) proceeding south to a point (40° 20' 00.00" S and 171° 20' 00.00" E); then

(t) proceeding east to a point (40° 20' 00.00" S and 173° 10' 00.00" E); then

(u) proceeding south to a point (40° 30' 00.00" S and 173° 10' 00.00" E); then

(v) proceeding east to a point (40° 30' 00.00" S and 173° 20' 00.00" E); then

(w) proceeding south to a point (40° 50' 00.00" S and 173° 20' 00.00" E); then

(x) proceeding east to a point (40° 50' 00.00" S and 173° 40' 00.00" E); then

(y) proceeding north to a point (40° 40' 00.00" S and 173° 40' 00.00" E); then

(z) proceeding east to a point (40° 40' 00.00" S and 173° 55' 00.00" E); then

(aa) proceeding north to a point (40° 35' 00.00" S and 173° 55' 00.00" E); then

(bb) proceeding east to a point (40° 35' 00.00" S and 174° 05' 00.00" E); then

(cc) proceeding south to a point (40° 40' 00.00" S and 174° 05' 00.00" E); then

(dd) proceeding east to a point (40° 40' 00.00" S and 174° 20' 00.00" E); then

(ee) proceeding north to a point (40° 30' 00.00" S and 174° 20' 00.00" E); then

(ff) proceeding east to a point (40° 30' 00.00" S and 174° 30' 00.00" E); then

(gg) proceeding north to a point (39° 46' 39.73" S and 174° 30' 00.00" E); then

(hh) proceeding north along the coast to the point of commencement referred to above.

outgoing guarantee means a contract of guarantee provided to the Crown—

"(a) under which a guarantor agrees to answer to the Crown for the unmet costs of any debt, default, or liability of the current permit holder or current licence holder in the event that the current permit holder or current licence holder defaults on its obligation to carry out and meet the costs of decommissioning under any of sections 89J, 89K, 89R, and 89S; and

(b) that requires the guarantor to meet the total costs (or a lesser specified amount or proportion or an amount calculated in a specified manner) of decommissioning any petroleum infrastructure and wells, to the extent that—

(i) the petroleum infrastructure and wells were, at the time of the relevant transaction, in place or used for the purposes of carrying out, or otherwise related to, activities authorised by the permit or licence (whenever granted), and all relevant older petroleum infrastructure and relevant older wells; and

(ii) acceptable financial security arrangements (as defined in section 89D(1)) in place are insufficient to meet the costs of that decommissioning.

outgoing person means any of the following:

"(a) a person who ceases to have a controlling interest in a body corporate that is undergoing a change of control:

(b) a person who ceases to have all or part of an interest in a body corporate that is undergoing a change of control that results in another person acquiring a controlling interest in that body corporate:

(c) a person who transfers all or part of their participating interest in a permit or licence for petroleum, or transfers their licence for petroleum, to another person".

P(H)EP means a gas hydrate PEP.

P(H)MP means a gas hydrate PMP.

P(H)PP means a gas hydrate PPP.

PEP means petroleum exploration permit.

PML means petroleum mining licence.

PMP means petroleum mining permit.

PPP means petroleum prospecting permit.

participating interest means:
"(a) in relation to a permit, a specified undivided share of the permit expressed as a percentage recorded on the permit; or
(b) in relation to a licence granted under Part 1 of the Petroleum Act 1937, an undivided share of the licence that is recorded on the licence."

permit participant means, in relation to a permit holder that comprises more than one person in a joint venture, partnership, or other structure, each person who makes up the permit holder.

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.

petroleum infrastructure:
(a) means—

(i) a structure (within the meaning of section 101A of the Act) or vessel used onshore or offshore for the purpose of exploring for, or mining of, or processing, petroleum—

(A) up until the point when the petroleum enters infrastructure used by a person other than a current permit holder or licence holder; and

(B) up until the point when the infrastructure is used for distributing or transporting the petroleum, or otherwise ceases to be part of the system for producing petroleum:

(ii) any equipment attached to, or used in connection with, a structure, well, vessel, or site, including cables, pipelines, flow-lines, gas lift lines, umbilicals, manifolds, and moorings:

(iii) any other prescribed thing or class of thing used in connection with, prospecting or exploring for, or mining of, petroleum; but

(b) does not include—

(i) a well:

(ii) any unmoored ship:

(iii) any vehicle:

(iv) any other prescribed thing or class of thing.

planned decommissioned activities are activities planned to carry out “decommissioning” work (as that term is defined in section 89E of the Act).

plug and abandon means, in the context of a well—

“(a) the well is sealed in order to make it permanently inoperable; and

(b) the sealing is conducted in accordance with any relevant enactment or standard, and the requirements of any regulatory authority; and

(c) the wellhead is removed; and

(d) any remediation of the site required by another enactment is completed; and

(e) any other prescribed action required to plug and abandon the well is completed.”

Post-decommissioning work means—

“(a) monitoring decommissioned petroleum infrastructure and wells in order to determine if activities need to be undertaken under paragraph (b):

(b) activities carried out in relation to the remediation of—

(i) petroleum infrastructure that has been decommissioned but not removed:

(ii) a well that has been plugged and abandoned:

(iii) environmental damage or health and safety risks caused by a failure of the decommissioning of petroleum infrastructure or a well referred to in subparagraph (i) or (ii).”

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.

Regulations means, unless the context clearly requires otherwise: the Crown Minerals (Petroleum Fees) Regulations 2016, the Crown Minerals (Petroleum) Regulations 2007 and the Crown Minerals (Royalties for 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 parties, for the purposes of this Programme, means a party related to a permit holder, applicant or bidder in the following circumstances:

(a) Entities are related parties of a permit holder if the entities directly or through one or more intermediaries exercise control over the permit holder or are controlled by, or are under common control with, the permit holder. Such entities may include, but are not limited to, holding companies, subsidiaries.

(b) Individuals are related parties of a permit holder if they own, directly or indirectly, an interest in the voting power of the permit holder that gives them significant influence over the permit holder.

(c) Key management personnel are related parties of a permit holder if they have authority and responsibility for planning, directing, and controlling the activities of the permit holder. Such key management personnel may include, but are not limited to, directors and officers of companies and close members of the families of those individuals.

(d) Entities are related parties of a permit holder if a substantial interest in their voting power is owned, directly or indirectly, by any person described in subclause (2) or (3) who is able to exercise significant influence over the entities. Such entities may include, but are not limited to, entities owned by directors or major shareholders of the permit holder and entities that have a member of key management in common with the permit holder.

To the extent that this definition applies to two or more permit participants (in their capacity as a permit participant rather than a permit holder), the definition applies for that purpose as if each reference to a permit holder were a reference to a permit participant.

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 for petroleum are—

(a) those 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:

(b) a minimum impact activity.

relevant older petroleum infrastructure—

"(a) means—

(iii) in relation to a current or former permit holder, petroleum infrastructure—

(A) put in place or used by a permit holder or licence holder (whether the current permit holder or a different permitholder or licence holder) under a permit that was exchanged for the current permit or the former permit under section 32 of the Act or otherwise exchanged on the same day (for example, as evidenced by any notation on a document linking an exploration permit to a current mining permit);and

(B) that was in place at the time the exchange occurred:

(iv) also, in relation to a current or former permit holder, petroleum infrastructure put in place or used by a permit holder or licence holder (whether the current permit holder or a different permit holder or licence holder)—

(A) in a part of the permit area or licence area of any former holder's permit or licence that was subsequently relinquished or surrendered and included on the same day in the permit area of the current permit or included on the same day in a previous permit area or licence area and then subsequently included in the permit area of the current permit; or

(B) anywhere outside the permit area or licence area, but used solely to facilitate activities conducted in the permit or licence area to be relinquished or surrendered:

(v) in relation to a current or former licence holder, petroleum infrastructure—

(A) put in place or used by a licence holder (whether the current licence holder or a different licence holder) under a licence that was exchanged for the current licence or the former licence under section 9(3) or sections 11 and 12, or any other relevant provisions, of the Petroleum Act 1937 (as they read at the time of the exchange) or otherwise exchanged on the same day; and

(B) that was in place at the time the exchange occurred:

(vi) also, in relation to a current or former licence holder, petroleum infrastructure put in place or used by a licence holder (whether the current licence holder or a different licence holder)—

(A) in a part of the licence area or licence area of any former licence holder that was subsequently surrendered and included on the same day in the licence area of the current licence or included on the same day in a previous licence area and then subsequently included in the licence area of the current licence; or

(B) anywhere outside the licence area, but used solely to facilitate activities conducted in the licence area to be surrendered:

(vii) also includes any class, or item, of petroleum infrastructure declared by the regulations, in relation to a class of, or individual, permit or licence holders, to be relevant older petroleum infrastructure (irrespective of whether any of the preceding paragraphs apply to the class or item of petroleum infrastructure); but

(b) excludes any class, or item, of petroleum infrastructure declared by the regulations, in relation to a class of, or individual, current permit or licence holders, not to be relevant older petroleum infrastructure (irrespective of whether any of the preceding subparagraphs apply to the class or item of petroleum infrastructure)."

relevant older well—

"(a) means—

(i) in relation to a current or former permit holder, a well—

(A) drilled or used by a permit holder or licence holder (whether the current permit holder or a different permitholder or licence holder) under a permit or licence that was exchanged for the current permit under section 32 of the Act or

otherwise exchanged on the same day (for example, as evidenced by any notation on a document linking an exploration permit to a mining permit); and

(B) that was in place at the time the exchange occurred:

(ii) also, in relation to a current or former permit holder, a well drilled or used by a permit holder or licence holder (whether the current permit holder or a different permit holder or licence holder)—

(A) in a part of the permit area or licence area of any former holder's permit or licence that was subsequently relinquished or surrendered and included on the same day in a permit area of the current permit or included on the same day in a previous permit area or licence area and then subsequently included in the permit area of the current permit; or

(B) anywhere outside the permit area or licence area, but used solely to facilitate activities conducted in the permit or licence area to be relinquished or surrendered:

(iii) in relation to a current or former licence holder, a well—

(A) drilled or used by a licence holder (whether the current licence holder or a different licence holder) under a licence that was exchanged for the current licence under section 9(3) or sections 11 and 12, or any other relevant provisions, of the Petroleum Act 1937 (as they read at the time of the exchange) or otherwise exchanged on the same day; and

(B) that was in place at the time the exchange occurred:

(iv) also, in relation to a current or former licence holder, any well put in place or used by the current licence holder or a different licence holder—

(A) in a part of the licence area or licence area of any former holder's licence that was subsequently surrendered and included on the same day in the licence area of the current licence or included on the same day in a previous licence area and then subsequently included in the licence area of the current licence; or

(B) anywhere outside the licence area, but used solely to facilitate activities conducted in the licence area to be surrendered:

(v) any well included in the permit area of a current licence or permit that was used to delineate or appraise a deposit or occurrence of petroleum that the current permit or licence relates to (whether that well was drilled under the current licence or permit or a former licence or permit):

(vi) also any class of well or individual well declared in the regulations, in relation to a class of, or individual, permit or licence holders, to be a relevant older well (irrespective of whether any of the preceding subparagraphs apply to the class of well or individual well); but

(b) excludes any class of well declared by the regulations, in relation to a class of current permit or licence holders, not to be a relevant older well (irrespective of whether any of the preceding subparagraphs apply to the class of well or individual well)."

relevant person is "a person who is:

(a) in the case of a prospecting permit for petroleum, an incoming person; or

(b) in the case of an exploration or mining permit for petroleum, an incoming person or an outgoing 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.

speculative prospector means a non-exclusive PPP holder who carries out activities under the permit solely for the purpose of on-selling the information obtained on a non-exclusive basis to petroleum explorers and producers.

Statutory Frameworks means 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).

Treaty | te Tiriti means the Treaty of Waitangi | te Tiriti o Waitangi.

venting means the direct release of natural gas into the atmosphere.

well means—

"(a) a borehole drilled or re-entered for the purposes of exploring for, appraising, or extracting petroleum; and

(b) includes—

(i) any borehole used for injection or reinjection purposes; and

(ii) any down-hole pressure-containing equipment; and

(iii) the wellhead; and

(iv) any other prescribed thing."

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.

Te Kāwanatanga o Aotearoa
New Zealand Government

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