

Submission

By

**THE
NEW ZEALAND
INITIATIVE**

to the Ministry of Business, Innovation and Employment

on

Review of the Crown Minerals Act 1991

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1 INTRODUCTION AND RECOMMENDATION

- 1.1 This submission responds to the Ministry of Business, Innovation and Employment (**MBIE**) Discussion Document, *Review of the Crown Minerals Act 1991*.¹ It is made by The New Zealand Initiative (the **Initiative**), a think tank supported primarily by chief executives of major New Zealand businesses. In combination, our members employ more than 150,000 people. The Initiative undertakes research that contributes to the development of sound public policies in New Zealand and the creation of a competitive, open and dynamic economy and a free, prosperous, fair and cohesive society.
- 1.2 This submission addresses itself exclusively to the questions raised in chapter 1 of the Discussion Document about the role and purpose of the Crown Minerals Act (CMA). It recommends that no change be made to the existing purpose statement in respect of the terms “benefit to New Zealanders” and “promote”.

2 THE ISSUES RAISED CONCERNING THE ROLE AND PURPOSE OF THE ACT

- 2.1 The role of an Act is different from its purpose. Its role is to fulfil the purpose.
- 2.2 The Discussion Document is clear that “[t]he CMA review is not proposing to change the fundamental role of the CMA to manage rights to Crown Minerals.
- 2.2 The Act’s current purpose statement is as follows:

1A Purpose

(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, this 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.

Section 1A inserted, on 24 May 2013, by section 6 of the Crown Minerals Amendment Act 2013 (2013 No 14).

- 2.3 The Discussion Document poses the following questions in relation to this purpose statement:

- What aspects of wellbeing (natural capital, human capital, social capital or financial capital) should the CMA consider when making decisions to allocate and manage rights to prospect, explore and mine Crown-owned resources?
- And why should the CMA focus on these aspects of wellbeing?
- How should the purpose of the CMA be expressed through its purpose statement?
- Should the purpose statement be amended from promoting the prospecting for, exploration for, and mining of Crown-owned minerals for the benefit of New Zealand? – If yes, why and how? – If not, why not?

¹ Ministry of Business, Innovation and Employment, “*Review of the Crown Minerals Act 1991*” Discussion Document (Wellington: New Zealand Government, November 2019).

- If you believe that the purpose statement should be amended, what alternative wording would most appropriately describe the purpose of the CMA (for example, “administer”, “manage”)?

2.4 The Discussion Document’s reasons for posing these questions appear to rest on:

- A view that the current purpose statement unduly focuses on economic wellbeing.²
- There is more to wellbeing than economic growth.³
- The government’s “economic priority has now shifted”.⁴
- Treasury’s Living Standards Framework encompasses 12 domains and four capitals.
- “Widespread objection” in earlier public submissions to “promote” the sector.⁵

3 ASSESSMENT OF THE ISSUES RAISED

3.1 Nothing in the words “for the benefit of New Zealand” appear to limit the interpretation of those words in the way that is implied by the first four of the reasons for change listed in paragraph 2.4 above. Certainly, nothing implies a fixation on economic growth, or indeed any reference to the concept.

3.2 In contrast, any proposal to limit those words to aspects enumerated in Treasury’s Living Standards Framework would be limiting it, and not in the direction of raising the benefit for New Zealanders. New Zealanders at large get no benefit from resources left unexploited underground while hundreds of thousands are experiencing hardship.⁶ Capital stocks are one thing, wellbeing is another.

3.3 In short, the Discussion Document provides no substance to support any case that the current purpose statement focuses on economic growth or whatever non-economists mean by economic wellbeing.⁷

3.4 Finally, to replace “promote” by “manage” or “administer” would confuse the role of the Act with its purpose. The purpose of the Act must be to facilitate the exploitation of underground resources, otherwise why is it needed? Why not just leave them underground? But, to do so would be to contradict the purpose of exploiting them for the benefit of New Zealanders. Moreover, to maximise that benefit the Crown needs to promote competition for that exploitation. Otherwise, it is inviting inefficient and even corrupt development to occur. Replacing the word ‘promote’ by a word that might lend itself more to cronyism in the allocation of licenses would be a concern.

3.5 The Discussion Document does not provide any public policy reason for submitters’ objections to the term ‘promote’. This is a pity. It invites the presumption that those submitters are taking an extreme view that exploitation can never benefit New Zealanders. Subject to safeguards that are not much in dispute this is clearly wrong. Daily news items abound with examples of people calling on government for a greater share of national income.

² Paragraph 4, 18.

³ Paragraph 6, 19.

⁴ Paragraph 3, 18.

⁵ Paragraph 32, 25.

⁶ The more general point is that the utility of building the stock of capital depends on how productively that capital will be used. Capital accumulation represents a sacrifice of current wellbeing, hopefully in return for a larger future gain in wellbeing.

⁷ The economic concept that households maximise utility subject to a budget constraint accommodates all sources of wellbeing. The Discussion Document does not define what it means by “economic wellbeing”, perhaps it means national disposable income?

3.6 New Zealander's standard of living depends in large measure on exporting the land- and sea-based products. The issue is to do it efficiently.

4 RESPONSE TO SPECIFIC QUESTIONS

- No specific aspects of wellbeing should be singled out in the purpose statement. What counts instead is the overall benefit for New Zealanders.
- The purpose statement should retain "promote" in the absence of any public policy case put forward for changing it.

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