



Minerals Programme

Minerals Programme

(Minerals Programme for Minerals (Excluding Petroleum) 2013)

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By

His Excellency the Governor General

Pursuant to clause 3(7) of Schedule 1 of the Crown Minerals Act 1991

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1. About this Programme

1.1 Introduction

- (1) This Minerals Programme for Minerals (Excluding Petroleum) 2013 (this Programme) sets out, in relation to minerals:
 - (a) how the Minister¹ and the Chief Executive² will have regard to the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) for the purposes of this Programme
 - (b) how the Minister and the Chief Executive will exercise specific powers and discretions conferred on him or her by the Crown Minerals Act 1991 (the Act)
 - (c) how the Minister and the Chief Executive will interpret and apply specific provisions in the Act or regulations made under the Act
 - (d) general guidance on the Act and the regulations.³
- (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.⁴
- (3) Various sections of the Programme summarise and paraphrase relevant parts of the Act. To avoid doubt, the wording in the Act prevails in all circumstances,⁵ and any summary or paraphrase of the Act (or any other reference to it) in this Programme is a guide only. Any term or expression that is defined in the Act or in regulations made under the Act 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. Other definitions for this Programme are set out in Schedule 1.
- (4) 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” means to New Zealand Petroleum & Minerals, a group within the Ministry of Business, Innovation and Employment (or any successor government organisation that is from time to time responsible for managing the Crown’s mineral estate). Decisions that are the responsibility of the Minister or the Chief Executive under the Act may be made from time to time by NZP&M officials under delegation from the Minister and/or the Chief Executive.

¹ “The Minister” means the Minister who is, under the authority of any warrant or under the authority of the Prime Minister, responsible for the administration of the Act.

² “The Chief Executive” means the chief executive of the department that is, with the authority of the Prime Minister, responsible for the administration of the Act.

³ Section 14.

⁴ Section 22.

⁵ Section 15 (5) and 22(2).

1.2 Purpose statement in the Crown Minerals Act 1991

(1) *Section 1A of the Act* provides:

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

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

- (a) the efficient allocation of rights to prospect for, explore for, and mine Crown owned minerals; and
- (b) the effective management and regulation of the exercise of those rights; and
- (c) the carrying out, in accordance with good industry practice, of activities in respect of those rights; and
- (d) a fair financial return to the Crown for its minerals.”

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

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

(2) “Prospecting”, “exploration” and “mining” are defined terms in the Act.⁶

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

Interpretation of “promote prospecting for, exploration for, and mining” of Crown-owned minerals

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

- (a) ensure that parties interested in prospecting for, exploring for, and mining of Crown-owned minerals are able to do so as readily as possible within the mandate and provisions of the Act
- (b) publicise and encourage interest and investment in prospecting for, exploring for, and mining New Zealand’s Crown-owned minerals.

(5) An important component of promoting prospecting, exploration and mining is minimising sovereign risk⁷ for investors by providing for a stable and coherent regulatory regime for Crown-owned minerals.

⁶ Section 2(1).

⁷ “Sovereign risk” is the risk that the government may unexpectedly change significant aspects of its policy and investment regime and the legal rights applying to investors to the detriment of investors.

Interpretation of “for the benefit of New Zealand”

- (6) The Minister sees “for the benefit of New Zealand” as the over-arching 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, “the benefit of New Zealand” is best achieved by increasing New Zealand’s economic wealth through maximising the economic recovery of New Zealand’s Crown-owned mineral resources.
- (7) Other important components of “the benefit of New Zealand”, including environmental considerations, are covered in other legislation, as noted in clause 1.4.

Interpretation of “efficient allocation of rights” to prospect, explore and mine

- (8) The words “the efficient allocation of rights to prospect for, explore for, and mine Crown owned minerals” are interpreted by the Minister to refer to the process of efficiently allocating rights to permit holders. To give effect to the purpose statement, the Minister interprets “efficient” allocation to mean allocation that:
 - (a) ensures that permits to prospect for, explore for, and mine New Zealand’s Crown-owned minerals are obtained by the persons most likely to do this effectively and in a timely manner
 - (b) minimises transaction costs to the extent consistent with the requirements of the Act, and makes it simpler to do business with the government
 - (c) ensures that applications for permits (including changes to permits) are processed in a timely manner (and that applicants are kept well-informed about the processes used), and
 - (d) ensures that the Minister is satisfied that the applicant for a permit is 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

- (9) The words “the effective management and regulation of the exercise of ... rights [to prospect for, explore for, and mine Crown-owned minerals]” are interpreted as requiring the Minister to ensure:
 - (a) that permit holders comply with the Act, regulations made under the Act, this Programme, and the conditions of their permits, and
 - (b) that rights to prospect, explore and mine are exercised proactively and efficiently in order that “benefit to New Zealand” is achieved.

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

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

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

Personnel and procedures

- (a) At all times the 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, mine development and mining operations are designed and conducted to maximise economic recovery and minimise sterilisation and waste, within reasonable technical and economic constraints.
- (c) Methods of prospecting, exploration or mining are suitable and will be technically effective and meaningful, given the objectives of the work programme, the geology of the area, and the results of previous prospecting, exploration or mining.
- (d) In the case of mining, any ongoing appraisal and definition of the geology and structure of the mineral deposit will be in sufficient detail to facilitate the most suitable mine development and mining operations.

Risk management

- (e) The operator has systems and processes in place to avoid, mitigate and manage operational risks, including health and safety risks.

Acquisition of data

- (f) Prospecting and exploration/appraisal and mining operations are conducted so as to ensure that good-quality, objective data is acquired, within reasonable technical and economic constraints. Sufficient data needs to be acquired to test the understanding of a mineral prospect or mineral exploration target in an exploration permit. In appraisal and development, sufficient data needs to be acquired to understand mineral development and resolve uncertainties that affect the success of mineral recovery.

Interpretation of “a fair financial return”

- (12) The words “providing for ... a fair financial return to the Crown for its minerals” are interpreted as referring to royalty payments for any minerals obtained under a permit.
- (13) The term “fair” is interpreted by the Minister as referring to the need to balance the interests of the Crown (as the owner of the mineral for the benefit of New Zealand) and those of prospectors, explorers and miners, taking into account:
- (a) that minerals are a non-renewable resource
- (b) the need to attract ongoing investment in minerals prospecting, exploration and mining in a competitive international environment
- (c) the need to provide certainty and security for investors by not changing royalty rates during the life of a permit or subsequent permit.

- (14) A further component of “fair” in the Minister’s interpretation is that the Crown (for the benefit of New Zealand) should always receive a return on the mining of Crown-owned minerals, subject to:
 - (a) the permitting requirements under section 8 of the Act, and
 - (b) net sales revenues from a permit area exceeding a threshold of \$200,000 for a calendar year, except where the permit is part of a production unit.
- (15) Overall these considerations lead to a royalty regime for Tier 1 minerals that:
 - (a) provides for an immediate but low ad valorem royalty that ensures that the Crown always receives some return for the mining of minerals, and
 - (b) provides for an accounting profits royalty so that the Crown shares in the benefits if a mineral resource proves to be particularly profitable.

1.4 Broader statutory framework

- (1) The Act is about the development of the Crown’s mineral estate, and this Programme relates to the development of New Zealand’s Crown-owned minerals other than petroleum. There is a wide range of other legislation that affects or relates to prospecting for, exploring for, and mining minerals.
- (2) The following is a non-exhaustive list of other legislation (including associated regulations and rules) that is relevant to prospecting for, exploring for, and mining minerals:
 - (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 in Employment Act 1992, which sets out how health and safety in the workplace, including mines, is to be managed
 - (e) the Maritime Transport Act 1994 and the Marine Protection Rules, which set out how the marine transport environment is to be managed
 - (f) the Marine Mammals Protection Act 1978, which provides for the protection, conservation and management of marine mammals
 - (g) the Marine and Coastal Area (Takutai Moana) Act 2011, which provides for the recognition of customary marine title and protected customary rights in the common marine and coastal area, and which requires 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.

- (3) The Minister and the Chief Executive, in administering the Act, do not have powers and functions (except where and to the extent specifically provided for in the Act) relating to matters covered by other legislation. In particular, the Minister and the Chief Executive are not required (except where and to the extent specifically provided for in the Act) to duplicate the activities and requirements of ministers and departments responsible for administering other legislation.
- (4) Applicants for permits to prospect for, explore for, and mine Crown-owned minerals, and holders of permits, must meet the requirements of other legislation as applicable. The granting of a permit under the Act does not provide or imply any rights (or obligations) with respect to other legislation. Compliance with the Act, the regulations or this Programme does not relieve any person from any obligation under other legislation.
- (5) The clear separation in the statutory framework between powers and functions (and rights and obligations) under the Act on the one hand and under other legislation on the other is designed to ensure clear accountability and avoid conflicting interests and objectives on the part of ministers and departments responsible for administering relevant legislation.

1.5 Application of this Programme

- (1) This Programme takes effect from 24 May 2013. It applies to all applications for permits for minerals excluding petroleum received on and after this date.⁸
- (2) *Clause 3 of Schedule 1 of the Act* provides for the transfer of existing permits⁹ to new minerals programmes. Existing permits will continue to be subject to the minerals programme that applied to them before this Programme came into effect, but will transfer to this Programme when, in summary, the earliest of the following events occurs:
 - (a) the holder applies to change the permit or for other consents
 - (b) the holder applies for a subsequent permit (see clause 4.5)
 - (c) the holder opts into a new minerals programme by notice in writing.
- (3) *Section 22(2) of the Act* makes it clear however that the provisions of the Act and any regulations made under the Act apply, notwithstanding the provisions of any old minerals programme that apply to an existing permit.
- (4) Before the Crown Minerals Amendment Act 2013 came into effect, royalty provisions were contained in minerals programmes. *Clause 4 of Schedule 1 of the Act* provides that the royalty rates that applied to an initial permit will continue to apply to that permit and any subsequent permit. However, new permits granted after this Programme came into effect are subject to royalty rates set out in regulations.

⁸ *Schedule 1 of the Act* includes transitional provisions for applications for permits or changes to permits that were pending at the time this Programme came into effect.

⁹ In this Programme, “existing permits” means permits that were granted before this Programme came into effect, unless the context clearly requires otherwise.

1.6 Minerals covered by this Programme

- (1) Except as otherwise explicitly provided in this Programme, this Programme applies to prospecting for, exploring for, and mining Crown-owned minerals (excluding petroleum). *Section 2(1) of the Act* defines the terms “mineral” and “petroleum”.¹⁰
- (2) As provided in *section 10 of the Act*, all gold, silver and uranium existing in its natural condition in land is the property of the Crown. Further, *section 11* provides that certain minerals that have been reserved in favour of the Crown on land that has since been sold are the property of the Crown.¹¹

Uranium and thorium minerals

- (3) Applications for permits for prospecting for, exploring for, and mining uranium and thorium minerals will ordinarily be declined. Those minerals include, but are not limited to, uraninite, torbenite, autinite, coffinite, uranophane, rutherfordite, tyuyamunite, thorite, thorianite and uranothorite.

Use of minerals by owners or occupiers of land

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

¹⁰ “**mineral** means a naturally occurring inorganic substance beneath or at the surface of the earth, whether or not under water; and includes all metallic minerals, non-metallic minerals, fuel minerals, precious stones, industrial rocks and building stones, and a prescribed substance within the meaning of the Atomic Energy Act 1945”.

“**petroleum** means—

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

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

¹¹ An exception applies to pounamu to which section 3 of the Ngai Tahu (Pounamu Vesting) Act 1997 applies.

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

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

Stopped legal roads

- (6) *Section 8(2A) of the Act* also provides that a permit is not required for the taking of Crown-owned minerals in a legal road, whether formed, unformed, or stopped, if:
- (a) the mineral is:
 - (i) coal, or
 - (ii) a mineral (other than coal) for which a Tier 2 permit would, but for this provision, be required, and
 - (b) the road is within an area of land that otherwise contains privately owned minerals.

Underground coal gasification

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

Coal seam gas

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

1.7 Tier 1 and Tier 2 permits

- (1) *Section 2B of the Act* defines “Tier 1” and “Tier 2” permits. The purpose of the distinction is to allow different practices and procedures to apply to different minerals and/or permits so that regulatory efforts focus on operations that have the highest technical and geological complexity.
- (2) *Section 2B(1) of the Act* provides that the following permits are Tier 1 permits:
- (a) a permit that (irrespective of the type of mineral to which the permit relates, the year of the permit’s life, or any threshold amounts specified for the mineral to which the permit relates in *Schedule 5 of the Act*):
 - (i) relates to an underground operation or an operation that is (whether wholly or partially) 50 m or more beyond the seaward side of the mean high-water mark, and
 - (ii) is not for a special purpose mining activity,

- (b) a prospecting permit for gold (except alluvial gold), silver, coal, ironsand, or another metallic mineral
 - (c) an exploration permit for gold, silver, platinum group metals, coal, ironsand, or another metallic mineral unless the total work programme expenditure for the final five years of the life of the permit, or for the entire duration of the permit if the permit is for less than five years, is, in the Minister's estimation, less than \$1,250,000
 - (d) a mining permit for gold, silver, or platinum group metals if, in any one year in the next five years of the life of the permit, the annual royalty in relation to the permit will be, in the Minister's estimation, equal to or more than \$50,000
 - (e) a mining permit for coal if, in any one year in the next five years of the life of the permit, the annual production in relation to the permit will be, in the Minister's estimation, equal to or more than 200,000 tonnes
 - (f) a mining permit for ironsand if, in any one year in the next five years of the life of the permit, the annual production in relation to the permit will be, in the Minister's estimation, equal to or more than 500,000 tonnes
 - (g) a mining permit for any other metallic mineral if, in any one year in the next five years of the life of the permit, the annual production in relation to the permit will be, in the Minister's estimation, equal to or more than 500,000 tonnes of ore.
- (3) *Section 2B(2) of the Act* provides that a Tier 2 permit is any permit that is not a Tier 1 permit.
 - (4) *Section 2C of the Act* provides that if the permit is an exploration or mining permit for gold, silver, platinum group metals, coal, ironsand, or another metallic mineral, the Minister must determine the tier status of a permit on first granting the permit, and then once in each permit year, and at any time that the permit is changed (pursuant to *section 36(1) of the Act*). The Minister may also determine the tier status of a permit at any other time as he or she thinks fit.
 - (5) *Section 2D(2) of the Act* provides that the Chief Executive will notify the permit holder of a change in tier. After the holder is notified, the new tier and all provisions that apply to it (including those in the Act, this Programme, or regulations) will then apply from the start of the next permit year following the notification.
 - (6) Except as otherwise explicitly provided in this Programme, all clauses in this Programme apply to both Tier 1 and Tier 2 permits for minerals covered by this Programme. For the avoidance of doubt, references in this Programme to Tier 1 permits do not apply to petroleum permits.

1.8 Gold fossicking areas

- (1) *Sections 98 and 98A of the Act* provide that the Minister (jointly with the appropriate Minister in the case of Crown land) may, by notice in the *Gazette*, designate an area of land as a gold fossicking area, which will then be open for public fossicking for gold. A gold fossicking area is an area in which the public has the right to mine for gold by means only of non-motorised hand-held tools.
- (2) All Crown land will ordinarily be considered for designation as a gold fossicking area, except land that the Minister (after consulting with iwi and hapū) recommends to be explicitly unavailable as a gold fossicking area because of its particular importance to iwi or hapū.

- (3) The Minister may designate council land as a gold fossicking area at the request of the landowner, subject to subclauses (4) and (5) below.
- (4) Land where exploration or mining permits or existing privileges exist will not generally be considered as gold fossicking areas unless the holder of the permit or existing privilege, as the case may be, consents to the designation.
- (5) In determining whether or not to support a request for land to be designated a gold fossicking area, the Minister will ordinarily consider (but is not limited to) the following matters:
 - (a) the level of interest in recreational gold fossicking in respect of the land being considered as a gold fossicking area
 - (b) whether there are other gold fossicking areas in the general vicinity of the land
 - (c) the level of commercial interest in prospecting for, exploring for, or mining minerals (other than petroleum) and whether designating a gold fossicking area would be in conflict with or could negatively affect that interest
 - (d) the geology of the area and whether the land has prospecting, exploration and mining potential
 - (e) whether the land is unavailable for permitting
 - (f) if the land is unavailable for permitting, whether designating a gold fossicking area would be in conflict with the reason for the land being unavailable for permitting
 - (g) any request or comment from iwi and hapū arising from consultation.

2. Regard to the principles of the Treaty of Waitangi

2.1 Treaty of Waitangi (Te Tiriti o Waitangi)

- (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 of Waitangi (Te Tiriti o Waitangi) (“the Treaty”).
- (2) In order to meet the Crown’s responsibility to have regard to the principles of the Treaty, 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).
 - (b) it specifies the matters on which iwi and hapū must be consulted (see clauses 2.2 and 2.4 to 2.6)
 - (c) it sets out the principles and procedures for consulting with iwi and hapū (see clauses 2.3 to 2.7, and 2.11 and 2.12)
 - (d) it specifies the matters of which iwi and hapū must be notified (see clauses 2.4(2), 2.5(1), 2.5(4), 2.5(5), 2.6(1), 2.6(3), 2.6(4) and 2.9)
 - (e) it requires Tier 1 permit holders to report annually to NZP&M on their engagement with iwi and hapū whose rohe includes some or all of the permit area or who otherwise may be directly affected by the permit (see clause 2.13).

2.2 Consultation with iwi and hapū

- (1) Iwi and hapū whose rohe includes some or all of the permit area or who may be directly affected by a permit¹² will be consulted by the Minister or NZP&M on the following matters:
 - (a) an application for a permit (except an application for a permit for alluvial gold in an area that has been subject to the consultation with iwi and hapū as set out in clause 2.4)
 - (b) areas that may be permitted for alluvial gold (as set out in clause 2.4)
 - (c) an application to extend the minerals or land to which a permit relates
 - (d) an application in respect of newly available acreage that the Minister is considering granting
 - (e) a proposal to hold a competitive tender to allocate permits
 - (f) a proposal to designate gold fossicking areas.
- (2) Where consultation with iwi and hapū is required by this Programme, it must be carried out in accordance with the consultation principles and procedures set out below or in accordance with any agreed protocol (see clause 2.11).

¹² Referred to as “relevant iwi and hapū” in the rest of this Programme.

2.3 Consultation principles

- (1) Consultation 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 partner.
 - (b) The Crown will make informed decisions.
 - (c) The Crown will consider whether a decision will impede the prospect of redress of any Treaty claims.
 - (d) The Minister and NZP&M are informed of the Māori perspective, including tikanga Māori, and will have regard to the principles of the Treaty.
 - (e) 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 implications or any other matters about which iwi and hapū may wish to express their views
 - (ii) ensuring that iwi and hapū who are consulted are given enough information to make informed decisions and to present their views
 - (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
 - (iv) the Minister and NZP&M having an open mind on the views received from those iwi and hapū who are consulted
 - (v) the Minister and NZP&M giving those views full and genuine consideration.

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

- (1) The Minister may propose, for the granting of permits, areas that demonstrate alluvial gold prospectivity, and must consult with relevant iwi and hapū on the suitability of including these areas in new permits.
- (2) Iwi and hapū will be notified in writing and provided with the following information:
 - (a) details of the area being considered, including a map of the area that enables the location to be readily identified
 - (b) the types of activities that may take place should a permit be granted
 - (c) likely conditions that a permit may be subject to.
- (3) Iwi and hapū will have 40 working days to comment on any aspect of the proposal.
- (4) Following consultation, NZP&M will make a decision on the suitability of including the areas consulted on in alluvial gold permits.
- (5) An application for a permit for alluvial gold in an area NZP&M has decided is suitable for such permits will not be subject to further consultation with iwi and hapū. An application for a permit for alluvial gold outside of the areas NZP&M has decided are suitable will be subject to the consultation process set out in clause 2.2.

2.5 Consultation on permit applications

- (1) When NZP&M has received an acceptable work programme offer (AWP) application for a permit or an AWP application to extend the land or minerals to which a permit relates, or if the Minister is considering granting an application in respect of newly available acreage (NAA), NZP&M must notify relevant iwi and hapū in writing and provide any or all of the following information (as applicable):
 - (a) the details of the application, including a map of the application area that enables the location to be readily identified
 - (b) an outline of the proposed work programme
 - (c) the proposed new mineral.
- (2) Iwi and hapū will be asked to inform NZP&M of any issues or questions they may have in relation to the permit application, and will be given 20 working days to comment on any aspect of the proposal.
- (3) Iwi and hapū may request in writing up to an additional 20 working days for making comments.
- (4) Iwi and hapū must be notified that they may, if they wish, request that certain areas within the proposed permit area (or whole permit area) not be included in the permit.
- (5) Iwi and hapū must be notified that they may, if they wish, request that activities within certain areas within the proposed permit area be subject to additional requirements to recognise the particular characteristics of those areas.

2.6 Consultation on proposals to hold competitive tender allocation

- (1) NZP&M must give relevant iwi and hapū notice in writing of every proposal to hold a competitive tender and must provide the following information:
 - (a) the details of the proposal, including a map of the area under consideration that enables the location to be readily identified
 - (b) the types of activities that may take place should a permit be granted
 - (c) the proposed timing of the competitive tender
 - (d) any proposed conditions of the offer.
- (2) Iwi and hapū will have 40 working days to comment on any aspect of the proposal.
- (3) Iwi and hapū must be notified that they may, if they wish, request that certain areas within the proposed permit areas (or whole permit areas) not be included in the competitive tender.
- (4) Iwi and hapū must be notified that they may, if they wish, request that activities within certain areas within the proposed permit areas be subject to additional requirements to recognise the particular characteristics of those areas.
- (5) NZP&M must report to the Minister on the consultation with iwi and hapū concerning the proposed competitive tender before the final decision on the blocks to be included in the tender.

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

2.7 Requests by iwi and hapū to protect certain land

- (1) Where iwi and hapū request that certain areas not be included in a permit, or that activities within certain areas be subject to additional requirements, they should provide an accurate description of the areas and set out the reasons for their request to assist the Minister to consider the request effectively. The matters that should be covered include (but are not limited to):
 - (a) what it is about the area that makes it important to the mana of iwi and hapū
 - (b) whether the area is a known wāhi tapu site
 - (c) the uniqueness of the area – for example, whether it is one of a number of mahinga 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 claims and settlements, and objections made by iwi and hapū under other legislation
 - (e) any Treaty claims that may be relevant, and whether granting a permit over the land would impede the prospect of redress of grievances under the Treaty
 - (f) any customary rights and/or interests granted under the Marine and Coastal Area (Takutai Moana) Act 2011
 - (g) any iwi management plans in place that specifically state that the area should be excluded from certain activities.
- (2) Where iwi or hapū have requested that land be excluded from a permit, or that activities within certain areas be subject to additional requirements, the Minister will consider and make a decision on the request. The iwi and 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.

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

- (1) When considering requests by iwi and hapū to exclude any land from a permit, or to subject activities in certain areas to additional requirements, the Minister must take into account:
 - (a) the matters raised by iwi and hapū
 - (b) the exercise of customary marine title or of protected customary rights under the Marine and Coastal (Takutai Moana) Act 2011

- (c) whether the area is already adequately protected under other legislation – for example, the Resource Management Act 1991, the Conservation Act 1987 or the Historic Places Act 1993
- (d) the size of the area and the value of the potential resource affected if the area is excluded
- (e) the impact on the viability of undertaking work under a permit if activities within certain areas are subject to additional requirements.

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, permit operator, location, and work programme) may be found. The notification will be given whether or not the iwi or hapū made comments during the consultation processes.
- (2) NZP&M will notify relevant iwi and hapū following consent to a change of operator for Tier 1 permits (see clause 12.8) or a change in tier.
- (3) NZP&M will also provide to relevant iwi and hapū:
 - (a) the results of a decision in relation to suitability of an area for alluvial gold permits under clause 2.4
 - (b) a map of any areas of land that have been identified as suitable for alluvial gold permits that enables the location to be readily identified.

2.10 Permits in pounamu management areas

- (1) *The Ngai Tahu (Pounamu Vesting) Act 1997* provides that Te Rūnanga o Ngāi Tahu (Ngāi Tahu) owns all pounamu existing in its natural condition in the Takiwā of Ngāi Tahu Whānui that up until enactment of that Act was the property of the Crown.
- (2) Permits granted under the Crown Minerals Act do not give rights to pounamu, and removal of pounamu for possession without Ngāi Tahu's agreement is unlawful.
- (3) Ngāi Tahu requests that holders of permits in pounamu management areas engage with Ngāi Tahu and reach agreement on how incidental discoveries of pounamu will be dealt with. The Minister encourages this engagement. NZP&M will notify all applicants for permits in pounamu management areas of Ngāi Tahu's and the Minister's expectations.

2.11 Protocols for 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 issued protocols (Crown Minerals Protocols) governing the way in which the Crown will consult with them. Crown Minerals Protocols set out how the Crown will engage with an iwi or hapū over matters relating to Crown minerals permits. Each protocol applies to a particular protocol area. Protocols include the principles that will be followed when consulting with the iwi or hapū and details of how the Crown will seek to fulfil its obligations under the protocol. For full details of the terms of any particular protocol, refer to the protocol itself.

- (2) As of April 2013, the Minister has Crown Minerals Protocols with the following iwi and hapū: Ngaa Rauru, Ngāti Mākino, Ngāti Manawa, Ngāti Manuhiri, Ngāti Mutunga, Ngāti Porou, Ngāti Ruanui, Ngāti Tama, Ngāi Tāmanuhiri, Ngāti Whare, Ngāti Whātua ō Ōrākei, Rongowhakaata, Te Roroa, and Te Uri o Hau. These protocols are summarised in Schedule 2 in this Programme.
- (3) NZP&M will keep a register of protocols.
- (4) With the agreement of the relevant iwi or hapū, the texts of the Crown Minerals Protocols listed above and any new protocols may be made available on the NZP&M website.
- (5) A map indicating the rohe of iwi and hapū with whom the Minister has Crown Minerals Protocols is available on the NZP&M website. Protocol areas for coastal iwi and hapū include the territorial sea adjacent to the rohe. This map will be updated periodically, as new protocols are signed.

2.12 Form of consultation with iwi and hapū may be flexible

- (1) Subject to any protocols 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 face-to-face (kanohi ki te kanohi) 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 it.

2.13 Iwi engagement reports

- (1) *Section 33C of the Act* requires Tier 1 permit holders to provide an annual report (an iwi engagement report) to the Minister on the holder's engagement with iwi and hapū whose rohe includes some or all of the permit area or who otherwise may be directly affected by the permit. The report must be made at the time and in the manner specified in regulations.
- (2) The purpose of the report is to encourage permit holders to engage with relevant iwi and hapū in a positive and constructive manner and to enable NZP&M to monitor progress in this regard.
- (3) Permit holders are encouraged to consult with relevant iwi and hapū before submitting their report and, where possible and appropriate, to include in the report the views of those iwi and hapū on the content of the report.
- (4) The report should note any engagement with or notification to iwi and hapū that has taken place as a requirement of any other legislation.
- (5) The annual report on engagement with relevant iwi and hapū will be one of the agenda items on the annual work programme review meetings between permit holders and NZP&M (see clause 11.8). NZP&M will take into account any comments received from iwi and hapū on a permit holder's engagement with relevant iwi and hapū.
- (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.

3. Land available for mineral prospecting, exploration and mining

3.1 Land unavailable for permits

- (1) *Section 14(2) 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 the iwi or hapū are excluded from the operation of the Programme or must not be included in any permit. The land described in Schedule 3 in this Programme is of particular importance to the mana of iwi and must not be included in a permit.
- (2) Other land that is not described in Schedule 3 and that is not available for prospecting, exploration or mining because of a legislative requirement, such as a notice under section 28A of the Act, will be kept on a list by NZP&M, which will be available on request.
- (3) From time to time, other legislation may also restrict permitting. All other land is available for the allocation of minerals permits.

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 for the purpose of exercising permit rights must enter into an access arrangement with the Minister responsible for the land. If the application for an access arrangement is in relation to a Tier 1 permit, the decision will be made jointly by the Minister responsible for the land and the Minister responsible for the Crown Minerals Act 1991. In relation to conservation land the responsible Minister will be the Minister of Conservation.
- (2) *Section 61(1A)* provides that these ministers may not accept any application for an access arrangement relating to any Crown-owned mineral in any Crown land described in Schedule 4 of the Act, except for the purpose of undertaking certain excepted activities.¹³

¹³ Relevant excepted activities include those:

- (a) that are necessary for the construction, use, maintenance, or rehabilitation, of an emergency exit or service shaft for an underground mining operation, where these cannot safely be located elsewhere, provided that it does not result in—
 - (i) any complete stripping of vegetation over an area exceeding 100 square metres; or
 - (ii) any permanent adverse impact on the profile or surface of the land which is not a necessary part of any such activity
- (b) that do not result in—
 - (i) any complete stripping of vegetation over an area exceeding 16 square metres; or
 - (ii) any permanent adverse impact on the profile or surface of the land that is not a necessary part of any activity specified in paragraph (a)
- (c) a minimum impact activity (see footnote 14)
- (d) gold fossicking carried out in an area designated as a gold fossicking area under section 98 or 98A
- (e) any special purpose mining activity carried out in accordance with a mining permit.

- (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) An access arrangement is not required for land in the common marine and coastal area. However, access arrangements are required for common marine and coastal areas that are described in Schedule 4 of the Act, and the provisions in subclause (2) apply.
- (5) Access arrangements are not required for access to land in New Zealand's Exclusive Economic Zone (EEZ) 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 activities¹⁴) in respect of any Crown land may be made on the recommendation of ministers. 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.¹⁵ *Sections 49 to 80 of the Act* set out provisions and procedures applying to permit holders seeking to obtain access to land. These are summarised below.

¹⁴ *Section 2(1) of the Act* provides that "minimum impact activity" means any of the following:

- (a) geological, geochemical, and geophysical surveying;
- (b) taking samples by hand or hand held methods;
- (ba) taking small samples offshore by low-impact mechanical methods;
- (c) aerial surveying;
- (d) land surveying;
- (e) any activity prescribed as a minimum impact activity;
- (f) any lawful act incidental to any activity to which paragraphs (a) to (e) relate—

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

- (g) the cutting, destroying, removing, or injury of any vegetation on greater than a minimum scale; or
- (h) the use of explosives; or
- (i) damage to improvements, stock, or chattels on any land; or
- (j) any breach of the provisions of this or any other Act, including provisions in relation to protected native plants, water, noise, and historic sites; or
- (k) the use of more persons for any particular activity than is reasonably necessary; or
- (l) any impacts prescribed as prohibited impacts; or
- (m) entry on land prescribed as prohibited land.

¹⁵ Section 47.

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:
- (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, and
 - (g) land having an area of 4.05 hectares or less.
- (3) *Section 51(2) of the Act* provides that Māori land that is regarded as wāhi tapu by the tangata whenua cannot be entered for the purpose of carrying out a minimum impact activity without the consent of the owners of the land.

Notice required for minimum impact activities

- (4) *Section 49 of the Act* provides that for land other than the classes of land referred to in subclause (2) above, a permit holder (and employees, agents and contractors of a permit holder who are authorised for that purpose) may enter land to which the permit relates and carry out a minimum impact activity, if they have given at least 10 working days' notice.
- (5) For Māori land, *section 51 of the Act* also requires reasonable efforts to be made to consult with those owners of the land able to be identified by the Registrar of the Māori Land Court, and requires the local iwi authority to be given at least 10 working days' notice of a proposed land entry.

Land owner/occupier agreement or arbitration

- (6) For activities other than minimum impact activities, *section 54 of the Act* provides that the holder of a permit (other than for petroleum) must not prospect, explore or mine in or on land to which the permit relates except in accordance with an access arrangement that has been either:
- (a) agreed in writing between the permit holder and each owner and occupier of the land, or
 - (b) determined by an arbitrator in accordance with the Act.
- (7) However, in relation to subclause (6)(b) above, a permit holder has no power under the Act, in relation to minerals, to require an access arrangement to be determined by arbitration. An arbitrator may be used only if the permit holder and each owner and occupier agree to this.

- (8) *Section 66 of the Act* provides for 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, if an access arrangement has not been agreed and the land is not Māori land. Under that section, 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, on joint advice from the Minister of Energy and Resources and the Minister for the Environment (if the Governor-General considers it to be in the public interest to do so) declare that an arbitrator may proceed to determine the access arrangement.
- (9) *Section 83 of the Act* provides that if an access arrangement is entered into with a duration of more than six months, the permit holder must lodge a copy of the arrangement (which may exclude monetary details) 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.

Meaning of entry on land

- (10) *Section 57 of the Act* provides that prospecting, exploration or mining carried out below the surface of any land does not constitute prospecting, exploration or mining on or in land if it:
 - (a) will not, or is not likely to, cause any damage to the surface of the land or any loss or damage to the owner or occupier of the land, or
 - (b) will not, or is not likely to, have any prejudicial effect in respect of the use and enjoyment of the land by the owner or occupier of the land, or
 - (c) will not, or is not likely to, have any prejudicial effect in respect of any possible future use of the surface of the land.

4. Permits: General

4.1 Introduction

- (1) With certain exceptions (as noted in clauses 1.6 and 1.8), *section 8(1) of the Act* provides that no person may prospect for, explore for, or mine Crown-owned minerals unless the person has a permit granted under the Act.
- (2) The Act provides for permits for prospecting, exploration and mining. The purpose of minerals prospecting, exploration and mining permits, and the provisions relating to them, are covered in chapters 8, 9 and 10 of this Programme respectively.
- (3) *Section 30 of the Act* provides that the holder of an exploration permit may also undertake prospecting within the area of the permit, and the holder of a mining permit may also undertake prospecting and exploration within the area of the permit.
- (4) A permit is not required for prospecting for, exploring for, or mining gold in a gold fossicking area by means of hand-held non-motorised machinery (see clause 1.8).

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

- (1) A permit for minerals within a mineral group may be granted over land over which there exists, wholly or partially, any other permit for other mineral groups or for petroleum.
- (2) The Minister will issue a permit over an area already subject to a permit only where that would not derogate from or otherwise interfere with the existing rights of the underlying permit holder. In this clause, “existing rights” means all rights and entitlements of the permit holder under the Act, the regulations and this Programme, whether or not they have been exercised or are yet exercisable by the permit holder.
- (3) When NZP&M receives an application for a mining permit, or an application to extend the land to which a mining permit relates, for an area of land that overlaps with an existing minerals mining permit for another mineral group, NZP&M will:
 - (a) notify the underlying permit holder of the application, and
 - (b) provide the underlying permit holder with 20 working days to inform NZP&M of any issues or questions it may have in relation to the area under consideration.
- (4) Before issuing a mining permit that overlaps with another mining permit of a different mineral group, the Minister will consider information provided under subclause (3) above to ensure that the grant of that permit will not derogate from or interfere with existing rights (as defined in subclause (2) above), and may otherwise include conditions within the permit to address any issues identified.
- (5) If a dispute subsequently arises and a permit holder is hindered or prevented from fulfilling the work programme conditions of the permit, this may be grounds for seeking an amendment to the permit work programme conditions (see clause 12.1), subject always to preservation of the existing rights of the first or underlying permit holder.

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

- (1) Subject to the exception in clause 4.4 below, permits for prospecting, exploration and mining provide rights to (respectively) prospect for, explore for, or mine Crown-owned minerals within a mineral group that are exclusive to the permit holder; that is, no other person may prospect for, explore for, or mine for Crown-owned minerals within the same mineral group within the area of the permit without the prior written consent of the permit holder.¹⁶

4.4 Non-exclusive prospecting permits

- (1) A prospecting permit granted under the following circumstances will ordinarily be non-exclusive:
 - (a) when particular land is notified for allocation by competitive tender and, before the tender closes, the Minister considers it is appropriate to provide for pre-bid minimum impact prospecting so that interested parties may better formulate a bid, or
 - (b) a prospecting permit is sought to allow speculative surveys or investigations of mineral distribution in particular land, and the applicant would not be materially disadvantaged if the permit were to be granted on a non-exclusive basis.
- (2) A non-exclusive prospecting permit will not provide a right to a subsequent exploration permit.

4.5 Rights to subsequent permits

- (1) *Section 32 of the Act* sets out the rights that permit holders have to subsequent permits.
- (2) *Section 5(10) of the Continental Shelf Act 1964* provides that holders of prospecting licences under that Act may apply for subsequent exploration or mining permits in accordance with *section 32 of the Crown Minerals Act 1991* as if the prospecting licence were a prospecting or exploration permit under the Crown Minerals Act 1991.
- (3) The holder of a prospecting permit, except a non-exclusive prospecting permit (see clause 4.4 above), has an exclusive right to apply for and receive an exploration permit, subject to the terms and conditions in chapters 5 and 9.
- (4) Subject to the terms and conditions in chapters 5 and 10, the holder of an exploration permit has an exclusive right to apply for and receive a mining permit, if the permit holder:
 - (a) has identified a mineable mineral resource as a result of its exploration activities, and
 - (b) proposes a satisfactory work programme for mining that discovery.
- (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.

¹⁶ *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)* provides that a permit conferring the same rights as a current permit over all or part of the same land and the same mineral may only be granted to another person with the prior written consent of the current permit holder.

4.6 Permit area

- (1) A prospecting permit will ordinarily be granted over an unbroken area.
- (2) An exploration or mining permit will ordinarily be granted over an unbroken area, except if the exploration or mining is to be carried out in respect of both Crown-owned and privately owned minerals.
- (3) Any application for a subsequent permit, an extension of land, an extension of duration, a relinquishment, or the surrender of land will ordinarily be declined if the area retained is a broken area, unless special circumstances apply. Special circumstances may include (but are not limited to) any of the following:
 - (a) an exploration permit application or an extension of duration application covers several discrete deposits and the objective is to appraise whether the deposits can be effectively mined as a single project, or
 - (b) a mining permit application covers several discrete deposits that will be mined as a single project.
- (4) In approving an area to be retained after a change in permit area, the Minister will ordinarily consider:
 - (a) whether the area remaining under permit is consistent with the work programme, having regard to the size of the area sought to be relinquished and the size of the area remaining under the permit, and
 - (b) the effect that the shape and location of the area remaining under permit has on the geological continuity of:
 - (i) the area remaining under permit, and
 - (ii) the relinquished area, and
 - (c) the practical viability of later permitting the relinquished area.
- (5) Any application for a permit, or change to a permit that results in a change to the permit area, will ordinarily be declined if the proposed permit area includes connecting land of convenience that in the Minister's opinion cannot effectively be worked.

4.7 Applications for permits

- (1) Applications for permits must be made in accordance with the Regulations. Forms are available on the NZP&M website.

4.8 Further information and amendments to applications

- (1) An applicant may be required to:
 - (a) clarify an application
 - (b) provide further information, or
 - (c) provide a technical presentation.

- (2) If the Minister considers that the area of land to which a permit application relates is not justified or the Minister has any concerns about the proposed work programme or that land, the Minister will ordinarily:
 - (a) notify the applicant, giving reasons
 - (b) give the applicant a reasonable opportunity to respond
 - (c) consider any response.
- (3) A person who applies under the acceptable work programme offer method may, at any time before the application is substantively processed, apply to NZP&M to change:
 - (a) the land concerned
 - (b) the minerals concerned
 - (c) the applicant's identification and contact details.
- (4) If NZP&M considers that the amendment would substantively change the application, it will ordinarily decline to allow the amendment and will process the application as originally submitted (unless the application is withdrawn).

4.9 Operators and non-operators

- (1) Permits may be held by individuals, companies or groups of companies. A "permit holder" may therefore be one person,¹⁷ 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 the Programme as "permit participants". Each person who makes up a permit holder holds a "participating interest" (defined as a specified undivided share of the permit expressed as a percentage). The permit records each person's share.
- (2) *Section 27 of the Act* requires each permit to have a permit 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).¹⁸

4.10 Commencement of permits

- (1) All permits will specify a commencement date. The commencement date will be determined by the Minister and will normally 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
 - (b) any reasonable requests by the applicant for a particular commencement date.
- (2) *Section 35(9) of the Act* provides that the Minister may, on application by the 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, but only if those delays have not been caused or contributed to by default on the part of the permit holder.

¹⁷ A "person" in this context means a natural person or a corporate body or other legal entity.

¹⁸ *Clause 13 of Schedule 1 of the Act* exempts "existing privileges" from this requirement.

- (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.

4.11 Form of a permit

- (1) A permit will include the following:
 - (a) the name of the permit participants, and the operator
 - (b) the mineral(s) covered by the permit
 - (c) the approved work programme
 - (d) the duration of the permit
 - (e) a schedule detailing the area of the permit (including a map), and
 - (f) schedules detailing the conditions of the permit (there will usually be a schedule that sets out general conditions, and a second schedule with conditions specific to that permit).
- (2) The work programme approved by the Minister will be part of the permit and a public document. Other information provided with the permit application to support and explain the work programme will not form part of the permit.
- (3) Any change to the permit's conditions (see chapter 12) will be recorded as a certificate to the permit.

4.12 Register of permits

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

4.13 Release of information

- (1) Subject to the exceptions in subclause (2) below, all reports, records, samples and other information¹⁹ provided by a permit holder under the Act and the Regulations 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.²⁰

¹⁹ "Information" includes summaries, interpretations, reprocessing and models derived from the information.

²⁰ Section 90.

- (2) Exceptions are:
- (a) summary information about surveys and drilling programmes (but not underlying data), which will be made public immediately
 - (b) information in connection with mineral reserves, resources and production, which may be published in accordance with regulations made under *section 90B of the Act*
 - (c) information obtained under a non-exclusive prospecting permit, which will not be publicly available until the earlier of:
 - (i) 15 years after the date on which it was obtained by the permit holder, or
 - (ii) the closure of a public tender process (see clause 6.9) for the area to which the information relates, except that the information may not be released earlier than five years after it was obtained
 - (d) information obtained under exploration or mining permits that are surrendered as part of an amalgamation of permits by the same permit holder (see clause 12.7) where and to the extent that the amalgamated (extended) permit covers the same area
 - (e) royalty calculations and payments, which will remain confidential.
- (3) NZP&M will give permit holders at least 15 working days' notice before releasing any mineral reserves or resources information under subclause (2)(b).

4.14 Regulations relating to permits

- (1) The *Crown Minerals (Minerals Other than Petroleum) Regulations 2007 (the Regulations)* set out detailed requirements relating to:
- (a) the information that must be included in applications for permits, changes of permits and other matters
 - (b) the information that must be included in notices relating to activities of permit holders and other matters
 - (c) the reports, records, samples and related matters that permit holders must supply.²¹
- (2) These matters are covered in more detail in the relevant chapters of this Programme (particularly chapter 11).
- (3) The *Crown Minerals (Minerals Fees) Regulations 2006* set out the annual and other fees payable with respect to mineral permits.

²¹ Additional information on reporting requirements is provided in the Mineral & Coal Digital Data Submission Standards 2011, available on the NZP&M website.

- (4) The *Crown Minerals (Royalties for Minerals Other than Petroleum) Regulations 2013* set out rates and provisions for the payment of royalties on mineral production. These regulations also set out royalty statement and royalty return requirements for all minerals permit holders required to pay royalties. However, *Clause 4 of Schedule 1 of the Act* provides that the rate of any royalties to be calculated under an existing permit (that is, every permit that existed immediately before 24 May 2013), or a subsequent permit granted in exchange for the existing permit, must continue to be calculated in accordance with the minerals programme that applied when the existing permit (or, if there were permits prior to the existing permit, the initial permit) was granted. Royalty rates for permits granted under the Minerals Programme for Minerals other than coal and petroleum (1996),²² the Minerals Programme for Coal (1996)²³ and the Minerals Programme for Minerals (Excluding Petroleum) (2008)²⁴ can be found in each of these respective programmes, which are available on the NZP&M website.

4.15 Clearance from Health and Safety Regulator

- (1) *Section 33A of the Act* provides that, where an activity authorised by a permit requires the approval or consent of the Health and Safety Regulator²⁵ under the Health and Safety in Employment Act 1992 (or regulations made under that Act) before it can be carried out, that activity must not begin under the permit until the Chief Executive has notified the permit holder that the Health and Safety Regulator has given its approval or consent.

4.16 Provision of information to other regulatory agencies

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

²² Chapter 15.

²³ Chapter 15.

²⁴ Part 9.

²⁵ “The Health and Safety Regulator” means the department that is responsible for the administration of the Health and Safety in Employment Act 1992 (section 2).

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
 - (ii) the purpose of the proposed permit, and
 - (iii) good industry practice
 - (b) that the applicant is 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
 - (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
 - (c) that the applicant is likely to comply with the relevant obligations under the Act or the regulations in respect of reporting and the payment of fees and royalties
 - (d) that, for Tier 1 exploration or mining permits, the proposed operator has, or is likely to have by the time relevant work under any granted permit is undertaken, the capability and systems that are likely to be required to meet the health, safety and environmental requirements for the types of activities proposed under the permit.
- (3) This chapter sets out how the Minister will interpret and apply those provisions.
- (4) The Minister must also take into account his or her obligation under *section 4 of the Act* to have regard to the principles of the Treaty of Waitangi (see chapter 2).
- (5) *Section 29B of the Act* enables a bid for a Tier 1 exploration permit 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 clause 5.5).

5.2 Work programmes

- (1) All applications for permits must include a proposed work programme for the permit.
- (2) In determining whether the proposed work programme is consistent with the purpose of the Act, the Minister will consider the matters set out in clauses 1.2 and 1.3 as applicable.

- (3) In determining whether the proposed work programme is consistent with the purpose of the proposed permit, the Minister will consider (without limitation):
 - (a) for prospecting permits, the matters set out in chapter 8
 - (b) for exploration permits, the matters set out in chapter 9
 - (c) for mining permits, the matters set out in chapter 10.
- (4) In determining whether the proposed work programme is consistent with good industry practice, the Minister will consider the matters set out in clause 1.3(10) 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 likely to comply with the conditions of, and give proper effect to, the proposed work programme. The Minister may, at his or her discretion, decline a permit application based on the applicant's technical capability, financial capability, or previous compliance record, without proceeding to consider any other aspects of the application. The factors the Minister will take into account in making that determination are (without limitation) outlined below.

Technical capability

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

Financial capability

- (3) An applicant will normally be required to demonstrate that it has sufficient funding available to undertake the proposed work programme.

Applicant's failure to comply with other permits or licences

- (4) It will normally count against, but not necessarily preclude, the granting of a permit if the applicant, or a company related to the applicant, 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.
- (5) "Relevant information" for the purposes of section 29A(2)(b)(iii) (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 10 years. Matters the Minister may consider include, but are not limited to:
 - (a) whether any petroleum permits, minerals permits or licences held by the applicant (or a related company) in New Zealand or internationally have been revoked for non-compliance
 - (b) whether the applicant (or a related company) has complied with committed work programme conditions associated with current or previously held petroleum permits, minerals permits or licences in New Zealand or internationally.

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

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

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

Access to Schedule 4 land

- (8) *Section 61 of the Act* has the effect of precluding access to Crown land described in Schedule 4 of the Act for all activities except certain activities described in section 61(1A) (see clause 3.2 and footnote 13). 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, the Minister will not consider or grant the permit.
- (9) Accordingly, the following practices will apply:
- (a) An application for a prospecting or exploration permit will not be considered or granted by the Minister over Schedule 4 land except where:
 - (i) any impact on the surface of the land is within the excepted activities in section 61(1A) (see footnote 13), 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 mining permits will not be considered or granted by the Minister over Schedule 4 land except where a mineral resource can be accessed from adjacent land and any impact on the surface of the Schedule 4 land is within the excepted activities in section 61(1A).

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

- (1) Before deciding to grant a Tier 1 exploration or mining permit, the Minister must be satisfied that the proposed operator has, or is likely to have by the time relevant work under any granted permit is undertaken, the capability and systems that are likely to be required to meet the health, safety and environmental requirements for the type of activities proposed under the permit.
- (2) *Section 29A(3) of the Act* provides that, to satisfy himself or herself on this issue, the Minister:
- (a) is only required to undertake a high-level preliminary assessment
 - (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

- (c) may, but is not required to, rely on the views of the regulatory agencies
 - (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, to avoid doubt, any decision by the Minister to grant a permit does not limit or have any effect or bearing on the requirements of the relevant health and safety and environmental legislation.
- (4) If, in response to a request from the Minister, the Health and Safety Regulator provides a clear view on whether the proposed operator has the capability and systems that are likely to be required to meet health and safety requirements for the types of activities proposed under the permit, the Minister may rely on that view and will not normally 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 normally be satisfied that the proposed operator is likely 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 normally be satisfied, in the absence of clear evidence to the contrary, that the proposed operator is likely to be able to meet health and safety and environmental requirements for the types of activities proposed under the permit if the operator can show:
 - (i) an understanding of New Zealand's regulatory requirements relating to health and safety and the environment as those requirements apply to the type of activities proposed under the permit, including any iwi and hapū consultation processes prescribed in the relevant legislation
 - (ii) an understanding of the health and safety and environmental risks relating to the type of activities proposed under the permit
 - (iii) that it has, or is likely to have by the time the relevant activities are undertaken:
 - (A) appropriate systems, processes and capabilities for complying with the requirements in subparagraph (i) above
 - (B) appropriate systems, processes and capabilities for managing health and safety and environmental risks relating to the type of activities proposed under the permit
 - (C) personnel with appropriate qualifications and experience relating to health and safety and environmental requirements and risks, as they apply to the type of activities proposed under the permit.
- (7) If the Minister would otherwise grant a permit, but has concerns about the applicant's ability to meet expected health and safety and environmental requirements for the activities proposed under the permit, the Minister will raise these concerns with the applicant and inform the applicant of the matter or matters the Minister considers to be relevant to the granting of the permit. Before making a decision, the Minister will consider any comments the applicant makes.

- (8) As the Act makes clear, the processes and considerations in this clause 5.4 are not designed nor intended to duplicate or substitute for the processes and requirements of the agencies responsible for the administration of the relevant legislation and related regulations (in particular the Health and Safety in Employment Act 1992, 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 Applications for Tier 1 exploration permits under section 29B

- (1) *Section 29B of the Act* enables a tender (bid) for a Tier 1 exploration permit under a public tender (see clauses 6.9 to 6.11) to state that the tender is to be considered in accordance with section 29B. The tender's proposed work programme must contain an exploration drilling committal date, which is the point in a work programme at which a permit holder must commit to undertake exploration drilling or surrender the permit.
- (2) *Section 29B(2)* provides that the Minister must be satisfied about the matters in section 29A(2)(b) and (d) (see clause 5.1(2) above) only in relation to work that will be undertaken before the exploration drilling committal date.
- (3) *Section 29B(3)* provides that where a permit is granted under the provisions of section 29B it will be a condition of the permit that the Minister must be satisfied, before the exploration committal date and upon application by the permit holder, about the matters in section 29A(2)(b) and (d) in relation to any exploration drilling work. Work cannot be undertaken after the exploration drilling committal date unless the Minister is satisfied of those matters.
- (4) The purpose of this provision is to enable the Minister to consider and grant a Tier 1 exploration permit where the bidder for the permit, at the time the permit is applied for in a public tender process, is not able to meet the requirements of section 29A(2)(b) and (d) for the exploration drilling part of its bid. The Minister's consideration of the matters in section 29A(2)(b) and (d) with regard to drilling is deferred until shortly before the permit holder must commit to undertake drilling or surrender the permit.
- (5) The matters the Minister will consider in applying the provisions of section 29B are the same as the matters the Minister will consider in applying the provisions of section 29A, as set out in clauses 5.2, 5.3 and 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 section 29A(2)(b) and (d). Specifically, the matters in clause 5.3(2) and (3) and 5.4 will be considered in relation to proposed work up to the proposed exploration drilling committal date, and will be considered again on application by the permit holder before the exploration drilling committal date in relation to drilling work.

6. Methods of allocating permits

6.1 Introduction

- (1) The following methods are available for allocating permits, or for extending the land to which a permit relates:
 - (a) **Acceptable work programme offer:** Under this method a permit will be granted to the first application with an acceptable work programme (subject to chapter 5). This method may be used for Tier 1 or Tier 2 permit applications for available land or minerals to which NAA or competitive tender allocation do not apply (see clauses 6.3 to 6.6). This method is also available for the granting of non-exclusive prospecting permits as set out in clauses 4.4 and 6.12. As Tier 2 prospecting permit applications will ordinarily be declined, the allocation of non-exclusive prospecting permits will ordinarily only apply to Tier 1 permits (see clause 8.1).
 - (b) **Newly available acreage (NAA):** Land with NAA status in respect of a certain mineral group is subject to a time-bound competitive allocation process, as set out in clauses 6.7 and 6.8 below. This method may be used for Tier 1 or Tier 2 permit applications.
 - (c) **Competitive tender allocation:** A competitive tender allocation process may be used for Tier 1 permits if the Minister considers there is likely to be significant competitive interest in the land (see clauses 6.9 to 6.11 below). Competitive tender allocation is not used for allocating Tier 2 permits.
- (2) No more than 60 working days after land ceases to be subject to a permit under subclause (3), the Minister will determine which allocation method will apply in respect of the particular mineral group in that land. NZP&M will give notice on its website that the land is either:
 - (a) available for acceptable work programme offer applications, as set out in clauses 6.3 to 6.6, or
 - (b) subject to NAA status, as set out in clauses 6.7 and 6.8, or
 - (c) reserved under section 28A of the Act for possible competitive tender allocation.
- (3) Land ceases to be subject to a permit in respect of a particular mineral group (see subclause (2) above) when a permit (excluding non-exclusive permits) for that mineral group over that land (the former permit):
 - (a) expires under section 35 of the Act (or its extension of duration expires under section 36 of the Act), or
 - (b) is relinquished under section 35B or section 35C of the Act, or
 - (c) is revoked under section 39 of the Act, or
 - (d) is surrendered under section 40 of the Act, except where:
 - (i) the surrendered land is in exchange for the granting of a subsequent permit, or
 - (ii) the surrendered land is in exchange for the granting of an extension of land to an adjacent permit under clause 12.7, or
 - (iii) the surrendered land is subject to an application to extend land to which a mining permit relates under clause 6.4(2)(c), or
 - (iv) the permit vests in the Crown as if it was personal property under section 40(2) of the Act.

- (4) Until the Minister makes a determination under subclause (2), the land referred to in subclause (3) will be unavailable for permit applications in respect of the relevant mineral group. If the Minister determines that the land will be subject to NAA status as set out in clauses 6.7 to 6.8, NAA status will not ordinarily commence until at least 40 working days after the land ceases to be subject to a permit.

6.2 Overlapping permit applications

- (1) The Minister will ordinarily decline to grant a permit, or decline to grant an application to extend the land to which a permit relates, as the case may be, for land that is already subject to a permit (excluding a non-exclusive permit), an existing privilege, or a licence under the Continental Shelf Act 1964, unless:
 - (a) the permit application is for a subsequent permit, or
 - (b) the application is to amalgamate the permit holder's adjacent permits (see clause 12.7), or
 - (c) the permit application, or the application to extend land to which a permit relates, is for a mineral that belongs to a different mineral group, or
 - (d) the application is for a mining permit and the applicant is the holder of the existing privilege, or
 - (e) the application is for an exploration or mining permit and the applicant is the holder of a licence under the Continental Shelf Act 1964, or
 - (f) the application is to extend land to which a mining permit relates and:
 - (i) the land that is to be added to the mining permit is already subject to a permit or existing privilege, but the permit or existing privilege is held by the applicant for the extension of land or by a related company, and
 - (ii) extending the land to which the mining permit relates is in accordance with the practice in clause 10.5, or
 - (g) the application is for a non-exclusive prospecting permit in respect of a common mineral and the application is made by a person other than the holder of the current permit or privilege and, as required by section 25(7) or 30(8) of the Act, is accompanied by written agreement from the underlying permit or privilege holder.
- (2) The Minister will ordinarily decline to grant a permit, or decline to extend the land to which a permit relates, as the case may be, for land that is already subject to an application for a permit (excluding a non-exclusive permit application) or an application to extend land to which a permit relates, unless:
 - (a) equal priority applies (see clauses 6.5(4) and 6.8(3), and chapter 7), or
 - (b) the permit application, or application to extend land to which a permit relates, is for a mineral that belongs to a different mineral group.

Acceptable work programme offer

6.3 General information about acceptable work programme offer

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

- (2) An acceptable work programme offer application for a Tier 1 exploration or mining permit for minerals other than gold or silver must include a report that states the ownership of the minerals applied for (a Land Mineral Status Report), unless the application is for an offshore area.
- (3) Ordinarily, a permit will only be granted over land available for allocation if the applicant's work programme is acceptable to the Minister.
- (4) This method also provides for:
 - (a) priority to be given to holders of existing privileges who, before the privilege expires, apply for a mining permit in respect of part or all of the land to which the existing privilege relates
 - (b) a mining permit for a special purpose mining activity that enables historical mining methods to be demonstrated.
- (5) If NZP&M receives an acceptable work programme offer:
 - (a) before the hours of business, the application will be treated as having been received at 7.30am on that working day
 - (b) after the hours of business, the application will be treated as having been received at 7.30am on the next working day.

6.4 Land covered by acceptable work programme offer applications

- (1) Acceptable work programme offer applications, and applications to extend land to which a permit relates (under clause 12.5), will be considered over all available land, excluding the following land:
 - (a) land that is subject to a permit (other than a non-exclusive permit and a petroleum permit) or existing privilege, except as explicitly provided in subclause (2) below
 - (b) land that is expressly excluded by this Programme from being available for permitting, by a notice under section 28A of the Act, or by or under any enactment
 - (c) land that has newly available acreage (NAA) status for the relevant mineral group
 - (d) land that is subject to a permit application that is not:
 - (i) an application for a non-exclusive permit, or
 - (ii) an application (including an application to extend land to which a permit relates) for a mineral that belongs to a different mineral group.
- (2) In accordance with clause 4.3, the exclusion in subclause (1)(a) above does not apply to:
 - (a) a permit application that is for a mineral that belongs to a different mineral group
 - (b) an application for a subsequent permit
 - (c) an application to extend land to which a mining permit relates if:
 - (i) the land that is to be added to the mining permit is already subject to a permit held by the applicant for the extension of land, or a related party, and
 - (ii) extending the land to which the mining permit relates is in accordance with the practice in clause 10.5
 - (d) an application to amalgamate adjacent permits, as set out in clause 12.7
 - (e) an application for a mining permit over part or all of the land that is subject to an existing privilege held by the applicant.

6.5 Priority of acceptable work programme offer applications

- (1) A person who is first to make an acceptable work programme offer application for a defined area of land (in accordance with clause 6.4, but excluding newly available acreage) has first priority to have their application assessed.
- (2) If the Minister declines to grant an application that has first priority under subclause (1), or if that application is withdrawn, the practice is that the land in question is again available for permitting under the acceptable work programme offer method.
- (3) Later acceptable work programme offer applications that are made over part, or all, of the same land will be treated as if they overlap an area not available for allocation (see clause 6.4), and the procedures in clause 6.6 apply.
- (4) The following applications, provided they are received by NZP&M on the same working day and are made in respect of part, or all, of the same land and any mineral that belongs to a common mineral group, have equal priority and will be assessed in competition under chapter 7:
 - (a) two or more acceptable work programme offer applications for prospecting, exploration or mining permits, or
 - (b) two or more applications to extend land to which a permit relates, or
 - (c) one or more acceptable work programme offer applications for a permit and one or more applications to extend land to which a permit relates.

6.6 Overlapping acceptable work programme offer applications

- (1) The Minister will ordinarily decline to grant a permit for an acceptable work programme offer application, or an application to extend land to which a permit relates, and the applicant will be notified accordingly, if:
 - (a) an overlap exists between the land covered by the application and an area that is not available for allocation, and
 - (b) the application does not indicate that it is for a non-exclusive permit.
- (2) In order to reduce the chances of an acceptable work programme offer application being declined under subclause (1), the application may state that it excludes land that is subject to a permit, an existing privilege, or a permit application that is pending determination (excluding an application for a non-exclusive permit).

Newly available acreage

6.7 General information about newly available acreage

- (1) Land will have NAA status in respect of only one mineral group. The mineral group to which the NAA applies will be the mineral group to which the former permit (under clause 6.1(3)) related.

- (2) NAA status of land:
 - (a) commences when NZP&M gives notice on its website, under clause 6.1(2), that NAA status applies with respect to the particular mineral group in that land, and
 - (b) ends at 4.30pm on the last working day of the 40-working-day period that starts on the first working day after the day on which NAA status commenced.
- (3) An application in respect of NAA will only be considered over all or one part of one NAA.
- (4) The Regulations set out reporting requirements for the holder of the terminated permit referred to in clause 6.1(3). The holder of the terminated permit will not be eligible to apply for the land that has become available under NAA if it does not comply with those regulations.

6.8 Priority of applications for NAA

- (1) An application for a permit in respect of NAA will only be processed according to the NAA method from the time that NAA status terminates.
- (2) If NZP&M receives only one permit application, or only one application to extend land to which a permit relates, for all of one NAA or one part of one NAA, ordinarily the application will be considered as if it were an acceptable work programme offer application.
- (3) The following applications that are received by NZP&M will be given equal priority and will be assessed as competing applications under chapter 7:
 - (a) as illustrated by example in plan A1 in Schedule 4, two or more applications for a permit for:
 - (i) all of the same NAA, or
 - (ii) the same part of the same NAA
 - (b) as illustrated by example in plan A2 in Schedule 4, two or more applications for a permit if:
 - (i) each application is for one part of the same NAA, and
 - (ii) each of those parts overlaps with each of the other parts
 - (c) as illustrated by example in plan A3 in Schedule 4, three or more applications for a permit if:
 - (i) each application is for one part of the same NAA, and
 - (ii) subclause (3)(b)(ii) above does not apply, and
 - (iii) each part overlaps with at least one other part, and
 - (iv) the parts overlap to form one unbroken area
 - (d) as illustrated by example in plan B1 in Schedule 4, two or more applications to extend land to which a permit relates if the land that is to be added by each application is:
 - (i) all of the same NAA, or
 - (ii) the same part of the same NAA

- (e) as illustrated by example in plan B2 in Schedule 4, two or more applications to extend land to which a permit relates if:
 - (i) the land that is to be added by each application is one part of the same NAA, and
 - (ii) each of those parts overlaps with each of the other parts
- (f) as illustrated by example in plan B3 in Schedule 4, three or more applications to extend land to which a permit relates if:
 - (i) the land that is to be added by each application is one part of the same NAA, and
 - (ii) subclause (3)(e)(ii) above does not apply, and
 - (iii) each part overlaps with at least one other part, and
 - (iv) the parts overlap to form one unbroken area
- (g) as illustrated by example in plan C1 in Schedule 4, one or more applications for a permit and one or more applications to extend land to which a permit relates, if each application for a permit and each application to extend land is for:
 - (i) all of the same NAA, or
 - (ii) the same part of the same NAA
- (h) as illustrated by example in plan C2 in Schedule 4, one or more applications for a permit and one or more applications to extend land to which a permit relates, if:
 - (i) each application for a permit and each application to extend land is for one part of the same NAA, and
 - (ii) each of those parts overlaps with each of the other parts
- (i) as illustrated by example in plan C3 in Schedule 4, one or more applications for a permit and one or more applications to extend land to which a permit relates, if:
 - (i) each application for a permit and each application to extend land is for one part of the same NAA, and
 - (ii) subclause (3)(h)(ii) above does not apply, and
 - (iii) each part overlaps with at least one other part, and
 - (iv) the parts overlap to form one unbroken area.

Competitive tender allocation

6.9 General information about competitive tender allocation

- (1) If the Minister considers there to be significant competitive interest for exploration or mining permits for minerals in a defined area of high prospectivity, the Minister may allocate permits by cash bonus bidding or staged work programme bidding:
 - (a) **Staged work programme bidding** involves parties submitting bids to undertake a work programme to explore for mineral resources. The term “staged” refers to the fact that work programmes can include later stages of contingent work, depending on the results of the earlier stage or stages. Subject to the other matters the Minister must consider and be satisfied about before granting a permit (chapter 5), the permit will normally be granted to the party proposing to undertake a work programme that has the best information-gathering value and that is most likely to find mineral

deposits in a timely manner, provided the work programme is technically appropriate and credible (see clause 6.11).

- (b) **Cash bonus bidding** involves parties submitting bids to pay cash for an exploration permit. The party making the highest cash bid (subject to meeting other requirements) wins the tender. The cash payment is in addition to royalty and fee payment obligations. Permits will not be granted on the basis of competing work programmes, although minimum work programme requirements may be specified as part of the competitive tender.
- (2) Staged work programme bidding will be used under most circumstances. Cash bonus bidding is only likely to be used when there is high prospectivity (for example, after a discovery or discoveries) and when there is particularly strong competitive interest in permits. Cash bonus bidding is not considered further in this Programme.
- (3) If the Minister decides to hold a competitive tender, a notice will normally include (without limitation):
 - (a) the type of permit offered
 - (b) the land and minerals to which the permit relates
 - (c) the manner in which tenders must be submitted, and the time by which tenders must be received by the Minister, in order for the tenders to be valid
 - (d) the conditions to which any permit granted pursuant to the tender will be subject
 - (e) how bids will be evaluated, including what happens when some competing bids are made under section 29A and other bids are made under section 29B (see chapter 5)
 - (f) any application fee.
- (4) Bids for a staged work programme for a permit area will be assessed according to the criteria set out in the public notice.

6.10 Reservation of land

- (1) *Section 28A of the Act* provides the Minister with the power to declare (by notice in the *Gazette*) that specified land will not be available for specified permits for a specified time (with a maximum of three years) if the Minister believes this is necessary to better meet the purpose of the Act.
- (2) An application for a permit or an extension of land of a permit for the minerals to which the reservation relates over reserved land will be declined by the Minister (see clause 12.5).
- (3) After an area of land has been reserved, an investigation may be carried out to determine whether or not a competitive tender should be held. This investigation will ordinarily include the following:
 - (a) a technical evaluation of the area of the competitive tender. The Minister will ordinarily need to be satisfied that there is adequate information on the mineral potential or mineral resources of the area to support a competitive tender of either exploration or mining permits. A technical or data package to promote the competitive tender may be prepared.
 - (b) consultation with iwi and hapū concerning the proposal to hold a competitive tender
 - (c) an evaluation of the likely interest in a competitive tender, which may include calling for expressions of interest in a possible tender by staged work programme or cash bonus bidding.

6.11 Procedures for processing staged work programme bids

- (1) The processing of staged work programme bids will usually be completed within three months after the closing of applications. The notice of the tender will ordinarily set out the Minister's expected timing for processing bids. Bidders will be informed if processing will take longer than this.
- (2) If there is only one bid for an area and its work programme is not considered acceptable, the bidder may be requested to modify the proposed work programme to a level that is acceptable to the Minister, if this would generally be in the interest of ensuring continuing mineral exploration in New Zealand. Otherwise the bid will be declined.
- (3) If no acceptable bids are received for an area, the Minister will ordinarily inform all bidders for that area about this and invite them to resubmit modified bids within a specified timeframe.
- (4) Other than in the circumstances referred to in subclauses (2) and (3) above, applicants will not be allowed to modify or improve a bid once it is submitted.
- (5) Once a permit has been granted, all applicants will be informed in writing of the outcome of their application.
- (6) The Minister will ordinarily decline all bids if there is no acceptable bid or modified bid (as provided for in subclauses (2) and (3)).

Non-exclusive prospecting permit applications

6.12 Non-exclusive prospecting permit applications

- (1) This method involves a non-exclusive prospecting permit being granted over land available for allocation if the applicant's work programme is acceptable to the Minister.
- (2) Non-exclusive prospecting permit applications will be considered over all land that is not explicitly excluded from having a permit granted over it by this Programme or any enactment.
- (3) As set out in clause 6.2(1)(g), if a non-exclusive prospecting permit is applied for over an area containing one or more exploration or mining permits or privileges for minerals within the same mineral group, the permit application must be accompanied by written agreement from the underlying permit or privilege holder or holders.

7. Procedures for applications with equal priority

7.1 Notification of equal priority applications

- (1) If there are equal priority applications, NZP&M will inform each applicant that their application has equal priority with one or more other applications.
- (2) NZP&M may request each applicant to provide, within 10 working days, any information that may be needed to clarify their application, including:
 - (a) where, in the land to which the permit would relate, the applicant proposes to undertake the substance of the work programme and direct the bulk of expenditure, and
 - (b) the rationale for that work and expenditure.

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

- (1) If this Programme requires two or more applications to be given equal priority (or to be considered in competition), then in determining whether or not to grant a permit or to extend land to which a permit relates (as the case may be), the Minister will ordinarily assess each of the applications:
 - (a) in its entirety, and
 - (b) in accordance with the relevant criteria that:
 - (i) are set out in this chapter and throughout the rest of this Programme, and
 - (ii) apply to each of the applications.
- (2) After ranking the applications (in accordance with clauses 7.3 to 7.7 as applicable), the Minister will consider, for the top-ranked application or applications:
 - (a) the matters in section 29A(2)(b) and (c) of the Act, to determine whether the applicant is likely to comply with and give effect to its proposed work programme and comply with the relevant obligations under the Act or the regulations (see clauses 5.1 and 5.3), and
 - (b) with regard to applications for Tier 1 permits for exploration or mining, section 29A(2)(d) of the Act, which relates to whether the applicant is likely to have the capability and systems to meet likely health and safety and environmental requirements (see clauses 5.1 and 5.4).
- (3) The assessment in subclause (2) above may result in changes to the ranking, including rejection of one or more top-ranked applications. As noted in chapter 5, unless section 29B applies (see clause 5.5), the Minister must be satisfied about all of the matters set out in section 29A(2) of the Act before granting a permit.

7.3 Equal priority prospecting permit applications

- (1) In assessing prospecting permit applications with equal priority, the Minister will ordinarily consider (but is not limited to) any or all of the following matters, in addition to the matters in chapters 5 and 8:
 - (a) whether each work programme is appropriate and sufficiently comprehensive:
 - (i) to achieve the objective of identifying land that is likely to contain exploitable mineral deposits
 - (ii) to add materially to the knowledge about the mineral within the area of land
 - (b) the merits of:
 - (i) where, on the land to which the permit application relates, the applicant proposes to undertake the substance of the work programme
 - (ii) the proposed expenditure
 - (iii) the proposed scheduling of prospecting activities and how the expenditure is to be allocated to those activities
 - (iv) the rationale for that work and expenditure.
- (2) To avoid doubt, the matters referred to in subclause (1) above are in addition to, and not instead of, other relevant criteria set out in this Programme.

7.4 Equal priority exploration permit applications

- (1) In assessing exploration permit applications with equal priority,²⁶ the Minister will ordinarily consider (but is not limited to) any or all of the following matters, in addition to the matters in chapters 5 and 9:
 - (a) how appropriate and comprehensive each work programme is, given the geological knowledge of the area and any exploration results to date
 - (b) the merits of:
 - (i) where, on the land to which the permit application relates, the applicant proposes to undertake the substance of the work programme
 - (ii) the proposed expenditure
 - (iii) the proposed scheduling of exploration activities and how the expenditure is to be allocated to those activities
 - (iv) the rationale for that work and expenditure
 - (c) the information-gathering potential of the proposed work
 - (d) whether the work is to be committed, rather than contingent.

²⁶ This includes an application to extend the land of an exploration permit.

7.5 Equal priority mining permit applications

- (1) In assessing mining permit applications with equal priority,²⁷ the Minister will ordinarily consider (but is not limited to) the proposed scheduling of mining and the appropriateness of the proposed technical approach to the proposed works, given the geology and the nature of the mineral resource.
- (2) To avoid doubt, the matters referred to in subclause (1) above are in addition to, and not instead of, other relevant criteria set out in this Programme.

7.6 Equal priority exploration and mining permit applications

- (1) If an exploration permit application has equal priority with a mining permit application, the Minister's assessment of the applicants' proposed work programmes will ordinarily consider the proposed technical approach to the proposed works, given the geology and the nature of any mineral resource defined.
- (2) The Minister will ordinarily give priority to considering the mining permit application, subject to it meeting other relevant criteria set out in this Programme.

7.7 Prospecting permit application competing with exploration or mining permit applications

- (1) If a prospecting permit application has equal priority with either an exploration or a mining permit application, the Minister will give priority to considering the exploration or mining permit application.
- (2) *Section 28 of the Act* provides that the Minister must not grant a prospecting permit if there is substantial interest in exploring for or mining the mineral in all or part of the land to which the prospecting permit application relates, unless special circumstances apply.

²⁷ This includes an application to extend the land of a mining permit.

8. Prospecting permits

8.1 Introduction

- (1) *Section 23 of the Act* provides that the purpose of a minerals prospecting permit (MPP) is to authorise the permit holder to prospect for minerals as specified in the permit. The definition of “prospecting” in the Act provides that this term:
 - “(a) means any activity undertaken for the purpose of identifying land likely to contain mineral deposits or occurrences; and
 - (b) includes the following activities—
 - (i) geological, geochemical, and geophysical surveying;
 - (ii) aerial surveying;
 - (iii) taking samples by hand or hand held methods;
 - (iv) taking small samples offshore by low-impact mechanical methods”.²⁸
- (2) Minerals prospecting permits are intended for preliminary or reconnaissance investigations where the mineral potential of an area is not already well understood. On this basis, applications for prospecting permits for coal and all Tier 2 minerals will generally be declined, as the resource potential is well-established.
- (3) The Minister will ordinarily:
 - (a) decline to grant a prospecting permit for coal over delineated coalfields
 - (b) decline to grant a Tier 2 prospecting permit
 - (c) in the case of other minerals, grant a prospecting permit (and any extension of duration) only if the applicant proposes:
 - (i) to use new or improved sampling, analytical or survey techniques, including those providing higher resolution of data or enhanced detection levels, or
 - (ii) to prospect for any mineral that has not previously been prospected for in part or all of the same permit area under any previous prospecting permit
 - (d) grant a prospecting permit (and any extension of duration) for the minimum period necessary to meet the conditions of the work programme.

8.2 Assessment of work programmes

- (1) The Minister will ordinarily decline a prospecting permit application unless the proposed work programme:
 - (a) has as its purpose to identify land likely to contain exploitable mineral deposits, and
 - (b) will add materially to the knowledge about the minerals within the area and is appropriate to the size and term of the permit sought.

²⁸ Section 2(1).

8.3 General matters to be considered for assessment of work programmes

- (1) In assessing the proposed work programme, the Minister will ordinarily consider (but is not limited to) any or all of the following matters:
 - (a) the geology of the land that will be covered by the work programme
 - (b) any prospecting, exploration or mining previously carried out over all or part of that land. In considering previous prospecting, exploration or mining, the Minister will ordinarily have regard to:
 - (i) how long ago the activities were undertaken
 - (ii) the type and appropriateness of investigations undertaken
 - (iii) the methods and analytical techniques that were used
 - (c) the existing knowledge of the mineral resources of the land
 - (d) the proposed prospecting activities, including the extent to which the programme proposes to use new or improved sampling, analytical or survey techniques
 - (e) the minimum level of expenditure indicated
 - (f) whether the proposed prospecting activities will investigate the full extent of the land to be covered by the permit
 - (g) the time the applicant estimates will be required:
 - (i) to carry out the proposed prospecting work, and
 - (ii) to process and analyse the results.

8.4 Area

- (1) Ordinarily a prospecting permit:
 - (a) for an onshore area will be no larger than 500 square kilometres
 - (b) for an offshore area will be no larger than 5,000 square kilometres.
- (2) The Minister may grant a prospecting permit of a larger size if he or she considers that competitive interest in the area is likely to be low or if a larger area is necessary to enable efficient and effective prospecting of the area.

8.5 Duration

- (1) *Section 35(1) and (2) of the Act* provides that:
 - (a) a prospecting permit expires:
 - (i) four years after the commencement date specified in the permit, or
 - (ii) if an earlier expiry date is specified in the permit, on that date
 - (b) a prospecting permit may not be extended beyond four years after the commencement date specified in the permit.
- (2) The Minister will ordinarily grant a prospecting permit specifying:
 - (a) an expiry date that is up to two years after the commencement date, and
 - (b) in accordance with section 35B of the Act, an amount of land that must be relinquished if an extension of duration is granted (see clause 12.6).

9. Exploration permits

9.1 Introduction

- (1) *Section 23 of the Act* provides that the purpose of a minerals exploration permit (MEP) is to authorise the permit holder to explore for minerals as specified in the permit. “Exploration” is defined in the Act as “any activity undertaken for the purpose of identifying mineral deposits or occurrences and evaluating the feasibility of mining particular deposits or occurrences of one or more minerals; and includes any drilling, dredging, or excavations (whether surface or subsurface) that are reasonably necessary to determine the nature and size of a mineral deposit or occurrence”.²⁹
- (2) *Section 30(2) of the Act* provides that the holder of a minerals exploration permit also has the rights of a minerals prospecting permit holder within the area of the permit.
- (3) The Minister will ordinarily grant an exploration permit if he or she is satisfied that the objective of the exploration is:
 - (a) to identify at least an inferred mineral resource or deposit in the proposed permit area, or
 - (b) to determine the feasibility of mining particular mineral resources.

9.2 Assessment of work programmes

- (1) A work programme for an exploration permit should consist of two distinct stages: ordinarily one three-year stage and one two-year stage. A work programme will not ordinarily have commitment deadlines at any time other than the end of each stage.
- (2) In the case of a Tier 1 exploration permit application, the Minister will ordinarily decline a proposed work programme for that application unless, in addition to the requirements of clause 9.1 above, the proposed work programme includes all the following minimum work commitments (it may also include other work commitments):
 - (a) exploration targets for drilling, which will be finalised within the first stage of the work programme
 - (b) drilling and other exploration activities that are appropriate to assessing the scale and prospectivity of the identified exploration targets, or that are directed at increasing the level of geological confidence of a mineral resource or deposit.

9.3 General matters to be considered for assessment of work programmes

- (1) In assessing a proposed work programme, the Minister will ordinarily consider (but is not limited to) any or all of the following matters:
 - (a) the geology of the land to which the permit application relates, including whether the land contains defined exploration targets or is contiguous to defined exploration targets
 - (b) past prospecting, exploration or mining activities that may be relevant to the land covered by the permit application

²⁹ Section 2(1).

- (c) the technical approach to be taken when exploring the land to which the permit application relates, and the stated objectives of the work programme
- (d) whether the proposed exploration is in accordance with good industry practice and provides for exploration over the full extent of the land to which the permit application relates; and whether the proposed key exploration activities are contingent on activities that are considered to be prospecting in nature
- (e) the timing and quantities of committed work, particularly drilling
- (f) the time the applicant estimates is required to undertake both the committed and contingent exploration work proposed and to process and analyse the results
- (g) the minimum exploration expenditure indicated for each stage, including the expectation of increased expenditure in line with more intensive exploration activities
- (h) for a subsequent exploration permit, any extent to which the land to which the application relates is reduced to focus on specific identified exploration targets or a mineral deposit
- (i) whether the proposed exploration work programme will enable a commercially justifiable decision to be made on the development of a particular mineral deposit before the permit expires.

9.4 Area

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

9.5 Duration

- (1) *Section 35(5) and (6) of the Act* provides that:
 - (a) a minerals exploration permit expires:
 - (i) 10 years after the commencement date specified in the permit, or
 - (ii) if an earlier expiry date is specified in the permit, on that date; and
 - (b) a minerals exploration permit may not be extended beyond 10 years after the commencement date specified in the permit, unless it is extended further under section 35A of the Act to appraise a discovery (see clause 9.6 below).
- (2) The Minister will ordinarily grant an exploration permit specifying:
 - (a) an expiry date that is up to five years after the commencement date, and
 - (b) in accordance with section 35C of the Act, an amount of land that must be relinquished if an extension of duration is granted (see clause 12.6).

9.6 Extension of duration to appraise a discovery

- (1) *Section 35A of the Act* provides that an exploration permit holder may apply for an appraisal extension to determine the extent and characteristics of a discovery in order to determine whether the requirements for a mining permit can be met, if:
 - (a) the permit holder has made a discovery that has the potential to lead to the grant of a mining permit, and
 - (b) the duration of the permit is insufficient to carry out the appraisal work for the discovery, and
 - (c) the Minister is satisfied that the appraisal work programme is sufficient to carry out the appraisal work.
- (2) *Section 35A(1) of the Act* provides that an appraisal extension may have a duration of up to four years. However, *section 35A(4)* provides that the Minister may grant a further extension of not more than four years if satisfied that this is necessary to fully appraise the discovery and apply for a mining permit.
- (3) In assessing the sufficiency of an appraisal work programme submitted with an application to extend the duration of an exploration permit, the Minister will ordinarily consider (but is not limited to) any or all of the following matters:
 - (a) the nature of the proposed appraisal work
 - (b) the extent and physical characteristics of the discovery, and the technical approach to better defining these characteristics
 - (c) estimates of mineral resources, which:
 - (i) should include at least inferred resources, and
 - (ii) for Tier 1 permits, are made in accordance with a recognised resource classification code
 - (d) whether the proposed appraisal work is necessary and sufficient to advance knowledge of a discovery or resource to allow determination of whether an economically mineable mineral resource or deposit is present
 - (e) the proposed staging and timing of the appraisal work, including whether the work programme specifies decision points that will lead to the completion, within the period of the extension, of mine feasibility and technical studies for the development and mining of the discovery
 - (f) whether the permit holder has complied with the conditions of the permit, the Regulations, and the Act.
- (4) If the Minister is not satisfied that an appraisal work programme is necessary or sufficient to carry out any warranted appraisal work, the Minister will ordinarily:
 - (a) notify the applicant in writing, giving reasons, and
 - (b) give the applicant a reasonable opportunity to submit a modified appraisal work programme.
- (5) The Minister will ordinarily extend the duration of the appraisal extension if the permit holder satisfies the Minister that the appraisal work programme cannot be completed within the original appraisal extension period and that the permit holder is taking all practicable steps to advance appraisal of the discovery.

- (6) An appraisal extension is not granted for the purposes of allowing further general exploration.
- (7) An application for an appraisal extension must contain the information required by the Regulations and may be made on the appropriate form on NZP&M's website.
- (8) *Section 36(4) of the Act* provides that the application for an appraisal extension must be made not later than six months before the expiry of the permit, unless the Minister is satisfied that there are compelling reasons why a permit holder could not comply with this requirement.
- (9) Any application for a mining permit must be submitted before the appraisal extension expires. *Section 32(8) of the Act* provides that the appraisal extension will continue in force until a decision has been made on the mining permit application.

9.7 Area of an appraisal extension

- (1) *Section 35A of the Act* provides that the area of an appraisal extension must be restricted to the land in the permit to which the Minister determines it is likely that the discovery relates.
- (2) In determining the area of an appraisal extension the Minister will take into account that it may be difficult to be precise about the actual limits of a mineral deposit before the appraisal work is completed. The Minister's objective will be to allow the permit holder a reasonably adequate area of land to enable it to appraise the discovery.
- (3) As a condition of granting an appraisal extension, the Minister may require that the area of the extension be re-considered at a specified time. If, after consulting with the permit holder, the Minister considers that all of the 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.
- (4) If there is more than one discovery, the Minister will normally include both (or all) discoveries in the area of the appraisal extension.

10. Mining permits

10.1 Introduction

- (1) *Section 23 of the Act* provides that the purpose of a minerals mining permit (MMP) is to authorise the permit holder to mine for the minerals specified in the permit. “Mining” is defined in 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]”.
- (2) *Section 30(3) of the Act* provides that the holder of a minerals mining permit also has the rights of a minerals exploration permit holder (and therefore also of a minerals prospecting permit holder) within the area of the permit.
- (3) The Minister will ordinarily grant a mining permit if satisfied that:
 - (a) the permit applicant has identified and delineated at least an indicated mineable mineral resource or exploitable mineral deposit, and
 - (b) the area of the permit is appropriate, and
 - (c) the objective of the mining permit is to economically deplete the mineable mineral resource or deposit to the maximum extent practicable in accordance with good industry practice.

10.2 Matters that may be considered by Minister

- (1) In considering whether a mineral deposit has been sufficiently delineated to support the granting of a mining permit, or in assessing any proposed work programme³⁰ (or modified work programme), the Minister will ordinarily consider (but is not limited to) any or all of the following matters:
 - (a) the geology and occurrences of minerals within the land to which the mining permit application (or application for extension of duration) relates
 - (b) the applicant’s knowledge of the geology and extent of the mineral resource that the applicant proposes to extract
 - (c) estimates of mineable mineral resources, which may include indicated and measured resources, probable and proved reserves, and the accompanying documentation on input data, methodology, quality control and validation of the mineral resource estimates
 - (d) inferred mineral resources
 - (e) the applicant’s mining feasibility studies, which include mine design, scheduling and production, resource recovery, and economic viability
 - (f) project economics – in particular the financial viability and technical constraints, and the proposed level of expenditure in relation to the scale and extent of the proposed operations
 - (g) whether the proposed mining operations are in accordance with good industry practice.

³⁰ This includes any work programme required by the Minister in connection with an application for an extension of duration of a mining permit.

- (2) For Tier 1 permit applications, estimates of mineral reserves and resources made under subparagraphs (1)(c) and (d), the Regulations require that these are made in accordance with a recognised resource classification code, and be accompanied by:
 - (a) documentation on input data, methodology, quality control, and validation of the resource or deposit
 - (b) a spatial definition of the areas to which the figures in the estimates apply
 - (c) a statement of the criteria used to determine the estimates, and
 - (d) a statement of whether the estimates are made on the basis of scoping, pre-feasibility, feasibility study, or other basis.
- (3) For Tier 1 permits, if the Minister requires alternative mine development plans to be evaluated to ensure the proposed plan is optimal in terms of the purpose of the Act, the 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. Normally, the discount rate will be 3 percent as a proxy for the social rate of time preference.³¹ In addition, a discount rate of 10 percent may be applied as a proxy for the cost of capital of a (hypothetical) large, diversified mineral explorer and producer. The latter discount rate will be used to confirm that the preferred development option or options using the social time preference discount rate is or are commercially viable; if this is not the case, any non-viable options will not be considered further.

10.3 Assessment of mining permit area

- (1) In considering whether the land to which a permit application relates (or any extension of land to which a permit relates) is appropriate, the Minister will ordinarily consider (but is not limited to) the following matters:
 - (a) the delineation of the mineral resource
 - (b) the proposed work programme and other relevant matters set out in clause 10.2 above
 - (c) the extent to which the area of land under application covers the delineated mineral resource
 - (d) the area of land required to develop the mineral resource.
- (2) A mining permit (or any extension of land) will ordinarily be granted over an unbroken area, unless the Minister considers that special circumstances exist as set out in clause 4.6.
- (3) The Minister will ordinarily decline a mining permit application if the application is made for an area adjoining a current permit held by the applicant or a related party, and either:
 - (a) the Minister considers that it is being sought to avoid payment of royalty to the Crown, or
 - (b) it would be more appropriate for the current permit to be extended.

³¹ The social rate of time preference discounts future benefits and costs based on the way that society values present, as opposed to future, consumption.

10.4 Area

- (1) Ordinarily a Tier 2 mining permit will be of a size no larger than:
 - (a) 50 hectares in the case of a hobby or recreational operation
 - (b) 200 hectares in the case of any other Tier 2 permit.

10.5 Extensions of land

- (1) The Minister will ordinarily grant an extension of the land to a mining permit if satisfied that:
 - (a) the permit holder has identified and delineated an indicated mineral resource
 - (b) the indicated mineral resource is generally contiguous with the mineral resource to which the mining permit applies
 - (c) the area of the permit extension is appropriate, having regard to the considerations in clause 10.3
 - (d) the objective of extending the land is to economically deplete the mineral deposit to the maximum extent practicable in accordance with good industry practice, and
 - (e) extending the land will not be inconsistent with any or all of the matters considered under clauses 12.2 and 12.5.
- (2) For Tier 1 permits, estimates of mineral resources made under subparagraphs (1)(a) and (b) must be made in accordance with a recognised resource classification code, and be accompanied by:
 - (a) a spatial definition of the areas to which the figures in the estimates apply
 - (a) a statement of the criteria used to determine the estimates, and
 - (a) a statement of whether the estimates are made on the basis of scoping, pre-feasibility, feasibility study, or other basis.

10.6 Duration

- (1) A Tier 2 mining permit will ordinarily be granted for a period of no more than 10 years if the permit is either:
 - (a) a hobby mining permit, or
 - (b) a permit for alluvial gold.
- (2) In the case of a Tier 1 permit, or a Tier 2 mining permit to which subclause (1) above does not apply, if the Minister reasonably considers that the proposed mining of the mineral resources should take less than 40 years, then in determining the duration of a mining permit he or she will ordinarily consider (but is not limited to) any or all of the following matters:
 - (a) the estimated mineable mineral resources
 - (b) the proposed production schedule
 - (c) the timing of the mine development
 - (d) the proposed start date for production
 - (e) any matters set out in clause 10.2 that in the Minister's opinion are relevant.

- (3) Under *section 36 of the Act*, the duration of a mining permit may not be extended unless the permit holder satisfies the Minister that the discovery to which the permit relates cannot be economically depleted before the permit expires, and the Minister approves a new permit work programme (see clause 12.6).

10.7 Special purpose mining activities

- (1) A mining permit for a special purpose mining activity may be granted to enable historical mining methods to be demonstrated. These permits are likely to be applied for by historical societies, museum trusts or other similar bodies. Mining permits for special purpose mining activities will always be Tier 2 permits.
- (2) A permit for a special purpose mining activity will ordinarily be granted if the Minister is satisfied that:
 - (a) the applicant seeks the mining permit to undertake mining operations for demonstrating historical methods of mining
 - (b) the area of the application is no greater than five hectares, and
 - (c) the applicant is an historical society, museum trust, or other similar party, including an educational institution.

10.8 Application for subsequent mining permit over more than one exploration permit

- (1) Subject to *section 32 of the Act*, when the Minister has decided to grant a mining permit over land that is subject to more than one exploration permit held by the applicant, a single mining permit will ordinarily be granted, provided the exploration permits relate to a common mineable mineral resource and the land to which the mining permit relates is an unbroken area (subject to clause 4.6).

10.9 Unit development approval of work programme for subsequent mining permit

- (1) If:
 - (a) a mineral deposit extends over two or more permits held by different parties, and the Minister has given a notice of unit development under section 46 of the Act, and
 - (b) one exploration permit holder applies for a subsequent mining permit before a unit development scheme has been approved,the Minister will ordinarily, on the basis set out in subclause (2) below, withhold approval of the proposed work programme for the subsequent mining permit until the Minister has considered the unit development scheme.
- (2) The basis for withholding the approval is that the Minister is not reasonably able to determine, without an assessment in the context of the unit development scheme, whether or not the proposed work programme will avoid waste and unnecessary sterilisation of the deposit.

10.10 Evaluation of unit development scheme

- (1) In evaluating a proposed unit development scheme, the Minister will ordinarily consider (but is not limited to) any or all of the following matters:
 - (a) the matters set out in clause 10.2 above
 - (b) any approved work programme relating to any of the permits or existing privileges that are subject to the notice of unit development, or any work programmes submitted for approval and being considered
 - (c) any conditions of the permits or existing privileges that are subject to the notice of unit development
 - (d) proposals or agreements entered into by the relevant permit or existing privilege holders concerning obligations, liabilities and entitlements to production
 - (e) whether exploration or prospecting work is proposed, with the aim of obtaining further information on the mineral resources of the area, or of updating knowledge of the mineral deposit and reducing uncertainty about the location and quality of the mineral.

10.11 Preparation of unit development scheme by Minister

- (1) A unit development scheme that is prepared by the Minister will ordinarily provide for (but is not limited to) any or all of the following matters:
 - (a) estimating the production entitlement of each permit holder or existing privilege holder, by reference to the mineral resource and reserves in the land to which each affected permit or existing privilege relates
 - (b) whether one permit or existing privilege holder has incurred or may incur greater exploration, appraisal and development costs, or will provide more facilities than the other permit or existing privilege holder
 - (c) effective mining of the mineral deposit in accordance with good industry practice with the objective of securing the maximum recovery of the mineral within technical and economic constraints
 - (d) the production schedule for the mineral deposit
 - (e) the liability of each permit or existing privilege holder for the costs of necessary mining operations
 - (f) the obligations of each permit or existing privilege holder when undertaking mining operations
 - (g) the need for a unit operating agreement that states the entitlement of each permit or existing privilege holder to the mineral obtained as a result of operations undertaken in accordance with the unit development scheme.

10.12 Staged work programmes for Tier 1 mining permits

- (1) The Minister will consider a work programme that is set out in development stages. For example, this may be appropriate if a mineral deposit has been identified but its long-term characteristics cannot be established other than by commercial production. The work programme may provide for a first stage of work and then for the permit holder to submit for the Minister's approval a work programme for the remainder of the permit's term or for the subsequent stage.

- (2) If a staged development is proposed, the applicant will need to demonstrate that the staged development will not unreasonably prejudice the resource's economic recovery. An understanding of how each stage is intended to fit with further possible stages will need to be shown.
- (3) The Minister may require options to be included in the work programme for reducing the size of the permit area or for amending the duration of the permit after the first stage, if it is established that the extent of the mineral deposit or amount of reserves is less than originally forecast.

10.13 Commencement of mining

- (1) In general, mining operations will be expected to start as soon as possible. However, the Minister may consider a work programme in which mining starts after the commencement date of the minerals mining permit. The matters the Minister may take into account include:
 - (a) whether development of the mine will be in co-ordination with the development of other minerals mining permits and there is a logical development progression proposed that will result in all the permits being developed to ensure maximum economic recovery
 - (b) whether the permit applicant wishes to delay development until new infrastructure required for transporting or processing the minerals has been constructed.

10.14 Processes where the Minister withholds approval of a work programme

- (1) *Sections 43 and 44 of the Act* provide specific processes for where the Minister considers that a work programme submitted by the applicant for the purposes of obtaining a mining permit subsequent to an exploration permit is not satisfactory.
- (2) *Section 43* 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, or
 - (b) approval would be acting contrary to this Programme.
- (3) *Sections 43 and 44* provide that:
 - (a) the Minister must notify the applicant that the work programme is not approved
 - (b) the applicant may, within a reasonable period specified by the Minister, submit a modified work programme
 - (c) the Minister must approve or withhold approval of the modified work programme within six months
 - (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
 - (e) if the Minister withholds approval of a work programme or modified work programme the applicant may refer the matter to arbitration under section 99 of the Act. The arbitrator's decision is binding on the Minister.

10.15 Restoration

- (1) Environmental protection provisions relating to restoration are set by regional authorities under the Resource Management Act 1991 (onshore and up to 12 nautical miles offshore) and the Environmental Protection Authority (EPA) under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (in New Zealand's exclusive economic zone and continental shelf). Other relevant legislation includes the Health and Safety in Employment Act 1992 and the Maritime Transport Act 1994.
- (2) The Minister may include provisions in a mining permit work programme for restoration in accordance with good industry practice.

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

Obligations of the permit holder

11.1 Obligations of the permit holder

- (1) The main obligations of the permit holder³² are to:
 - (a) carry out the work programme specified in the permit
 - (b) comply with the conditions of the permit and all other obligations under it
 - (c) operate in accordance with good industry practice (see clause 1.3(10))
 - (d) report annually to NZP&M on specified matters
 - (e) for Tier 1 permits, attend an annual work programme meeting with NZP&M
 - (f) calculate and pay royalties (prescribed in the Crown Minerals (Royalties for Minerals Other than Petroleum) Regulations 2013, the relevant minerals programme or an existing privilege), and submit royalty returns (in accordance with the Crown Minerals (Royalties for Minerals Other than Petroleum) Regulations 2013)
 - (g) pay fees prescribed in the Crown Minerals (Minerals Fees) Regulations 2006
 - (h) notify the Minister of and obtain consent to specified events and transactions (see clauses 12.8 to 12.12 on transfers and dealings)
 - (i) lodge information and data in accordance with the Regulations
 - (j) comply with the Act, regulations and this Programme
 - (k) comply with the Health and Safety in Employment Act 1992 and regulations made under that Act.
- (2) Other obligations include to:
 - (a) cooperate with any enforcement officer
 - (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.
- (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, regulations, or any of the conditions of a permit (see clause 12.14).
- (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.

³² See sections 33, 33C, 33D and 34 of the Act.

11.2 Coal seam gas

- (1) As noted in clause 1.6, coal seam gas is petroleum, and therefore is not covered by this Programme. However, the holders of coal mining permits and existing privileges have an incidental right to extract, collect and release coal seam gas, where it is necessary and reasonable to do so in conjunction with the safe management of coal mining operations. This right does not give coal operators a right of ownership of the gas or the right to sell or trade gas.
- (2) The holder of a coal permit or existing privilege who wants to sell or trade gas, including that associated with coal mining, must apply for a petroleum mining permit.
- (3) To avoid potential interference issues between coal and petroleum activities, if a petroleum permit targeting coal seam gas is granted and overlaps with an existing coal mining permit or existing privilege, the holder of the coal mining permit or existing privilege is required to provide to the petroleum permit holder a five-year development plan for the existing coal mine, showing the location and extent of the area of the mining permit or existing privilege in which mining is proposed for the following five years. This will include a three-year rolling coal extraction zone, which will be excluded from any non-minimum impact petroleum activities by the petroleum permit holder unless the holder of the underlying coal mining permit or existing privilege gives written consent.
- (4) When a coal mining permit is granted over the area of an existing petroleum permit that is held for the purpose of prospecting for, exploring for, or mining coal seam gas, the Minister will require the holders of both permits to adhere to a coordination procedure similar to that in subclause (3) above.
- (5) For the avoidance of doubt, if a minerals permit targeting coal resources is granted and overlaps with an existing petroleum permit targeting coal seam gas, the petroleum permit holder must provide to the mineral permit holder a five-year development plan for the existing coal seam gas operation, showing the location and extent of the permit area in which coal seam gas extraction is proposed for the following five years. This will include a three-year rolling coal seam gas extraction zone, which will be excluded from any non-minimum impact mineral activities by the mineral permit holder unless the underlying petroleum permit holder gives written consent.

Reports, records and samples

11.3 Annual summary reporting by Tier 1 permit holders

- (1) Under the Regulations, a Tier 1 permit holder must submit to NZP&M, by no later than 31 March, an activity and expenditure report covering the previous calendar year. Detailed requirements are set out in Parts 6, 7 and 8 of Schedule 4 of the Regulations.
- (2) Under *clauses 14 and 18 of Schedule 1 of the Act*, holders of existing privileges are required to report in accordance with section 90 of the Act and the Regulations.

- (3) The annual activity summary report must include a report on activities carried out under the permit, including the extent of compliance with the work programme, as follows:
- (a) A prospecting or exploration permit holder must provide, where applicable, information on:
 - (i) the number of holes and the total number of metres drilled
 - (ii) whether any mine feasibility studies were carried out
 - (iii) the number of any geochemical samples and any bulk samples
 - (iv) estimates of total in-ground resources
 - (v) an up-to-date estimate of the resource, prepared in accordance with a recognised resource classification code, which may include:
 - (A) inferred, indicated and measured mineral resources, and
 - (B) probable and proven reserves
 - (vi) estimates provided under subparagraph (3)(a)(v) above must be accompanied by:
 - (A) a spatial definition of the areas to which the figures in the estimates apply
 - (B) a statement of the criteria used to determine the estimates, and
 - (C) a statement of whether the estimates are made on the basis of a scoping, pre-feasibility, feasibility study, or other basis
 - (vii) a list of all reports relevant to the prospecting and exploration activity under the permit that were created in the past year
 - (b) A mining permit holder must provide information on:
 - (i) a summary of mine production for the past year
 - (ii) an estimate of planned mine production for the next year or, if no production is planned, a statement, with reasons, to that effect
 - (iii) a summary of the mining and processing methods proposed to be employed at the operation in the next year
 - (iv) a plan in digital format of all mine workings and planned development and the timing of this development
 - (v) a summary of the status of consents or applications for consents (including access arrangements and resource consents) that affect the ability of the permit holder to give proper effect to the permit
 - (vi) estimates of total in-ground resources
 - (vii) an up-to-date estimate of the resource, prepared in accordance with a recognised resource classification code, which may include:
 - (A) inferred, indicated and measured mineral resources, and
 - (B) probable and proved reserves
 - (viii) a summary of any exploration and prospecting activity undertaken in the past year
 - (ix) a statement of whether the resources and reserves estimates are made on the basis of a scoping, pre-feasibility, feasibility study, or on some other basis
 - (x) to accompany the resource and reserves estimates, a spatial definition of the areas to which those estimates apply

- (xi) a statement of the criteria used for defining the resource and reserve estimates
 - (xii) a list of all reports relevant to prospecting, exploration, and mining activity under the permit that were created in the past year.
- (4) The annual expenditure report must report on total expenditure on prospecting and exploration undertaken over the previous year, broken down into:
- (a) prospecting and exploration (including mapping, geochemical, geophysical, drilling, appraisal, and data compilation)
 - (b) other expenditure (including consents and administration).
- (5) A Tier 1 permit holder 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 those iwi whose rohe includes some or all of the permit area or who otherwise may be directly affected by the permit (an iwi engagement report: see clause 2.13). To avoid doubt, Tier 2 permit holders are not required to provide an iwi engagement report.

11.4 Annual summary reporting by Tier 2 permit holders

- (1) Under the Regulations, a Tier 2 permit holder must submit to NZP&M, by no later than 31 March each year, an activity and expenditure report covering the previous calendar year. The detailed requirements are set out in Parts 6, 7 and 9 of Schedule 4 of the Regulations.
- (2) The annual activity and expenditure summary report must include:
- (a) a report on activities undertaken under the permit, as follows:
 - (i) Prospecting and exploration permit holders must include information on:
 - (A) the number of holes and the total number of metres drilled
 - (B) whether any mine feasibility studies were carried out
 - (C) the number of any geochemical samples and any bulk samples.
 - (ii) Mining permit holders must include information on:
 - (A) mine production for the past year
 - (B) an estimate of planned mine production for the next year or, if no production is planned, the reasons why no production is planned.
 - (iii) In addition, coal mining permit holders must provide an up-to-date estimate of the coal resource, including:
 - (A) total in-ground resources
 - (B) inferred, indicated and measured resources, and
 - (C) proved and probable reserves
 - (b) a report on total expenditure on prospecting and exploration undertaken over the previous year, broken down into:
 - (i) prospecting and exploration (including mapping, geochemical, geophysical, drilling, appraisal, and data compilation)
 - (ii) other expenditure (including consents and administration).

11.5 Technical reports, records and samples

- (1) The Regulations require permit holders to provide to NZP&M, not later than 40 working days after the close of the permit year, all technical reports and records of any prospecting, exploration or mining activities created in the immediately preceding permit year. Detailed requirements are set out in the Regulations. The Regulations complement the reporting requirements for permit work programmes, so that all reports and records created in addition to those specifically required by permit conditions must also be submitted.
- (2) The requirements include reports and records relating to:
 - (a) geological investigations, studies or reviews
 - (b) reviews of existing data
 - (c) geochemical surveys
 - (d) geophysical surveys
 - (e) programmes of costeans and bulk sampling
 - (f) drilling and shaft sinking
 - (g) mining feasibility studies that relate to, or include material relating to, mine design, scheduling, production, resource recovery, or economic viability.
- (3) The Regulations require permit holders to ensure that any core or samples collected are stored in a manner that minimises degradation. There are two means by which a permit holder may be required to lodge core and samples with NZP&M:
 - (a) when NZP&M has requested a representative sample of core and/or samples
 - (b) at the request of the Chief Executive, after the permit holder has given notice that it intends to dispose of core material.

11.6 Permit conclusion reports

- (1) The Regulations require specified information to be supplied after a permit has expired or been revoked, surrendered, partially surrendered, or relinquished. This information includes copies of all reports and records that relate to any activity begun but not completed under the permit before the permit was terminated, if the permit holder would have been required to supply those reports and records to NZP&M had the activity been completed.

11.7 Mineral reserves, resources and production information

- (1) The Regulations require Tier 1 permit holders (and Tier 2 permit holders for coal under regulation 39) to provide a summary of mineral reserves, resources and production.
- (2) The Regulations allow NZP&M to publish this information, for public interest reasons, for each mineral type in relation to exploration and mining permits. Information on estimates of total in-ground resources, any inferred, indicated and measured resources, any proved and probable reserves, and production, for each mineral type may be made publicly available from time to time. This also applies to existing privileges.

Annual work programme review meeting

11.8 Annual work programme review meeting for Tier 1 permit holders

- (1) *Section 33D of the Act* provides that the Chief Executive may require the holders of Tier 1 permits to attend an annual review meeting to monitor progress against the work programme and provide an opportunity for discussions, including with any other person or regulatory agency the Chief Executive has invited to the meeting.
- (2) To elaborate, the purpose of the meeting is to:
 - (a) review progress by the permit holder, or a holder of multiple permits, against the work programme or work programmes
 - (b) discuss expectations, risks and key decisions for the period ahead
 - (c) discuss, where applicable, the next stage of the work programme(s)
 - (d) review the permit holder's report on its engagement with iwi
 - (e) inform other regulatory agencies about the permit holder's activities relevant to each agency's responsibilities, and improve the overall coordination of regulatory activities (for the other regulatory agencies that will be involved, see subclause (9) below).
- (3) The timing, location, duration and agenda of the meeting will be set by NZP&M after consulting with the permit holder. Normally the meeting will:
 - (a) be held in Wellington
 - (b) take place in the second or third quarter of the year (after annual activity and expenditure reports have been submitted in the first quarter)
 - (c) be scheduled with at least 20 working days' notice.
- (4) NZP&M may request the permit holder (or operator) to provide information on the matters in subclause (2) above if the information has not already been provided in the permit holder's annual summary report(s) (see clause 11.3).
- (5) *Section 33D of the Act* provides that the meeting must be attended by at least one representative of the operator who has sufficient seniority, expertise and knowledge to enable full discussion of the work programme and permit conditions. Representatives of other holders of the permit may also attend the meeting.
- (6) A draft record of the meeting will be prepared by NZP&M and circulated to the meeting participants for comment. NZP&M will prepare a final record after considering any comments, and will circulate it to the meeting participants. Where meeting participants did not attend the entire meeting for reasons of commercial confidentiality, NZP&M may circulate a draft and final record of the meeting to those participants that redacts material as appropriate.
- (7) As a guideline, NZP&M will aim to:
 - (a) circulate a draft record of the meeting within 20 working days of the meeting
 - (b) provide 15 working days for comment by participants
 - (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 he or she thinks are likely to have regulatory oversight of the activities under the permit(s) (see subclause (9) below). The Chief Executive may also invite the applicable “appropriate Minister” (as defined in section 2A of the Act) if the permit holder has an access arrangement (or has applied, or intends to apply, for an arrangement) in respect of Crown land. NZP&M will consult with the permit holder and the regulatory agencies about the parts of the meeting in which it would be desirable to involve other regulatory agencies, and about confidentiality requirements. To avoid 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
 - (b) a consenting authority under the Resource Management Act 1991
 - (c) Maritime New Zealand
 - (d) the Health and Safety Regulator
 - (e) the Department of Conservation.
- (10) NZP&M may also call a meeting with the operator at any time outside the annual work programme meeting cycle as appropriate – for example, in the final year of a stage of a mineral exploration permit, or following a discovery.

12. Changes to permits

Changes to conditions of permits

12.1 Applications to change the conditions of permits: Introduction and processes

- (1) *Section 36 of the Act* provides that a permit holder may apply to change the conditions of a permit in the following ways:
 - (a) to amend permit conditions, and in particular the approved work programme
 - (b) to extend the land area of the permit
 - (c) to change the minerals to which the permit relates
 - (d) to extend the duration of the permit.
- (2) An application to change the conditions of a permit must be made in accordance with the Regulations. Forms are available on the NZP&M website.
- (3) *Section 36 of the Act* requires that any application to amend the conditions of a permit (except for an appraisal extension or to extend the duration of a mining permit) must be received not later than 90 days before the “due date”, which is:
 - (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.
- (4) However, *section 36 of the Act* provides that the Minister may accept an application after 90 days before the due date, but no later than the due date, if the Minister considers there are compelling reasons why the 90-day requirement could not be complied with.
- (5) Without limiting the matters that the Minister may consider, the following may be “compelling reasons” for allowing 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 before the due date
 - (b) force majeure reasons (that is, causes that are beyond the control of the permit holder and that do not involve default or negligence on its part).³³

³³ Force majeure events are those that, in the Minister’s opinion, are beyond the reasonable control of the permit holder and could not reasonably be anticipated, controlled, mitigated or prevented by the permit holder and that are not caused or contributed to by the permit holder. They will normally only suspend the performance of a work programme for the period of the event or its aftermath. They do not include normal commercial circumstances and risks, such as changes in commodity prices, difficulties in obtaining joint venture partners, disputes or difficulties with joint venture partners, difficulties in raising capital, or avoidable delays in obtaining exploration or mining equipment.

- (6) 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 allowing a late application.
- (7) When a change is made to a permit, the permit register will be updated accordingly.

12.2 Change to work programme conditions

- (1) When assessing an application to change a permit's work programme, the Minister:
 - (a) will ordinarily consider whether the change would be inconsistent with the criteria on the basis of which the permit was granted
 - (b) will consider, if the permit was allocated through a competitive process, whether the proposed change to the work programme would result in a work programme that is materially inferior to the work programme on which the bid in that process was made
 - (c) will ordinarily consider (but is not limited to) any or all of the following matters:
 - (i) prospecting, exploration or mining carried out under the permit, and the results
 - (ii) whether the proposed change to the work programme will facilitate the activities under the permit, or adjacent or related permits held by the same permit holder or related parties for the same mineral group, being carried out more effectively
 - (iii) whether the proposed change to the work programme is in accordance with good industry practice
 - (iv) for prospecting and exploration permits, whether the proposed change to the work programme has the objective of, in a timely manner, identifying a mineral resource or deposit in the permit area, or evaluating the feasibility of mining particular mineral resources or reserves, and provides for prospecting or exploration over the full extent of the permit area
 - (v) other work programme obligations the permit holder has for adjacent or related permits for the same mineral group
 - (vi) any previous changes to the permit work programme
 - (vii) whether the proposed change is sought due to an inability to obtain an access arrangement under the Act or consents under any other enactment, where the inability has not been caused or contributed to by negligence, delay or default on the permit holder's part and the permit holder is making all reasonable efforts to progress the matter
 - (viii) whether the permit holder is being prevented from progressing exploration work by delays in obtaining one or more access arrangements to private land, where, in the Minister's opinion:
 - (A) those delays have not been caused or contributed to by any failure or default on the part of the permit holder
 - (B) the permit holder can demonstrate a clear record of planning, early engagement with landowners, and reasonable offers to landowners, and
 - (C) the permit holder is making all reasonable efforts to progress access arrangements
 - (ix) unavoidable delays in progressing prospecting, exploration or mining in accordance with the work programme due to any unforeseen natural or other disaster beyond the permit holder's control

- (x) whether the permit holder is unable to progress work because there is a need for legal agreements to be in place and these have not been finalised, where negligence, delay or default on the part of the permit holder has not caused or contributed to these agreements not being finalised and the permit holder is making all reasonable efforts to progress the matter
- (xi) whether an amendment to the work programme is necessary to give effect to the Minister's agreement to extend either the area of land covered by the permit or the duration of the permit or the minerals to which the permit relates
- (xii) whether the amendment is sought because the terms of an access arrangement under the Act do not allow for certain activities to be undertaken or affect the timing of certain activities. In this case, the Minister may consider any concerns about land access to undertake the activities that the Minister or NZP&M had raised with the permit holder before granting the permit.

12.3 Changes to other permit conditions

- (1) In assessing an application to change permit conditions that are not work programme conditions, the Minister will ordinarily consider (but is not limited to) whether the change would be inconsistent with the criteria on the basis of which the permit was granted.

12.4 Change of minerals

- (1) In considering whether to grant an application to change the minerals to which a permit relates, the Minister will ordinarily consider (but is not limited to) any or all of the following matters:
 - (a) the merits of any geological evidence in support of the application
 - (b) how the permit holder proposes to prospect for, explore for, or mine an additional mineral
 - (c) any impact the change of minerals may have on the permit work programme obligations and other permit conditions
 - (d) any complementary applications made at the same time that seek a change to the conditions of the permit or the land to which the permit relates
 - (e) any request or comment from iwi and hapū arising from consultation with them.

12.5 Extension of land to which permit relates

- (1) In considering whether to grant an application to extend the land to which a permit relates, the Minister will ordinarily consider (but is not limited to) any or all of the following matters:
 - (a) the results of prospecting, exploration or mining work undertaken under the permit up to the date of application
 - (b) the prospecting, exploration or mining work that is to be undertaken over the additional land, and how this relates to that undertaken or planned under the current permit
 - (c) whether extending the land to which the permit relates will enable the permit holder to more effectively prospect, explore or mine
 - (d) any requests or comments from iwi and hapū arising from consultation with them
 - (e) any other complementary requests to change the permit.

- (2) Applications to extend the land to which a permit relates will only be considered for land that is available under clause 6.4.
- (3) As a condition to agreeing to extend the land covered by a permit, the Minister may require:
 - (a) an amendment to the permit's work programme conditions
 - (b) a surrender of areas of the permit that are not required for ongoing work under the permit.
- (4) The Minister may decline to consent to an extension of land if the permit holder has not complied with other conditions of the permit, the Regulations or the Act.

12.6 Extension of the duration of a permit

Prospecting

- (1) The Minister will ordinarily grant an extension of duration of a prospecting permit, provided:
 - (a) the total permit duration is not more than a period of four years from the permit's date of commencement, and
 - (b) the extension is sought in respect of an area of land that is unbroken (subject to clause 4.6) and that is not more than one half of the area comprised in the permit.
- (2) In considering whether to grant an extension of duration of a prospecting permit, the Minister will ordinarily consider (but is not limited to) any or all of the following matters:
 - (a) those matters set out in clause 8.3 that the Minister considers to be relevant
 - (b) the timing and appropriateness of the proposed technical approach, given prospecting results to date and the geology of the permit area
 - (c) whether the extension is being sought to enable the applicant to complete or extend a work programme already under way, and the Minister is satisfied that an extension is justified from a geological perspective
 - (d) any commitment to a significant increase in expenditure on prospecting over that for the original term of the permit
 - (e) whether the permit holder has complied with the conditions of the permit, the Regulations and the Act.

Exploration

- (3) The Minister will ordinarily grant an extension of duration of an exploration permit, provided:
 - (a) the total permit duration is not more than a period of 10 years after the permit's date of commencement, and
 - (b) the extension is sought in respect of an area of land that is unbroken (subject to clause 4.6) and that is not more than the greater of:
 - (i) one half of the area covered by the permit, or
 - (ii) 150 hectares.

- (4) In considering whether a proposed work programme will provide for the satisfactory exploration of the land in respect of which the extension of duration is sought, the Minister will ordinarily consider (but is not limited to) any or all of the following matters:
- (a) the results of exploration activities undertaken by the permit holder in the permit area to date
 - (b) whether the proposed work programme has the objective of increasing the level of geological confidence of a resource or of evaluating the feasibility of mining a particular mineral resource
 - (c) those matters set out in clause 9.3 that the Minister considers to be relevant
 - (d) the timing and appropriateness of the proposed work, given the exploration to date and the geology of the land to which the permit relates
 - (e) any commitment to an increase in both exploration and expenditure on exploration over that for the original term of the permit
 - (f) whether the permit holder has complied with the conditions of the permit, the Regulations and the Act.
- (5) *Section 35A of the Act* provides that an exploration permit holder may apply for an appraisal extension to determine the extent and characteristics of a discovery in order to determine whether the requirements for a mining permit can be met, if:
- (a) the permit holder has made a discovery that has the potential to lead to the grant of a mining permit
 - (b) the duration of the permit is insufficient to carry out the appraisal work for the discovery, and
 - (c) the Minister is satisfied that the appraisal work programme is sufficient to carry out the appraisal work (see clause 9.6).

Mining

- (6) *Section 36 of the Act* provides that the duration of a mining permit may not be extended unless the permit holder satisfies the Minister that the discovery to which the permit relates cannot be economically depleted before the permit expires, and the Minister approves a new permit work programme.
- (7) In evaluating an application for a mining permit's duration to be extended, the Minister will ordinarily:
- (a) either approve a new work programme, or determine that a new work programme is not needed, on the basis of considerations applicable to mining permits set out in this chapter
 - (b) consider the extent to which the inability to deplete the resource during the term of the permit is due to force majeure events³⁴
 - (c) ensure that any such extension is only for such period as the Minister considers reasonable to enable the permit holder to economically deplete the resource
 - (d) consider whether the permit holder has complied with the conditions of the permit, the Regulations and the Act.

³⁴ See footnote 33 for force majeure events.

- (8) *Section 36(4) of the Act* provides that an application to extend the duration of a mining permit must be made not later than six months before the expiry of the permit, unless the Minister is satisfied that there are compelling reasons why a permit holder could not comply with this requirement.

12.7 Amalgamation of adjacent permits

- (1) A permit holder (which may consist of related companies) that holds, for the same mineral resource, two or more adjacent exploration permits, or two or more adjacent mining permits (referred to as “current permits” in this clause) may apply to amalgamate the current permits by surrendering all but one of them, and extending the land to which the remaining current permit (referred to as the “primary permit”) relates.
- (2) The Minister must not grant an application to amalgamate adjacent permits if doing so would be inconsistent with the purpose of the Act or be inconsistent with the criteria on the basis of which the permits were granted.
- (3) In considering whether to grant an application to amalgamate adjacent permits, the Minister must consider:
 - (a) the results of prospecting, exploration or mining work undertaken up to the date of the application
 - (b) the area of each of the current permits, and the extent to which they share a common boundary
 - (c) whether the mineral resource has been defined to a minimum of an inferred level
 - (d) the degree of certainty that there is one continuous mineral resource spanning the current permits, as follows:
 - (i) for exploration permits, the Minister must consider whether the current permits cover a single deposit that can most effectively be explored by a single work programme covering the full extent of the combined area
 - (ii) for mining permits, the Minister must consider whether the current permits are part of the same mining operation, and
 - (e) whether amalgamating the current permits will enable the permit holder to more effectively explore or mine.
- (4) If the royalty provisions that apply to each of the current permits differ, the primary permit will be the current permit to which the most recent royalty provisions apply.
- (5) In granting an application to amalgamate adjacent permits, the Minister will ordinarily require changes to the conditions of the primary permit – in particular, the work programme and expiry date. The Minister will require:
 - (a) that the revised work programme provides for working the full area of the amalgamated permit (the revised work programme of the primary permit must not be materially inferior to the combined work programmes of the current permits)
 - (b) that the revised expiry date of the primary permit will ordinarily be the earliest of the expiry dates of the current permits.
- (6) If the Minister declines to grant an application to amalgamate adjacent permits, the current permits will not be surrendered.
- (7) To avoid doubt, the matters referred to in subclause (3) are in addition to, and not instead of, other relevant criteria set out in this Programme.

Transfers and dealings

12.8 Change of operator

- (1) *Section 41C of the Act* provides that a permit operator may only be changed with the prior consent of the Minister.
- (2) *Section 41C* 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* provides that the Minister may consent to a change of operator only if:
 - (a) the Minister is satisfied that the proposed new operator is likely to comply with and give proper effect to the work programme and comply with obligations relating to reporting and payment of fees and royalties, and
 - (b) for Tier 1 permits, the Health and Safety Regulator has advised the Chief Executive that it is satisfied that the proposed new operator has met or is likely to meet any requirements of the Health and Safety in Employment Act 1992 and regulations made under that for day-to-day management of activities under the permit.

12.9 Transfer of interests in a permit

- (1) *Section 41 of the Act* provides that the transfer of all or part of an interest in a permit requires the consent of the Minister.
- (2) *Section 41* provides that the Minister may only grant consent if he or she is satisfied that the transferee is likely to be able to comply with the conditions of the permit and give proper effect to the permit. The Minister may request a statement of financial capability from the transferee and supporting information.
- (3) Matters the Minister will take into account include, but are not limited to, whether:
 - (a) the permit holder, following the transfer, will continue to have the financial and technical capability to give proper effect to the permit
 - (b) the prospecting, exploration or mining activities that the transferee (or a related company) is involved with, in New Zealand or internationally, may affect the transferee's capability to meet its obligations under the permit.
- (4) *Sections 92 and 92A of the Act* provide specific processes for transfers of permits following death, bankruptcy or liquidations of a permit holder.

12.10 Changes of control

- (1) *Section 41A of the Act* requires a permit participant to notify the Minister if:
 - (a) it is a corporate body and undergoes a change of control, or
 - (b) a corporate body that has provided a guarantee for the permit participant's obligations under the permit undergoes a change of control.

- (2) *Section 41A* provides that a change of control occurs when a person, not previously in control of the corporate body, acquires control of it. A person has control if they:
 - (a) have the power, directly or indirectly, to exercise or control the exercise of 50 percent or more of the voting rights over the corporate body, or
 - (b) together with one or more specified persons (as defined), have the power, directly or indirectly, to exercise or control the exercise of 50 percent or more of the voting rights over the corporate body.
- (3) *Section 41A(3)* requires the permit participant to:
 - (a) provide the notification to the Minister within three months of the change of control occurring, and
 - (b) provide with the notice:
 - (i) a copy of the agreement or document that specifies the change of control
 - (ii) a statement from the permit participant that it has the financial capability to meet its obligations under the permit, and
 - (iii) in the case of a change of control of a guarantor, a statement from the guarantor that it has the financial capability to meet its obligations under the guarantee.
- (4) *Section 41A(5)* provides that, if required by the Minister, a permit participant must also provide to the Minister information or documents relevant to the financial capability of the person acquiring control, which may be:
 - (a) general information about that person's financial capability, or
 - (b) information specific to the matters referred to in subparagraphs (3)(b)(ii) and (iii) above.
- (5) *Section 41A(7)* provides that the Minister may revoke the permit in accordance with the process set out in section 39 (see clause 12.14) if:
 - (a) the Minister is not satisfied that, after the change of control, the permit holder is capable of meeting its financial obligations under the permit, and
 - (b) the Minister revokes the permit no later than three months from the date the change of control is notified in accordance with section 41A.
- (6) The power to revoke a permit in these circumstances will be used very sparingly, because of its effect on other participants in the permit. It will only be used if, in the Minister's view, the change of control results in a significant risk that the permit holder will not be able to meet its financial obligations under the permit.

12.11 Dealings

- (1) *Section 41B of the Act* provides that dealings for Tier 1 permit holder are not legally valid unless the Minister consents to them. A “dealing” is any agreement (other than a transfer of interest in a permit or a mortgage or other charge) that imposes on any participant in a permit any obligation relating to the sales or proceeds of production, if:
 - (a) a reasonable person would consider that the agreement:
 - (i) has not been entered into on an arm’s length basis, or
 - (ii) is not on arm’s length terms, or
 - (iii) is otherwise not on a fair market basis, or
 - (b) the term of the agreement is 12 months or longer.
- (2) *Section 41B* 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 Regulations and be made using any applicable form that is available on the NZP&M website.
- (3) 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) (see subclause (1)(a) above), they should apply to the Minister for consent.
- (4) As noted in subclause (1) above, the term “dealing” refers to *any* agreement (other than a transfer of interest in a permit or a mortgage or other charge) that imposes on any Tier 1 permit participant any obligation relating to the sales or proceeds of production. It therefore includes (without limitation) mineral sales agreements and overriding royalty agreements.
- (5) In the application for consent to a dealing falling within the provisions of section 41B(4)(a), the permit participant must provide full details of: the transaction; its purpose; the reasons why it may not be on an arm’s length basis, or not on arm’s length terms, or not at fair market value; and why, in the permit participant’s view, that is justified in the circumstances.
- (6) In providing this assessment the permit participant must consider and provide sufficiently detailed information on all of the factors referred to in subclause (8) below, to the extent that they are relevant, to enable the Minister to make his or her assessment.
- (7) In assessing an application for consent to dealings falling within the provisions of section 41B(4)(a) and (b), the Minister will consider whether the agreement could adversely affect the royalties that will be paid under the permit. This may happen, for example, if a permit participant or 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.
- (8) The matters the Minister may consider include, but are not limited to:
 - (a) the point of sale and the point of valuation
 - (b) the nature of the market for the grade of the mineral being sold or transferred
 - (c) the average price of any mineral sold at arm’s length by the permit holder during the reporting period
 - (d) the terms of relevant contracts or sales agreements and the quantities specified in them
 - (e) the state of the market at the time the prices in the contracts for sales were set

- (f) the provisions of the contracts or sales agreements relating to the variation or renegotiation of prices
 - (g) prices paid to producers of similar products elsewhere in arm's length transactions
 - (h) prices recommended by international associations of governments of countries producing the mineral product.
- (9) After considering the application, the Minister may:
- (a) determine that the agreement is a dealing and consent to the dealing (with or without conditions)
 - (b) determine that the agreement is a dealing and decline to consent to the dealing
 - (c) determine that the agreement is not a dealing and notify the permit holder that consent is not required.
- (10) The Minister may impose conditions when consenting to a dealing. Conditions may, among other things, require the terms of the agreement, including the sale price of minerals, to be amended within a period specified by the Minister.

12.12 General provisions on transfers and dealings

- (1) Applications for consent to transfers and dealings must contain the information prescribed in the Regulations and may be made using any applicable form that is available on the NZP&M website.
- (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 mining from the permit and the proceeds of the mining.
- (3) Subject to the Official Information Act 1982, agreements will be kept confidential to NZP&M.
- (4) If the Minister has concerns about any of the matters outlined in clauses 12.8 to 12.11 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
 - (b) the level of complexity of the transaction
 - (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 normally 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

12.13 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 Regulations and be made using any applicable form available on the NZP&M website)
 - (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* provides that, despite the requirements in subclause (1) above, the Chief Executive may, at his or her discretion, approve the surrender application notwithstanding that all money owing has not been paid or that records and information have not been provided as required.
- (3) Subject to subclauses (1) and (2) above and to clause 4.6, surrender of part of the area of a permit will be accepted provided the remaining land under the permit is ordinarily an unbroken area.
- (4) *Section 40* provides that if a permit is surrendered in whole or in part, and payments have been made to the Crown in respect of the surrendered area (for example, annual fees that are paid in advance), then the permit holder is entitled to a refund of so much of the payments as have been made in respect of the surrendered land after the date of surrender.
- (5) Information and reports lodged in relation to the surrendered area are publicly available for reference or copying from the date of surrender unless an exception applies (see clause 4.13).
- (6) *Section 40* 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.
- (7) Specific requirements relating to surrender are set out in the Regulations.
- (8) Once a permit has been surrendered the permit holder is no longer required to meet the obligations of the work programme under the permit.

Revocation of permits

12.14 Revocation of a permit

- (1) *Section 39 of the Act* provides that the Minister may revoke a permit if:
 - (a) the Minister is satisfied a permit holder has breached a condition of the permit, or a condition imposed by the Act or the regulations, or
 - (b) payment of money to the Crown under the permit or the Act (such as fees or royalties) has not been made 90 days after the due date for the payment.
- (2) *Section 41A(7) of the Act* provides that the Minister may revoke the permit in accordance with the procedure set out in section 39 if the Minister is not satisfied that the permit holder, following a change of control of a permit participant, is capable of meeting its financial obligations under the permit (see clause 12.10).
- (3) *Section 39* provides that before deciding to revoke a permit the Minister must notify the permit holder in writing of his or her intention to revoke the permit. The notice must:
 - (a) set out the grounds on which the Minister intends to revoke the permit
 - (b) give the permit holder 40 working days to either remove the grounds for revocation or provide reasons why the permit should not be revoked.
- (4) *Section 39* 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. The revocation will take effect 20 working days after the Minister's notice has been given.
- (5) *Section 39* provides that the 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 of the Minister's notice. The permit continues in force until the appeal is determined (or until the permit expires if this is earlier).
- (6) *Section 39* provides that the Minister may transfer the permit to the Minister instead of revoking it. If the Minister replaces the permit holder the Minister may exercise the rights granted by the permit. The Minister may also offer the permit or any share in it for sale by public tender or otherwise.
- (7) The Minister will normally transfer the permit to himself or herself only if there are good reasons to maintain continuous operation of activities under a permit, such as safety reasons or to avoid unnecessary waste of or damage to the resource. The Minister will normally offer the permit for sale as soon as possible (this would ordinarily be through staged work programme bidding).
- (8) *Section 39* provides that the Minister must record the revocation or transfer on the register of permits, but need not record the reasons for the revocation.
- (9) *Section 39* provides that the revocation of a permit (or replacement of the permit holder) 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
 - (b) any act under the permit up to the date of revocation that gives rise to a cause of action.

- (10) The revocation of a permit is a very serious matter. The fact that a person has had a permit revoked will be a consideration counting against the granting of any future permits to that person or a related company (see clause 5.3).
- (11) The Minister will not undertake revocation proceedings 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 (12) to (14) below provide high-level guidance.
- (12) 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.
- (13) 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 has failed to pay annual fees
 - (e) the permit holder frequently breaches due dates for the payment of fees
 - (f) the permit holder frequently breaches due dates for the submission of notices and information.
- (14) Revocation may occur following a serious failure or an ongoing failure or frequent failures to comply with the Health and Safety in Employment Act 1992 where the Health and Safety Regulator has notified the Chief Executive to that effect under section 33B of the Act.³⁵ It is not the Minister's practice to commence revocation proceedings for minor breaches of the Health and Safety in Employment Act 1992 and regulations made under that Act. To avoid doubt, sole responsibility for enforcement of the Health and Safety in Employment Act 1992 rests with the Health and Safety Regulator.

³⁵ Section 33(1) of the Act requires permit holders to comply with the Health and Safety in Employment Act 1992 and regulations made under that Act.

Schedule 1: Definitions

In this Programme, unless the context requires otherwise:

enactment has the same meaning as in section 29 of the Interpretation Act 1999

existing privilege has the meaning set out in paragraphs (a), (b), (c) and (e) of the definition of “existing privilege” set out in section 2(1) of the Act

hobby or recreation operations means small-scale suction dredging operations where the suction dredge has a combined engine rating no higher than 10 horse power, and beach sand mining operations that are limited to hand tools and riffle box

hours of business means 7.30am to 4.30pm on any working day

mineral group means one of the following particular mineral groups: metallic minerals; non-metallic minerals; coal; or industrial rocks and building stones

recognised resource classification code means one of the following: the Canadian National Instrument 43-101 standard of disclosure of minerals projects; the South African Code for the reporting of exploration results, mineral resources and mineral reserves (2007 edition as amended July 2009); the JORC Code (2012 edition)

related company or **related party** in relation to a permit holder has the same meaning as in Regulation 9 of the Crown Minerals (Royalties for Minerals Other than Petroleum) Regulations 2013

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

Treaty means the Treaty of Waitangi.

Schedule 2: Summary of Crown Minerals Protocols

Ngaa Rauru

- (1) Under the Deed of Settlement dated 27 November 2003 between Ngaa Rauru Kiitahi and the Crown, and the Ngaa Rauru Kiitahi Claims Settlement Act 2005, the Minister of Energy and Resources has entered into a protocol setting out how the Ministry of Business, Innovation and Employment will interact with Ngaa Rauru Kiitahi concerning the administration of Crown-owned minerals. This Minerals Programme includes a summary of the terms under which the protocol is issued pursuant to section 27 of the Ngaa Rauru Kiitahi Claims Settlement Act 2005.

- (2) *Terms of Issue*

For the full terms of issue of the protocol, refer to the protocol itself. In summary, the terms of issue include the following provisions:

- (a) A failure by the Crown to comply with the protocol is not a breach of the Deed of Settlement, but its obligations may be enforced subject to the Crown Proceedings Act 1950.
- (b) The Minister may issue, amend or cancel the protocol.
- (c) The protocol is consistent with section 4 of the Crown Minerals Act 1991 and does not override or diminish the requirements of that Act, the functions and powers of the Minister of Energy and Resources or the Ministry under that Act, or the rights of Ngaa Rauru Kiitahi under that Act.

Ngāti Māhino

- (1) Under the Deed of Settlement dated 2 April 2011 between Ngāti Māhino and the Crown, and the Ngāti Māhino Claims Settlement Act 2012, the Minister of Energy and Resources has entered into a protocol regarding consultation with Ngāti Māhino by the Ministry of Business, Innovation and Employment on the administration of Crown-owned minerals. This Minerals Programme includes a summary of the terms of the protocol pursuant to section 22 of the Ngāti Māhino Claims Settlement Act 2012.

- (2) *Terms of the Protocol*

For full details of the terms of the protocol, refer to the protocol itself. In summary the protocol includes the following terms:

- (a) The protocol applies across the protocol area.
- (b) The protocol is issued pursuant to section 18 of the Ngāti Māhino Claims Settlement Act 2012 and is subject to that Act and the Deed of Settlement.
- (c) The Minister will ensure that the Governance Entity is consulted by the Ministry in relation to the following issues, where they relate to the protocol area:
 - (i) the preparation of new minerals programmes
 - (ii) the planning of petroleum exploration permit block offers
 - (iii) other petroleum exploration permit applications
 - (iv) amendments to petroleum exploration permits
 - (v) permit block offers for Crown-owned minerals other than petroleum

- (vi) other permit applications for Crown-owned minerals other than petroleum
- (vii) newly available acreage
- (viii) amendments to permits for Crown-owned minerals other than petroleum.
- (d) the principles that will be followed by the Ministry in consulting with the Governance Entity
- (e) how the Ministry will seek to fulfil its obligations under the protocol.

Ngāti Manawa

- (1) Under the Deed of Settlement dated 12 December 2009 between Ngāti Manawa and the Crown, and the Ngāti Manawa Claims Settlement Act 2012, the Minister of Energy and Resources has entered into a protocol regarding consultation with Ngāti Manawa by the Ministry of Business, Innovation and Employment on the administration of Crown-owned minerals. This Minerals Programme includes a summary of the terms of the protocol pursuant to section 40 of the Ngāti Manawa Claims Settlement Act 2012.

- (2) *Terms of the Protocol*

For full details of the terms of the protocol, refer to the protocol itself. In summary, the protocol includes the following terms:

- (a) The protocol applies across the protocol area.
- (b) The protocol is issued pursuant to section 34 of the Ngāti Manawa Claims Settlement Act 2012 and is subject to that Act and the Deed of Settlement.
- (c) The Minister will ensure that the Governance Entity is consulted by the Ministry in relation to the following issues, where they relate to the protocol area:
 - (i) the preparation of new minerals programmes
 - (ii) the planning of petroleum exploration permit block offers
 - (iii) other petroleum exploration permit applications
 - (iv) amendments to petroleum exploration permits
 - (v) permit block offers for Crown-owned minerals other than petroleum
 - (vi) other permit applications for Crown-owned minerals other than petroleum
 - (vii) newly available acreage
 - (viii) amendments to permits for Crown-owned minerals other than petroleum.
- (d) the principles that will be followed by the Ministry in consulting with the Governance Entity
- (e) how the Ministry will seek to fulfil its obligations under the protocol
- (f) provisions for sharing information
- (g) provisions for the resolution of disputes under this protocol.

Ngāti Manuhiri

- (1) Under the Deed of Settlement dated 21 May 2011 between Ngāti Manuhiri and the Crown, and the Ngāti Manuhiri Claims Settlement Act 2012, the Minister of Energy and Resources has entered into a protocol regarding consultation with Ngāti Manuhiri by the Ministry of Business, Innovation and Employment on the administration of Crown-owned minerals. This Minerals Programme includes a summary of the terms of the protocol pursuant to section 25 of the Ngāti Manuhiri Claims Settlement Act 2012.

- (2) *Terms of the Protocol*

For full details of the terms of the protocol, refer to the protocol itself. In summary, the protocol includes the following terms:

- (a) The protocol applies across the protocol area.
- (b) The protocol is issued pursuant to section 20 of the Ngāti Manuhiri Claims Settlement Act 2012 and is subject to that Act and the Deed of Settlement.
- (c) The Minister will ensure that the Governance Entity is consulted by the Ministry in relation to the following issues, where they relate to the protocol area:
 - (i) the preparation of new minerals programmes
 - (ii) the planning of petroleum exploration permit block offers
 - (iii) other petroleum exploration permit applications
 - (iv) amendments to petroleum exploration permits
 - (v) permit block offers for Crown-owned minerals other than petroleum
 - (vi) other permit applications for Crown-owned minerals other than petroleum
 - (vii) newly available acreage
 - (viii) amendments to permits for Crown-owned minerals other than petroleum.
- (d) the principles that will be followed by the Ministry in consulting with the Governance Entity
- (e) how the Ministry will seek to fulfil its obligations under the protocol.

Ngāti Mutunga

- (1) Under the Deed of Settlement dated 31 July 2005 between Ngāti Mutunga and the Crown, and the Ngāti Mutunga Claims Settlement Act 2006, the Minister of Energy and Resources has entered into a protocol regarding consultation with Ngāti Mutunga by the Ministry of Business, Innovation and Employment on the administration of Crown-owned minerals. This Minerals Programme includes a summary of the terms of the protocol pursuant to section 26 of the Ngāti Mutunga Claims Settlement Act 2006.

- (2) *Terms of the Protocol*

For full details of the terms of the protocol, refer to the protocol itself. In summary, the protocol includes the following terms:

- (a) The protocol applies across the protocol area.
- (b) The protocol is issued pursuant to section 21 of the Ngāti Mutunga Claims Settlement Act 2006 and is subject to that Act and the Deed of Settlement.

- (c) The Minister will ensure that the Governance Entity is consulted by the Ministry in relation to the following issues, where they relate to the protocol area:
 - (i) the preparation of new minerals programmes
 - (ii) the planning of petroleum exploration permit block offers
 - (iii) other petroleum exploration permit applications
 - (iv) amendments to petroleum exploration permits
 - (v) permit block offers for Crown-owned minerals other than petroleum
 - (vi) other permit applications for Crown-owned minerals other than petroleum
 - (vii) amendments to permits for Crown-owned minerals other than petroleum.
- (d) the principles that will be followed by the Ministry in consulting with the Governance Entity
- (e) how the Ministry will seek to fulfil its obligations under the protocol.

Ngāti Porou

- (1) Under the Deed of Settlement dated 22 December 2010 between Ngāti Porou and the Crown, and the Ngati Porou Claims Settlement Act 2012 (sic), the Minister of Energy and Resources has entered into a protocol regarding consultation with Ngāti Porou by the Ministry of Business, Innovation and Employment on the administration of Crown-owned minerals. This Minerals Programme includes a summary of the terms of the protocol pursuant to section 42 of the Ngati Porou Claims Settlement Act 2012.

- (2) *Terms of the Protocol*

For full details of the terms of the protocol, refer to the protocol itself. In summary the protocol includes the following terms:

- (a) The protocol applies across the protocol area.
- (b) The protocol is issued pursuant to section 38 of the Ngati Porou Claims Settlement Act 2012 and is subject to that Act and the Deed of Settlement.
- (c) The Minister will ensure that the Governance Entity is consulted by the Ministry in relation to the following issues, where they relate to the protocol area:
 - (i) the preparation of new minerals programmes
 - (ii) the planning of petroleum exploration permit block offers
 - (iii) other petroleum exploration permit applications
 - (iv) amendments to petroleum exploration permits
 - (v) permit block offers for Crown-owned minerals other than petroleum
 - (vi) other permit applications for Crown-owned minerals other than petroleum
 - (vii) newly available acreage
 - (viii) amendments to permits for Crown-owned minerals other than petroleum
 - (ix) gold fossicking areas
 - (x) developments in relevant policy and legislation
 - (xi) the Ministry's relevant operational activities.

- (d) the principles that will be followed by the Ministry in consulting with the Governance Entity
- (e) how the Ministry will seek to fulfil its obligations under the protocol
- (f) provisions for sharing information
- (g) provisions for the resolution of disputes under this protocol.

Ngāti Ruanui

- (1) Under the Deed of Settlement dated 12 May 2001 between Ngāti Ruanui and the Crown, and the Ngati Ruanui Claims Settlement Act 2003 (sic), the Minister of Energy and Resources has entered into a protocol regarding consultation with Ngāti Ruanui by the Ministry of Business, Innovation and Employment on the administration of Crown-owned minerals. This Minerals Programme includes a summary of the terms under which the protocol is issued pursuant to section 32 of the Ngati Ruanui Claims Settlement Act 2003.

- (2) *Terms of Issue*

For the full terms of issue of the protocol, refer to the protocol itself. In summary, the terms of issue include the following provisions:

- (a) A failure by the Crown to comply with the protocol is not a breach of the Deed of Settlement, but its obligations may be enforced subject to the Crown Proceedings Act 1950.
- (b) The Minister may issue, amend or cancel the protocol.
- (c) The protocol is consistent with section 4 of the Crown Minerals Act 1991 and does not override or diminish the requirements of that Act, the functions and powers of the Minister of Energy and Resources or the Ministry under that Act, or the rights of Ngāti Ruanui under that Act.

Ngāti Tama

- (1) Under the Deed of Settlement dated 20 December 2001 between Ngāti Tama and the Crown, and the Ngati Tama Claims Settlement Act 2003 (sic), the Minister of Energy and Resources has entered into a protocol setting out how the Ministry of Business, Innovation and Employment will interact with Ngāti Tama concerning the administration of Crown-owned minerals. This Minerals Programme includes a summary of the terms under which the protocol is issued pursuant to section 26 of the Ngati Tama Claims Settlement Act 2003.

- (2) *Terms of Issue*

For the full terms of issue of the protocol, refer to the protocol itself. In summary, the terms of issue include the following provisions:

- (a) A failure by the Crown to comply with the protocol is not a breach of the Deed of Settlement, but its obligations may be enforced subject to the Crown Proceedings Act 1950.
- (b) The Minister may issue, amend or cancel the protocol.
- (c) The protocol is consistent with section 4 of the Crown Minerals Act 1991 and does not override or diminish the requirements of that Act, the functions and powers of the Minister of Energy and Resources or the Ministry under that Act, or the rights of Ngāti Tama under that Act.

Ngāi Tāmanuhiri

- (1) Under the Deed of Settlement dated 5 March 2011 between Ngai Tāmanuhiri and the Crown, and the Ngai Tāmanuhiri Claims Settlement Act 2012, the Minister of Energy and Resources has entered into a protocol regarding consultation with Ngai Tāmanuhiri by the Ministry of Business, Innovation and Employment on the administration of Crown-owned minerals. This Minerals Programme includes a summary of the terms of the protocol pursuant to section 25 of the Ngai Tāmanuhiri Claims Settlement Act 2012.

- (2) *Terms of the Protocol*

For full details of the terms of the protocol, refer to the protocol itself. In summary the protocol includes the following terms:

- (a) The protocol applies across the protocol area.
- (b) The protocol is issued pursuant to section 21 of the Ngai Tāmanuhiri Claims Settlement Act 2012 and is subject to that Act and the Deed of Settlement.
- (c) The Minister will ensure that the Governance Entity is consulted by the Ministry in relation to the following issues, where they relate to the protocol area:
 - (i) the preparation of new minerals programmes
 - (ii) the planning of petroleum exploration permit block offers
 - (iii) other petroleum exploration permit applications
 - (iv) amendments to petroleum exploration permits
 - (v) permit block offers for Crown-owned minerals other than petroleum
 - (vi) other permit applications for Crown-owned minerals other than petroleum
 - (vii) newly available acreage
 - (viii) amendments to permits for Crown-owned minerals other than petroleum
 - (ix) gold fossicking areas
 - (x) developments in relevant policy and legislation
 - (xi) the Ministry's relevant operational activities.
- (d) the principles that will be followed by the Ministry in consulting with the Governance Entity
- (e) how the Ministry will seek to fulfil its obligations under the protocol
- (f) provisions for sharing information
- (g) provisions for the resolution of disputes under this protocol.

Ngāti Whare

- (1) Under the Deed of Settlement dated 8 December 2009 between Ngāti Whare and the Crown, and the Ngāti Whare Claims Settlement Act 2012, the Minister of Energy and Resources has entered into a protocol regarding consultation with Ngāti Whare by the Ministry of Business, Innovation and Employment on the administration of Crown-owned minerals. This Minerals Programme includes a summary of the terms of the protocol pursuant to section 48 of the Ngāti Whare Claims Settlement Act 2012.

(2) *Terms of the Protocol*

For full details of the terms of the protocol, refer to the protocol itself. In summary, the protocol includes the following terms:

- (a) The protocol applies across the protocol area.
- (b) The protocol is issued pursuant to section 42 of the Ngāti Whare Claims Settlement Act 2012 and is subject to that Act and the Deed of Settlement.
- (c) The Minister will ensure that the Governance Entity is consulted by the Ministry in relation to the following issues, where they relate to the protocol area:
 - (i) the preparation of new minerals programmes
 - (ii) the planning of petroleum exploration permit block offers
 - (iii) other petroleum exploration permit applications
 - (iv) amendments to petroleum exploration permits
 - (v) permit block offers for Crown-owned minerals other than petroleum
 - (vi) other permit applications for Crown-owned minerals other than petroleum
 - (vii) newly available acreage
 - (viii) amendments to permits for Crown-owned minerals other than petroleum.
- (d) the principles that will be followed by the Ministry in consulting with the Governance Entity
- (e) how the Ministry will seek to fulfil its obligations under the protocol.

Ngāti Whātua Ō Ōrākei

- (1) Under the Deed of Settlement dated 5 November 2011 between Ngāti Whātua Ōrākei and the Crown, and the Ngāti Whātua Ōrākei Claims Settlement Act 2012, the Minister of Energy and Resources has entered into a protocol regarding consultation with Ngāti Whātua Ōrākei by the Ministry of Business, Innovation and Employment on the administration of Crown-owned minerals. This Minerals Programme includes a summary of the terms of the protocol pursuant to section 27 of the Ngāti Whātua Ōrākei Claims Settlement Act 2012.

(2) *Terms of the Protocol*

For full details of the terms of the protocol, refer to the protocol itself. In summary, the protocol includes the following terms:

- (a) The protocol applies across the protocol area.
- (b) The protocol is issued pursuant to section 22 of the Ngāti Whātua Ōrākei Claims Settlement Act 2012 and is subject to that Act and the Deed of Settlement.
- (c) The Minister will ensure that the Governance Entity is consulted by the Ministry in relation to the following issues, where they relate to the protocol area:
 - (i) the preparation of new minerals programmes
 - (ii) the planning of petroleum exploration permit block offers
 - (iii) other petroleum exploration permit applications
 - (iv) amendments to petroleum exploration permits

- (v) permit block offers for Crown-owned minerals other than petroleum
- (vi) other permit applications for Crown-owned minerals other than petroleum
- (vii) newly available acreage
- (viii) amendments to permits for Crown-owned minerals other than petroleum.
- (d) the principles that will be followed by the Ministry in consulting with the Governance Entity
- (e) how the Ministry will seek to fulfil its obligations under the protocol.

Rongowhakaata

- (1) Under the Deed of Settlement dated 30 September 2011 between Rongowhakaata and the Crown, and the Rongowhakaata Claims Settlement Act 2012, the Minister of Energy and Resources has entered into a protocol regarding consultation with Rongowhakaata by the Ministry of Business, Innovation and Employment on the administration of Crown-owned minerals. This Minerals Programme includes a summary of the terms of the protocol pursuant to section 28 of the Rongowhakaata Claims Settlement Act 2012.

- (2) *Terms of the Protocol*

For full details of the terms of the protocol, refer to the protocol itself. In summary, the protocol includes the following terms:

- (a) The protocol applies across the protocol area.
- (b) The protocol is issued pursuant to section 24 of the Rongowhakaata Claims Settlement Act 2012 and is subject to that Act and the Deed of Settlement.
- (c) The Minister will ensure that the Governance Entity is consulted by the Ministry in relation to the following issues, where they relate to the protocol area:
 - (i) the preparation of new minerals programmes
 - (ii) the planning of proposed petroleum exploration permit block offers
 - (iii) other petroleum exploration permit applications
 - (iv) amendments to petroleum exploration permits
 - (v) permit block offers for Crown-owned minerals other than petroleum
 - (vi) other permit applications for Crown-owned minerals other than petroleum
 - (vii) newly available acreage
 - (viii) amendments to permits for Crown-owned minerals other than petroleum
 - (ix) gold fossicking areas
 - (x) developments in relevant policy and legislation
 - (xi) the Ministry's relevant operational activities.
- (d) the principles that will be followed by the Ministry in consulting with the Governance Entity
- (e) how the Ministry will seek to fulfil its obligations under the protocol
- (f) provisions for sharing information
- (g) provisions for the resolution of disputes under this protocol.

Te Roroa

- (1) Under the Deed of Settlement dated 17 December 2005 between Te Roroa and the Crown, and the Te Roroa Claims Settlement Act 2008, the Minister of Energy and Resources has entered into a protocol regarding consultation with Te Roroa by the Ministry of Business, Innovation and Employment on the administration of Crown-owned minerals. This Minerals Programme includes a summary of the terms of the protocol pursuant to section 24 of the Te Roroa Claims Settlement Act 2008.

- (2) *Terms of the Protocol*

For full details of the terms of the protocol, refer to the protocol itself. In summary, the protocol includes the following terms:

- (a) The protocol applies across the protocol area.
- (b) The protocol is issued pursuant to section 19 of the Te Roroa Claims Settlement Act 2008 and is subject to that Act and the Deed of Settlement.
- (c) The Minister will ensure that the Governance Entity is consulted by the Ministry in relation to the following issues, where they relate to the protocol area:
 - (i) the preparation of new minerals programmes
 - (ii) the planning of petroleum exploration permit block offers
 - (iii) other petroleum exploration permit applications
 - (iv) amendments to petroleum exploration permits
 - (v) permit block offers for Crown-owned minerals other than petroleum
 - (vi) other permit applications for Crown-owned minerals other than petroleum
 - (vii) amendments to permits for Crown-owned minerals other than petroleum.
- (d) the principles that will be followed by the Ministry in consulting with the Governance Entity
- (e) how the Ministry will seek to fulfil its obligations under the protocol.

Te Uri O Hau

- (1) Under the Deed of Settlement dated 13 December 2000 between Te Uri o Hau and the Crown, and the Te Uri o Hau Claims Settlement Act 2002, the Minister of Energy and Resources has entered into a protocol regarding consultation with Te Uri o Hau by the Ministry of Business, Innovation and Employment on the administration of Crown-owned minerals.

- (2) *Terms of the Protocol*

For full details of the terms of the protocol, refer to the protocol itself. In summary, the protocol includes the following terms:

- (a) The protocol applies across the protocol area.
- (b) The protocol is issued pursuant to section 108 of the Te Uri o Hau Claims Settlement Act 2002 and is subject to that Act and the Deed of Settlement.

- (c) The Minister will ensure that the Governance Entity is consulted by the Ministry in relation to the following issues, where they relate to the protocol area:
 - (i) the preparation of new minerals programmes
 - (ii) the planning of petroleum exploration permit block offers
 - (iii) other petroleum exploration permit applications
 - (iv) amendments to petroleum exploration permits
 - (v) permit block offers for Crown-owned minerals other than petroleum
 - (vi) other permit applications for Crown-owned minerals other than petroleum
 - (vii) amendments to permits for Crown-owned minerals other than petroleum.
- (d) the principles that will be followed by the Ministry in consulting with the Governance Entity
- (e) how the Ministry will seek to fulfil its obligations under the protocol.

Schedule 3: Land that is significant to iwi

The following land is of particular significance to the mana of iwi and must not be included in a permit:

- (a) Crown land in the Muriwai-Moehau-Waioro blocks, containing 4480 hectares more or less, being sections 2; 9; 12; 37; 38; 39; 40; and Lot 2 DPS 2021; Block I, Colville Survey District: sections 12; 25; and 26; Block II, Colville Survey District: sections 4; 6; 8; 9; and 10; Block I, Moehau Survey District: that part of section 8, Block II, Moehau Survey District, lying to the north of Part Moehau 1P and west of a straight line drawn at an angle of 34 degrees west of true north, commencing from a point on the northern boundary of the said Part Moehau 1P, 1000 metres from its north-eastern corner, and finishing on the common boundary between the aforementioned section 8 and section 42, Block II Colville Survey District; that part of section 8, Block II, Moehau Survey District, lying to the south-east of Part Moehau 1P and south of a straight line drawn in a generally south-easterly direction between a point on the eastern boundary of Part Moehau 1P, 1000 metres from its north-eastern corner, and a corner on the eastern boundary of section 19, Block I, Harataunga Survey District, identified on SO 26188 as "XXXIII"; section 9; Block II, Moehau Survey District: part of Part Moehau 1P, lying to the south-east of a straight line drawn between points on the northern and eastern boundaries, 1000 metres from the north-eastern corner of Part Moehau 1P: and section 8, Block IV, Moehau Survey District.

The Moehau Range, at the northern tip of the Coromandel Peninsula, is a place of historical and spiritual significance for the Marutuahu tribes of Pare-Hauraki and other iwi who have spiritual and historical associations with Moehau.

- (b) Mokoia Island, Lake Rotorua, containing 135.165 hectares (334 acres) more or less being Mokoia Island situated in Blocks IX, XIII and XIV Rotoiti Survey District.

Mokoia Island is the symbolic and geographic centre of the Te Arawa iwi, and of particular importance to the mana of the Ngati Whakaue, Ngati Rangiwhewehi, Ngati Rangiteaorere and Ngati Uenukukopaku being the four hapū who inhabit lands surrounding Lake Rotorua or have inhabited the island in the past.

- (c) The area of the Hinehopu, Lake Rotoiti, and Lake Okataina Scenic Reserves, containing 5014.5879 hectares more or less, specifically:
- (i) Lake Rotoiti Scenic Reserve containing 451.3874 hectares more or less being Parts Lot 2 DP 11082, Part Rotoiti Block and Part Te Tautara Block, Section 1 SO 56544, Parts Rotoiti 1, 2, 3W, 4, 5A, 5B, 6 and 7A Blocks, Part Rotoiti 3G Block, Rotoiti 3H, 3I and 3J Blocks, Parts Kuharua Block, Part Kuharua 1B Block, Part Te Taheke 2B Block, Te Taheke 7 Block (Oremu), Taheke Papakainga 5B Block, Lot 6 DPS 31392, Parts Paehinahina 2 Block, Part Paehinahina 1 and 3 Blocks, Part Waione 3B Block, Motumauri and Pateko Islands situated in Blocks VII, VIII, X, XI and XII Rotoiti Survey District and Blocks V and IX Rotoma Survey District:
 - (ii) Lake Okataina Scenic Reserve containing 4416.1397 hectares more or less being Parts Rotoiti 14 Block, Part Okataina 4 and 5 Blocks, Parts Okataina 3, 6B, 7 and 8 Blocks, Okataina 12 Block, Section 1A Block XVI Rotoiti Survey District and Sections 6, 7 and 8 Block XVI Rotoiti Survey District situated in Blocks XI, XII, XV and XVI Rotoiti Survey District and Blocks III, IV and VIII Tarawera Survey District:
 - (iii) Hinehopu Scenic Reserve containing 50.9112 hectares more or less being Parts Rotoiti 6 and 7 Block and Part Te Tautara Block situated in Block IX Rotoma Survey District:

- (iv) Waione Block Scenic Reserve containing 74.7552 hectares more or less being Parts Waione C Block and Sections 2, 3 and 4 Block XVI Rotoiti Survey District situated in Blocks XII and XVI Rotoiti Survey District:
- (v) Okere Falls Scenic Reserve containing 19.2372 hectares more or less being Sections 7, 8 and Part Section 9 Block VI Rotoiti Survey District:
- (vi) Te Akau Road Recreation Reserve containing 2.1662 hectares more or less being Part Lot 1 DP 16449 situated in Block XI Rotoiti Survey District.

The Ngati Pikiao and Ngati Tarawhai gifted the land of the reserves to the people of New Zealand in 1921 as a gesture of goodwill so that the scenic beauty of the land could be enjoyed by all. The reserves include battle sites, sites of special trees (including Rakau o Hinehopu on the Whakatane-Rotorua State Highway) and many other wāhi tapu (of special and/or sacred importance) sites, including urupa, rock carvings and former pa. The maintenance of the scenic values and the protection of the historical and spiritual sites of the reserves is highly important to the mana of the Ngati Pikiao and Ngati Tarawhai.

- (d) The areas of land known as Rotoiti 3W3-6 and Rotoiti 13D2 containing 109.6468 hectares more or less, specifically:
 - (i) Rotoiti 3W3-6 Blocks containing 81.6059 hectares more or less being Rotoiti 3W3, 3W4, 3W5A, 3W5B, 3W5C, Part 3W5 (Roadway) and 3W6 Blocks situated in Block VII Rotoiti Survey District:
 - (ii) Former Rotoiti 13D2 Block containing 28.0409 hectares more or less being Lots 1 to 28 DPS 4171, Lot 1 DPS 4848 and Lots 1, 2, 3 and 4 DPS 11099 situated in Block IX Rotoma Survey District:

- (e) Mt Taranaki and the Pouakai, Pukeiti and Kaitake Ranges as defined by the area of the Egmont National Park, where the land (surface and subsurface) is above sea level, containing 33899.4419 hectares, more or less, being:

Sections 54, 55 and 68 and Part Section 63 Block IV Kaupokonui Survey District:

Part Section 3 Block XV Cape Survey District:

Part Lots 1B and 1C DP 2309:

Section 1 SO 13356:

Lot 1 DP 10401:

Section 8 Block XI Egmont Survey District:

Section 38 Block VII Egmont Survey District:

Lot 1 DP 10394, Lot 1 DP 11816, Lot 1 DP 8824, Lot 2 DP 8649, Lot 2 DP 7882:

Sections 3, 4, 6, 7, 9, 10, 14, 15 and 20 Block VII Cape Survey District:

Sections 14, 16 and 18 Block XI Cape Survey District:

Section 19 Block V Egmont Survey District:

Sections 1, 2, 3, 11, 12, 13, 14, 15, 16, 17 and 18 Block V Egmont Survey District:

Parts Sections 169 and 170 Oakura District:

Lot 1 DP 13511, Lot 1 DP 15932, Lots 1, 2, 3 and 4 DP 13397:

Subdivisions 3, 4 and 5 of Section 170 Oakura District:

Part Subdivisions 1, 2, 6, 7, 8, 9 and 10 of Section 170 Oakura District:

Section 174 Oakura District:

Part Section 49 Oakura District:

Part Section 134 Omata District:

Sections 6, 7 and 8 Block II Kaupokonui Survey District:

Part Section 2 Block XIV Egmont Survey District:

Lot 1 DP 13427:

Crown Land situated in Blocks V, VI, VII, IX, X, XI, XIII, XIV and XV Egmont Survey District; Blocks XI and XV Cape Survey District; Block IV Opunake Survey District and Blocks I, II, III, V, VI and VII Kaupokonui Survey District.

Mt Taranaki and the Pouakai, Pukeiti and Kaitake Ranges are a fundamental source of tribal identity and mana for the iwi of Taranaki. The iwi of Taranaki consider Mt Taranaki and its associated ranges to be a tipuna (ancestor). The area is regarded as a wāhi tapu (of special and/or sacred importance).

- (f) The Titi Islands, which include all Crown Titi Islands and all Beneficial Islands, are unavailable for inclusion in any mineral permit where the land (surface and subsurface) is above sea level. These islands are a fundamental source of tribal identity and mana for Ngai Tahu and regarded as wāhi tapu. The Titi Islands are located in the Southland Land District and are described as follows:

Beneficial Islands:

- (i) Owen Island or Horomamae Island, comprising 35.2 hectares, more or less, as shown on SO 10461:
- (ii) Wharepuaiahua Island, comprising 18.2 hectares, more or less, as shown on SO 10461:
- (iii) Kaihuka Island, comprising 10.0 hectares, more or less, as shown on SO 10461:
- (iv) Potuatua Island, comprising 1.3 hectares, more or less, as shown on SO 10461:
- (v) Pomatakiarehua Island, comprising 2.9 hectares, more or less, as shown on SO 10461:
- (vi) Tia Island or Entrance Island, comprising 20.6 hectares, more or less, as shown on SO 10461:
- (vii) Taukihepa Island or Big South Cape Island, comprising 910.0 hectares, more or less, as shown on SO 10461:
- (viii) Rerewhakaupoko Island or Solomon Island, comprising 27.8 hectares, more or less, as shown on SO 10461:
- (ix) Mokonui Island or Big Moggy Island, comprising 99.5 hectares, more or less, as shown on SO 10461:
- (x) Mokoiti Island or Little Moggy Island, comprising 10.1 hectares, more or less, as shown on SO 10461:
- (xi) Timore Island or Chimneys Island, comprising 5.7 hectares, more or less, as shown on SO 10461:
- (xii) Kaimohu Island, comprising 10.8 hectares, more or less, as shown on SO 10461:
- (xiii) Huirapa Island, comprising 4.4 hectares, more or less, as shown on SO 10461:
- (xiv) Tamaitemioka Island, comprising 14.0 hectares, more or less, as shown on SO 10461:
- (xv) Pohowaitai Island, comprising 38.0 hectares, more or less, as shown on SO 10461:
- (xvi) Herekopare Island or Te Marama Island, comprising 24.1 hectares, more or less, as shown on SO 10461:
- (xvii) Pikomamaku Island or Womens Island, comprising 8.2 hectares, more or less, as shown on SO 10461:
- (xviii) Poutama Island, comprising 37.5 hectares, more or less, as shown on SO 10461.

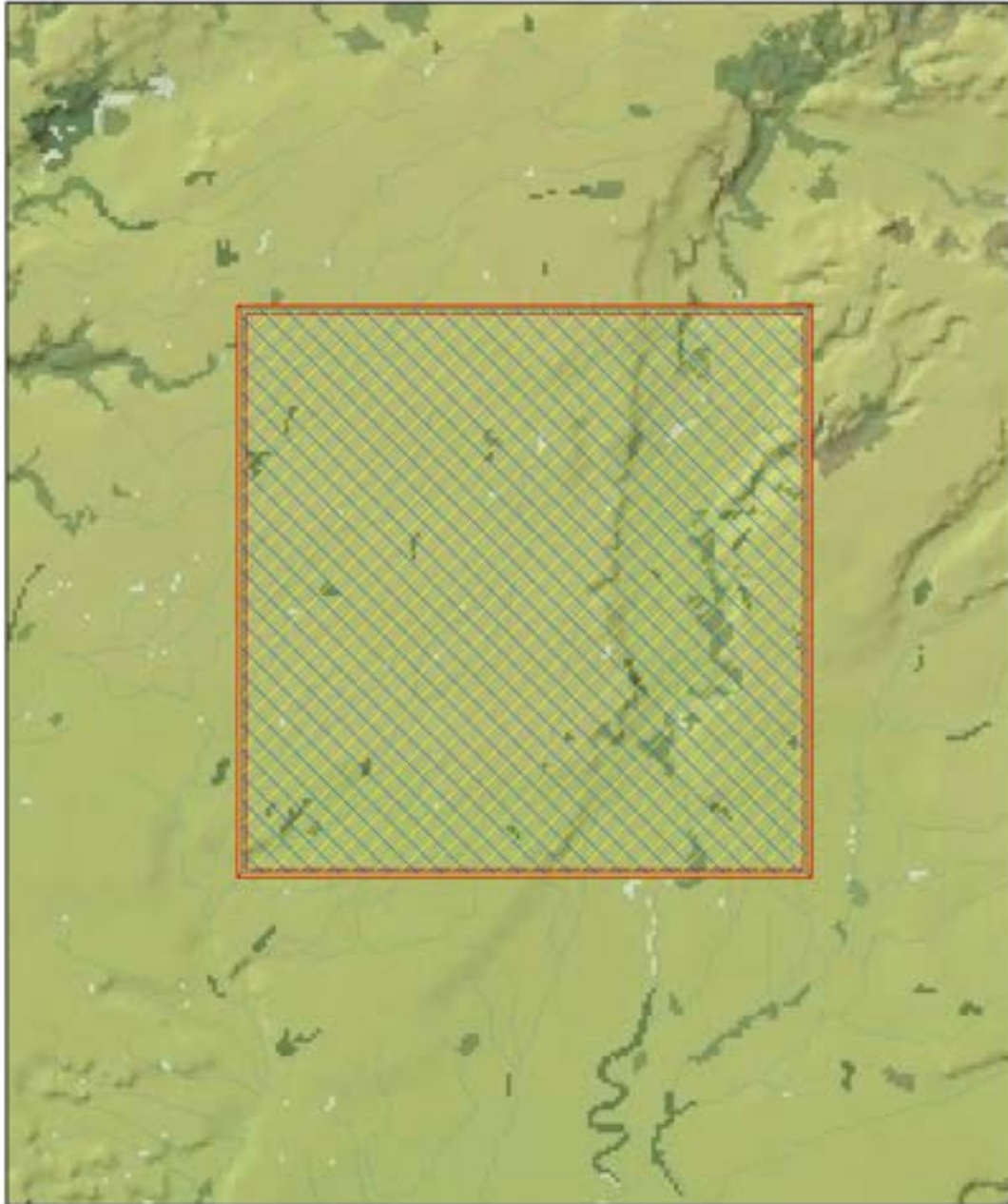
Crown Titi Islands:

- (i) Motonui Island or Edwards Island, comprising 46.9 hectares, more or less, being Section 15 SO 12215:
- (ii) Jacky Lee Island, comprising 30.7 hectares, more or less, being Section 16 SO 12215:
- (iii) Bunker Islets, comprising 10.7 hectares, more or less, being Section 17 SO 12215:
- (iv) Pihore Island, comprising 1.4 hectares, more or less, being Section 14 SO 12215:
- (v) Weka Island, comprising 8.1 hectares, more or less, being Section 11 SO 12215:
- (vi) Rukawahakura Island, comprising 23.3 hectares, more or less, being Section 12 SO 12215:
- (vii) Takawiwini Island, comprising 1.5 hectares, more or less, being Section 13 SO 12215:
- (viii) Kopeka Island, comprising 1.8 hectares, more or less, being Section 10 SO 12215:
- (ix) The Brothers, comprising 4.6 hectares, more or less, being Section 9 SO 12215:
- (x) Ernest Island, comprising 16.7 hectares, more or less, being Section 7 SO 12215:
- (xi) Kaninihi Island, comprising 2.6 hectares, more or less, being Section 8 SO 12215:
- (xii) Putauhinu Island, comprising 149.9 hectares, more or less, being Section 5 SO 12215:
- (xiii) Pukeweka Island, comprising 3.2 hectares, more or less, being Section 6 SO 12215:
- (xiv) Big Island, comprising 23.6 hectares, more or less, being Section 4 SO 12215:
- (xv) Betsy Island, comprising 6.3 hectares, more or less, being Section 2 SO 12215:
- (xvi) Kundy or North Island, comprising 23.0 hectares, more or less, being Section 1 SO 12215:
- (xvii) Rat Island, comprising 13.1 hectares, more or less, being Section 3 SO 12215:
- (xviii) Pikomamakau-iti Island or North Island, comprising 8.3 hectares, more or less, being Section 1 SO 12215.
- (g) Crown land comprising the Pupu (Waikoropupu) Springs Scenic Reserve, containing 25.6963 hectares more or less, being sections 301 and 302, Parts Lot 1 DP 6769, section 1 SO 13886, and Lot 1 DP 11091, situated in Blocks V and IX Waitapu Survey District.

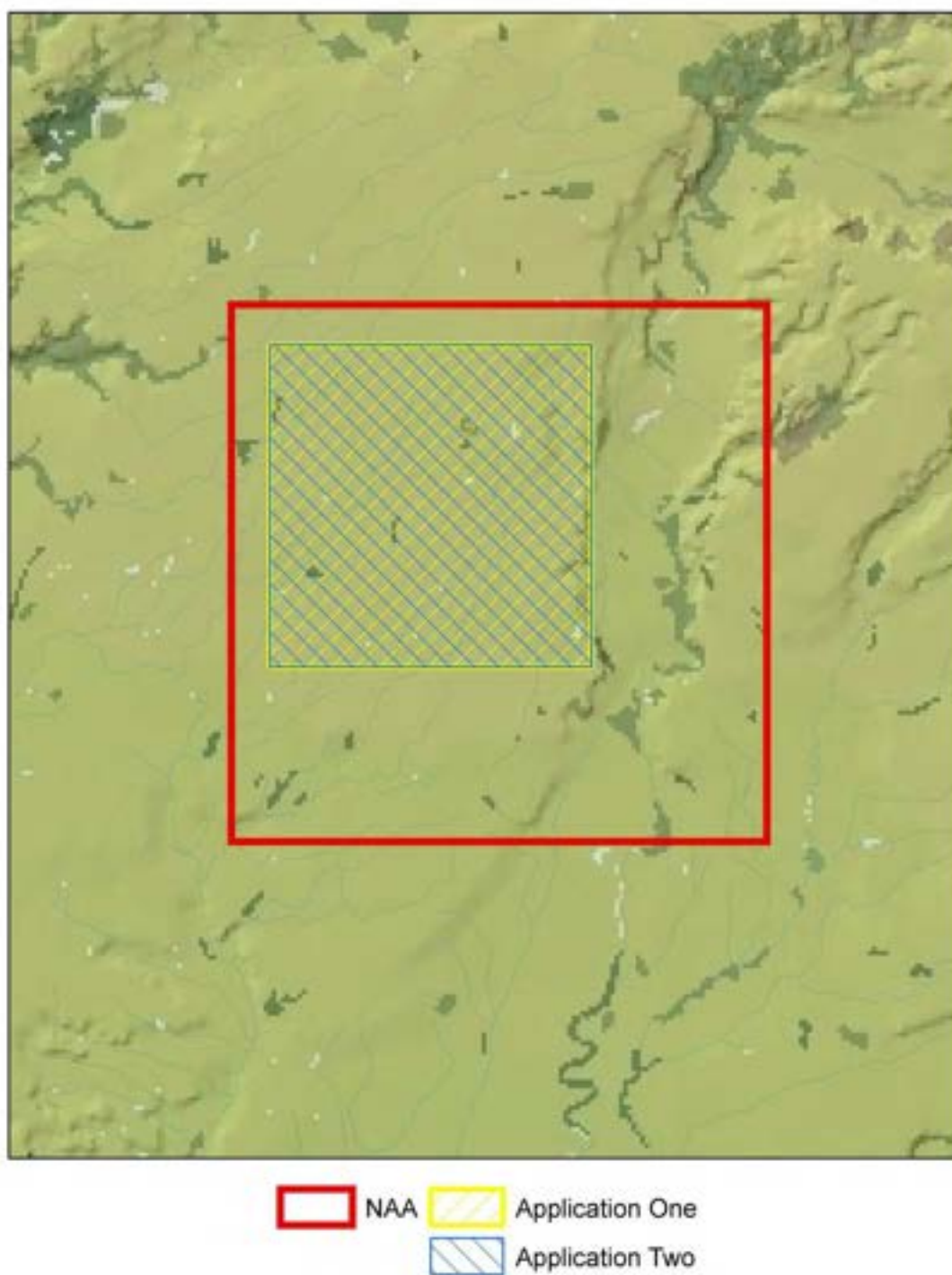
Pupu Springs is a place of historical and spiritual importance to Manawhenua ki Mohua and is regarded as wāhi tapu.

Schedule 4: Drawings to illustrate clause 6.8(3)

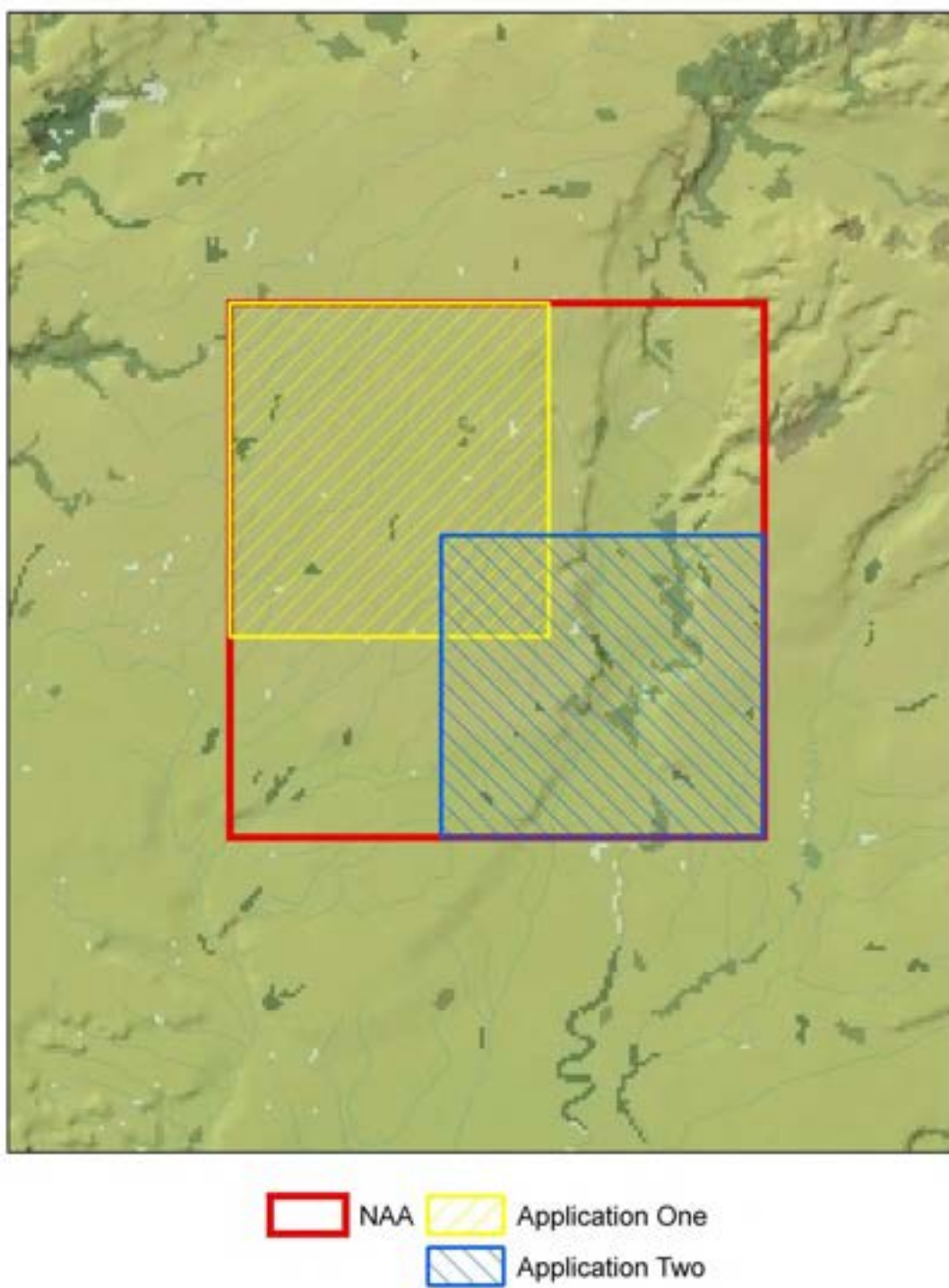
Plan A1: Example for clause 6.8(3)(a)(i)



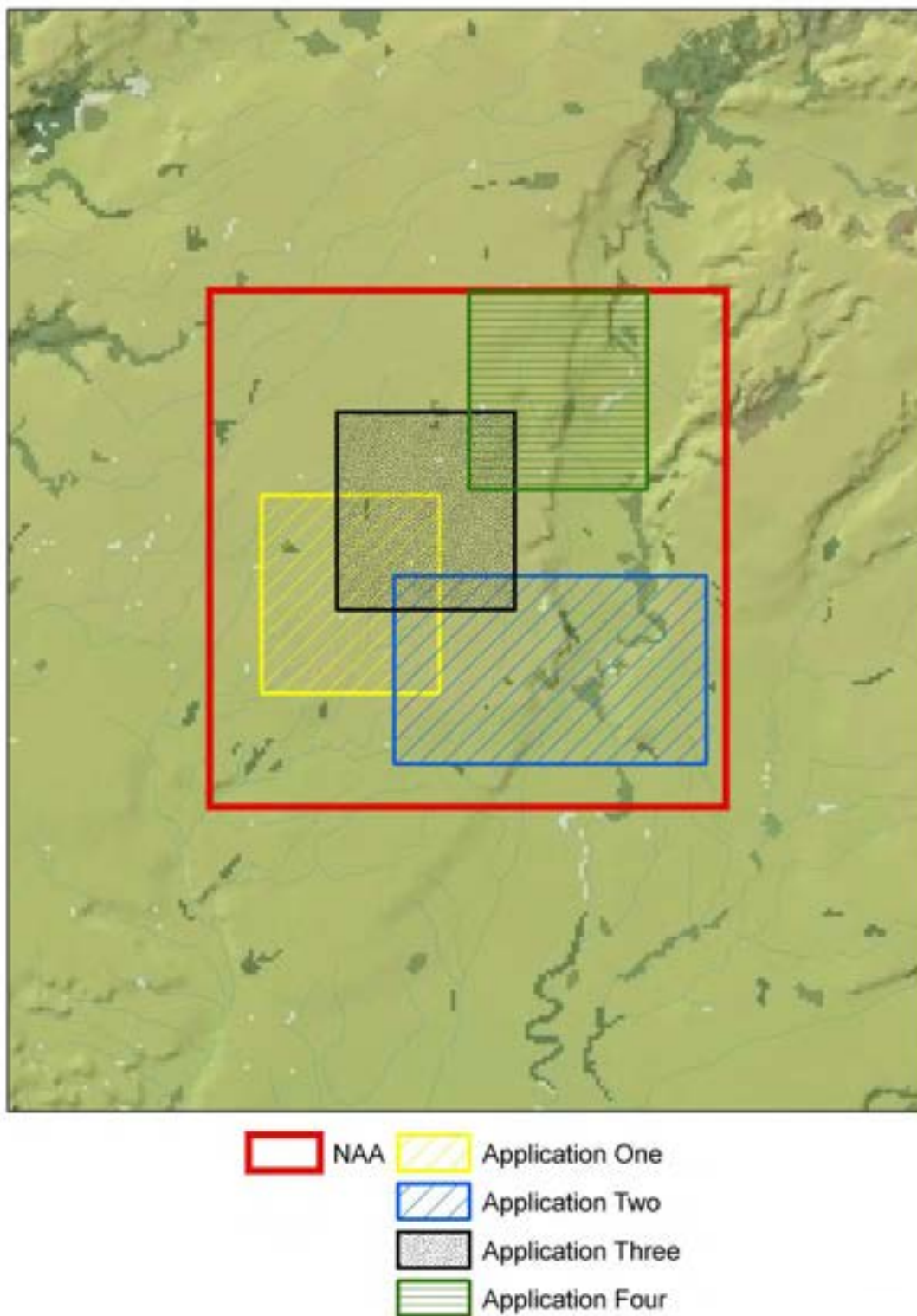
Plan A1 continued: Example for clause 6.8(3)(a)(ii)



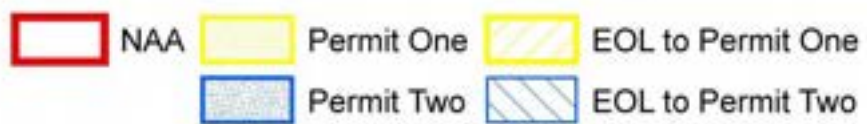
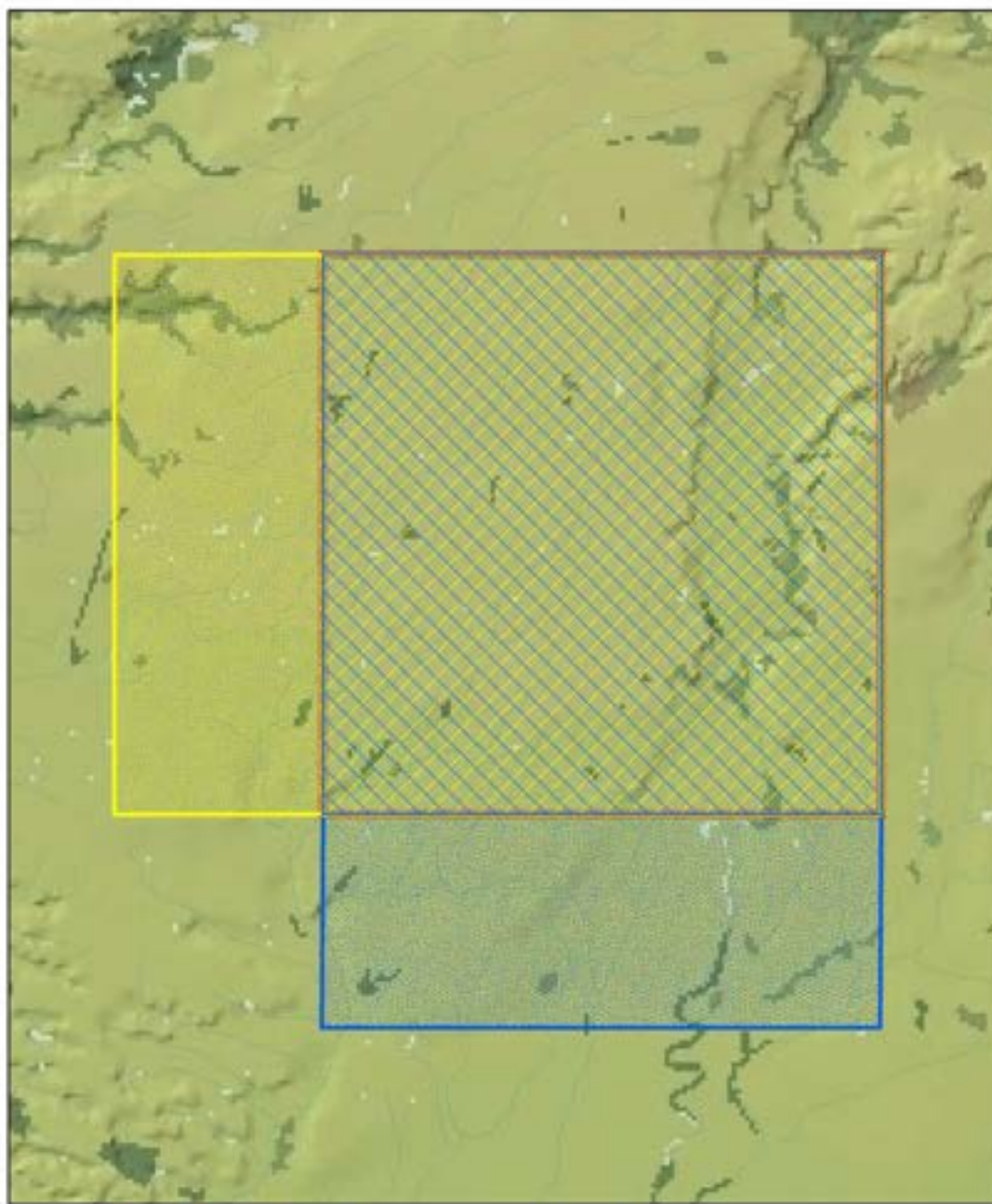
Plan A2: Example for clause 6.8(3)(b)



Plan A3: Example for clause 6.8(3)(c)

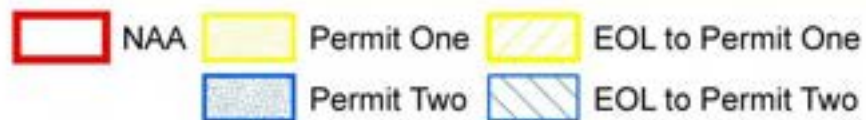
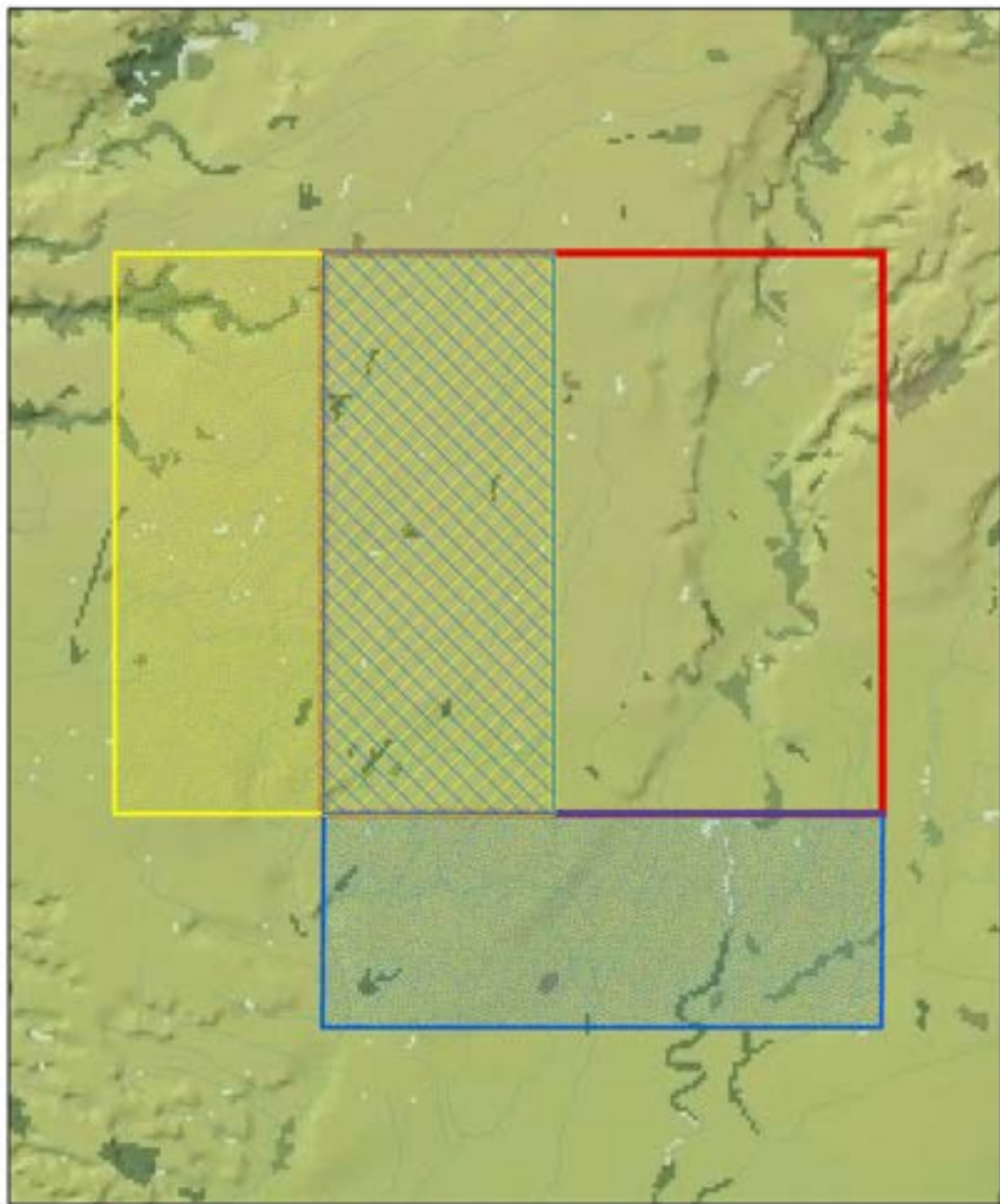


Plan B1: Example for clause 6.8(3)(d)(i)



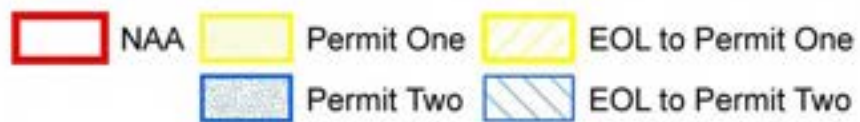
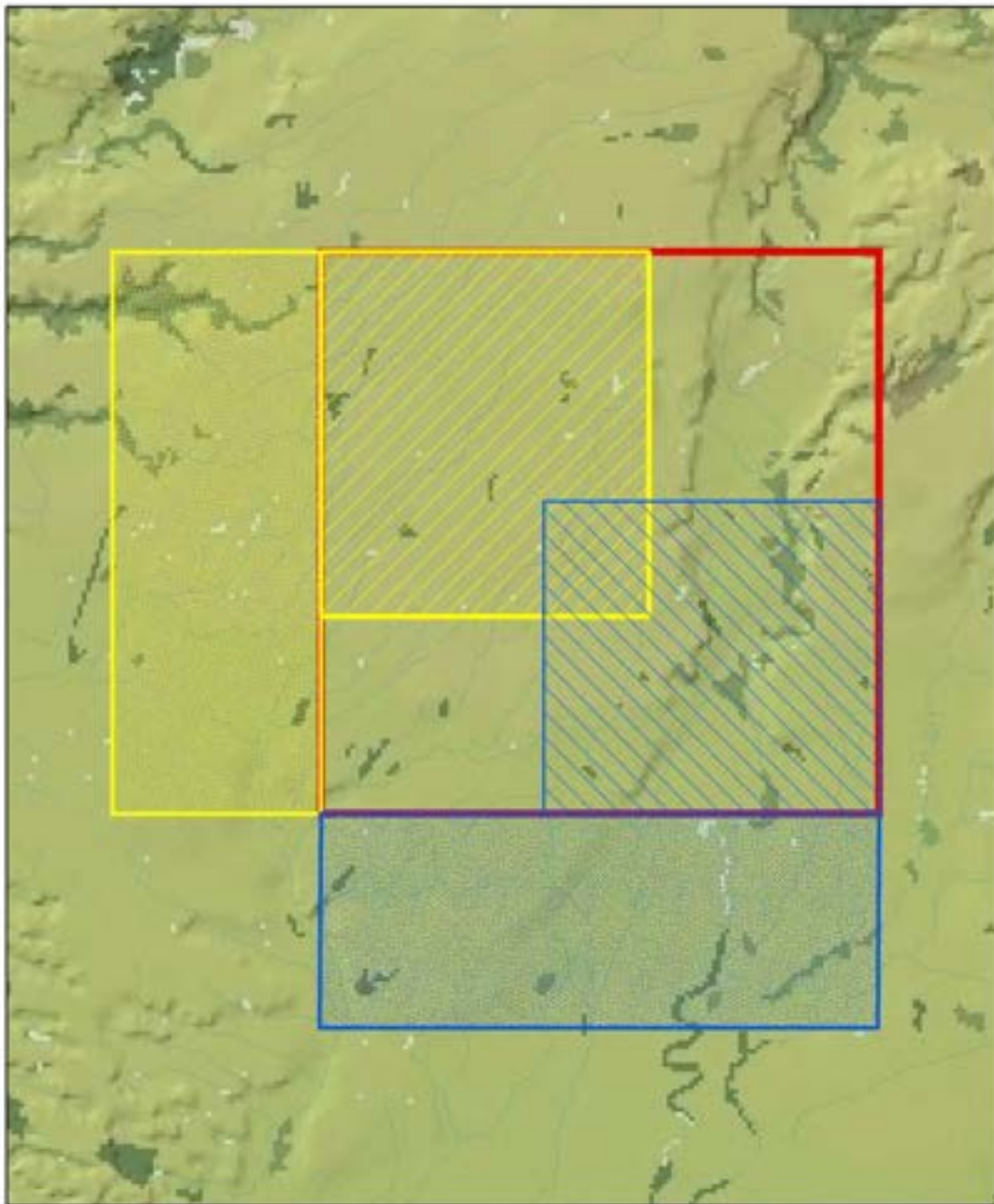
EOL = Extension of Land

Plan B1 continued: Example for clause 6.8(3)(d)(ii)



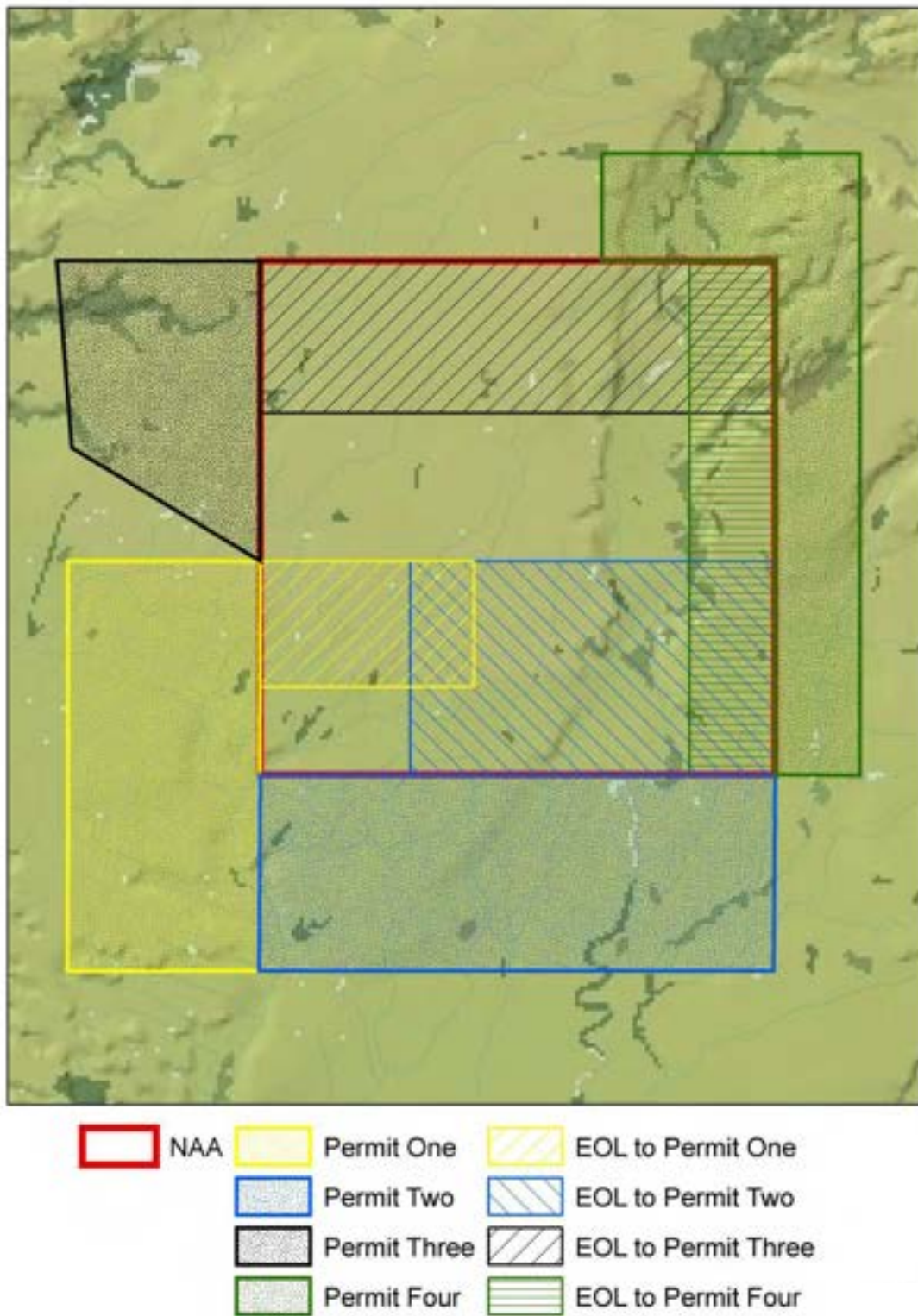
EOL = Extension of Land

Plan B2: Example for clause 6.8(3)(e)



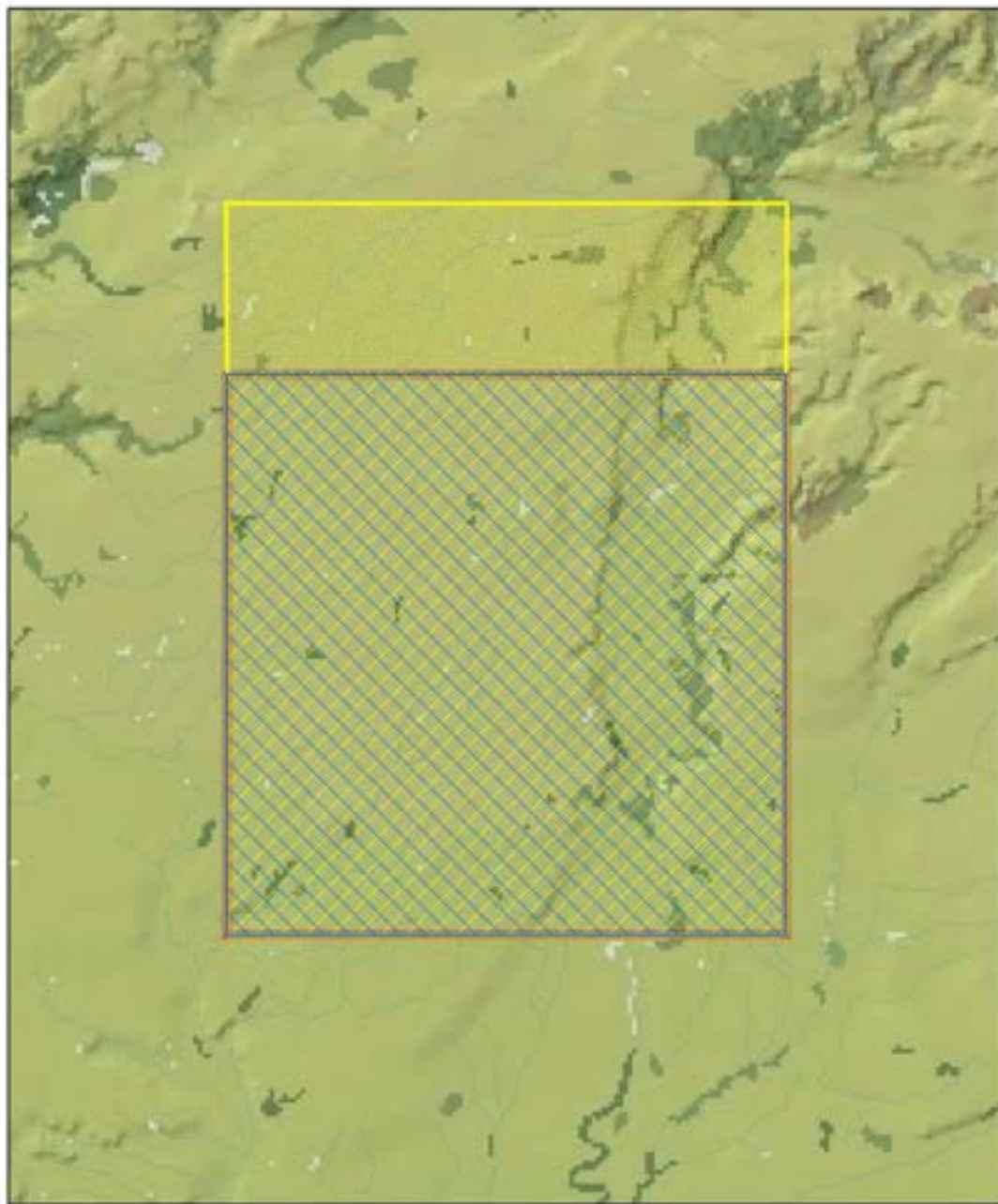
EOL = Extension of Land

Plan B3: Example for clause 6.8(3)(f)



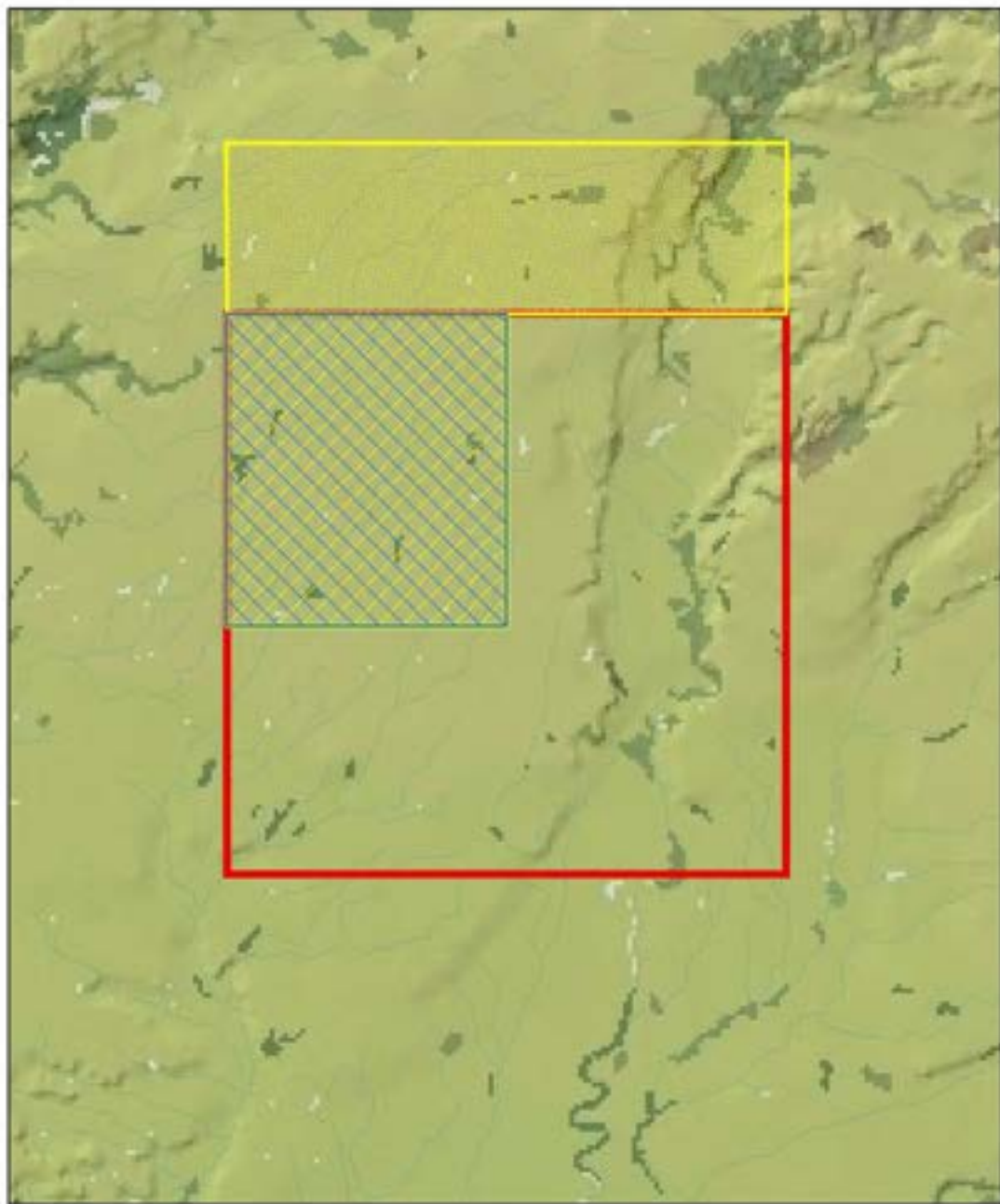
EOL = Extension of Land

Plan C1: Example for clause 6.8(3)(g)(i)



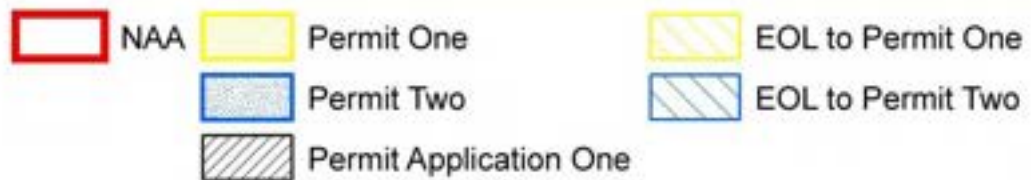
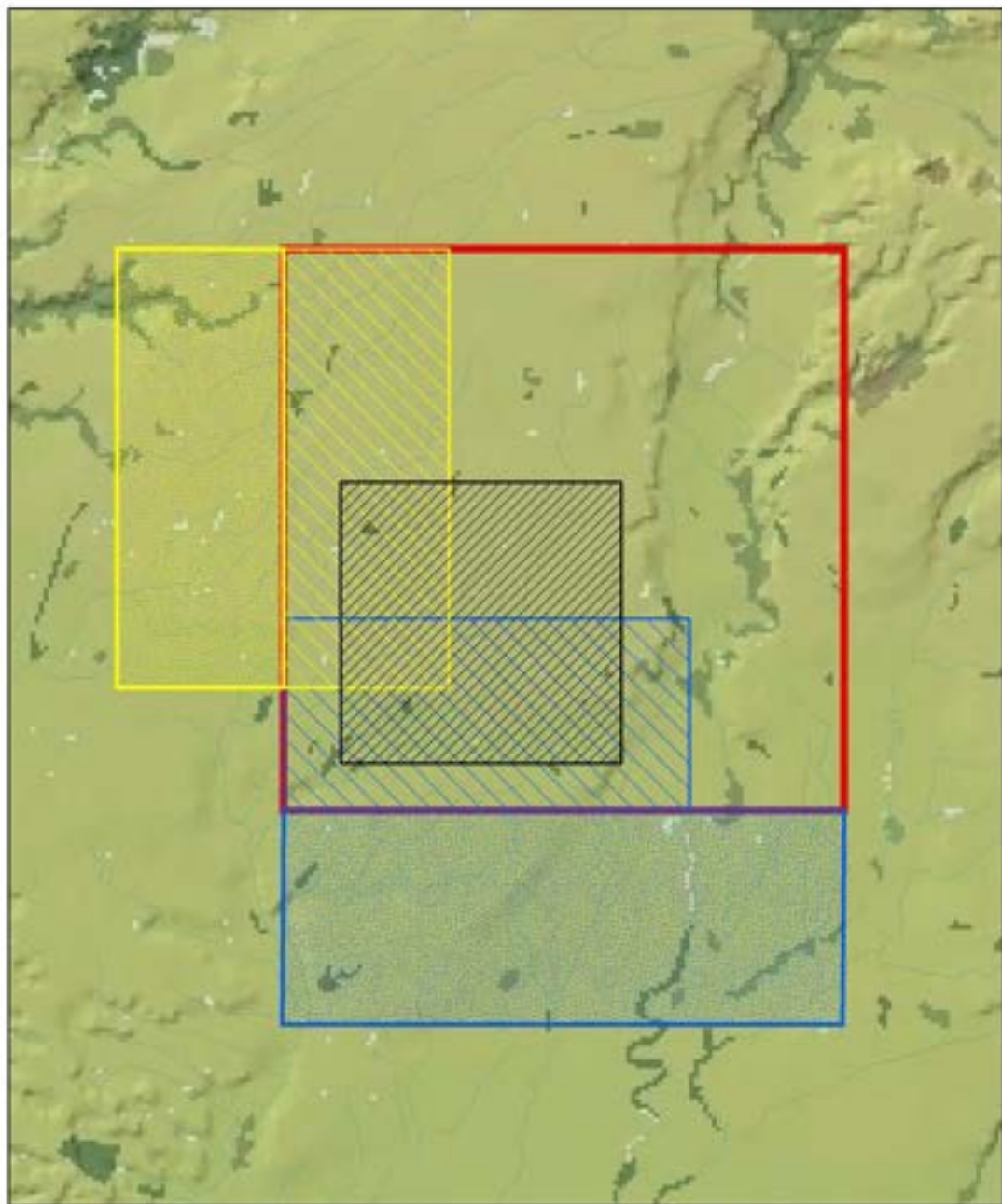
EOL = Extension of Land

Plan C1 continued: Example for clause 6.8(3)(g)(ii)



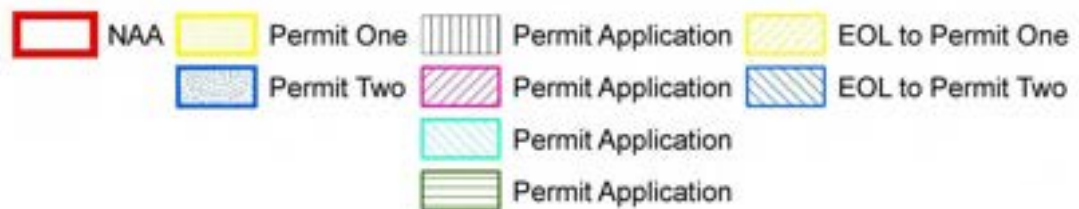
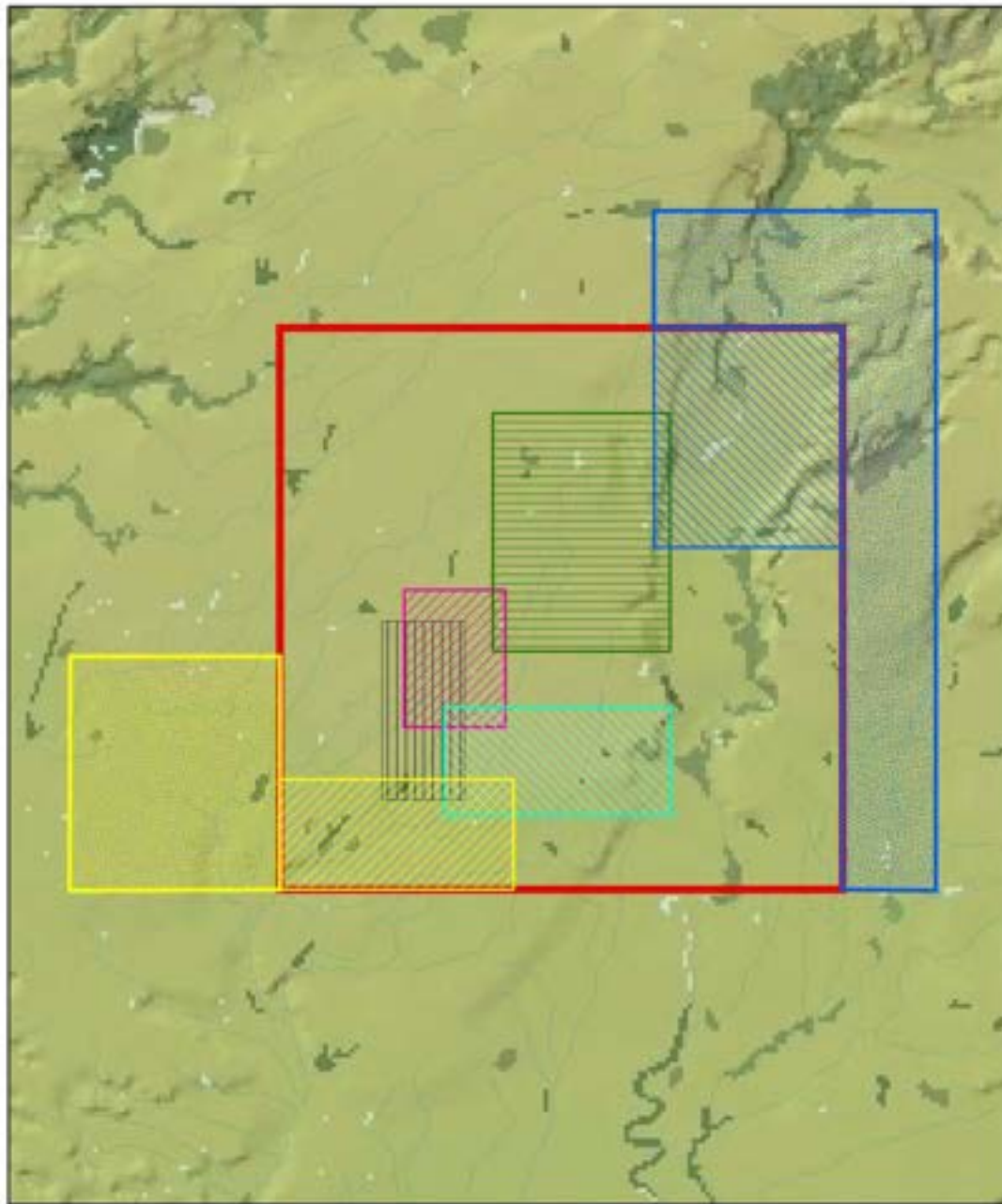
EOL = Extension of Land

Plan C2: Example for clause 6.8(3)(h)



EOL = Extension of Land

Plan C3: Example for clause 6.8(3)(i)



EOL = Extension of Land