

Reviewing the Crown Minerals Act 1991

Discussion Paper

August 2010

Ministry of Economic
Development



M a n a t ū Ō h a n g a

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Minister's foreword

Most New Zealanders have limited knowledge about the extraordinary abundance of energy and mineral resources that could make a significant contribution to creating a wealthier and more prosperous New Zealand.

Our natural resources, like oil, gas and minerals, have the potential to create a step-change in New Zealand's economic performance. They have the potential to make, through environmentally responsible development, a bigger contribution to the New Zealand economy.

New Zealand's largely unexplored petroleum and mineral resources could be one of the country's most significant economic development opportunities.

As part of a plan of action for the petroleum sector, in November 2009 I announced reviews of the legislative, regulatory, taxation and royalty arrangements for petroleum and minerals.

As a first step in public engagement of these processes, this discussion document focuses on proposed amendments to the Crown Minerals Act, which sets out how petroleum and mineral resources owned by the Crown, on behalf of all New Zealanders, are managed.

I do not consider that a fundamental review of the Crown Minerals Act is necessary. However, the changes proposed will impact on the resources industry and I invite you to look at them closely. I value your feedback, as it is important to ensure the regime is workable, fit for purpose and future-proofed as development of these sectors progresses.

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Executive Summary

1 Introduction

- 1.1 This discussion paper presents proposals for changes to the Crown Minerals Act 1991 (**CMA**). The review of the legislation is part of a broader review of the Crown minerals regime, encompassing also the minerals programmes, regulations and fiscal provisions. This review is led by the Ministry of Economic Development on behalf of the Minister of Energy and Resources.

2 Background to New Zealand's minerals management regime

- 2.1 The Crown manages New Zealand's mineral resources through the CMA. The policies and details of how the CMA is applied are set out in the Minerals Programmes for Petroleum and the Minerals Programmes for Minerals (except Petroleum) and through associated regulations.
- 2.2 Prospecting, exploration and mining permits are granted under the CMA. Resource consent and land access arrangements are also required before activities can commence under a permit.

3 Direction and structure of the review

- 3.1 The Petroleum Action Plan was announced in November 2009 to increase investment in petroleum exploration and production in New Zealand. The Action Plan is one of the key means of delivering the Government's Economic Growth Agenda. The review of the minerals management regime was announced as part of the Action Plan.
- 3.2 This discussion paper is the first part of the review process and focuses on proposals to amend the CMA. The second review phase is planned for early 2011 and will include consultation on proposals to review the programmes and regulations.

4 Objectives of the review

- 4.1 The objectives of the review of the Crown minerals regime are:
- a. to align the regulatory regime for the allocation and management of Crown-owned minerals with the Government's Economic Growth Agenda and regulatory reform agenda;
 - b. to encourage the development of Crown-owned mineral resources to contribute to New Zealand's economic development;
 - c. to make the regime better able to deal with future developments and requirements; and
 - d. to streamline and simplify the regime where appropriate.

4.2 The changes to the regime proposed to meet these objectives are, broadly:

Encouraging economic development from mineral resources

- 4.3 Proposed changes to the CMA to encourage economic development from New Zealand's mineral resources include:
- a. giving the CMA a clear purpose statement;
 - b. improving management of non-compliance;
 - c. making clearer provisions for decommissioning, including consideration of increased use of existing provisions to take bonds;
 - d. optimising data requirements and disclosure obligations to improve knowledge and encourage investment;
 - e. broadening the Minister's powers to strategically manage resources by reserving land and minerals from allocation;
 - f. implementing measures aimed at optimising efficient development of petroleum resources;
 - g. removing the detail of the content of the minerals programmes from the CMA;
 - h. removing policy and operational matters relating to permitting from the CMA and including them in regulations, minerals programmes, permit conditions or other documents as appropriate; and
 - i. removing royalties provisions from the programmes and including them in regulations.

Being Fit for the Future

- 4.4 Since the CMA came into force in 1991 the resources being targeted and the environments within which operations are being conducted have changed, often becoming more challenging. It is proposed to make changes to the regime to reflect these changes, and also to allow for future developments and requirements. In particular it is proposed to:
- a. allow more flexibility on permit duration to deal with more challenging operating environments;
 - b. consider new permit classes; and
 - c. ensure that the regime is able to cover new technologies and resources.

Streamlining and Simplification

- 4.5 Elements of the current regime for the management of Crown-owned minerals could be simplified to improve clarity, and to reduce administrative burdens. It is proposed to:
- a. reduce the number of operative minerals programmes by providing that earlier minerals programmes cease to be operative and permits issued under earlier programmes will be administered under the most recent minerals programme;
 - b. remove permit requirements for alluvial gold operations in river and lake beds and coastal marine areas where activities carried out are non-mechanised or using low levels of mechanisation; and
 - c. simplify the procedures required for permit transfers and dealings.

PART 1: Introduction

1 The Review of the Crown Minerals Regime

- 1.1 This discussion paper presents proposals for changes to the Crown Minerals Act 1991 (**CMA**). These proposals are part of a broader review led by the Ministry of Economic Development on behalf of the Minister of Energy and Resources. The broader review encompasses the CMA, the minerals programmes and regulations issued under the CMA, and the fiscal regime – in other words, the whole regime governing the allocation and management of Crown-owned minerals.
- 1.2 A key driver for the review of the regime has been the Petroleum Action Plan, announced by the Minister of Energy and Resources in November 2009. This plan contains various initiatives to achieve the strategic objective of ensuring New Zealand is highly attractive for petroleum exploration and development, such that our full development potential is realised. The actions range from investing in data acquisition to reviewing the Crown minerals regime (of which this discussion paper is a part)¹. Another driver is the stocktake of Schedule 4 of the CMA. The outcome of the stocktake has recently been announced and resulted in some recommendations to change the CMA. Also, it is timely to update aspects of the regime to accommodate technological and resource developments, and to better align the regime with the Government's Economic Growth Agenda and regulatory reform aims.
- 1.3 Other processes outside this review may affect the CMA. These include the Foreshore and Seabed 2004 Act review, and the future Waitangi Tribunal report on petroleum management. While these matters relate directly to Crown minerals management and ownership, they are subject to other timeframes and processes and as such are outside the scope of this review.

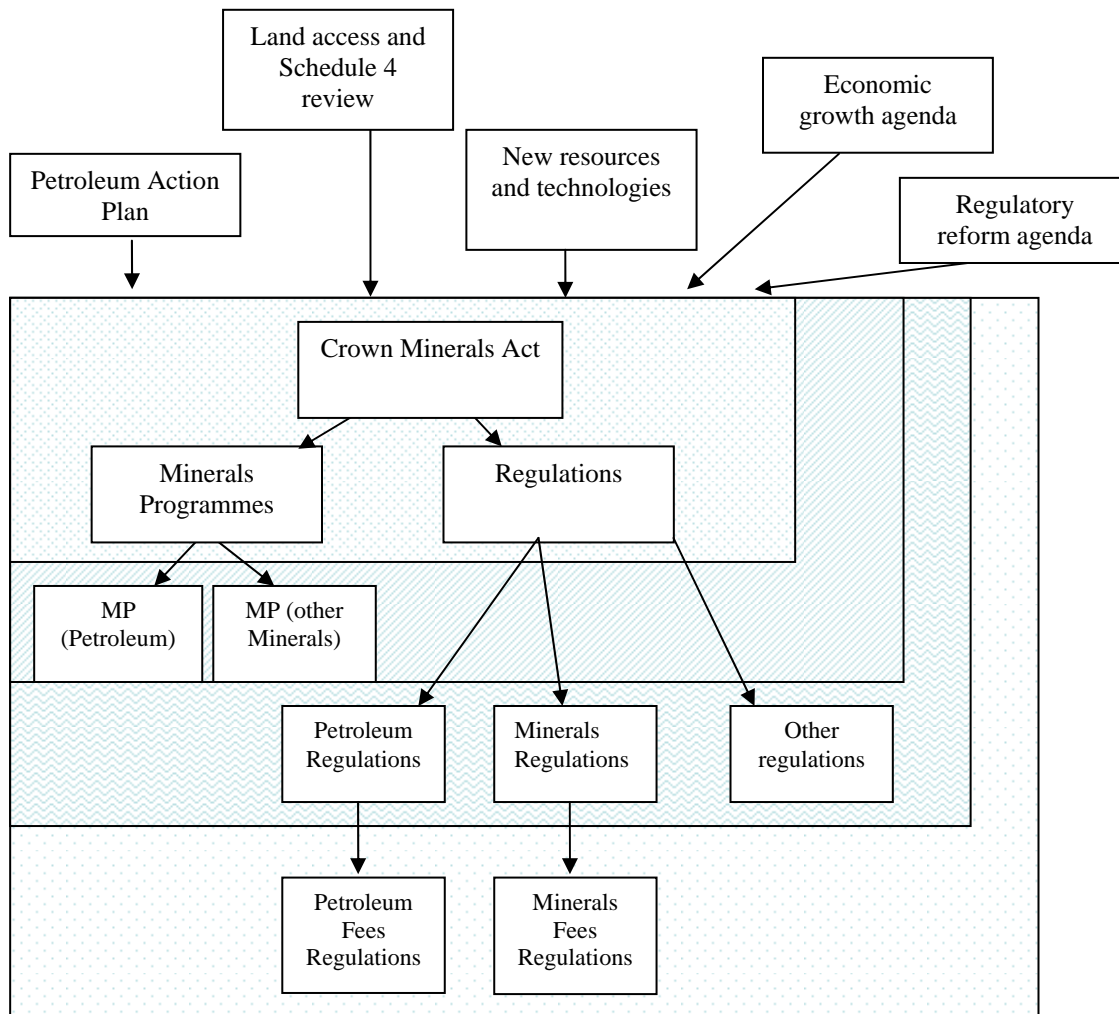
2 Objectives of the Review

- 2.1 The objectives of the review of the Crown minerals regime are:
 - a. to align the regulatory regime for the allocation and management of Crown-owned minerals with the Government's Economic Growth Agenda and regulatory reform agenda;
 - b. to encourage the development of Crown-owned mineral resources to contribute to New Zealand's economic development;
 - c. to make the regime better able to deal with future developments and requirements; and
 - d. to streamline and simplify the regime where appropriate.

1 *Do you have any comments on the objectives of the review?*

¹ The full plan can be accessed at www.med.govt.nz/petroleum-action-plan.

Overview of legislative structure and review drivers



3 The scope of this discussion paper

- 3.1 This discussion paper represents the first phase of the review of the minerals management regime and focuses on changes to the CMA. The proposals encompass both substantive policy issues and technical amendments. A second phase to review the minerals programmes and regulations is planned for early 2011.
- 3.2 Analysis of the current regime conducted as part of the Petroleum Action Plan compared the New Zealand regime to those of other countries and concluded that the current system was 'largely satisfactory'. Areas for improvement were highlighted, such as the need for greater provisions for decommissioning, and these will be addressed as part of the review.
- 3.3 As such, this review could be considered to be 'mid level': more than minor, but not a fundamental review of the framework for managing Crown-owned minerals.
- 3.4 Part 2 of this discussion paper details the proposed changes to the regime. Part 3 of this document contains a summary table of the proposed changes to

the CMA by section and includes proposals for further technical and operational amendments to the CMA. The table is indicative only and even where it is indicated that there is no change currently proposed to a particular section, there may be consequential changes to implement the changes discussed in this paper or other matters arising from this review.

- 3.5 There is no intention to review the extent of Crown ownership of minerals as part of this review.
- 3.6 The Government has considered whether carbon capture and storage (**CCS**) issues could be dealt with in the review of the CMA. Although the CMA covers matters relevant to CCS activities, at this time it is considered preferable that a stand alone piece of legislation is drafted to provide appropriate management of the technical, environmental and economic issues associated with the entire CCS process. As such, this discussion paper does not propose any changes to the CMA to deal with CCS.
- 3.7 The Government has also considered whether to extend the provisions of the CMA allowing determination of access agreements for petroleum by arbitration to other minerals. At this time, it is not proposed to make any change to the current position.
- 3.8 This discussion paper does not cover offshore matters such as environmental considerations relating to beyond the 12 nautical mile limit, which are beyond the scope of the CMA and will be dealt with in separate legislation, currently under development.
- 3.9 The Government has already carried out separate consultation on proposed changes to section 61 of the CMA and Schedule 4.

4 The role of minerals and petroleum in economic growth

- 4.1 Mining has played a significant role in economic growth from early in New Zealand's development and continues to do so today. The primary reason for exploiting minerals and petroleum is to increase jobs, revenue, and taxation income on behalf of all New Zealanders.
- 4.2 Minerals, including petroleum, contribute to the economic growth of New Zealand in a number of ways. They:
 - a. provide a financial return to the Crown through royalty payments;
 - b. provide employment, including often in smaller communities, both directly and indirectly through the flow-on effects to supporting sectors; and
 - c. attract investment and generate profits, resulting in increases to gross domestic product (**GDP**), additional financial flows through the economy, and increased tax revenue.
- 4.3 In addition, some minerals, such as aggregates, support infrastructure

development by providing materials needed for roading and construction. Ironsands and coal support a steel industry. Fuel minerals, such as coal and gas, provide energy sources for agricultural and forestry processing, secondary industry and electricity generation.

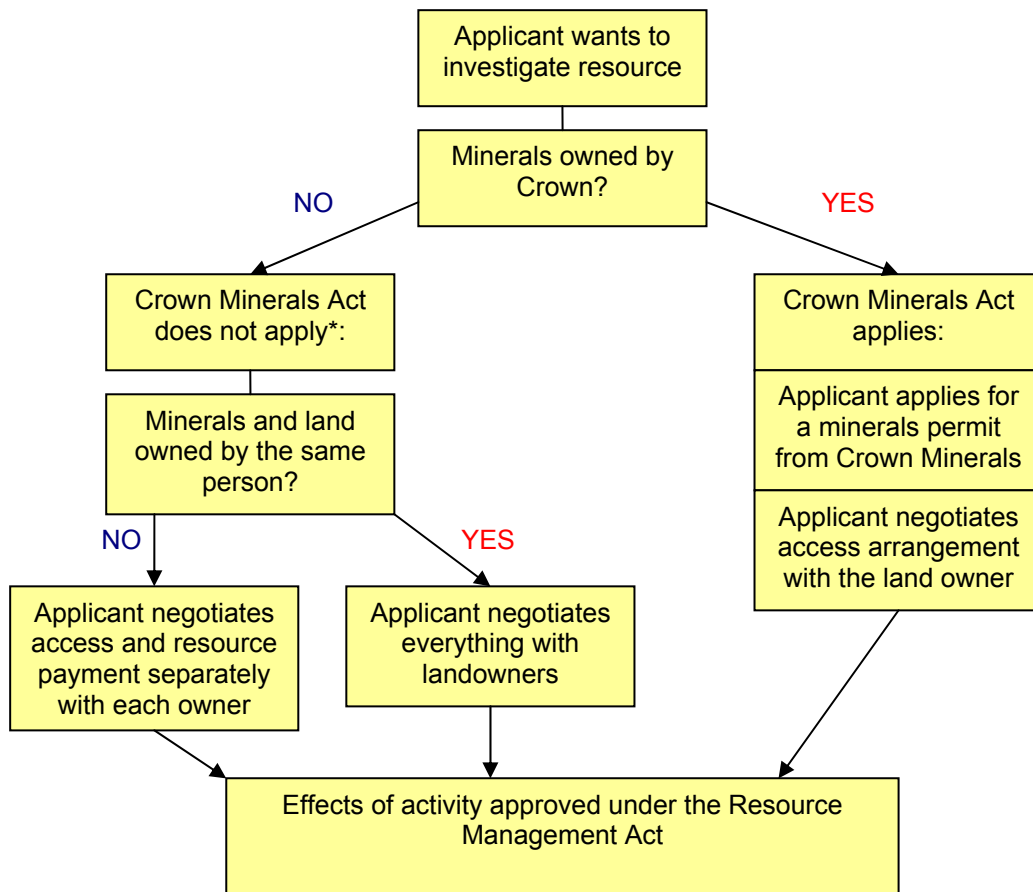
- 4.4 The size of the sector's contribution to the economy is significant. Royalties collected by the Crown for oil, gas, and other minerals totalled almost NZ\$520m in 2008/09. This represented a five-fold increase over the royalties collected in the previous year. Some 98% of these royalties were from oil production. In the 2008/09 year, oil production of 21 million barrels (condensate, naphtha, and crude) was valued at NZ\$2.8 billion, coming only behind dairy and meat as our third largest export earner. Oil was 6.9 per cent of New Zealand's exports.
- 4.5 The Government is actively encouraging further petroleum exploration and development. The strategic objective of the Petroleum Action Plan, released in 2009, is to ensure New Zealand is a highly attractive destination for petroleum exploration and production investment, such that we are able to develop the full potential of our petroleum resources. This review of the Crown minerals regime aims to ensure New Zealand's regulatory regime encourages investment while ensuring a fair return to the country. The Government is also committed to encouraging exploration of the potential of the country's frontier basins. In June 2010 it awarded a five-year exploration permit for the offshore Raukūmara block, covering 12,330 square kilometres. Blocks offers for the Reinga basin and Northland basin closed in August 2010.
- 4.6 Minerals and coal have considerable potential to contribute to the economy. There are many undeveloped or unexplored metallic mineral opportunities, especially for ironsands and gold. Quartz gravels for ferrosilicon and offshore phosphates for fertiliser are currently being assessed. New Zealand has very large lignite resources that can be used as a petrochemical feedstock for conversion to a wide range of products including liquid fuels or for electricity generation if required.
- 4.7 The untapped potential of New Zealand's mineral resource extends beyond those minerals with a long history of development in New Zealand, such as gold. It includes many 'rare earth elements' that are considered globally to be minerals of strategic importance to modern economies. These minerals include dysprosium, terbium, erbium, and ytterbium, which are fundamental to technologies such as hybrid and electric cars, wind turbines, computer disk drives, fibre-optic telecommunication cables, low-energy light bulbs, and military equipment. Areas of high nickel-copper-platinum group metals and chromite mineralisation have also been identified.

5 Overview of the regime

- 5.1 This section provides, for those less familiar with how Crown minerals are managed, some background to the CMA and its relationship to other relevant legislation.

The Crown Minerals Act and other relevant legislation

- 5.2 The Crown minerals regime applies to all of New Zealand's territorial area up to 12 nautical miles (**nm**) off the coast. Beyond 12 nm territorial acts such as the CMA and Resource Management Act 1991 (**RMA**) do not apply (unless specifically imported by other legislation). The regulation of activities beyond New Zealand's territorial area is discussed below.
- 5.3 The CMA and the RMA both came into effect on 1 October 1991. The two acts were created as part of a fundamental reform to the management of resources in New Zealand, and separate the allocation of resources from managing the effects of their extraction:
- the RMA regulates most of the environmental effects of minerals activities;
 - the CMA allocates rights to prospect, explore and mine Crown mineral resources and provides for financial return to the Crown for those rights; and
 - the Health and Safety in Employment Act 1992 regulates occupational health and safety for all economic activities.
- 5.4 In a practical sense, before anyone can prospect, explore, or mine for Crown owned minerals, they must acquire three things:
- a. a permit from the Ministry of Economic Development (MED) as determined by the appropriate minerals programme under the CMA. This is administered by Crown Minerals, a business division of MED;
 - b. an access arrangement from the owner and occupier of the land to be prospected, explored or mined, as per the rules for entry and process for negotiation of access set by the CMA; and
 - c. approval under the RMA (which may involve a resource consent) from local authorities to control the environmental effects of prospecting, exploration and mining.
- 5.5 In addition, if structures are to be erected, permits may be required under the Building Act 2004.
- 5.6 Note that the CMA only covers minerals owned by the Crown (both on/under Crown land and private land). Minerals not owned by the Crown are not subject to the CMA. Instead, an applicant must seek a private arrangement with the mineral and land owner/s, before seeking resource consent for environmental effects. The CMA and minerals programmes also set out procedures for consultation with Maori.



** Save that the Minister may grant prospecting permits in respect of minerals that are privately owned*

Regulation of activities beyond New Zealand's territorial area

- 5.7 New Zealand has sovereign rights over the continental shelf to exploit the natural resources of the seabed and sub-soils. All rights that are exercisable by New Zealand with respect to the continental shelf and its natural resources are vested in the Crown.
- 5.8 Until recently, the interest in areas beyond 12nm has been largely from petroleum companies. The Continental Shelf Act 1964 (**CSA**) regulates the mining of all minerals beyond 12nm. The CSA has specifically imported the provisions of the CMA in relation to petroleum to apply to this area.
- 5.9 The oil spill in the Gulf of Mexico has highlighted the risks involved in deep-sea drilling internationally. Officials are developing advice on how to align New Zealand's health, safety and environmental controls with international best practice. Ministers will likely consider this advice in September and also make decisions on how to align any improvements to oil spill management with the proposed new legislation for regulation of environmental effects in the Exclusive Economic Zone (EEZ), which is being led by the Ministry for the Environment.
- 5.10 In the event of a marine oil spill, the New Zealand Marine Oil Spill Response Strategy provides the overall framework to mount an efficient and effective

response. Maritime New Zealand is responsible for maintaining a nationwide capability to respond to marine oil spills of any size. New Zealand's response capability is maintained (and developed) through partnerships between Maritime New Zealand, regional councils, the oil industry, and overseas agencies.

The CMA, minerals programmes, and regulations

5.11 The CMA provides for:

- the development of minerals programmes setting out the policies for allocation of Crown-owned mineral resources and the financial return to the Crown in exchange for those rights;
- the conditions for permits to prospect, explore and mine Crown-owned mineral resources, to encourage resource development in line with good practice;
- the collection of information by the Crown on the mineral estate, to promote efficient management of the resource, and with respect to petroleum particularly, to promote informed investment decisions and improve security of supply in the gas and electricity market;
- rules for entry onto land to prospect, explore or mine the Crown's minerals, including limitations on entry to areas of special importance to Māori and to areas of particular conservation value.

5.12 Section 12 of the CMA provides that the purpose of the minerals programmes is to establish policies, procedures and provisions which provide for the efficient allocation of rights to Crown-owned mineral resources, and a fair financial return to the Crown from its minerals. The minerals programmes set out the policies and considerations that the Minister will take into account in exercising his or her powers and functions under the CMA in order to achieve these objectives. The policies promote the responsible discovery and development of resources, and encourage good practice in prospecting, exploration and mining.

5.13 Just like district plans under the RMA, minerals programmes must be reviewed regularly according to a set process, including consultation, which is prescribed in the CMA.

5.14 The regulations made under the CMA provide for matters such as the form of applications for permits, reporting requirements, and fees.

6 The review process

6.1 This discussion paper focuses on changes to the CMA. Following this consultation, changes to the CMA will be drafted and it is envisaged that a Bill will be introduced to Parliament in December 2010. There will be a further opportunity for public input into the legislative changes as the Bill makes its way through the Select Committee process during 2011.

- 6.2 Where possible this discussion paper indicates proposed significant policy changes to the regime that will be made through the minerals programmes. Proposed revisions to the minerals programmes and regulations are intended to be released for consultation in March 2011, with changes expected to be gazetted in June 2011.
- 6.3 These review timeframes are summarised in a table on page 41 of this paper.

PART 2: Key changes to the Crown Minerals Act

Giving the Crown Minerals Act a Clear Purpose Statement

1 Purpose of the CMA

- 1.1 The CMA does not currently have a purpose statement. In 1991, when the CMA was passed, purpose statements were not always used. However, in the past 20 years it has become the convention for legislation to include a purpose statement. Purpose statements assist with the legal interpretation of legislation, and more broadly, they help to clearly communicate Parliament's objectives.
- 1.2 It is proposed that a purpose statement be included in the CMA which:
- a. sets out what the CMA does:
 - it enables the allocation and management of rights to prospect, explore for and mine Crown-owned minerals; and
 - b. states the government's objective in implementing the CMA, which might include:
 - the efficient allocation and management of rights to develop Crown-owned minerals for the benefit of New Zealand;
 - providing the Crown with a fair financial return for its mineral resources;
 - enabling employment and investment opportunities; and
 - supporting energy and infrastructure development.

2 *Should the CMA have a purpose statement?*

3 *Do you have any comments on the proposed content of the purpose statement?*

Enabling the Regime to Clearly Manage New Technologies, Resources and Activities

2 Underground coal gasification

- 2.1 Underground coal gasification (**UCG**) involves combustion of an underground coal seam to produce a gaseous product commonly known as synthesis gas or 'syngas' for use as an energy source. UCG enables access to coal seams at depths below those which traditional mining techniques allow.
- 2.2 The Crown considers UCG to be 'coal mining' as it falls within the definition of

'coal' and 'mining' under the CMA. As such the relevant Minerals Programme for Minerals (excluding petroleum) (**MPM**) applies to UCG operations.

- 2.3 It is proposed to clarify that UCG is treated as coal mining.
- 2.4 The MPM and the regulations may also be amended to provide a clearer policy framework around allocation and management of coal permits utilising UCG technologies.

4 Do you have any comment on the proposal to clarify that UCG is managed under the coal mining regime through the MPM?

5 Do you have any comments on the requirement for a clearer policy framework around allocation and management of coal permits utilising UCG technologies?

3 Methane hydrates

- 3.1 Methane hydrates are naturally occurring crystalline substances composed of water and hydrocarbon gas. Because of their large scale gas-storage capacity, methane hydrates are thought to represent a potentially important future source of natural gas.
- 3.2 It is proposed to clarify in the CMA that methane hydrates are considered to be petroleum and fall under the Minerals Programme for Petroleum (**MPP**).
- 3.3 It is likely that the changes to the MPP will include policies around the allocation of permits targeting methane hydrate resources.

6 Do you have any comments on the proposal to clarify that methane hydrates are petroleum?

7 Do you think that methane hydrate activities could be carried out in the same land area as other permit activities (such as conventional petroleum exploration)?

4 Introducing new permit classes

- 4.1 The Crown is considering whether there would be a benefit in creating new classes of permit for each the following activities:
 - a. Research/scientific activities;
 - b. Non-exclusive seismic data acquisition (speculative surveys); and
 - c. Underground gas storage.
- 4.2 Activities that may be undertaken primarily for research or scientific purposes currently require a CMA permit if they involve the prospecting for, or exploration of, Crown-owned minerals. It is proposed that a new class of

permit could be created to deal with this type of activity. It is proposed that the Minister would have flexibility in determining the information disclosure requirements of these permits on a case-by-case basis.

- 4.3 Similarly, companies wishing to undertake non-exclusive seismic surveys for the purposes of commercial sale of that data to explorers require a permit. This is currently done under a non-exclusive prospecting permit which provides for the data acquired to be held confidential for 5 years. It is proposed that a new class of permit could be created to deal with this type of activity and the Minister would have flexibility in determining the information disclosure requirements of these permits on a case-by-case basis.

8 *Do you think there should be a new class of permit for research/scientific activities and spec surveys?*

9 *If so, how do you think data disclosure should be treated under such permits?*

- 4.4 Underground gas storage can be carried out under the CMA but the current permitting regime is not well suited to dealing with this activity. It is proposed that a new type of permit will be created for underground gas storage activities. The policy considerations for the grant of an underground gas storage permit will be set out in the MPP and it is likely that specific reporting requirements would be set out in the regulations.

10 *Do you have any comment on the role of the Crown in monitoring and managing underground gas storage activities?*

11 *Do you think there should be a new class of permit for underground gas storage activities? (NB: this is not related to CCS)*

12 *Do you think that underground gas storage activities could be carried out in the same land area as other permit activities (such as petroleum exploration)?*

Removing Permit Requirements for Small-Scale Gold Activities in River and Lake Beds and Coastal Marine Areas

5 Small-scale gold activities

- 5.1 Around a quarter of the minerals mining permits granted by Crown Minerals relate to small-scale operations, principally beach-sand gold and suction dredge operations. The scale of these activities means that any fees received are outweighed by the resources required to process and manage these permits. It is proposed to remove the requirement to obtain a permit for non-mechanised gold activities (such as gold panning) and operations using low mechanisation (where the machinery used does not exceed 5 horsepower) in river and lake beds and coastal marine areas (save that such activities may only be carried out where there is no existing permit over the area). As a

result of this change, the provisions on gold fossicking areas would also be able to be repealed.

- 5.2 One of the effects of this change is that iwi consultation under the CMA would no longer occur in respect of these activities (as is currently undertaken before the grant of a permit). However, it should be noted that people wishing to carry out these activities would still be required to obtain appropriate land access consents and any approvals under the RMA.
- 5.3 Holders of current gold permits over these areas may choose either to continue to hold their permit for exclusive rights or surrender their permit. However, it is proposed that there would be no extensions of duration granted in respect of current mining permits for beach-sand gold and suction dredge operations.

13 Do you have any comments on the proposal to remove permit requirements for small-scale gold activities in river and lake beds and coastal marine areas?

Changing the Regime Relating to Minerals Programmes

6 Minerals programmes

- 6.1 Sections 12-21 of the CMA make various provisions in relation to minerals programmes, including their purpose, preparation, content, consultation process, issue and review.
- 6.2 It is proposed to amend section 15 of the CMA to remove some of the detail around the content of minerals programmes. In particular, it is proposed that royalties are no longer specified in the minerals programmes but in regulations to the CMA.
- 6.3 It is proposed that section 16 of the CMA is amended to allow certain changes to the minerals programmes to be made without the need for consultation, for example, changes required to fix a drafting error in the minerals programmes.

14 Do you have any comments on the proposals to amend sections 15 and 16 of the CMA which deal with contents of minerals programmes and public notice?

7 Relevant minerals programme

- 7.1 The CMA provides that the minerals programme that applies to a granted permit continues to apply to that permit (and any subsequent permits) unless the permit holder elects to move to a new minerals programme. The continuation in force of previous minerals programmes means that there is inconsistency in the criteria applicable to permits. Permit holders may have permits subject to different minerals programmes, with different rules applying to the permits even though the activities being carried out may be the same.

For example, a permit holder may hold the following permits:

- a minerals exploration permit granted in 2008 subject to the 1996 MPM (by virtue of it being subsequent to a prospecting permit subject to that programme); and
- a minerals exploration permit granted in 2008 subject to the 2008 MPM.

7.2 The CMA requires that new minerals programmes are issued at least every 10 years. However, they may be issued more frequently. The administrative burden on Crown Minerals and the industry of dealing with multiple minerals programmes will only increase as time goes on. The continuation of previous minerals programmes also means it is difficult to implement policy changes where these may conflict with the rights of permit holders under previous minerals programmes.

7.3 It is proposed that the CMA is amended to provide that the Minister shall carry out and exercise his or her functions and powers under the Act in accordance with the current minerals programme. Earlier minerals programmes will cease to be operative and permits issued under earlier minerals programmes will be administered by the current minerals programme for that mineral. This change is aimed at making administration of the regime more efficient and consistent.

7.4 The new minerals programmes will seek to provide sufficient guidance for industry on the policy considerations and matters the Minister will usually take into account in exercising his or her powers under the CMA, while providing flexibility to allow for special circumstances on a case-by-case basis.

15 *Do you think that having the most recent minerals programmes apply to all permits will make the regime more consistent and easier to operate in?*

16 *Do you have any other suggestions for improving the consistency of the regime and the ease of operating within it?*

Removal of Policy and Operational Matters Relating to Permitting from the CMA

8 Operational matters relating to block offers

8.1 Section 24 of the CMA specifies in subsections (2) to (6) certain operational matters relating to block offers. It is proposed to repeal these provisions and deal with those matters in the block offer notice for a particular offering.

17 *Do you have any comments on the proposal to remove the matters specified in sections 24(2) to (6) to the particular block offer notice?*

9 Policy matters relating to consideration of certain applications and changes

- 9.1 Section 28 of the CMA restricts the granting of prospecting permits in certain circumstances. It is proposed to repeal this section and have policy on the allocation of prospecting permits for particular minerals specified in the appropriate minerals programme.

18 *Do you agree with the proposal to remove section 28 of the CMA and state the policy on the granting of prospecting permits in the minerals programmes?*

- 9.2 Similarly, it is considered that section 36(2) (relating to considerations for grant of an extension of land or minerals) can be dealt with in the policies in the minerals programmes and it is proposed that this provision is removed from the CMA.

19 *Do you agree with the proposal to remove section 36(2) from the CMA and deal with considerations for granting an extension of land or minerals in the minerals programmes?*

- 9.3 The CMA provides at section 37 special requirements for the extension of duration of exploration permits. It is proposed that this section is repealed and extensions of duration of exploration permits will be treated in the same way as other changes under section 36 and the appropriate policies will be set out in the minerals programmes. Similarly, it is proposed that sections 36(4), (4A) and (5) relating to extensions of duration of permits are removed and the appropriate policies will be set out in the minerals programmes.

20 *Do you agree with the proposal to remove sections 37 and 36(4)(4A) and (5) from the CMA and deal with considerations for granting extensions of duration of permits in the minerals programmes?*

- 9.4 Sections 30(4) to (6) of the CMA relate to mining permits issued in respect of a 'specified discovery' of a mineral. It is considered that these matters are better dealt with on a case-by-case basis in the conditions of the relevant mining permit and it is proposed that these sections are removed from the CMA.

- 9.5 In addition, it is proposed that section 30(8) will be amended to clarify that the grant of overlapping permits is at the discretion of the Minister. The policy on the grant of overlapping permits will be set out in the minerals programmes. Alternatively, section 30(8) could be repealed.

21 *Do you agree with the proposal to remove the 'specified discovery' provisions from the CMA and deal with these matters in the conditions of the permit?*

22 Do you have any comments on the proposed change to section 30(8) and the benefits of retaining the power to grant overlapping permits for a common mineral?

9.6 The CMA sets out in section 35 the maximum duration for which the Minister can grant a prospecting, exploration and mining permit. The limit of 5 years for an exploration permit can cause particular difficulties for petroleum explorers in frontier basins. It is proposed that these mandatory limits are removed from the CMA and dealt with in the minerals programmes to give the Minister greater flexibility. It is likely that for minerals permits, a 5 year exploration period will continue to be appropriate, while for petroleum permits a tiered approach may provide for a range of circumstances. For example, exploration in well explored areas such as onshore Taranaki may be expected to be completed in an initial period of 4 years, offshore exploration in 5 years, and frontier/deepwater exploration in 6 years.

9.7 Section 35(2) provides that where a permit holder has been prevented from commencing activities by delays in obtaining consents, a deferral of the commencement date of the permit may be sought. The utility of this provision in practice is quite limited given that it is only available where the permit holder has been prevented from commencing any activity under the permit, not just the activity requiring the consent. Given the changes discussed above, it is proposed that extending the time period for carrying out activities as a result of delays in obtaining consents could be managed by a change of conditions of the permit.

23 Do you think it is desirable to increase the Minister's discretion in determining permit duration?

24 Do you think a tiered approach to permit duration for different exploration conditions is appropriate?

25 Do you think that delays in work programme activities resulting from delays in obtaining consents can appropriately be dealt with by a change of conditions application?

9.8 Section 32 of the CMA provides that where the holder of a prospecting or exploration permit meets certain criteria, they have the right to exchange that permit for a subsequent exploration or mining permit, as appropriate. It is proposed to amend this section to clarify that the 'right' is a right of priority over any other person to apply for a subsequent permit. Whether or not a subsequent permit will be granted is dependent upon whether the permit holder satisfies the relevant requirements of the CMA and minerals programme for the grant of the permit.

9.9 A further amendment to section 32 is proposed to provide that whilst such an application is being determined by the Minister, the underlying permit remains in force (as is the case under section 36(5A) for extension of duration applications).

26 *Do you have any comments on the proposed clarification of s32 (subsequent rights)?*

9.10 Sections 43 and 44 of the CMA make provision for the approval of work programmes for subsequent permits. In the event that the Minister withholds approval of a work programme, the CMA provides that the applicant may refer the matter to arbitration. It is proposed that the policy considerations for approval of work programmes will be dealt with in the policies in the minerals programmes. It is therefore proposed that these sections are repealed.

27 *Do you have any comments on the proposed repeal of sections 43 and 44 of the CMA?*

Enhancing Management of Non-Compliance with Permit Obligations and the CMA and Regulations

10 Deterring non-compliance

10.1 It is proposed to make changes to sections 38 (substantial compliance) and 39 (revocation), to make dealing with non-compliance more streamlined and effective. Sections 100 (offences) and 101 (penalties) will also be reviewed and strengthened to ensure that those provisions operate as a meaningful deterrent to breach of the CMA, regulations and permit conditions. In addition to these measures, it is proposed that the minerals programmes include further policies on the consequences of non-compliance for permit holders.

11 Satisfaction that permit holder can give effect to amended permit conditions

11.1 In order to ensure that compliance is proactively managed, it is proposed that before granting an application for a change to a permit (under section 36 of the CMA), the Minister must be satisfied that the permit holder will comply with the conditions of, and give proper effect to, the amended permit conditions.

12 Penalties for late payment

12.1 It is proposed to amend the CMA to provide that interest/penalties will be payable on late payments of fees and royalties.

13 Increased audit powers

13.1 Currently, the regulations set out the requirements of a permit holder to keep records verifying royalty returns and the power of the Secretary to inspect such documents. It is proposed that these requirements and audit powers are set out in more detail in the CMA or regulations, more akin to the provisions of Part 3 (Information, record-keeping, and returns) of the Tax Administration Act 1994.

14 Decommissioning

- 14.1 To ensure that permit holders give due consideration to, and make appropriate provision for, the decommissioning of facilities after operations cease, it is proposed that greater requirements will be specified in the minerals programmes, regulations and permit conditions in relation to decommissioning. Furthermore, it is likely that the existing power in section 27 to require a bond will be invoked in relation to mining operations and section 97 amended to provide for how such bonds may be applied.

15 Removal of a permit from the register

- 15.1 It is proposed to include a mechanism for removal of a permit from the register, for example, where a permit holding company has been struck off the companies register or the permit holder cannot be contacted.

16 Existing privileges

- 16.1 It is proposed to extend the records requirements and audit powers, and any changes to the CMA dealing with decommissioning, to existing privileges (current licences granted under the Petroleum Act 1937, Mining Act 1971 and Coal Mines Act 1979 and Iron and Steel Industry Act 1959).

28 *Do you have any comments on the proposals to better manage non compliance?*

Simplifying the Regime for Transfers and Dealings

17 Transfers and dealings

- 17.1 Section 41 of the CMA broadly provides that any agreement that transfers or otherwise deals with a permit must be approved by the Minister. The section is very widely drawn and it is a cause of some confusion as to whether certain transactions (such as share sale agreements) are caught by the section. Given the large number of transactions entered into in relation to permits, the section imposes a significant compliance cost on industry and is administratively burdensome for the Crown.
- 17.2 It is proposed that the section is amended to provide that:
- a. transfers of permits and permit interests require the approval of the Minister. Rather than being approval of the agreement which effects the transfer (as is the current position), it is proposed that application will be made by a form signed by the permit holders and the transferee. In determining whether approval to the transfer should be given, the Minister will be concerned to satisfy himself of the financial and technical capability of the transferee to give effect to the permit (as is currently the case), which may include requiring a bond to be lodged;

- b. dealings will no longer require approval. However, arrangements or agreements which relate to or affect the production of minerals from the permit or the proceeds of production must be lodged with the Crown. Any arrangement or agreement that has a negative effect on royalties payable to the Crown (whether or not it has been lodged) will be void against the Crown.

17.3 It is proposed to extend the changes to the process for transfers and dealings to existing privileges.

29 *Do you have any comments on this proposal to simplify the requirements for transfers and dealings?*

Optimising Data Requirements and Disclosure Obligations for Greater Understanding of Resources and Encouraging Investment

18 Data requirements and release of data

- 18.1 It is proposed to review the reporting requirements of the CMA and regulations to ensure that the Crown has all information required to:
- a. understand its mineral resources and reserves;
 - b. assess whether permit holders are managing resources in accordance with good industry practice and in the Crown's interests.
- 18.2 In particular, it is likely that further information will be required from holders of mining permits.
- 18.3 In addition, the Crown is considering a change to the period of confidentiality of raw data from the current 5 year maximum period, to a 3 year maximum period to encourage investment and faster development of resources. There is no proposed change to the current 5 year maximum period of confidentiality for interpreted data.
- 18.4 With respect to data acquired over adjacent unpermitted acreage (under an authorisation granted under section 42A of the CMA), the CMA is unclear as to how such data should be treated. Section 42A(1) enables the Minister to grant an authorisation subject to such conditions as the Minister thinks fit to impose. Section 42A(2) provides that an authorisation is treated as a permit (and as such, the provisions of section 90 (Reports to Secretary) apply). It is considered that section 42A(2) is unnecessary and that appropriate conditions of an authorisation can be made on a case-by-case basis. It is therefore proposed that section 42A(2) is repealed.

30 *Do you have any comments on the proposal to review reporting requirements, in particular, for mining permits?*

31 *Do you have any comments on the proposal to repeal section 42A(2)?*

32 *Do you consider that data acquired over adjacent unpermitted acreage (other than reasonable line tails) should be made available immediately or subject to a period of confidentiality?*

Other Measures Aimed at Optimising Development of NZ Resources and the Return to New Zealanders

19 General power to reserve land and minerals from allocation

19.1 In order that the Crown is able to strategically manage its resources for the benefit of all New Zealanders, it is proposed to add a general power for the Minister to reserve particular minerals or land from allocation (other than just for purposes of competitive allocation).

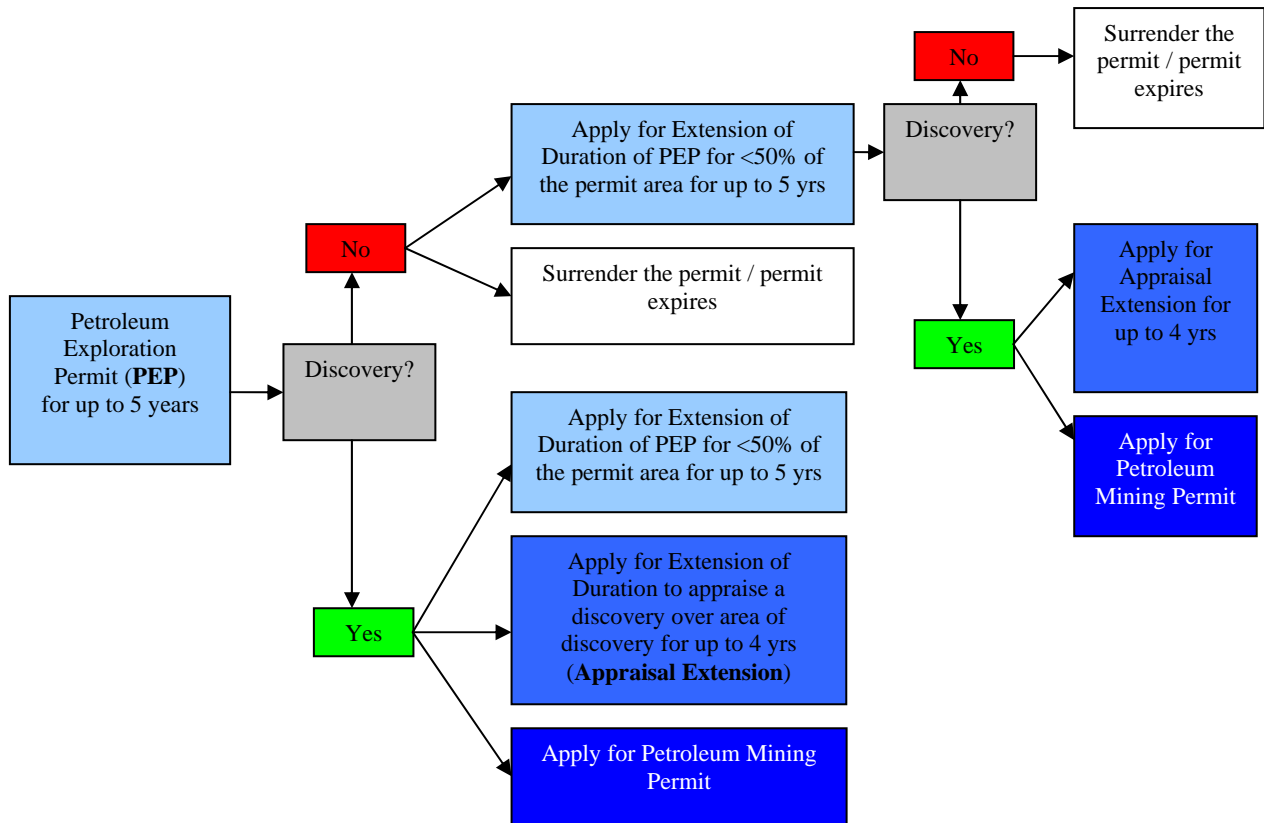
33 *Do you have any comments on the proposal to add into the CMA a general power for the Minister to reserve land and minerals from allocation?*

20 Financial return to the Crown

20.1 As a result of the fiscal review, it may be proposed that changes are made to section 34 to reflect the outcome of that review.

21 Petroleum development and production

21.1 The current regime provides that the progression from exploration to production of a petroleum resource is broadly as follows:



21.2 The current regime does not necessarily lead to an efficient development of petroleum resources. It is therefore proposed that the policy may be to:

- a. require notification of a discovery which will trigger a timeframe in which the permit holder must either surrender the area relating to the discovery or commit to a programme of work to evaluate the discovery; and
- b. in order to move to the production phase, require permit holders to (amongst other things):
 - i. have delineated the field over which they seek a petroleum mining permit; and
 - ii. demonstrate that the field can be effectively mined within technical and economic constraints.

34 *Do you think that the current regime is satisfactory for the development of petroleum resources from exploration to production?*

35 *Are there benefits in, once a discovery has been made, carrying out activities under a different class of permit (eg an "Appraisal Permit" or a "Development and Production Permit")? If so, why?*

36 *Do you think the Government should consider adopting a 'retention lease' model for non-economic discoveries? If so, why?*

Overall Comment

37 *Do you think that on the whole the changes proposed in this discussion paper will meet the objectives of the review if implemented?*

PART 3: Summary

(This table is indicative only and intended as a quick reference to the matters discussed above by reference to the relevant sections of the Act. Even where the table specifies that there is no change currently proposed, there may be consequential changes to implement the changes discussed in this consultation document or there may be changes proposed at another stage of the legislative process.)

		Proposed change
PART 1 – CROWN OWNED MINERALS		
	Purpose Statement	It is proposed that a purpose statement be added to the CMA as described at paragraph 1 above.
1	Short Title and Commencement	No change currently proposed
ss 2 – 4 (Interpretation and application)		
2	Interpretation	<p>It is proposed that the definitions will be amended to clarify how underground coal gasification and methane hydrates are treated under the CMA as described at paragraphs 2 and 3 above.</p> <p>The definition of 'Mineral' will be amended as it specifies 'inorganic' but includes 'fuel minerals' which are defined to include coal and petroleum.</p> <p>It is proposed to amend the definition of "Mining" to clarify that it includes recovery of a mineral from tailings.</p> <p>It is proposed that the definition of Permit may be amended to provide for the addition of underground gas storage permits, research/scientific permits, and non-exclusive seismic surveys as described at paragraph 4 above.</p> <p>Further consequential changes to the definitions may be required to give effect to the policy changes described in this discussion paper.</p>
		<p>38 <i>Do you have any comments on the proposed changes to the definitions?</i></p> <p>39 <i>Do you think it would be preferable to use definitions (eg the definition of "petroleum") that are used by industry (such as the Petroleum Resources Management System)?</i></p>
3	Act to bind Crown	No change currently proposed

4	Treaty of Waitangi	No change currently proposed
ss 5 – 7 (Functions, powers and duties of Minister)		
5	Functions of Minister of Energy	No change currently proposed
6	Delegation of functions by Minister of Energy	No change currently proposed
7	Appointment of enforcement officers	No change currently proposed
ss 8 – 9 (Duties and restrictions)		
8	Restrictions on prospecting or exploring for, or mining, Crown owned minerals	It is proposed that certain classes of activity are excluded from the requirement to obtain a permit as described at paragraph 5 above (small-scale gold activities)
9	Other legal requirements not affected	No change currently proposed
ss 10 – 11 (Minerals owned by the Crown)		
10	Petroleum, gold, silver, and uranium	No change currently proposed
11	Minerals reserved to the Crown	No change currently proposed
ss 12 – 21 (Minerals programmes)		
12	Purpose of minerals programme	No change currently proposed
13	Minister's obligation to provide minerals programme	No change currently proposed
14	Preparation of draft minerals programme	No change currently proposed
15	Contents of minerals programme	It is proposed that this section will be amended to remove some of the detail of the contents of the minerals programmes, as described at paragraph 6.2 above
16	Public notice	It is proposed that this section will be amended to remove the requirement to consult on certain changes to the minerals programmes, as described at paragraph 6.3 above
17	Submissions	No change currently proposed

18	Governor-General may issue minerals programme	No change currently proposed
19	Notification of approved programme	No change currently proposed
20	Review of minerals programme	No change currently proposed
21	Matters to be considered	No change currently proposed
ss 22 – 29 (Permits)		
22	Exercise of Minister's functions and powers	It is proposed that this section will be amended to reflect the changes described at paragraph 7 above (relevant minerals programme)
23	Application for permits	No change currently proposed
24	Allocation by public tender	As described at paragraph 8 above, it is proposed to repeal subsections (2) – (6) as these matters can be dealt with in the particular block offer notice
25	Grant of permit	No change currently proposed
25A	Record of permit	No change currently proposed
26	Priority of applications if more than one made and no minerals programme	No change currently proposed
27	Provisions relating to granting of permit	No change currently proposed
28	Restrictions on granting of prospecting permits	It is proposed that this section will be repealed to reflect the changes described at paragraph 9.1 above (policy on the grant of prospecting permits to be stated in the minerals programme).
29	Minister may require survey to be done	No change currently proposed
ss 30 – 42A (Conditions of permits)		
30	Rights to prospect, explore, mine	It is proposed that sections 30(4) to (6) are repealed ('specified discovery' provisions) as discussed at paragraph 9.4 above. This section will also be amended to reflect any new classes of permit as discussed at paragraph 4 above.
31	Right of permit holder to minerals	No change currently proposed

32	Right of permit holder to subsequent permits	It is proposed that this section will be amended to reflect the changes described at paragraphs 9.8 and 9.9 above (priority right to apply for subsequent permit and underlying permit to continue in force while a subsequent permit application is being considered).
33	Permit holder to comply with permit and this Act	No change currently proposed
34	Financial return to the Crown	Changes to this section may arise from the outcome of the fiscal review.
35	Duration of permit	It is proposed that this section will be amended to reflect the changes described at paragraphs 9.6 and 9.7 above (removal of duration of permits from the CMA)
36	Change to permit	It is proposed that this section be amended as discussed at paragraph 11 above (satisfaction that permit holder will comply with the conditions of, and give proper effect to, the amended permit conditions). As discussed at paragraphs 9.2 and 9.3 above, it is proposed that subsections (2), (4), (4A) and (5) are repealed and dealt with in the Minerals Programmes.
37	Extension of duration of exploration permit	It is proposed that this section will be repealed to reflect the changes described at paragraph 9.3 above (extensions of duration of exploration permits to be dealt with under 36)
38	Applicant to have substantially complied with permit	It is proposed to amend this section as discussed at paragraph 10 above (non-compliance)
39	Revocation of permit	It is proposed to amend this section as discussed at paragraphs 10 and 15 above (non-compliance and removal of a permit from the register)
40	Surrender of permit	This section may be amended to reflect any changes to the CMA relating to compliance status of permits on surrender.
41	Transfers and other dealings with permit	It is proposed that this section will be amended to reflect the changes described at paragraph 17 above (simplification of transfers of dealings)
42	Minister may require survey at any time	No change currently proposed
42A	Authorisation of geophysical surveys on adjacent land	It is proposed that this section will be amended to reflect the changes described at paragraph 18.4 above (repeal of section 42A(2)).
ss 43 – 46 (Work programmes in respect of subsequent permits)		
43	Work programmes to be approved by Minister	It is proposed to repeal this section as discussed at paragraph 9.10 above (approval of work programmes)

44	Duty of Minister withholding approval of work programme	It is proposed to repeal this section as discussed at paragraph 9.10 above (approval of work programmes)
45	Minister may direct that petroleum be refined and processed in New Zealand, etc	No change currently proposed
46	Unit development	No change currently proposed
ss 47 – 48 (Access to land)		
47	Permit does not give right of access to land	No change currently proposed
48	Cancellation of any Crown right of entry that is reserved by statute	No change currently proposed
ss 49 – 52 (Access to land for minimum impact activity)		
49	Entry on land for minimum impact activity	It is proposed to amend or add to this section to make clearer provision for the Crown to carry out data acquisition activities.
		<i>40 Do you have any comments on the proposal to clarify the rights of the Crown to carry out data acquisition activities?</i>
50	Entry on special classes of land for minimum impact activity	No change currently proposed
51	Entry on Māori land for minimum impact activity	No change currently proposed
52	Permit holder may obtain order	No change currently proposed
ss 53 – 80 (Access to land other than for minimum impact activity)		
53	Access to land for petroleum	No change currently proposed
54	Access to land for minerals other than petroleum	No change currently proposed
55	Restrictions on determination of access arrangements by arbitrators	No change currently proposed

56	Provisions relating to access arrangements	No change currently proposed
57	Meaning of entry on land	No change currently proposed
58	Disputes as to classification of land and activities	No change currently proposed
59	Notice of request for grant of right of access	No change currently proposed
60	Grant of right of access by access arrangement	No change currently proposed
61	Access arrangements in respect of Crown land	This section may be changed to reflect the outcome of the separate consultation process on this section.
61A	Access to Crown land where mineral not property of the Crown	No change currently proposed
61B	Access arrangements in respect of Crown land where mineral not property of the Crown	No change currently proposed
62	Prohibition of access in respect of Crown land	No change currently proposed
63	Request for appointment of arbitrator	No change currently proposed
64	Appointment of arbitrator in default of agreement	No change currently proposed
65	Fixing time and place for conducting hearing	No change currently proposed
66	Declaration by Order in Council that access arrangement may be determined by arbitrator	No change currently proposed
67	Right of appearance	No change currently proposed
68	Conciliation	No change currently proposed
69	Procedure	No change currently proposed
70	Determination of access arrangement, etc.	No change currently proposed
71	Effect of access arrangement, etc.	No change currently proposed
72	Variation of access arrangements	No change currently proposed

73	Costs	No change currently proposed
74	Withdrawal from arbitration	No change currently proposed
75	Liability	No change currently proposed
76	Compensation for owners and occupiers	No change currently proposed
77	Compliance with access conditions	No change currently proposed
78	Absentee or unknown owner of land	No change currently proposed
79	Absentee or unknown owner of minerals	No change currently proposed
80	Access arrangements in respect of Māori land	No change currently proposed
ss 81 – 89 (Notation on land titles)		
81	Lodging and notation of permits (Repealed)	
82	Lodging of certificates of extension (Repealed)	
83	Notation of access rights on land titles	No change currently proposed
84	Entry of permit and access particulars acts as notice only	No change currently proposed
85	Land Transfer Act 1952 not to limit or affect rights under permits or rights of access	No change currently proposed
86	Notation of mineral ownership on land titles	No change currently proposed
87	Certified copies of documents to be evidence	No change currently proposed
88	Recorded documents to be open for search	No change currently proposed
89	Revision of records	No change currently proposed

ss 90 – 91A (Registers and records)		
90	Reports to Secretary	It is proposed that this section will be amended to reflect the changes described at paragraph 18 above (data requirements and release of data)
90A	Disclosure of petroleum reserves and production information to Secretary and publication by Secretary	It is proposed that this section will be amended to reflect the changes described at paragraph 18 above (data requirements and release of data)
91	Secretary to keep registers	No change currently proposed
91A	Correction of errors or omissions	No change currently proposed
ss 92 – 99 (Miscellaneous provisions)		
92	Permits are not real or personal property	No change currently proposed
93	Access arrangement does not confer interest	No change currently proposed
94	Officers not to have personal interest	No change currently proposed
95	Address for service	It is proposed that this section is amended to provide that a physical address is required for the service of notices.
96	Service of documents, etc	No change currently proposed
97	Application of monetary deposits	It is proposed that this section will be amended to reflect the changes described at paragraph 14 above (bonds for decommissioning)
98	Gold fossicking areas	It is proposed that this section will be amended to reflect the changes described at paragraph 5 above (small-scale gold operations)
99	Arbitration	No change currently proposed
ss 100 – 104 (Offences and legal proceedings)		
100	Offences	It is proposed that this section will be amended to reflect the changes described at paragraph 10 above (non-compliance)
101	Penalties	It is proposed that this section will be amended to reflect the changes described at paragraph 10 above (non-

		compliance)
102	Liability of principal for acts of agents	No change currently proposed
103	Strict liability	No change currently proposed
104	Recovery of fees and other money	It is proposed that this section will be amended to reflect the changes described at paragraph 12 above (interest / penalties on overdue fees and royalties)
ss 105 (Regulations)		
105	Regulations	It is proposed that this section may be amended to reflect the changes described at paragraph 6.2 above (royalties to be set out in regulations)
PART 2 – TRANSITIONAL PROVISIONS		
106	Interpretation	No change currently proposed
ss 107 – 111A (Existing privileges)		
107	Existing privileges to continue	Changes to the Transitional Provisions will be made to reflect the changes described at paragraphs 16 and 17.3 above
108	Administration of existing privileges	
109	Bonds and monetary deposits	
110	Fees payable by holders of existing privileges	
110A	Data lodgement requirements in respect of petroleum licences	
110B	Extension of term of petroleum prospecting licences	
111	Right to new permits	
111A	No application under section 103D of Mining Act 1971 for extension of duration of mining privilege	

ss 112 – 114A (Existing applications)		
112	Existing applications under Mining Act 1971	This section is no longer applicable and will be repealed
113	Existing applications under Coal Mines Act 1979	This section is no longer applicable and will be repealed
114	Existing applications under Petroleum Act 1937	This section is no longer applicable and will be repealed
114A	Priority of existing applications under Mining Act 1971, Coal Mines Act 1979 and Petroleum Act 1937	This section is no longer applicable and will be repealed
ss 115 (Transitional arrangements regarding access to land)		
115	Existing agreements regarding land access not affected	No change currently proposed
Ss 116 – 123 (Miscellaneous provisions)		
116	Notices under section 24 of Mining Act 1971	No change currently proposed
117	Minister's obligations in respect of minerals programmes	No change currently proposed
118	Granting of petroleum permits before minerals programme issued	No change currently proposed
119	Restriction on granting of permits	No change currently proposed
119A	No compensation	No change currently proposed
120	Repeals and revocations	No change currently proposed
121	Consequential amendments	No change currently proposed
122	Savings as to compensation claims	No change currently proposed
123	Savings as to Court proceedings	No change currently proposed
Schedule 1 Enactments repealed (Repealed)		

Schedule 2	Regulations Revoked
Schedule 3	Enactments amended
Schedule 4	Description of Crown land to which section 61(1A) applies

PROPOSED ADDITIONS TO THE CMA AND/OR REGULATIONS

It is proposed that the following new provisions will be added to the CMA and/or Regulations to reflect the changes described at paragraphs 13, 17.2 and 19 above:

- (a) Audit powers
- (b) Agreements relating to permits that operate to have a negative effect on the royalties payable to the Crown are void against the Crown
- (c) General power to reserve particular minerals or land (other than just for purposes of competitive allocation)

Have your say

Review timetable

The review of the minerals management regime is a two phase process involving the review of the CMA and a separate review, and consultation, on the associated minerals programmes and regulations in 2011. The table below sets out the proposed review timetable. Note that these timeframes may be subject to change.

Timeframe	Crown Minerals Act	Minerals programmes and regulations
August – October 2010	Public consultation on discussion paper (six weeks)	
mid December 2010	Amendment Bill to be introduced to Parliament	
First quarter 2011	Select Committee requests submissions on Bill	
March – April 2011		Public consultation on discussion paper (40 days)
June 2011	Report back from Select Committee	Programmes to be gazetted
July 2011	Enactment	New programmes and regulations to come into force

How to make a submission

You are invited to provide feedback on this discussion paper.

There are specific questions we are particularly interested in receiving comments on. They are set out through the discussion paper and summarised again below. We are particularly interested in the real or perceived costs, benefits and risks of a proposal. Where possible and appropriate, quantified estimates of these costs, benefits and risks are desirable.

Responses are due by **5.00pm on 8 October 2010**.

When making a submission, please include your name, organisation's name (if applicable), and your address (postal and/or email) and either:

send your comments by email, preferably in a Microsoft Word document, to cmareview@med.govt.nz, or
mail a hard copy to:

Crown Minerals Act Review
Ministry of Economic Development
PO Box 1473
Wellington 6140

Posting and release of submissions

Written submissions may be posted at www.med.govt.nz/cmareview. We will consider you to have consented to posting by making a submission, unless you clearly specify otherwise in your submission. If sensitive material in your submission cannot be published, please provide two versions of your submission – a full version and a publishable version.

In any case, all information provided to the Ministry of Economic Development is subject to public release under the Official Information Act 1982. Please advise if you have any objection to the release of any information contained in a submission, and in particular, which part(s) you consider should be withheld, together with the reason(s) for withholding the information. Please also provide a “public” version of your submission if you wish us to withhold information. We will take into account all such objections when responding to requests for copies and information on submissions to this document under the Official Information Act 1982.

Privacy

The Privacy Act 1993 establishes certain principles with respect to the collection, use, and disclosure of information about individuals by various agencies including the Ministry of Economic Development. It governs access by individuals to information about themselves held by agencies. Any personal information you supply in the course of making a submission will be used by the Ministry only in conjunction with the matters covered by this document. Please clearly indicate in your submission if you do not wish your name to be included in any summary of submissions that we may publish.

Submission questions

No.	Question	Page reference
1.	Do you have any comments on the objectives of the review?	9
2.	Should the CMA have a purpose statement?	17
3.	Do you have any comments on the proposed content of the purpose statement?	17
4.	Do you have any comment on the proposal to clarify that UCG is managed under the coal mining regime through the MPM?	18
5.	Do you have any comments on the requirement for a clearer policy framework around allocation and management of coal permits utilising UCG technologies?	18
6.	Do you have any comments on the proposal to clarify that methane hydrates are petroleum?	18
7.	Do you think that methane hydrate activities could be carried out in the same land area as other permit activities (such as conventional petroleum exploration)?	18
8.	Do you think there should be a new class of permit for research/scientific activities and spec surveys?	19
9.	If so, how do you think data disclosure should be treated under such permits?	19
10.	Do you have any comment on the role of the Crown in monitoring and managing underground gas storage activities?	19
11.	Do you think there should be a new class of permit for underground gas storage activities (NB: this is not related to CCS)?	19
12.	Do you think that underground gas storage activities could be carried out in the same land area as other permit activities (such as petroleum exploration)?	19
13.	Do you have any comments on the proposal to remove permit requirements for small-scale gold activities in river and lake beds and coastal marine areas?	20

No.	Question	Page reference
14.	Do you have any comments on the proposals to amend sections 15 and 16 of the CMA, which deal with contents of minerals programmes and public notice?	20
15.	Do you think that having the most recent minerals programme apply to all permits will make the regime more consistent and easier to operate in?	21
16.	Do you have any other suggestions for improving the consistency of the regime and the ease of operating within it?	21
17.	Do you have any comments on the proposal to remove the matters specified in sections 24(2) to (6) to the particular block offer notice?	21
18.	Do you agree with the proposal to remove section 28 of the CMA and state the policy on the granting of prospecting permits in the minerals programmes?	22
19.	Do you agree with the proposal to remove section 36(2) from the CMA and deal with considerations for granting an extension of land or minerals in the minerals programmes?	22
20.	Do you agree with the proposal to remove sections 37 and 36(4),(4A) and (5) from the CMA and deal with considerations for granting extensions of duration of permits in the minerals programmes?	22
21.	Do you agree with the proposal to remove the 'specified discovery' provisions from the CMA and deal with these matters in the conditions of the permit?	22
22.	Do you have any comments on the proposed change to section 30(8) and the benefits of retaining the power to grant overlapping permits for a common mineral?	23
23.	Do you think it is desirable to increase the Minister's discretion in determining permit duration?	23
24.	Do you think a tiered approach to permit duration for different exploration conditions is appropriate?	23
25.	Do you think that delays in work programme activities resulting from delays in obtaining consents can appropriately be dealt with by a change of conditions application?	23

No.	Question	Page reference
26.	Do you have any comments on the proposed clarification of s32 (subsequent rights)?	24
27.	Do you have any comments on the proposed repeal of sections 43 and 44 of the CMA?	24
28.	Do you have any comments on the proposals to better manage non-compliance?	25
29.	Do you have any comments on this proposal to simplify the requirements for transfers and dealings?	26
30.	Do you have any comments on the proposal to review reporting requirements, in particular, for mining permits?	26
31.	Do you have any comment on the proposal to repeal section 42A(2)	27
32.	Do you consider that data acquired over adjacent unpermitted acreage (other than reasonable line tails) should be made available immediately or subject to a period of confidentiality?	27
33.	Do you have any comment on the proposal to add in the CMA a general power for the Minister to reserve land and minerals from allocation?	27
34.	Do you think that the current regime is satisfactory for the development of petroleum resources from exploration to production?	28
35.	Are there benefits in, once a discovery has been made, carrying out activities under a different class of permit (eg an "Appraisal Permit" or a "Development and Production Permit")? If so, why?	28
36.	Do you think the Government should consider adopting a 'retention lease' model for non-economic discoveries? If so, why?	28
37.	Do you think that, on the whole, the changes proposed in this discussion paper will meet the objectives of the review if implemented?	29
38.	Do you have any comments on the proposed changes to the definitions?	30

No.	Question	Page reference
39.	Do you think it would be preferable to use definitions (eg the definition of “petroleum”) that are used by industry (such as the Petroleum Resources Management System)?	30
40.	Do you have any comments on the proposal to clarify the rights of the Crown to carry out data acquisition activities?	34

Glossary

CCS means carbon capture and storage.

CMA means the Crown Minerals Act 1991.

CSA means the Continental Shelf Act 1964.

EEZ means New Zealand's Exclusive Economic Zone.

GDP means gross domestic product.

MED means Ministry of Economic Development.

MPM means the minerals programme for minerals (excluding petroleum).

MPP means the minerals programme for petroleum.

RMA means the Resource Management Act 1991.

UCG means underground coal gasification.