

Submission by



to the

Ministry of Business, Innovation & Employment (MBIE)

on the

Review of the Crown Minerals Act 1991: Discussion Document

27 January 2020

REVIEW OF THE CROWN MINERALS ACT 1991: DISCUSSION DOCUMENT SUBMISSION BY BUSINESSNZ ENERGY COUNCIL¹

1. INTRODUCTION

- 1.0 The BusinessNZ Energy Council (BEC) welcomes the opportunity to provide feedback on the 'Review of the Crown Minerals Act 1991 Discussion document' (referred to as 'the document').
- 1.1 Specifically, BEC wishes to comment on the role and purpose statement of the Crown Minerals Act 1991 (referred to as 'the Crown Minerals Act' or 'the CMA'), as addressed in chapter 1 of the discussion document.
- 1.2 Many BEC members will make their own submissions in light of their technical expertise.

2. RECOMMENDATIONS

- 2.0 We agree that a "clear, coherent, and fair regulatory regime"² for the extraction of mineral resources is desirable. We note that the CMA is one of many legislative puzzle pieces that facilitates efficient, effective, and safe mineral extraction industries. We caution using the CMA as a vehicle for significant reform at a time where other parts of this legislative framework are also undergoing first-principles reform (for example the Resource Management Act 1991).
- 2.1 While BEC is supportive of efforts to improve overall wellbeing, BEC suggests that explicit addition of specific wellbeing indicators and 'capitals' into the purpose statement is inappropriate with the potential of acting as a catalyst for unnecessary complexity.

3. DETAILED COMMENTS

- 3.0 The CMA has proven to be an effective tool for the allocation and management of mineral related rights to competent operators for a fair financial return. As noted in paragraph 10 of the document, the CMA is one part of a larger legislative framework. The safety the workforce employed by operators is regulated by the Health and Safety at Work Act 2015 and environmental management is addressed in the Resource Management Act 1991. Coherence across the entire regulatory framework is necessary to achieve the goal of a "clear, coherent, and fair regulatory regime."³ The BEC suggests caution in using the purpose statement of the CMA to signal a change in how mineral rights may be allocated and managed in future. Doing so risks complicating and diluting a legislative structure that has proven its ability to allocate and manage mineral rights while addressing environmental and safety concerns with other components of the legislative framework.
- 3.1 The BEC notes that other parts of this legislative framework are also subject to current review. 'Comprehensive'⁴ Resource Management Act 1991 reform is underway. This is of importance as in the context of mineral extraction as "before work can begin on land or within the territorial sea, resource consent is generally required under the RMA from local authorities."⁵ Again, caution is advised before adding additional complexity to the purpose statement of the CMA, a legislative instrument that has functioned as an effective tool within the wider legislative framework for new initiatives such as Block Offers.

¹ Background information on BusinessNZ Energy Council (BEC) is attached as Appendix One.

² Ministry of Business, Innovation, and Employment. (November 2019). *Discussion document: Review of the Crown Minerals Act 1991*. At page 8.

³ Ibid.

⁴ Parker, David. (July 2019). "Comprehensive overhaul of the RMA." Beehive Website.

⁵ New Zealand Petroleum & Minerals, Ministry of Business, Innovation and Employment. (April 2016). *Guide to Government Management of Minerals and Coal*. At page 3.

- 3.2 The BEC is generally supportive of attempts to tie policy decisions to net wellbeing. However, the wellbeing measures that could be utilised for assessment of wellbeing do not give the binary answers required to make the decision to effectively grant permits, potentially compromising the operative purpose of the CMA.
- 3.3 The New Zealand Treasury's Living Standards Framework represents a good attempt to aggregate wellbeing measures and includes the 'four capitals' proposed in the discussion document. However, the subjective measure of some indicator metrics and how to weigh the value of one indicator against another prevents the framework or a similar 'wellbeing' measure from being used as a tool for controlled modelling as to the value of any one proposal. Comments from both Treasury and the OECD appear to support this finding.
- The New Zealand Treasury:
"The Dashboard is not intended to be a comprehensive database of wellbeing indicators. Instead, it includes the indicators that the Treasury believes are most important to track over time to provide advice on cross-government priorities, recognising that the Dashboard is a work in progress, and will evolve over time. The Dashboard does not provide the depth of quantitative and qualitative wellbeing evidence needed for agency policy analysis, such as the detailed distributional information needed for policy targeting."⁶
 - OECD:
*Subjective wellbeing tools should continue to be used as a complement to, rather than a replacement for, objective data.*⁷
- 3.4 Implementing a specific wellbeing metric or category into the purpose statement of the CMA would come with a risk of more subjectivity and complexity in the selection of operators to extract the Crown's resources.

⁶ The Treasury. (December 2019). *The Living Standards Framework: Dashboard Update*. At page 2.

⁷ OECD. (June 2019). *OECD Economic Survey of New Zealand – Executive Summary*. At page 2.

Appendix One - Background information on BusinessNZ Energy Council (BEC)

The **BusinessNZ Energy Council (BEC)** is a group of New Zealand's peak energy sector organisations taking a leading role in creating a sustainable energy future. BEC is a division of BusinessNZ, New Zealand's largest business advocacy group. BEC is a member of the **World Energy Council (WEC)**. BEC members are a cross-section of leading energy sector businesses, government and research organisations. Together with its members BEC is shaping the energy agenda for New Zealand.

Our vision is to support New Zealand's economic wellbeing through the active promotion of the sustainable development and use of energy, domestically and globally. With that goal in mind, BEC is shaping the debate through leadership, influence and advocacy.

BusinessNZ is New Zealand's largest business advocacy body, representing:

- Regional business groups **EMA**, **Business Central**, **Canterbury Employers' Chamber of Commerce**, and **Employers Otago Southland**
- **Major Companies Group** of New Zealand's largest businesses
- **Gold Group** of medium sized businesses
- **Affiliated Industries Group** of national industry associations
- **ExportNZ** representing New Zealand exporting enterprises
- **ManufacturingNZ** representing New Zealand manufacturing enterprises
- **Sustainable Business Council** of enterprises leading sustainable business practice
- **BusinessNZ Energy Council** of enterprises leading sustainable energy production and use
- **Buy NZ Made** representing producers, retailers and consumers of New Zealand-made goods

BusinessNZ is able to tap into the views of over 76,000 employers and businesses, ranging from the smallest to the largest and reflecting the make-up of the New Zealand economy.

In addition to advocacy and services for enterprise, BusinessNZ contributes to Government, tripartite working parties and international bodies including the International Labour Organisation (**ILO**), the International Organisation of Employers (**IOE**) and the Business and Industry Advisory Council (**BIAC**) to the Organisation for Economic Cooperation and Development (**OECD**).

