

# House of Representatives

# Supplementary Order Paper

Wednesday, 10 April 2013

## Crown Minerals (Permitting and Crown Land) Bill

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### *Proposed amendments*

Moana Mackey, in Committee, to move the following amendments:

#### *Clause 31*

In *clause 31(1)*, *new section 61(1)(c)* (line 10 on page 57), replace “activities.” with “activities:” , and also after *paragraph (c)* (after line 10 on page 57) insert:

- (d) an initial access arrangement in relation to a Tier 1 permit:
- (e) a variation to an existing access arrangement in relation to a Tier 1 permit if the variation is to allow access for the purpose of significant exploration or mining activities.

In *clause 31(1)* delete *new section 61(1AA)* (lines 11 to 20 on page 57).

Delete *clause 31(2)* (lines 34 and 35 on page 57).

Delete *clause 31(5A)* (lines 13 and 14 on page 58).

Delete *clause 31(7)* (lines 24 and 25 on page 58).

#### *Clause 32*

In *clause 32*, *new section 61C(3)(c)* omit “and, if the application relates to a matter to which section 61(1AA) applies, to the Minister” (lines 2 to 4 on page 60).

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### **Explanatory note**

This Supplementary Order Paper also amends *clauses 31 and 32* of the Crown Minerals (Permitting and Crown Land) Bill to remove joint ministerial decision making on consents proposed by the bill. While the Crown Minerals Act 1991 governs access to minerals, access to the land which is to be mined requires negotiation between the mining company and the landowner to obtain their consent (excluding oil and gas exploration). This is usually a private landowner, except

in the case of applications for mining on land within the conservation estate. In this instance the “landowner” is the Minister of Conservation on behalf of all New Zealanders.

This bill removes the sole decision-making power from the Minister of Conservation and introduces a shared decision-making role with the Minister of Energy and Resources. This is a fundamental undermining of the role and powers of the Minister of Conservation and represents a significant shift in the guardianship and protection of Crown conservation land. It cuts right across the deliberate separation of powers between the Minister of Energy and Resources who, under this bill, is responsible for “promoting” mining activities and the Minister of Conservation, who grants access to the conservation estate. The Parliamentary Commissioner for the Environment stated, “The Minister of Conservation will remain accountable for the conservation estate but is not in control.” Far from streamlining processes as the bill claims to do, it will result in costly and time-consuming legal challenges by judicial review, as the Minister of Energy and Resources’ ability to remain objective will be difficult given the role the Minister is currently playing in actively promoting an expansion of petroleum and minerals exploration in New Zealand. This leaves the Crown extremely vulnerable to challenges on the basis of pre-determination of decision. There is also no mechanism in the bill to deal with a situation where the two Ministers cannot come to an agreement. The Minister of Conservation should have sole decision-making power on access for mining on the conservation estate.

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