

Crown Minerals (Petroleum) Amendment Bill

Government Bill

As reported from the Environment Committee

Commentary

Recommendation

The Environment Committee has examined the Crown Minerals (Petroleum) Amendment Bill and recommends by majority that it be passed with the amendments shown.

Introduction

The Crown Minerals (Petroleum) Amendment Bill seeks to amend the Crown Minerals Act 1991. The amendments would give effect to the Government's decision to stop the granting of new offshore petroleum permits and to limit new onshore petroleum permits to Taranaki. This bill is one of several initiatives that seek to aid New Zealand's transition to a low-carbon economy in line with the country's international commitments.

Proposed amendments

The amendments we propose are mostly minor changes intended to help make the bill clearer.

Granting of permits

The bill as introduced aims to prohibit applications for new petroleum permits outside onshore Taranaki. However, we recommend also specifying that the relevant Minister would be prohibited from granting petroleum permits outside onshore Taranaki. To do this, we recommend inserting new clause 6A to amend section 25 of the principal Act. This amendment would reinforce the purpose of the bill and ensure that it limits both the ability to apply for, and the ability to grant, a petroleum permit.

Clarification about existing and subsequent permits

One policy intention of the bill is to ensure that persons with existing petroleum permits, and rights to subsequent permits, under the principal Act are not affected. To make this intention as clear as possible, we recommend several changes to the bill's proposed amendments to Schedule 1 of the principal Act.

We recommend amending clause 23 as set out in the Schedule of the bill, and inserting new clauses 23A and 23B, to clarify:

- that applications under section 32 of the principal Act for subsequent permits to an existing permit, and applications for subsequent permits to a subsequent permit, are to be determined under the principal Act as if the amendments in the bill had not been enacted
- that these applications for subsequent permits are not to be dealt with under clause 24 as set out in the Schedule of the bill. (Clause 24 deals with applications for permits that have not yet been determined.)
- that permits obtained under section 32, subsequent to existing permits, are not affected by the changes in the bill and are to be dealt with under the principal Act as if it had not been amended by the bill.

Minerals programme

In the bill as introduced, clause 27 as set out in the Schedule of the bill concerns changes being made to a minerals programme under Part 1A of the principal Act. Normally changes to a minerals programme require public notice and a submission process under sections 17 and 18 of the principal Act. Clause 27 as introduced would waive these requirements for any changes made as a result of this bill. We recommend amending clause 27 to clarify that the exemption from sections 17 and 18 would apply only if the changes to the minerals programme are made simply to explain the effects of this bill.

Other matters raised by submitters

Many submitters expressed support for the bill, noting it is an overdue first step away from reliance on fossil fuels. The majority of these submitters suggested that the bill should go even further, and advocated a complete ban on all permits. Those supporting the bill submitted that it:

- would help develop alternative energy sources
- shows leadership in the international community
- is in line with New Zealand's international commitments
- would support greater climate change action for the benefit of future generations.

These submitters also commented that the Minister's discretion to extend the duration or area of existing permits should be limited.

A number of submitters requested that petroleum permits should not be granted over national parks. The committee notes that new provisions around accessing Taranaki conservation land for new petroleum permits are intended to make access more restricted.

Many submitters were also opposed to the bill. They expressed concern about how it would affect the New Zealand economy. They commented that there are no viable low-emission energy alternatives to oil and gas, and that New Zealand's existing natural gas reserves equate to only about 10 years of demand. Part of this concern was a view that there is no overarching plan to support New Zealand in its transition to a low-carbon economy. Likewise, submitters expressed concern that the bill could affect the cost of living if future energy supplies are constrained or if reliance on international sources of energy increases.

These submitters also commented that:

- the impact on climate change would not be substantial
- the impact on Taranaki's economy would be disproportionate to the rest of the economy
- the bill could deter international investors.

Some submitters specifically discussed the importance of petrochemicals as vital ingredients in many everyday items. They commented that the demand for methanol is growing internationally, by about 4 to 5 percent a year, and that there is currently no replacement for it. They expressed concern that this bill would limit the continued use of methanol which they see as enabling a low-carbon economy.

Concerns about the bill's timing and process

Some submitters considered that there had been a lack of engagement with iwi over the bill, and a lack of public consultation in general. Some suggested that the policy should be put to a referendum or left to the next election.

Many submitters expressed concern that insufficient time had been given to the select committee for consideration of the bill, and about the lack of oral hearings in Taranaki.

Suggestions for other initiatives

Finally, many submitters mentioned other initiatives that they believed the Government should undertake alongside or instead of the bill. Examples include:

- greater co-ordination across government to address climate change
- greater investment in research and development of alternative energy sources
- subsidies for using renewable energy sources
- incentives to switch to electric and hybrid vehicles, and solar panels
- a ban on all single-use plastic, and development of alternatives to plastic
- implementation of ocean plastic harvesting

- support for carbon sequestration and storage initiatives
- increased taxes on emissions as a deterrent to high-emission activities.

New Zealand National Party minority view

The National Party strongly oppose the Government's policy and process at every level. We believe it is essential to reduce emissions but see that the Government have shown great negligence to proper process around developing policy and progressing it for the betterment of New Zealand. The National Party ascribe to the following steps in addressing the issues of climate change and the hydrocarbon sector's involvement in that goal:

- We will reverse the Government's decision to ban new offshore exploration as we believe it is poorly planned, will not achieve emission reductions, but potentially increase them.
- We will consult with the sector to see a planned, effective and smooth reduction of emissions to agreed levels, technology led and economically sound with definite environmental and economic outcomes.
- We will support advanced low or zero emission fuels as part of the mix of transport in New Zealand, in areas where battery or other technology is not suitable, with natural gas being the optimum feedstock for these advanced fuels.
- We will reach out to build linkages with significant countries and companies who are leading R&D in advanced fuels to ensure we are pursuing best practice and support further R&D in New Zealand.
- We will work to advance Resource Management Act (RMA) and Exclusive Economic Zone (EEZ) reform to enable Carbon Capture and Storage (CCS) with the intention of keeping more carbon in the ground.
- We will collaborate to develop a cross sector Energy Strategy aimed at increasing renewables, reducing emissions, managing energy costs, and maintaining energy security.
- We will strive to protect the economy, firm investment certainty, retain skilled people and minimise social disruption.
- We will work to diversify the Taranaki economy alongside supporting the petrochemical industry.

We believe this bill is a retrograde step for the New Zealand economy, the Taranaki region, and our broader climate change objectives.

Appendix

Committee process

The Crown Minerals (Petroleum) Amendment Bill was referred to us on 26 September 2018. The closing date for submissions was 11 October 2018. We received and considered 2,249 submissions from interested groups and individuals. We heard oral evidence from 95 submitters.

We received advice from the Ministry of Business, Innovation and Employment.

Committee membership

Dr Deborah Russell (Chairperson)

Hon Clare Curran

Sarah Dowie

Jenny Marcroft

Todd Muller

Hon Scott Simpson

Erica Stanford

Chlöe Swarbrick

Angie Warren-Clark

Jonathan Young replaced Sarah Dowie for this item of business.

Key to symbols used in reprinted bill

As reported from a select committee

text inserted by a majority

~~text deleted by a majority~~

Hon Dr Megan Woods

Crown Minerals (Petroleum) Amendment Bill

Government Bill

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Schedule

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New Part 2 inserted into Schedule 1

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Crown Minerals (Petroleum) Amendment Act **2018**.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

3 Principal Act

This Act amends the Crown Minerals Act 1991 (the **principal Act**). 5

Part 1 Substantive provisions

4 Section 2 amended (Interpretation)

In section 2(1), insert in its appropriate alphabetical order:

onshore Taranaki region means the Taranaki Region as constituted by clause 4 of the Local Government (Taranaki Region) Reorganisation Order 1989, but excludes any part of that region that is offshore 10

5 Section 23A amended (Application for permits)

In section 23A, insert as subsection (2):

- (2) However,— 15
- (a) a person may not apply under this section for an exploration permit for petroleum (but *see* **section 24(1) and (5A)**):
 - (b) a person may apply under this section for a prospecting permit for petroleum, or a mining permit for petroleum, in respect of any land in the onshore Taranaki region only: 20
 - (c) the chief executive must not accept an application for a permit for petroleum in respect of any land outside the onshore Taranaki region:
 - (d) this subsection applies despite anything to the contrary in this Act (including sections 1A, 25(1)(b)(i), and 32).

6 Section 24 amended (Allocation by public tender) 25

After section 24(5), insert:

- (5A) The following provisions apply to offers of permits for petroleum under subsection (1):
- (a) an offer may be made in respect of any land in the onshore Taranaki region only: 30
 - (b) the Minister must not accept a tender for a permit for petroleum in respect of any land outside the onshore Taranaki region:
 - (c) a person may submit a tender for a permit for petroleum only in accordance with an offer (if any) made in accordance with this section:

(d) this subsection applies despite anything to the contrary in this Act (including section 1A).

6A Section 25 amended (Grant of permit)

After section 25(2), insert:

(2A) The Minister must not grant a permit for petroleum in respect of any land outside the onshore Taranaki region (despite anything to the contrary in this Act (including section 1A)). 5

7 Section 36 amended (Change to permit)

After section 36(2), insert:

(2A) However, the land to which a permit for petroleum relates cannot be extended to include any land outside the onshore Taranaki region. 10

8 New section 50A inserted (Restricted access to Taranaki conservation land)

After section 50, insert:

50A Restricted access to Taranaki conservation land 15

(1) No permit holder (or employee, agent, or contractor of a permit holder) may enter Taranaki conservation land for a purpose in connection with a permit for petroleum other than as set out in sections 49 and 50 (carrying out a minimum impact activity).

(2) **Subsection (1)** applies despite anything to the contrary in this Act (including sections 1A and 53 to 80). 20

(3) However, this section does not prevent prospecting, exploration, or mining carried out below the surface of Taranaki conservation land in accordance with section 57.

(4) In this section, **Taranaki conservation land** means land in the onshore Taranaki region that is held or managed— 25

(a) under the Conservation Act 1987; or

(b) under an Act listed in Schedule 1 of that Act.

Part 2

Further provisions 30

9 Schedule 1 amended

In Schedule 1, after clause 21, insert the **Part 2** set out in the **Schedule** of this Act.

Schedule
New Part 2 inserted into Schedule 1

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Part 2	
Provisions relating to Crown Minerals (Petroleum) Amendment Act 2018	5
22 Interpretation	
In Part 2 of this schedule,—	
Amendment Act means the Crown Minerals (Petroleum) Amendment Act 2018	10
application means—	
(a) an application for a permit for petroleum lodged by a person under section 23A:	
(b) a tender for a permit for petroleum submitted in response to a public tender process under section 24	15
<u>existing permit means a permit for petroleum that exists immediately before the commencement of the Amendment Act.</u>	
Subpart 1— Existing permits for petroleum, subsequent permits, and existing applications for permits for petroleum	
23 Existing permits for petroleum unaffected	20
A permit for petroleum that existed immediately before the commencement of the Amendment Act continues to have effect—	
(a) in accordance with this Act (including sections 32, 36, 39, and 40) as in force immediately before the commencement of the Amendment Act; and	25
(b) according to its terms (including any conditions to which the permit is subject immediately before the commencement of the Amendment Act).	
(1) <u>This Act (including sections 32, 36, 39, and 40) continues to apply to existing permits as if the Amendment Act had not been enacted.</u>	
(2) <u>Existing permits (including any conditions to which the permits are subject immediately before the commencement of the Amendment Act) continue to have effect according to their terms (unless and until those conditions are amended, or those terms are changed, in accordance with this Act as if the Amendment Act had not been enacted).</u>	30

23A	<u>Applications for subsequent permits unaffected</u>	
(1)	<u>This Act (including sections 23A, 25, and 32) applies to the following applications for a subsequent permit as if the Amendment Act had not been enacted:</u>	
	(a) <u>an application for a subsequent permit for petroleum in exchange for an existing permit:</u>	5
	(b) <u>an application for a subsequent permit for petroleum in exchange for a subsequent permit referred to in paragraph (a).</u>	
(2)	Subclause (1) <u>applies to applications for a subsequent permit lodged before or after the commencement of the Amendment Act.</u>	
(3)	Clause 24 <u>does not apply to those applications.</u>	10
23B	<u>Subsequent permits unaffected</u>	
(1)	<u>This Act (including sections 32, 36, 39, and 40) applies to the following subsequent permits as if the Amendment Act had not been enacted:</u>	
	(a) <u>a subsequent permit for petroleum that is granted in exchange for an existing permit:</u>	15
	(b) <u>a subsequent permit for petroleum that is granted in exchange for a subsequent permit referred to in paragraph (a).</u>	
(2)	Subclause (1) <u>applies to subsequent permits granted before or after the commencement of the Amendment Act.</u>	
24	Existing applications for permits for petroleum determined in accordance with Act as amended	20
(1)	Any application that was lodged or submitted, but not determined, before the commencement of the Amendment Act—	
	(a) is treated as having been withdrawn; and	
	(b) is treated as having been re-lodged or re-submitted (but only if, and to the extent that, the application is in respect of land in the onshore Taranaki region) immediately after the commencement of the Amendment Act; and	25
	(c) must be determined in accordance with this Act as in force immediately after the commencement of the Amendment Act.	30
(2)	Subclause (1) applies despite anything to the contrary in this Act.	
	Subpart 2—Other matters unaffected	
25	Existing privileges unaffected	
(1)	The Amendment Act does not affect existing privileges (<i>see</i> section 2).	
(2)	This Act continues to have effect for the purpose of subclause (1) as if it had not been amended by the Amendment Act.	35

26 Specified proceedings unaffected

The proceedings in the High Court between Greymouth Gas Turangi Limited and the Minister of Energy and Resources (~~CIV 2018 458 237~~)(CIV 2018-485-237) may be continued, heard, and determined, or settled, as if the Amendment Act (other than this clause) had not been enacted.

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Subpart 3— ~~Consequential amendments~~ Changes to minerals programme**27 ~~Consequential amendments~~ Changes to minerals programme**

~~Nothing in sections 17 and 18 of this Act applies to a change to a minerals programme if the change is consequential on the amendments made to this Act by the Amendment Act (including any change to remove inconsistencies between the minerals programme and this Act as amended).~~

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Nothing in sections 17 and 18 applies to a change to a minerals programme if the change inserts information into the programme to explain the effect of the amendments made to this Act by the Amendment Act.

Legislative history

24 September 2018
26 September 2018

Introduction (Bill 105–1)
First reading and referral to Environment Committee