

Crown Minerals (Prohibition of Mining) Amendment Bill

Member's Bill

Explanatory note

General policy statement

Around 33% of Aotearoa New Zealand's land area or 8.5 million hectares of land is conservation land. Conservation lands and waters have been set aside to preserve and protect natural and historic resources for their own sake, and to provide for their appreciation and enjoyment and safeguard options for present and future generations.

The policy intention of the bill is to prohibit new exploration, prospecting and mining activity on conservation lands and waters to protect the landscapes, natural features, indigenous plants and wildlife scientific, cultural and recreational values on public conservation land. The public expect our network of parks and reserves and other conservation areas to provide a guaranteed level of protection for these values. Conservation lands are the only areas of Aotearoa New Zealand where Government can provide certainty that natural and historic resources will be protected. The bill seeks to do this and implement the 2018 Government commitment in the Speech from the Throne to no new mines on conservation land.

The bill seeks to protect conservation lands and waters from the impacts of mining. It amends the Crown Minerals Act 1991 to prohibit the Minister of Energy or their delegate granting permits for minerals activities (prospecting, exploration and mining) over conservation lands and waters; and prohibits access arrangements over conservation land and waters being sought from or granted by the Ministers of Energy and Conservation.

Preserving and protecting conservation land and waters is crucial to ensuring Aotearoa New Zealand's natural and historic heritage is secure. Conservation land provides significant benefits to our country, including:

- A guaranteed level of protection for native biodiversity
- Scenery and open space for people's enjoyment and outdoor activities
- Protection of soil and water, scientific values, cultural values and historic sites

- Ecosystem services and natural capital
- Protection of the mauri of the natural environment.

By strengthening the protection of indigenous biodiversity, the bill will help implement Te Mana o Te Taiao Aotearoa New Zealand Biodiversity Strategy.

Mining often requires exclusive use of conservation land and permanently changes it. Mining activities have degraded and destroyed habitats, natural features and landscapes on land that was supposed to be protected. Mining in coal measure landscapes such as the Denniston Plateau have permanently changed those landscapes and cleared slow growing, small stature vegetation; destroyed all of the habitat of threatened species such as the giant carnivorous land snail *Powelliphanta augustus* when Solid Energy decapitated Mount Augustus near Westport to expand its coal mining operations. Open cast gold mining in Victoria Forest Park has created a huge pit and a large tailings impoundment with mining waste and caused extensive clearance of beech forest in the North Westland Wildlife Corridor which was intended to connect the Paparoa Range and the Southern Alps. Underground mines such as the Pike Coal Mine caused significant vegetation clearance in beech podocarp forest to create a new roadway, increased sedimentation and mine drainage pollution of waterways, drill sites on a previous pristine limestone escarpment, and the tragic loss of 29 lives.

Mining currently has a privileged status and is treated differently to other commercial activities on conservation land. This has resulted in activities being allowed which are contrary to the purpose for which land is held – to protect conservation values. Changes to the Crown Minerals Act 1991 (CMA) by the former National Government in 2013 promoted mining and made it more uncertain that conservation values will be protected from mining on conservation land.

The Bill makes no changes to Te Tiriti o Waitangi (the Treaty of Waitangi) settlement commitments, including the Ngai Tahu Pounamu Vesting Act.

Gathering clay or minerals for customary Māori purposes does not currently require a prospecting, exploration or mining permit under the Crown Minerals Act. The bill does not change customary rights for Māori to access cultural minerals such as obsidian, argillite, pukepotu (iron manganese); kokowai (red and yellow ochre) on conservation land.

Small scale recreational fossicking activities using hand held tools such as gold panning do not currently require a permit under the principal Act. The bill does not change this.

The bill does not change the existing provisions in the principal Act which allow for scientific research, separate to mining permits.

The bill also prohibits new coal mines and any expansion of existing coal mines after 1 January 2025 on any land to protect the climate from the greenhouse gas emissions generated by burning coal.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause and provides for the Bill to come into force on the day after the date on which it receives Royal assent, except sections 5(2) and 6(2) which come into force on 1 January 2025.

Clause 3 identifies the Crown Minerals Act 1991 (the **principal Act**) as the Act being amended by the Bill.

Clause 4 amends section 1A of the principal Act to so that the purpose of the Act is to regulate prospecting for, exploration for, and mining of Crown owned minerals for the benefit of New Zealand.

Clauses 5 and 6 amend sections 23A and 25 of the principal Act. Those sections relate to applications for, and the grant of, prospecting, exploration, and mining permits. The effects of the amendments are to prohibit applications for, and the grant of, permits in respect of any conservation land (that is, the land described in Schedule 4) and to prohibit, from 1 January 2025, applications for, and the grant of, permits relating to coal.

Clause 7 amends section 32 by inserting a reference to the transitional provisions in Schedule 4 relating to the rights of permit holders to apply for subsequent permits. Clause 40 of Schedule 4 provides that applications for a subsequent permit in exchange for an existing permit must be determined in accordance with this Act as in force immediately after the commencement of the Amendment Act.

Clause 8 inserts new section 40A which provides that if protected wildlife, as defined in section 2(1) of the Conservation Act 1987, is found on the land specified in a prospecting permit, an exploration permit, or a mining permit, that permit must be surrendered.

Clause 9 amends Schedule 1 of the principal Act relating to transitional provisions by inserting the Part set out in the Schedule of this Act as the last Part.

Clause 10 amends Schedule 4 of the principal Act by replacing the heading with “Land to which restrictions apply”. It also replaces clause 12(b) so as to broaden the scope of Schedule 4 to include all Crown land held, as at 1 October 1991, under the Conservation Act 1987 or any enactment set out in Schedule 1 of that Act.

Schedule

New Part 5 inserted into Schedule 1

The *Schedule* amends Schedule 1 of the principal Act by inserting new Part 5 which provides for transitional matters relating to this Act. It provides that existing applications for permits are determined in accordance with the principal Act as amended while specifying that existing permits remain unaffected. It states that no compensation or damages are payable by the Crown for any loss or damage arising from the enactment of the Amendment Act.

Hon Eugenie Sage

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Schedule

New Part 5 inserted into Schedule 1

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Crown Minerals (Prohibition of Mining) Amendment Act **2022**.

2 Commencement

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- (1) Section 5(2) and section 6(2) come into force on 1 January 2025.

- (2) This rest of this Act commences on the day after the date which it receives the Royal assent.
- 3 Principal Act**
This Act amends the Crown Minerals Act 1991.
- 4 Section 1A amended (Purpose)** 5
In section 1A(1), replace “promote” with “regulate”.
- 5 Section 23A amended (Application for Permits)**
- (1) After section 23A(2)(a), insert:
- (aa) a person must not apply for a prospecting permit, an exploration permit, or a mining permit under this Act in respect of any land described in Schedule 4: 10
- (ab) the chief executive must not accept an application of the kind described in **paragraph (aa)**:
- (2) After section 23A(2), insert:
- (3) However, despite anything to the contrary in this Act, a person must not apply for a prospecting permit for coal, an exploration permit for coal, or a mining permit for coal under this Act in respect of any land. 15
- 6 Section 25 amended (Grant of permit)**
- (1) After section 25(2A), insert:
- (2B) The Minister must not grant a prospecting permit, an exploration permit, or a mining permit under this Act in respect of any land described in Schedule 4. 20
- (2) After section 25(2B), as inserted by **subsection (1)**, insert:
- (2BA) The Minister must not grant a prospecting permit for coal, an exploration permit for coal, or a mining permit for coal under this Act in respect of any land.
- 7 Section 32 amended (Right of permit holder to subsequent permits)** 25
After section 32(8), insert:
- (9) *See also* clause 39 of Schedule 1 (which applies to applications for subsequent permits).
- 8 New section 40A inserted (Surrender of permit where rare or threatened species is found)** 30
After section 40, insert:
- 40A Surrender of permit where rare or threatened species is found**
- If protected wildlife, as defined in section 2(1) of the Conservation Act 1987, is found on the land specified in a prospecting permit, an exploration permit, or a mining permit, that permit must be surrendered. 35

9 Schedule 1 amended (Transitional, savings, and related provisions)

In Schedule 1,—

- (a) insert the Part set out in the Schedule of this Act as the last Part; and
- (b) make all necessary consequential amendments.

10 Schedule 4 amended

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- (1) Replace the heading to Schedule 4 with “**Land to which restrictions apply**”.
- (2) In Schedule 4, replace clause 12(b), with:
 - (12) All Crown land held, as at 1 October 1991, under the Conservation Act 1987 or any enactment set out in Schedule 1 of that Act.
- (3) In Schedule 4, shoulder reference, before “54A”, insert “**23A and 25**”.

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Schedule
New Part 5 inserted into Schedule 1

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Part 5		
Provisions relating to Crown Minerals (Prohibition of Mining) Amendment Act 2022		5
38	Interpretation	
	In Part 5 of this schedule,—	
	Amendment Act means the Crown Minerals (Prohibition of Mining) Amendment Act 2022	10
	commencement date ,—	
	(a) in relation to a prospecting permit, an exploration permit, or a mining permit in respect of any land described in Schedule 4, means the day after date on which the Amendment Act received the Royal assent:	
	(b) in relation to a permit in respect of coal mining means 1 January 2025	15
	existing permit means prospecting, exploration and mining permit that exists immediately before the commencement date of the Amendment Act.	
39	Existing applications for permits determined in accordance with Act as amended	
	Any application (including an application for a subsequent permit under section 32 of the Act) that was lodged or submitted, but not determined, before the commencement date of the Amendment Act—	20
	(a) is treated as having been withdrawn; and	
	(b) is treated as having been re-lodged or re-submitted immediately after the commencement date of the Amendment Act; and	25
	(c) must be determined in accordance with this Act as in force immediately after the Amendment Act comes into force.	
40	Applications for access with existing prospecting, exploration and mining permits	
	The Minister must not accept any application for access to land with an existing permit, other than for minimum impact activity after the commencement date.	30
41	Existing permits unaffected	
(1)	Subject to clause 39, this Act continues to apply to existing permits as if the Amendment Act had not been enacted.	35

(2) Existing permits (including any conditions to which the permits are subject immediately before the commencement date 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).

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42 No compensation or damages

No compensation or damages are payable by the Crown for any loss or damage arising from the enactment of the Amendment Act.