

Crown Minerals Amendment Bill

Climate Justice Taranaki Submission to the Parliamentary Economic Development, Science and Innovation Committee, 23 Jan 2023

1. Climate Justice Taranaki Inc. (CJT) is a community group dedicated to environmental sustainability and social justice. This includes issues of inter-generational equity, notably in relation to climate change, which will increasingly impact present and future generations' inalienable rights to safe water, food and shelter, crucial to sustaining livelihoods and quality of life. Comprised of a broad range of people with varied expertise and life experiences, CJT has engaged respectfully with government on numerous occasions. Many of the key points raised in our submissions have proven accurate. We do not profit financially from this work or have links to the relevant industries. We ask that the points raised here below be considered carefully.
2. In October 2018, CJT submitted¹ on the Crown Minerals (Petroleum) Amendment Bill and gave an oral presentation² to the Parliamentary Environment Committee around our five key points:
 - i) Fully support no new petroleum permits offshore anywhere and onshore outside Taranaki
 - ii) Object to new permits in onshore Taranaki
 - iii) Object to any petroleum activities on and underneath conservation land
 - iv) Request a ban on extension of any expiring permits anywhere
 - v) Request a full review of the CMA [Crown Minerals Act 1991] to ban new coal and seabed mining
3. The above points remain valid and relevant, so we ask that the Committee consider them under the current Crown Minerals Amendment Bill³ processing and any subsequent amendments of the Crown Minerals Regulations^{4,5}, as well as the Exclusive Economic Zone and Continental Shelf Act⁶. In respect to mining underneath conservation land, we will be submitting in support of the Crown Minerals (Prohibition of Mining) Amendment Bill⁷ when the opportunity arises.

Explanatory note – General policy statement of the Bill

4. We have issues on the general policy statement:

“The Bill seeks to neutralise the promotional intent of the CMA, while retaining the existing emphasis under the CMA on the role of the Crown as resource owner, and its economic stewardship. This change would make clear the CMA’s role as an allocation and management framework, while enabling flexibility in the pursuit and realisation of objectives that may evolve over time and be different for the different kinds of minerals that it regulates (eg, petroleum as compared with critical minerals).”
5. We fully support the neutralisation and removal of the promotional intent of the CMA.
6. We object to emphasizing or retaining “the role of the Crown as resource owner” because it violates Te Tiriti o Waitangi article two⁸.
7. We caution re the focus on “enabling flexibility...” when what’s most needed now is a clear and strong legal framework to deal with the climate emergency and ecological collapse. Flexibility will likely lead to loop holes and be vulnerable to industry lobbying. As we are opposed to further fossil fuel exploration, we do not support allowing “greater flexibility in the frequency of public tenders for petroleum exploration permits”.

8. What is the definition or interpretation of “*critical minerals*” under the Bill? Globally, the exploration and mining of non-petroleum minerals essential to current renewable and communication technologies often lead to serious environmental and social impacts. Clear legal framework and strict regulations are needed to control and manage the mining of such minerals, while policies are put in place to enable and incentivise their conservation, reuse and recycling, consistent with the circular economy.

Part 1 of the Bill

9. Clause 4: We support the replacement of “*promote*” in section 1A, Purpose of the CMA, with “*manage*”, in respect of mineral prospecting, exploration and mining.

Part 2 of the Bill

10. Clause 7: We request that section 23A(2)(a)-(c) be replaced with the following:
 - (a) a person may not apply under this section for an exploration, prospecting or mining permit for petroleum or coal
 - (b) the chief executive must not accept an application for a permit for petroleum or coal.
11. Clause 8: We request that section 24(5A) be replaced with the following:
 - (a) no offer of any land may be made for a permit for petroleum or coal
 - (b) the Minister must not accept a tender for a permit for petroleum or coal
 - (c) no person may submit a tender for a permit for petroleum or coal
12. Clause 10: We support the requirement of decommissioning and post-decommissioning obligations from permit applicants under section 29A(2) and ask that such obligations be extended to include non-petroleum permit applicants.
13. We also request that an additional subsection be added to 29A(2) requiring that the direct and indirect effects of proposed mining activities on climate change be taken into account, bringing alignment with other relevant legislation. Similarly, the Exclusive Economic Zone and Continental Shelf (EEZ-CS) Act section 59(5)(b) also needs to be amended to allow the consideration of effects on and of climate change.
14. Clauses 11, 12 and 13: While we support strengthening the requirement of iwi or hapū engagement, we are concerned that the proposed amendments merely pay lip service without addressing deep-rooted legal and cultural issues.
15. Clause 14: We ask that section 41 be rewritten entirely to disallow any transfer of interest in petroleum and coal permits, to facilitate a rapid phase out of all fossil fuel exploration and mining.
16. Clause 17: We ask that section 50A be expanded to ban all prospecting, exploration and mining (petroleum and non-petroleum) activities (including seismic surveys and other so-called minimum impact activities) on/underneath conservation land. Ban these activities also within and adjacent to marine mammal sanctuaries, marine reserves and any other marine protected areas in the EEZ-CS.

Schedule

17. Clause 39: We strongly object to treating each “*existing privilege*” as if it “*were a permit and the holder of the privilege a permit holder*”. We request that all “*existing privilege*” as defined in the interpretation be revoked.
18. Clause 42: We support that existing applications be determined in accordance with the amended Act, i.e. “*in accordance with this Act as in force on the day after the date on which the Amendment Act receives the Royal assent.*”

Our closing points

19. The science is clear. Fossil fuels exacerbate climate impacts and numerous other ecological and social harm. There must be no new exploration for fossil fuels in New Zealand and globally, as the International Panel of Climate Change (IPCC), International Energy Agency (IEA) and others have clearly stated.
20. Yet the growth economy is absolutely reliant on fossil fuels. Renewables cannot supply enough energy to support the current level of economic activities, let alone growth⁹. Even the development of renewable technologies relies on destructive and emissions-intensive mining. Any delay^{10,11} in ending fossil fuel mining and unfettered push for renewable energy expansion would result in regrettable ecological and social harm.
21. The only wise and responsible thing to do is therefore to substantially reduce our total energy supply^{12, 13} and material throughput, ditch the economic growth mantra¹⁴, and degrow¹⁵ to within biophysical limits¹⁶. Implement tax and other systemic reforms that enable the redistribution of wealth for greater public services. Invest in care for people and nature, now and into the future.
22. Furthermore, Aotearoa New Zealand is long overdue for constitutional transformation. Matike Mai Aotearoa¹⁷ was set “*To develop and implement a model for an inclusive Constitution for Aotearoa based on tikanga and kawa, He Whakaputanga o te Rangatiratanga o Niu Tirenī of 1835¹⁸, Te Tiriti o Waitangi of 1840, and other indigenous human rights instruments which enjoy a wide degree of international recognition.*” The He Puapua report¹⁹ laid out the pathway to realise the UN Declaration on the Rights of Indigenous Peoples in Aotearoa New Zealand. It is time for the government and all people of NZ to be brave and work together to transform our society for the better.

¹ <https://climatejusticetaranaki.files.wordpress.com/2018/10/cjt-submission-on-cma-amendment-bill-oct18-final.pdf>

² <https://climatejusticetaranaki.files.wordpress.com/2018/10/cjt-slides-for-env-select-committee-hearing-17oct18-v1.pdf>

³ https://www.parliament.nz/en/pb/bills-and-laws/bills-proposed-laws/document/BILL_130002/crown-minerals-amendment-bill

⁴ https://www.legislation.govt.nz/regulation/public/2007/0138/latest/DLM437863.html?search=ts_act%40bill%40regulation%40deemedreg_crown_resele_25_a&p=1

⁵ https://www.legislation.govt.nz/regulation/public/2007/0399/latest/DLM1120013.html?search=ts_act%40bill%40regulation%40deemedreg_crown_resele_25_a&p=1

⁶ https://www.legislation.govt.nz/act/public/2012/0072/latest/DLM3955428.html?search=qs_act%40bill%40regulation%40deemedreg_exclusive_resele_25_h&p=1&sr=1

⁷ https://www.parliament.nz/en/pb/bills-and-laws/bills-proposed-laws/document/BILL_125791/crown-minerals-prohibition-of-mining-amendment-bill

⁸ <https://www.tepapa.govt.nz/discover-collections/read-watch-play/maori/treaty-waitangi/treaty-close/full-text-te-tiriti-o>

⁹ <https://www.thegreatsimplification.com/episode/19-simon-michaux>

¹⁰ <http://www.terrenceloomis.ac.nz/latest-publication.html>

¹¹ <https://www.science.org/doi/10.1126/science.abk0063>

¹² <https://www.tandfonline.com/doi/full/10.1080/14693062.2022.2061407>

¹³ https://phys.org/news/2022-04-halve-energy-climate-catastrophe.html?fbclid=IwAR2u7DI0a2d_nuAQwJm2b6fiq0PwyFeJrKfvoif9CgasBEUsrzSBxhukyB4

¹⁴ <https://thespinoff.co.nz/society/16-01-2023/why-combating-climate-change-means-embracing-degrowth>

¹⁵ <https://www.youtube.com/watch?app=desktop&v=omcUaD8pxaY&feature=share&fbclid=IwAR2V7EjhcK6wZTheWwz38hSPbqNxGwFASUAPYQ3W2bOpSVj794jzJfVSGc>

¹⁶ <https://www.newsroom.co.nz/sustainable-future/jack-santa-barbara-the-planetary-emergency-that-isnt-climate-change>

¹⁷ <http://www.converge.org.nz/pma/MatikeMaiAotearoaReport.pdf>

¹⁸ <https://nzhistory.govt.nz/media/interactive/the-declaration-of-independence>

¹⁹ <https://www.scribd.com/document/515494321/He-Puapua>