



CROWN MINERALS ACT 1991
MINERALS PROGRAMME FOR MINERALS (EXCLUDING PETROLEUM) 2013
CROWN MINERALS (MINERALS OTHER THAN PETROLEUM) REGULATIONS 2007

Introduction to permits under the Crown Minerals Act 1991

This introduction provides a quick reference to some of the key principles of the Crown Minerals Act 1991 (the “**Act**”) and the Minerals Programme for Minerals (Excluding Petroleum) 2013 (the “**Minerals Programme**”). It also refers to parts of the Crown Minerals (Minerals Other than Petroleum) Regulations 2007. It is a summary only and is not a substitute for understanding the legislation. Readers are also referred to a series of more detailed guidelines on specific topics which can be found on the NZP&M website.

LEGISLATIVE CONTEXT

Introduction to the Crown Minerals regime

The Act provides for the allocation of rights to prospect for, explore for and mine Crown-owned minerals.

The purpose of the Act is to manage prospecting, exploration and mining of Crown owned minerals for the benefit of New Zealand. To this end, the Act provides for –

- › the efficient allocation of prospecting, exploration, and mining rights to Crown owned minerals
- › the effective management and regulation of those rights
- › the carrying out of activities in respect of those rights in accordance with good industry practice
- › a fair financial return to the Crown for its minerals.

Sitting under the Act are six sets of regulations, these provide detail of aspects of the law set out in the Act. There are also two Minerals Programmes: the Minerals Programme for Minerals (Excluding Petroleum) 2013, and the Minerals Programme for Petroleum 2013. The Minerals Programmes provide general guidance on the Act and the regulations and explains how NZP&M interprets the specific provisions of the legislation.

The Minerals Programme for Minerals (Excluding Petroleum) 2013

The Minerals Programme sets out:

- › how the Minister of Energy and Resources and the Chief Executive of the Ministry of Business, Innovation and

Employment will have regard to the principles of the Treaty of Waitangi

- › how the Minister and the Chief Executive will exercise the specific powers and discretions of the Act
- › how the Minister and the Chief Executive will interpret and apply specific provisions in the Act or regulations made under the Act
- › general guidance on the Act and the regulations.

The Minerals Programme is available on the NZP&M website: <https://www.nzpam.govt.nz/assets/Uploads/our-industry/rules-regulations/minerals-programme-2013.pdf>

Crown Minerals Regulations

The regulations governing minerals are:

- › Crown Minerals (Minerals Other than Petroleum) Regulations 2007. These cover requirements and procedures for permit applications, permit change applications, royalty returns and payments, reporting to the Crown on prospecting and exploration, and lodging core and samples with the Crown. These were amended on 24 May 2013.
- › Crown Minerals (Royalties for Minerals Other than Petroleum) Regulations 2013. These cover royalties and royalty reports on mining permits. Permits granted before these regulations fall under the minerals programme at the time.
- › Crown Minerals (Minerals Fees) Regulations 2006 covers fees payable under the Crown Minerals Act for minerals and coal.

The regulations are available on www.legislation.govt.nz



NEW PERMITS

A permit is required before any person can prospect, explore, or mine Crown-owned minerals. Unless a permit is a non-exclusive prospecting permit, the rights granted by a permit are exclusive to the permit holder; however, permits may be granted over an area where there are already permits for other mineral groups.

Applications for new permits must:

- › be made on the appropriate form and filled in correctly. The relevant forms can be found on the NZP&M website www.nzpam.govt.nz
- › be supported by all the information required under the Crown Minerals (Minerals Other than Petroleum) Regulations 2007
- › contain a proposed work programme
- › have the relevant application fee paid in full.

An application will not be accepted unless these requirements are met.

Matters the Minister must be satisfied about before granting a permit

Section 29A of the Act describes the process for considering an application. Before granting a permit, the Minister of Energy and Resources must be satisfied:

- (a) that the proposed work programme is consistent with:
 - (i) the purpose of the Act
 - (ii) the purpose of the proposed permit
 - (iii) good industry practice
- (b) that the applicant is likely to comply with, and give proper effect to the proposed work programme. To be satisfied of this, the Minister must take into account:
 - (iv) the applicant's technical capability
 - (v) the applicant's financial capability
 - (vi) any relevant information on the applicant's failure to comply with permits or similar rights in New Zealand or internationally
- (c) that the applicant is likely to comply with the relevant obligations under the Act or regulations in respect of reporting and the payment of fees and royalties
- (d) in the case of a Tier 1 permit for exploration or mining, that the proposed permit operator has, or is likely to have, by the time the relevant work in any granted permit is undertaken, the capability and systems that are likely to be required to meet the health and safety and environmental requirements of all specified Acts (in particular the Health and Safety in Employment Act 1992) for the types of activities proposed under the permit.

These requirements are explained further in **chapters 4 and 5** of the Minerals Programme. There is also specific information that applies only to prospecting, exploration or mining permits about which the Minister must be satisfied. These requirements are further explained in **chapters 8, 9 and 10** respectively of the Minerals Programme.

Permit holder and permit operator

The permit holder is the person(s) who is the sole permit participant, or the collective all of the permit participants if there is more than one participant.

The permit operator is responsible for the day-to-day management of activities under the permit. If a permit is held by more than one party (i.e. there are multiple 'permit participants') one permit participant must be the designated permit operator. The definition of a "person" includes a company or an individual. A permit operator must be a permit participant (i.e. have an ownership interest or share in the permit).

PROSPECTING PERMITS

Prospecting means any activity undertaken for the purpose of identifying land or seabed likely to contain mineral deposits or occurrences, and may include:

- › geological, geochemical, and geophysical surveying
- › aerial surveying
- › taking samples by hand or hand held methods
- › taking small samples offshore by low-impact mechanical methods.

A prospecting permit work programme should add materially to the knowledge about the minerals in the application area. Prospecting permits will ordinarily only be granted for a mineral that has not previously been prospected for in the area or if new or improved techniques are to be used.

The Minister will ordinarily decline to grant a Tier 2 prospecting permit [**Clause 8.1(2 and 3(b))**] or a prospecting permit for coal over defined coalfields [**clauses 8.1(2) and 3(a)**] of the Minerals Programme].

The information required when applying for a prospecting permit is detailed under **Regulation 16** and under **Part 1 of Schedule 2** of the Regulations.

Prospecting permit applications will be assessed against the relevant criteria of the Act and Minerals Programme, particularly **Chapter 8** of the Minerals Programme.

A prospecting permit can be granted over land regardless of mineral ownership. Subsequent rights to an exploration or mining permits only apply to Crown-owned minerals.

EXPLORATION PERMITS

Exploration means any activity undertaken for the purpose of identifying mineral deposits or occurrences and evaluating the feasibility of mining particular deposits of one or more minerals. Exploration includes any drilling, dredging, or excavations (whether surface or subsurface) that are reasonably necessary to determine the nature and size of a mineral deposit or occurrence.

An exploration permit should have the objective of:

- › identifying at least an indicated status resulting in probable mineral resource reserves or deposits in the proposed permit area, or
- › determining the feasibility of mining particular mineral resources.

A work programme for an exploration permit should consist of two distinct stages (for a permit with a 5 year duration): ordinarily one three-year stage and one two-year stage. A work programme will not ordinarily have commitment deadlines at any other time than the end of each stage [**Clause 9.2(1)** of the Minerals Programme].

The information required when applying for an exploration permit (unless under a public tender) is detailed under **Regulation 17** and **Part 2 of Schedule 2** of the Regulations.

Exploration permit applications will be assessed against the relevant criteria of the Act and Minerals Programme, particularly **Chapter 9** of the Minerals Programme.

Exploration permits can only be granted for Crown-owned minerals. Minerals ownership is established by a permit applicant submitting a Land and Mineral Status report¹.

MINING PERMITS

Mining means to take, win, or extract, by whatever means, a mineral existing in its natural state in land; or a chemical substance from a mineral existing in its natural state in land. The objective of a mining permit is to economically deplete the minable mineral resource or deposit to the maximum extent practicable in accordance with good industry practice². Additional exploration can be carried out under a mining permit.

The information required when applying for a mining permit is detailed under **Regulation 18** and under **Part 3 of Schedule 2** of the Regulations.

Mining permit applications will be assessed against the relevant criteria of the Act and Minerals Programme, particularly **Chapter 10** of the Minerals Programme.

A special purpose mining permit may be granted to enable historical mining methods to be demonstrated. These permits

¹ see separate guideline on Land and Mineral Status reports.

² see separate guideline on Good Industry Practice.

are likely to be applied for by historical societies, museum trusts or other similar bodies. Mining permits for special purpose mining activities will always be Tier 2 permits. **Regulation 19** details what information is required when applying for a special purpose mining permit.

Mining permits can only be granted for Crown-owned minerals. Minerals ownership is established by a permit applicant submitting a Land and Mineral Status report¹.

TIER STATUS

Permits are separated into two tiers to reduce the administrative burden for the majority of permit holders but increase the scrutiny applied to high-value or high-risk permits. The concept of Tier status is referred to by **section 2B** of the Act and **Clause 1.7** of the Minerals Programme.

Tier 1: Complex, higher risk and return mineral operations, based on expenditure or production thresholds set out in Schedule 5 of the Act. Tier 1 permits are subject to closer assessment, monitoring and management.

Tier 2: Lower risk and return industrial, small business, and hobby mineral operations. Tier 2 permits are managed in a pragmatic streamlined process incurring less time and effort for all parties.

Hobby/recreation operations: A sub-set of Tier 2 permits. Small-scale suction dredging operations where the suction dredger has a combined engine rating no higher than 10 horsepower, and beach sand mining operations that are limited to hand tools and riffle box.

HOW TO DETERMINE TIER STATUS

TIER 1 PERMITS										
PROSPECTING PERMITS	EXPLORATION PERMITS	MINING PERMITS								
Petroleum OR Gold, Silver, Coal, Platinum group metals, Ironsand or any other metallic mineral (excluding alluvial gold)	Petroleum OR Gold, Silver, Coal, Platinum group metals, Ironsand or any other metallic mineral UNLESS The expected total work programme expenditure in relation to the permit for the final 5 years of its life, or for the entire duration (if the permit is less than 5 years) is estimated to be less than \$1,250,000	Petroleum OR Gold, Silver, Platinum group metals, Coal, Ironsand or any other metallic mineral IF Gold/Silver/Platinum group metals in any one permit year in the next 5 years of its life, the annual royalty will be equal to or more than \$50,000 OR Coal/Ironsand/any other metallic mineral In any one permit year in the next 5 years of its life, the annual production will be equal to or more than: <table border="1" data-bbox="746 1585 1468 1787"> <thead> <tr> <th>MINERAL</th> <th>ESTIMATED ANNUAL PRODUCTION TONNES</th> </tr> </thead> <tbody> <tr> <td>Coal</td> <td>200,000</td> </tr> <tr> <td>Ironsand</td> <td>500,000</td> </tr> <tr> <td>Metallic mineral</td> <td>500,000 of ore</td> </tr> </tbody> </table>	MINERAL	ESTIMATED ANNUAL PRODUCTION TONNES	Coal	200,000	Ironsand	500,000	Metallic mineral	500,000 of ore
MINERAL	ESTIMATED ANNUAL PRODUCTION TONNES									
Coal	200,000									
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OR any permit – irrespective of mineral type, the year of permit's life, or any threshold amounts that relates to an underground operation OR relates to an operation that is wholly or partially 50m or more beyond the seaward side of the mean high water mark AND is not for a special purpose mining activity.										
TIER 2 PERMITS										
PROSPECTING PERMITS	EXPLORATION PERMITS	MINING PERMITS								
Any other permit that does not fall under the Tier 1 definition.										

CHANGES TO PERMITS

A permit holder may apply to change the conditions of a permit in the following ways:

- › amend the permit conditions, and in particular the approved work programme
- › extend the land area of the permit
- › change the minerals to which the permit relates
- › extend the duration of the permit.

Applications to change a permit must be made in the appropriate form and have all the information required under the Regulations. An application will not be accepted until the relevant application fee is paid, the appropriate form is filled in correctly and all required information is submitted.

All of the relevant forms that need to be filled in as part of a change application can be found on the NZP&M website www.nzpam.govt.nz. The forms also outline what information and supporting documentation needs to be submitted with each application.

Change applications must be made within certain timeframes, depending on the change that is being applied for. However if the Minister is satisfied that there are compelling reasons a permit holder could not apply for a change to their permit within the specified timeframe the Minister may agree to accept an application by a later date. It is the permit holder's responsibility to know when their permit expires, the due dates for obligations and the timeframes within which change applications are to be submitted.

Change of work programme conditions

A permit holder under **section 36** of the Act has the right to apply to change the conditions of the permit's work programme.

Applications to change work programme conditions must be made no later than 90 days before the due date of the condition to be changed. A change of conditions application to amend a work programme cannot be received or considered after the due date of the specified conditions has passed [**s 36(4C)** of the Act]. However, the Minister may accept an application by a later date if satisfied there were compelling reasons for the permit holder not to have applied within the set timeframe.

Information required when applying for a change of work programme conditions is detailed under **Regulation 29**. The application will be assessed against the relevant criteria in the Act and Minerals Programme in particular (but not limited to) **clauses 12.2 and 12.3** of the Minerals Programme.

Change of minerals

A permit holder under **section 36** of the Act has the right to apply to change the minerals on a permit.

The information to be provided when applying for a change of minerals for a prospecting or exploration permit is detailed under **Regulation 20** and **Part 1 of Schedule 3** of the Regulations and **Regulation 22** and **Part 3 of Schedule 3** for a mining permit.

The application will be assessed against the relevant criteria in the Act and Minerals Programme in particular (but not limited to) **Clause 12.4** of the Minerals Programme.

A Land and Mineral Status report may be required.

Extension of land

The holder of a permit has the right under **section 36** of the Act to apply to extend the land of their permit. An application must be made no later than 90 days before the expiry of the permit.

Information required when applying for an extension of land to a prospecting or exploration permit is detailed under **Regulation 21** and **Part 2 of Schedule 3** of the Regulations. The application will be assessed against the relevant criteria in the Act and Minerals Programme, particularly (but not limited to) **clauses 4.6 and 12.5** of the Minerals Programme.

Information required when applying for an extension of land to a mining permit is detailed under **Regulation 23** and **Part 4 of Schedule 3** of the Regulations. The application will be assessed against the relevant criteria in the Act and Minerals Programme, particularly (but not limited to) **clauses 4.6, 10.5 and 12.5** of the Minerals Programme.

A Land and Mineral Status report may be required.

Extension of duration

The duration of permits is set by section 35 of the Act. A permit holder has the right under **section 36** of the Act to apply to extend the duration of their permit and under **section 35A** to extend the duration of an exploration permit for the purposes of discovery appraisal.

An application to extend the duration of a prospecting or exploration permit must be no later than 90 days before the expiry of the permit. An application to extend the duration of an exploration permit for the purposes of discovery appraisal or a mining permit must be no later than 6 months before the expiry of the permit.

EXTENSION OF DURATION TYPE	REGULATION DETAILING WHAT INFORMATION IS REQUIRED	RELEVANT CRITERIA (BUT NOT LIMITED TO) IN THE ACT AND MINERALS PROGRAMME THAT THE APPLICATION WILL BE ASSESSED AGAINST
Prospecting	Regulation 24 and Part 5 of Schedule 3	Clauses 12.6(1),(2) and 8.3
Exploration	Regulation 26 and Part 7 of Schedule 3	Clauses 12.6(3),(4) and 9.3
Mining	Regulation 25 and Part 6 of Schedule 3	Clauses 12.6(6),(7),(8) and 10.2
Exploration for purposes of discovery appraisal	Regulation 27 and Part 8 of Schedule 3	Clauses 9.6 and 12.6(5) and section 35A

Change of commencement date

Section 35(9) of the Act allows amendment of the commencement date of a permit if the permit holder has been prevented from commencing production by delays in obtaining consents under any other Act and those delays have not been caused by the permit holder.

TRANSFERS, CHANGE OF PERMIT OPERATOR, CHANGE OF CONTROL

There are certain transactions in relation to a permit that require the Minister's consent under the Act. All applications must be made within 3 months of the transaction occurring. These are explained in a separate guideline.

Disclaimer

This document is a guideline only and is not intended to cover every possible situation. If this guideline is inconsistent with the Act, relevant Minerals Programme or relevant regulations, the Act, Programme and regulations prevail. This guideline has no binding legal effect and should not be used as a substitute for obtaining independent legal advice.

New Zealand Petroleum and Minerals (NZP&M) is not responsible for the results of any action taken on the basis of information in this guideline, or for any errors or omissions in this guideline. NZP&M may vary this guideline at any time without notice.

There may be factors taken into account in any application process, transaction or decision that are not covered by this or any other guideline. Adherence to this guideline does not guarantee a particular outcome. NZP&M retains the discretion to decline any application where the statutory requirements for that application are not met.



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NZP&M is a division of the Ministry of Business, Innovation and Employment. We lead and actively manage New Zealand's petroleum and minerals portfolio ensuring the country's economic interests and assets are comprehensively protected. Our goal is to use our wider understanding of the energy and resources sector to increase national and regional prosperity via petroleum and minerals exploration and production.

As a government agency, we engage with Councils, iwi and communities about petroleum and minerals development and regulation of the industry. We manage compliance and revenue collection on behalf of the Crown and aim to maximise the return that these important industries deliver for the benefit of all New Zealanders.

We report to the New Zealand public through the Minister of Energy and Resources.