

1 February
2008



MINERALS PROGRAMME FOR MINERALS (EXCLUDING PETROLEUM)

New Zealand Government

Minerals Programme for Minerals (Excluding Petroleum) 2008

Issued to Take Effect from 1 February 2008

His Excellency the Governor-General, pursuant to section 18(1) of the Crown Minerals Act 1991, acting on the advice and with the consent of the Executive Council, and on the recommendation of the Minister of Energy, issued the following minerals programme on 30 January 2008.

Responsible Department of State:
Crown Minerals
Ministry of Economic Development
33 Bowen Street
P O Box 1473
Wellington
Tel: 04 472 0030
Fax: 04 473 4638

ISBN 978-0-478-31046-7

Table of Contents

Part 1	5
About this minerals programme	
1.1 Title	5
1.2 Commencement	5
<i>Interpretation</i>	
1.3 Definitions	5
1.4 Definitions in Act or Regulations are also relevant	5
1.5 Numbers	5
1.6 Status of examples	5
<i>Application of this minerals programme</i>	
1.7 Application of this minerals programme to applicants, permit holders, applications, and permits	5
1.8 Minerals covered by minerals programme	6
1.9 Land excluded from permits	6
1.10 Gold fossicking areas	6
<i>Treaty of Waitangi (Te Tiriti o Waitangi)</i>	
1.11 Treaty of Waitangi (Te Tiriti o Waitangi)	7
1.12 Consultation with iwi and hapu	7
Part 2	8
Policies	
2.1 Key policy	8
2.2 Continuing investment in the Crown mineral estate	8
2.3 Efficient allocation of permits and the Crown to obtain fair financial return	8
2.4 Overlapping permit applications	8
2.5 Work programmes	9
2.6 Granting permits	9
2.7 Basis on which non-exclusive prospecting permits will be granted	10
2.8 Prospecting permits	10
2.9 Exploration permits	10
2.10 Mining permits	10
2.11 Special purpose mining permits	11
2.12 Coal seam gas	11
Part 3	12
Methods of allocating permits	
<i>Acceptable work programme offer</i>	
3.1 General information about acceptable work programme offer	12
3.2 Priority of acceptable work programme offer applications	12
3.3 Land covered by acceptable work programme offer applications	12
3.4 Overlapping acceptable work programme offer applications	13
<i>Newly available acreage</i>	
3.5 General information about newly available acreage	13
3.6 Priority of applications for NAA	14

Non-exclusive prospecting permit application

3.7	General information about non-exclusive prospecting permit applications	15
3.8	Land covered by non-exclusive prospecting permit applications	15

Competitive tender allocation

3.9	General information about competitive tender allocation	16
-----	---	----

Part 4 **17**

Procedures for applications with equal priority

4.1	Notification of equal priority applications	17
4.2	Equal priority applications to be assessed in their entirety and in accordance with relevant criteria set out in this programme	17
4.3	Equal priority prospecting permit applications	17
4.4	Equal priority exploration permit applications	18
4.5	Equal priority mining permit applications	18
4.6	Equal priority exploration and mining permit applications	18
4.7	Prospecting permit application competing with exploration or mining permit applications	18

Part 5 **19**

Procedures for all types of permits

5.1	Evaluation of permit applications	19
5.2	Further information and amendments to application	19
5.3	Consultation with iwi and hapu	19
5.4	Good exploration and mining practice	20
5.5	Other matters to be considered by Minister	20
5.6	Permit survey requirements	21
5.7	Change to work programme conditions	21
5.8	Changes to other permit conditions	22
5.9	Extension or reduction of minerals to which permit relates	22
5.10	Extension of land to which permit relates	23
5.11	Transfers and other dealings	23

Part 6 **24**

Procedures for prospecting permits

6.1	Assessment of work programmes	24
6.2	General matters to be considered for assessment of work programmes	24
6.3	Extension of duration of prospecting permits	24

Part 7 **25**

Procedures for exploration permits

7.1	Assessment of work programmes	25
7.2	General matters to be considered for assessment of work programmes	25
7.3	Extension of duration of exploration permits	26
7.4	Extension of duration of an exploration permit to appraise a discovery	26

Part 8 **27**

Procedures for mining permits

8.1	Matters that may be considered by Minister	27
8.2	Unit development approval of work programme for subsequent mining permit	27
8.3	Evaluation of unit development scheme	27
8.4	Preparation of unit development scheme by Minister	28
8.5	Assessment of mining permit area	28

8.6	Application for subsequent mining permit over more than one exploration permit	28
8.7	When the duration of mining is less than 40 years	29
Part 9		30
Royalties		
9.1	Overview	30
9.2	Royalty regime	30
9.3	Specific rate royalty	30
9.4	Ad valorem royalty	30
9.5	When royalty and rate to be determined by Minister	31
9.6	Where the permit is for two or more minerals	31
9.7	Where royalty is payable	31
9.8	Payment of royalties	32
9.9	Net sales revenue	32
9.10	Point of valuation	33
9.11	Allocation of common costs and revenues	33
9.12	Arm's length value	34
9.13	Additional information and audit of royalty returns	34
Schedule 1: Definitions		35
Schedule 2: Land that is significant to iwi		38
Schedule 3: Procedures for competitive tender allocation		42
1	Reservation of land for possible competitive tender application	42
2	Determining whether to proceed with the competitive tender allocation	42
3	Procedures for processing cash bonus bids	42
4	Procedures for processing staged work programme bids	44
Schedule 4: Provisions relating to consultation with iwi and hapu		44
1	Principles	44
2	Notification of permit application	44
3	Notification of proposal to hold competitive tender allocation	44
4	Protocols for consultation with iwi and hapu	45
5	Form of consultation with iwi and hapu may be flexible	45
6	Report to Minister on consultation with iwi and hapu	45
Schedule 5: Drawings to illustrate clause 3.6(3)		46
Appendix 1: Principal reasons for and against adopting policies, procedures, and provisions included in minerals programme		58
Part 1	Principle reasons for and against policies in Part 2	58
Part 2	Summary of reasons for and against adopting allocation framework	59
Part 3	Summary reasons for and against adopting royalty regime	62
Appendix 2: Consultation with iwi and hapu on minerals programme		66
Appendix 3: Noting of Treaty Settlement Protocols in minerals programme		67

Part 1

About this minerals programme

1.1 Title

This minerals programme is the *Minerals Programme for Minerals (Excluding Petroleum) 2008* (known as the Minerals Programme 2008).

1.2 Commencement

This minerals programme comes into force on 1 February 2008.

Interpretation

1.3 Definitions

(1) In this minerals programme, unless the context otherwise requires,—

Act means the Crown Minerals Act 1991

Regulations means the Crown Minerals (Minerals and Coal) Regulations 2007 or any regulations made in substitution for those regulations.

(2) Other definitions for this minerals programme are set out in Schedule 1.

1.4 Definitions in Act or Regulations are also relevant

(1) This minerals programme is to be read together with the Act and the Regulations.

(2) Any term or expression that is defined in the Act or the Regulations and used, but not defined, in this minerals programme has the same meaning as in the Act or the Regulations, as the case may require.

1.5 Numbers

In this minerals programme, unless the context otherwise requires, words in the singular include the plural and words in the plural include the singular.

1.6 Status of examples

(1) An example used in this minerals programme is only illustrative of the provision to which it relates. It does not limit the provision.

(2) If an example and the provision to which it relates are inconsistent, the provision prevails.

Application of this minerals programme

1.7 Application of this minerals programme to applicants, permit holders, applications, and permits

(1) This minerals programme applies to every application for an initial permit that is received by the Secretary on or after the commencement date.

(2) This minerals programme also applies to a permit holder or an applicant for a permit—

(a) to whom a relevant minerals programme applies; and

(b) who desires that this entire minerals programme applies to the holder's permit or the applicant's application in place of the entire relevant minerals programme.

- (3) This minerals programme does not apply to a permit holder or an applicant for a permit—
 - (a) to whom a relevant minerals programme applies; and
 - (b) who desires that a provision or provisions of this mineral programme (but not the entire mineral programme) applies to the holder's permit or the applicant's application in place of the same provision or provisions in the relevant minerals programme.
- (4) In this clause, **relevant minerals programme** means either—
 - (a) the *Minerals Programme for Minerals other than coal or petroleum* dated October 1996; or
 - (b) the *Minerals Programme for Coal* dated October 1996.

1.8 Minerals covered by minerals programme

- (1) Except as otherwise expressly provided in this minerals programme, this minerals programme applies to prospecting for, exploration for, and the mining of, Crown owned minerals (excluding petroleum).
- (2) The policy is that permits for prospecting, exploration, and mining of uranium and thorium minerals (including, but not limited to, uraninite, torbenite, autinite, coffinite, uranophane, rutherfordite, tyuyamunite, thorite, thorianite and uranothorite) will ordinarily be declined.
- (3) Subject to subclause (4), a permit is not needed for prospecting for, exploration for, or mining of, any Crown owned sand, shingle, or other natural material in the bed of a river or lake or in the coastal marine area.
- (4) A permit is required for a metallic or non-metallic mineral that is a component of sand, shingle, or other natural material in the bed of a river or lake or in the coastal marine area.

1.9 Land excluded from permits

- (1) The land described in Schedule 2 is of particular importance to the mana of iwi and must not be included in a permit.
- (2) Other land that is not described in Schedule 2 and that is not available for prospecting, exploration, or mining because of a legislative requirement will be kept on a list by the Secretary, which will be available on request.

1.10 Gold fossicking areas

- (1) All Crown Land, except that recommended by the Minister (following consultation with iwi and hapu) as expressly unavailable as a gold fossicking area due to its particular importance to iwi or hapu, will ordinarily be considered for designation as a gold fossicking area.
- (2) Land where exploration or mining permits or existing privileges exist will not generally be considered as gold fossicking areas unless the holder of the permit or existing privilege, as the case may be, agrees to the designation.
- (3) In determining whether or not to support a request for land to be designated a gold fossicking area, the Minister will ordinarily consider (but is not limited to) the following matters:
 - (a) the level of interest in recreational gold fossicking in respect of the land being considered as a gold fossicking area:
 - (b) whether there are other gold fossicking areas in the general vicinity of the land:
 - (c) the level of commercial interest in prospecting, exploration or mining for minerals (other than petroleum) and whether designating a gold fossicking area would be in conflict or could negatively affect such interest:
 - (d) the geology of the area and whether the land has prospecting, exploration and mining potential:
 - (e) whether the land is unavailable for permitting:

- (f) if the land is unavailable for permitting, whether designating a gold fossicking area would or would not be in conflict with the reason for the land being unavailable for permitting;
- (g) any request or comment from iwi and hapu arising from consultation.

Treaty of Waitangi (Te Tiriti o Waitangi)

1.11 Treaty of Waitangi (Te Tiriti o Waitangi)

In order to recognise and respect the Crown's responsibility to have regard to the principles of the Treaty of Waitangi (Te Tiriti o Waitangi), as required by section 4 of the Act, this minerals programme does the following things:

- (a) provides that certain land that is of particular importance to iwi must not be included in a permit (*see* clause 1.9(1) and Schedule 2);
- (b) provides the matters on which the Minister and Secretary must consult iwi and hapu (*see* clauses 1.12 and 5.3);
- (c) sets out the principles and procedures relating to consultation with iwi and hapu (*see* Schedule 4);
- (d) has regard to the Treaty of Waitangi (Te Tiriti o Waitangi) in the key policy for this minerals programme (*see* clause 2.1).

1.12 Consultation with iwi and hapu

- (1) The Minister and Secretary will consult relevant iwi and hapu on the following matters:
 - (a) an application for a permit;
 - (b) an application to extend the minerals or land to which a permit relates;
 - (c) an application in respect of newly available acreage that the Minister is considering granting (*see* clause 3.5);
 - (d) a proposal to designate land for the possible allocation of permits by competitive tender;
 - (e) a proposal to designate gold fossicking areas.
- (2) Consultation with iwi and hapu that is required by this minerals programme must be carried out in accordance with the consultation principles set out in Part 1 of Schedule 4.
- (3) The special consultative procedures set out in Part 2 of Schedule 4 apply to consultation with iwi and hapu that is required by this minerals programme.

Part 2

Policies

2.1 Key policy

The key policy is to allow continuing investment in prospecting, exploration, and mining in a way that—

- (a) promotes good exploration and mining practice:
- (b) provides for the efficient allocation of permits:
- (c) provides for the Crown to obtain a fair financial return from its minerals:
- (d) has regard to the principles of the Treaty of Waitangi (Te Tiriti o Waitangi):
- (e) has regard to any relevant international obligations.

2.2 Continuing investment in the Crown mineral estate

The policies are as follows:

- (a) to promote the responsible discovery and development of New Zealand's mineral resources for energy, infrastructure, and regional economic development:
- (b) to ensure the allocation and royalty regimes are clearly outlined and easy to comply with and administer:
- (c) to provide allocation and royalty regimes that—
 - (i) do not impose unreasonable transaction costs; and
 - (ii) encourage investment:
- (d) to ensure that sovereign risk is minimised.

2.3 Efficient allocation of permits and the Crown to obtain fair financial return

The policies are as follows:

- (a) to ensure that prospecting, exploration, or mining permits are granted to the person who is most likely to effectively and efficiently prospect, explore, or mine:
- (b) if there is a prospect of competition for available land, to ensure that the Crown does not allocate an interest in the land without ensuring that it has maximised its actual or potential fair financial return from that part of the mineral estate:
- (c) to ensure that the Crown, as an owner of minerals, obtains a fair royalty payment in return for the extraction of its mineral resources:
- (d) to manage the allocation of minerals so that—
 - (i) permits are readily obtainable and tradeable; and
 - (ii) exploration of land to which a permit relates is progressed in a timely manner; and
 - (iii) land of good prospectivity is actively prospected, explored, or mined in accordance with permit obligations.

2.4 Overlapping permit applications

(1) The policies are as follows:

- (a) ordinarily to decline to grant a permit, or ordinarily to decline an application to extend the land to which a permit relates, as the case may be, for land that is already subject to a permit (excluding a non-exclusive permit) or to an existing privilege, unless—

- (i) the permit application is for a subsequent permit; or
 - (ii) the permit application, or the application to extend land to which a permit relates, is for a mineral that belongs to a different mineral group; or
 - (iii) the application is for a mining permit and the applicant is the holder of the existing privilege; or
 - (iv) the application is to extend land to which a mining permit relates and—
 - (A) the land that is to be added to the mining permit is already subject to a permit, or an existing privilege, but the permit or existing privilege is held by the applicant for the extension of land; and
 - (B) extending the land to which the mining permit relates is in accordance with the policy in clause 2.10(b); or
 - (v) the application is for a non-exclusive prospecting permit in respect of a common mineral and the application is made by a person other than the holder of the current permit.
- (b) ordinarily to decline to grant a permit application, or to decline to extend land to which a permit relates, as the case may be, for land that is already subject to an application for a permit (excluding a non-exclusive permit application) or an application to extend land to which a permit relates, unless—
- (i) equal priority applies (*see* clauses 3.2(4) and 3.6(3), and Part 4); or
 - (ii) the permit application, or application to extend land to which a permit relates, is for a mineral that belongs to a different mineral group.
- (2) This clause must be read in conjunction with section 30(8) of the Act.

2.5 Work programmes

The policies are as follows:

- (a) to require land to which a permit relates to be prospected, explored, or mined, in accordance with an appropriate work programme that has the objective of—
 - (i) in the case of prospecting—
 - (A) obtaining enough information to enable a commercially justifiable decision to be made regarding ongoing exploration investment in the land; or
 - (B) carrying out research; or
 - (C) undertaking investigations to determine an application in connection with a cash bonus bidding tender; or
 - (ii) in the case of exploration, identifying an inferred mineral resource or exploitable mineral deposit and evaluating the feasibility of mining particular mineral resources or mineral deposits; or
 - (iii) in the case of mining, extracting minerals through good mining practice:
- (b) to require work programmes to provide for prospecting, exploration, or mining over the full extent of the permit, unless there are reasonable grounds why this is impractical:
- (c) ordinarily to withhold approval of work programmes or modified work programmes, if the Minister is not satisfied with the ability of the applicant or his or her nominated agent or contractor to act in a technically competent manner and with reasonable diligence and prudence in undertaking the programme of work.

2.6 Granting permits

The policies are as follows:

- (a) ordinarily to grant a permit if the Minister is satisfied that—

- (i) there is an approved work programme or approved modified work programme:
 - (ii) the area of land applied for is appropriate and adequate to enable activities authorised by the permit to be carried out:
 - (iii) the proposed prospecting, exploration, or mining will result in increased knowledge or development of New Zealand's mineral resources.
- (b) ordinarily to decline to grant prospecting or exploration permits over broken areas of land, unless the applicant establishes to the satisfaction of the Minister that—
- (i) there are reasonable grounds for granting a permit over the broken area of land:
 - (ii) 1 work programme applies to all of the broken area of land.

2.7 Basis on which non-exclusive prospecting permits will be granted

The policy concerning the basis on which a non-exclusive prospecting permit will ordinarily be granted is that—

- (a) particular land is notified for allocation by competitive tender and, before the close of the tender, the Minister considers it is appropriate to provide for pre-bid minimum impact prospecting so that interested parties may better formulate a bid; or
- (b) a prospecting permit is sought to allow speculative surveys or investigations of mineral distribution in particular land and the applicant would not be materially disadvantaged if the permit is granted on a non-exclusive basis.

2.8 Prospecting permits

The policies are as follows:

- (a) ordinarily to decline to grant prospecting permits for coal:
- (b) in the case of other minerals, ordinarily to grant a prospecting permit (and any extension of duration) only if the application proposes to—
 - (i) utilize new or improved sampling, analytical, or survey techniques, including those providing higher resolution of data or enhanced detection levels; or
 - (ii) prospect for any mineral other than has been prospected for in part or all of the same permit area under any previous prospecting permit:
- (c) ordinarily to grant a prospecting permit (and any extension of permit duration) for the minimum period of time necessary to accomplish the work programme.

2.9 Exploration permits

The policy is ordinarily to grant an exploration permit if the Minister is satisfied that the objective of the exploration is—

- (a) to identify the inferred mineral resource or exploitable mineral deposit in the proposed permit area; or
- (b) to determine the feasibility of mining particular mineral resources.

2.10 Mining permits

The policies are as follows:

- (a) ordinarily to grant a mining permit if the Minister is satisfied that—
 - (i) the permit applicant has identified and delineated a mineable mineral resource or exploitable mineral deposit:
 - (ii) the area of the permit is appropriate:

- (iii) the objective of the mining permit is to economically deplete the mineable mineral resource or mineral deposit to the maximum extent practicable in accordance with good mining practice:
- (b) if the land to which a mining permit relates supports a current mining (producing) operation, ordinarily to extend the land of that permit if the Minister is satisfied that—
 - (i) the permit holder has identified and delineated an inferred mineral resource:
 - (ii) the inferred mineral resource is generally contiguous with the mineral resource to which the mining permit applies:
 - (iii) the area of the permit extension is appropriate:
 - (iv) extending the land will not be inconsistent with any or all of the matters considered under clause 5.10:
 - (v) the objective of extending the land is to economically deplete the mineral deposit to the maximum extent practicable in accordance with recognised good mining practice:
- (c) if paragraph (b) does not apply, ordinarily to extend the land to which a mining permit relates if the Minister is satisfied that—
 - (i) the permit holder has identified and delineated a mineable mineral resource or exploitable mineral deposit:
 - (ii) the mineable mineral resource or exploitable mineral deposit is generally contiguous with the mineral resource to which the mining permit applies:
 - (iii) the area of the permit extension is appropriate having regard to the considerations in clause 8.5:
 - (iv) extending the land will not be inconsistent with any or all of the matters considered under clause 5.10:
 - (v) the objective of extending the land is to economically deplete the mineral deposit to the maximum extent practicable in accordance with recognised good mining practice.

2.11 Special purpose mining permits

The policy is to grant a special purpose mining permit if the Minister is satisfied that—

- (a) the applicant seeks the mining permit to undertake mining operations for demonstrating historical methods of mining:
- (b) the area of the application is no greater than 5 hectares:
- (c) the applicant is an historical society, museum trust, or other similar party, including an educational institution.

2.12 Coal seam gas

The policies are that holders of mining permits for coal may—

- (a) incidentally extract, collect, release and vent coal seam gas (if it is necessary and reasonable to do so) in conjunction with the safe management of coal mining operations. However, the holders of mining permits for coal do not have a right to own, sell or trade coal seam gas:
- (b) if a mining permit for coal is subsequently overlapped by a petroleum permit for coal seam gas, avoid any potential operational interference by submitting annually to the Secretary a proposed 3 year exclusion zone/5 year extraction zone plan as part of the Annual Summary Report on Mining Activities. The Secretary will make the plan available to the holder of the overlapping permit for petroleum.

Part 3

Methods of allocating permits

Acceptable work programme offer

3.1 General information about acceptable work programme offer

- (1) The acceptable work programme offer allocation method provides for an application with an acceptable work programme to be considered, and applies to all available land in accordance with clause 3.3 but excludes newly available acreage.
- (2) A permit will ordinarily only be granted over land available for allocation if the applicant's work programme is acceptable to the Minister.
- (3) This method also provides for—
 - (a) holders of an existing privilege who apply for a mining permit before the expiry of the existing privilege to have priority over every other person to be granted a mining permit in respect of part or all of the land to which the existing privilege relates:
 - (b) a special purpose mining permit that enables historical mining methods to be demonstrated.
- (4) If the Secretary receives an acceptable work programme offer—
 - (a) before the hours of business, the application will be treated as having been received at 7.30am on that working day:
 - (b) after the hours of business, the application will be treated as having been received at 7.30am on the next working day.

3.2 Priority of acceptable work programme offer applications

- (1) A person who is first to make an acceptable work programme offer application for a defined area of land (in accordance with clause 3.3, but excluding newly available acreage) has first priority for a permit for that area of land.
- (2) If the Minister declines to grant a permit for an application that has first priority under subclause (1), or that application is withdrawn, the policy is that the land in question is again available for permitting under the acceptable work programme offer method.
- (3) Later acceptable work programme offer applications that are made over part, or all, of the same land will be treated as if they overlap an area not available for allocation (*see* clause 3.3), and the procedures in clause 3.4 apply.
- (4) Subclause (5) applies to the following applications that are received by the Secretary on the same working day and that are made in respect of part, or all, of the same land and any mineral that belongs to a common mineral group:
 - (a) 2 or more acceptable work programme offer applications for prospecting, exploration, or mining permits; or
 - (b) 2 or more applications to extend land to which a permit relates; or
 - (c) 1 or more acceptable work programme offer applications for a permit and 1 or more applications to extend land to which a permit relates.
- (5) Applications to which this subclause applies have equal priority and will be assessed in competition under Part 4.

3.3 Land covered by acceptable work programme offer applications

- (1) It is the policy that acceptable work programme offer applications will be considered over all land, excluding the following land:

- (a) except as expressly provided in subclause (2), land that is subject to a permit (excluding a non-exclusive permit and a petroleum permit) or existing privilege:
 - (b) land that is expressly excluded from inclusion in a permit by this minerals programme or by or under any enactment:
 - (c) land that is reserved for possible competitive tender allocation or competitive tender:
 - (d) land that is subject to a permit application that is not—
 - (i) an application for a non-exclusive permit; or
 - (ii) an application to which equal priority applies (*see* clause 3.2(4), and Part 4); or
 - (iii) an application (or application to extend land to which a permit relates) for a mineral that belongs to a different mineral group.
- (2) The exclusion in subclause (1)(a) does not apply to—
- (a) a permit application that is for a mineral that belongs to a different mineral group; or
 - (b) an application for a subsequent permit; or
 - (c) an application to extend land to which a mining permit relates if—
 - (i) the land that is to be added to the mining permit is already subject to a permit held by the applicant for the extension of land; and
 - (ii) extending the land to which the mining permit relates is in accordance with the policy in clause 2.10(b); or
 - (d) an application for a mining permit over part or all of the land that is subject to an existing privilege held by the applicant.

3.4 Overlapping acceptable work programme offer applications

- (1) The Minister will ordinarily decline to grant a permit for an acceptable work programme offer application, or an application to extend land to which a permit relates, and the applicant notified accordingly if—
- (a) an overlap exists between the land covered by the application and an area that is not available for allocation; and
 - (b) the application does not indicate that it is for a non-exclusive permit.
- (2) In order to reduce the chances of an acceptable work programme offer application being declined under subclause (1), the application may provide that the application excludes land that is subject to a permit, existing privileges, or a permit application that is pending determination (excluding an application for a non-exclusive permit).

Newly available acreage

3.5 General information about newly available acreage

- (1) Subject to subclauses 3.5(2), 3.5(6) and 3.9(2)(b), newly available acreage (**NAA**) means land that becomes available for permit applications when a permit for that land—
- (a) expires under section 35 of the Act (or its extension of duration expires under section 36 or section 37 of the Act); or
 - (b) is relinquished under section 37 of the Act; or
 - (c) is revoked under section 39 of the Act; or
 - (d) is surrendered under section 40 of the Act (except where the land surrendered is either in exchange for the granting of a subsequent permit, subject to an application to extend land to which a mining permit relates in accordance with clause 3.3(2)(c) of this

programme or where the permit becomes the property of the Minister under subsection (2) of section 40 of the Act).

- (2) If the Minister considers that the prospect of competition for land referred to in subclause (1) is not likely to be substantial—
 - (a) the Minister will ordinarily determine that the land will be allocated in accordance with the acceptable work programme offer method; and
 - (b) such land will not have NAA status.
- (3) NAA status of land—
 - (a) commences on the date and at the time when—
 - (i) the permit for that land expires; or
 - (ii) the surrender of the permit for that land takes effect; or
 - (iii) the revocation of the permit for that land takes effect; or
 - (iv) the relinquishment of the permit for that land takes effect; and
 - (b) ends at 4.30pm on the last working day of the 25 working day period which starts on the first working day after the day on which NAA status commenced.
- (4) Only 1 mineral group will be offered for 1 NAA.
- (5) An application in respect of NAA will only be considered over all or 1 part of 1 NAA.
- (6) Land that has become available for allocation as a result of the termination of a permit that authorised hobby or recreation operations (small suction dredges or beach sand mining) will ordinarily be allocated (in part or in whole) under the acceptable work programme offer allocation method for a permit.

3.6 Priority of applications for NAA

- (1) The policy is that an application for a permit in respect of NAA will only be processed according to the NAA method from the time that NAA status terminates.
- (2) If the Secretary receives only 1 permit application, or only 1 application to extend land to which a permit relates, for all of 1 NAA or 1 part of 1 NAA, the application will ordinarily be considered as if it were an acceptable work programme offer application.
- (3) The following applications that are received by the Secretary will be given equal priority and will be assessed as competing applications under Part 4:
 - (a) as illustrated by example in plan A1 in Schedule 5, 2 or more applications for a permit for—
 - (i) all of the same NAA; or
 - (ii) the same part of the same NAA:
 - (b) as illustrated by example in plan A2 in Schedule 5, 2 or more applications for a permit if—
 - (i) each application is for 1 part of the same NAA; and
 - (ii) each of those parts overlaps with each other:
 - (c) as illustrated by example in plan A3 in Schedule 5, 3 or more applications for a permit if—
 - (i) each application is for 1 part of the same NAA; and
 - (ii) paragraph (b)(ii) does not apply; and
 - (iii) each part overlaps with at least 1 other; and
 - (iv) the parts overlap to form 1 unbroken area:
 - (d) as illustrated by example in plan B1 in Schedule 5, 2 or more applications to extend

- land to which a permit relates if the land that is to be added by each application is—
- (i) all of the same NAA; or
 - (ii) the same part of the same NAA:
- (e) as illustrated by example in plan B2 in Schedule 5, 2 or more applications to extend land to which a permit relates if—
- (i) the land that is to be added by each application is 1 part of the same NAA; and
 - (ii) each of those parts overlaps with each other:
- (f) as illustrated by example in plan B3 in Schedule 5, 3 or more applications to extend land to which a permit relates if—
- (i) the land that is to be added by each application is 1 part of the same NAA; and
 - (ii) paragraph (e)(ii) does not apply; and
 - (iii) each part overlaps with at least 1 other; and
 - (iv) the parts overlap to form 1 unbroken area:
- (g) as illustrated by example in plan C1 in Schedule 5, 1 or more application(s) for a permit and 1 or more application(s) to extend land to which a permit relates if each application for a permit and each application to extend land is for—
- (i) all of the same NAA; or
 - (ii) the same part of the same NAA:
- (h) as illustrated by example in plan C2 in Schedule 5, 1 or more application(s) for a permit and 1 or more application(s) to extend land to which a permit relates if—
- (i) each application for a permit and each application to extend land is for 1 part of the same NAA; and
 - (ii) each of those parts overlaps with each other:
- (i) as illustrated by example in plan C3 in Schedule 5, 1 or more application(s) for a permit and 1 or more application(s) to extend land to which a permit relates if—
- (i) each application for a permit and each application to extend land is for 1 part of the same NAA; and
 - (ii) paragraph (h)(ii) does not apply; and
 - (iii) each part overlaps with at least 1 other; and
 - (iv) the parts overlap to form 1 unbroken area .

Non-exclusive prospecting permit application

3.7 General information about non-exclusive prospecting permit applications

This method involves a non-exclusive prospecting permit being granted over land available for allocation if the applicant's work programme is acceptable to the Minister.

3.8 Land covered by non-exclusive prospecting permit applications

Non-exclusive prospecting permit applications will be considered over all land that is not expressly excluded from a permit by this mineral programme or any enactment.

Competitive Tender Allocation

3.9 General information about competitive tender allocation

- (1) It is the policy that if the Minister considers there to be significant competitive interest for exploration or mining permits for minerals in a defined area of high prospectivity, the Minister may allocate permits by cash bonus bidding or staged work programme bidding.
- (2) Land in respect of which the Minister considers there may be merit in using competitive tender allocation may, from a specified date, be reserved by the Minister for possible competitive tender allocation during which period the following types of applications will ordinarily be declined:
 - (a) acceptable work programme offers, except:
 - (i) where the holder of an existing mining licence applies for a mining permit; or
 - (ii) those for non-exclusive prospecting permits:
 - (b) those in respect of NAA:
 - (c) those to extend the land to which a permit relates:
 - (d) those for special purpose mining permits.
- (3) If the Minister closes an area of land that includes a granted permit or existing privilege, the closure of the area of land will not restrict any right of the current permit or privilege holder to—
 - (a) conduct permit operations:
 - (b) exercise subsequent permit rights:
 - (c) extend the duration of the permit before the permit expires.
- (4) The procedures for reserving land for competitive tender allocation and for processing bids are set out in Schedule 3.
- (5) Bids for staged work programme of a permit block will be assessed according to the criteria set out in the public notice.

Part 4

Procedures for applications with equal priority

4.1 Notification of equal priority applications

- (1) If there are equal priority applications, the Secretary will advise each applicant that the applicant's application has equal priority with 1 or more other applications.
- (2) The Secretary may request each applicant to provide, within 5 working days, any information that may be needed to clarify their application, including—
 - (a) where, in the land to which the permit would relate, the applicant proposes to undertake the substance of the work programme and direct the bulk of expenditure; and
 - (b) the rationale for that work and expenditure.

4.2 Equal priority applications to be assessed in their entirety and in accordance with relevant criteria set out in this programme

If this minerals programme requires 2 or more applications to be given equal priority (or to be considered in competition), in determining whether or not to grant a permit, or to extend land to which a permit relates, as the case may be, the Minister will ordinarily assess each of the applications—

- (a) in their entirety; and
- (b) in accordance with the relevant criteria that—
 - (i) are set out in this Part and throughout the rest of this minerals programme; and
 - (ii) apply to each of the applications.

4.3 Equal priority prospecting permit applications

- (1) In assessing prospecting permit applications with equal priority,¹ the Minister will ordinarily consider (but is not limited to) any or all of the following matters:
 - (a) how appropriate and comprehensive each work programme is—
 - (i) to achieve the objective of identifying land that is likely to contain exploitable mineral deposits:
 - (ii) to add materially to the knowledge about the mineral or industrial rock and building stone or coal within the area of land:
 - (b) the merits of—
 - (i) where, on the land to which the permit application relates, it is proposed to undertake the substance of the work programme:
 - (ii) the proposed expenditure:
 - (iii) the proposed scheduling of prospecting activities and how the expenditure is to be allocated to those activities:
 - (iv) the rationale for that work and expenditure.
- (2) To avoid doubt, the matters referred to in subclause (1) are in addition to, and not in substitution for, other relevant criteria set out in this minerals programme.

¹ This includes an application to extend the land of a prospecting permit.

4.4 Equal priority exploration permit applications

- (1) In assessing exploration permit applications with equal priority,² the Minister will ordinarily consider (but is not limited to) any or all of the following matters:
 - (a) how appropriate and comprehensive each work programme is, given the geological knowledge of the area and any exploration results to date:
 - (b) the merits of—
 - (i) where, on the land to which the permit application relates, it is proposed to undertake the substance of the work programme:
 - (ii) the proposed expenditure:
 - (iii) the proposed scheduling of exploration activities and how the expenditure is to be allocated to those activities:
 - (iv) the rationale for that work and expenditure:
 - (c) the information-gathering potential of the proposed work:
 - (d) whether the work is to be committed, rather than to be contingent.
- (2) To avoid doubt, the matters referred to in subclause (1) are in addition to, and not in substitution for, other relevant criteria set out in this minerals programme.

4.5 Equal priority mining permit applications

- (1) In assessing mining permit applications with equal priority,³ the Minister will ordinarily consider (but is not limited to) the proposed scheduling of mining and the appropriateness of the proposed technical approach to the proposed works, having regard to the geology and the nature of the mineral resource.
- (2) To avoid doubt, the matters referred to in subclause (1) are in addition to, and not in substitution for, other relevant criteria set out in this minerals programme.

4.6 Equal priority exploration and mining permit applications

If an exploration permit application has equal priority with a mining permit application, the applicants' proposed work programmes will ordinarily be considered having regard to the proposed technical approach to the proposed works having regard to the geology and the nature of any mineral resource defined.

4.7 Prospecting permit application competing with exploration or mining permit applications

If a prospecting permit application has equal priority with either an exploration or mining permit application, it is the policy that the Minister will give priority to considering the exploration or mining permit application, on the basis that at the time the prospecting permit application is made, there exists substantial interest in exploring or mining the land to which the prospecting permit application relates.

² This includes an application to extend the land of an exploration permit.

³ This includes an application to extend the land of a mining permit.

Part 5

Procedures for all types of permits

5.1 Evaluation of permit applications

It is the policy that every application for a permit will be assessed in accordance with the relevant policies set out in Part 2.

5.2 Further information and amendments to application

- (1) An applicant may be required to—
 - (a) clarify an application; or
 - (b) provide further information; or
 - (c) provide a technical presentation.
- (2) If the Minister considers that the area of land to which a permit application relates is not justified or the Minister has any other concerns about that land, the Minister will ordinarily—
 - (a) notify the applicant, giving reasons;
 - (b) give the applicant a reasonable opportunity to respond;
 - (c) consider any such response.
- (3) A person who applies under the acceptable work programme offer method may, at any time before the application is substantively processed, apply to the Secretary to change:
 - (a) the land concerned;
 - (b) the minerals concerned;
 - (c) the applicant's identification and contact details.
- (4) If the Secretary considers that the amendment would substantively change the application, the Secretary will ordinarily decline the application to amend and process the application as originally submitted.

5.3 Consultation with iwi and hapu

- (1) The Minister will ordinarily ensure that iwi and hapu that he or she considers will or may be affected by any of the following things are consulted about those things:
 - (a) an application for a permit;
 - (b) an application to extend the land or minerals to which a permit relates;
 - (c) an application in respect of NAA that the Minister is considering granting;
 - (d) a proposal to designate land for the possible allocation of permits by competitive tender.
- (2) Iwi and hapu that are consulted under subclause (1) may, as the case may require, request—
 - (a) an amendment to the proposed competitive tender; or
 - (b) that land is excluded from a permit or competitive tender.
- (3) If, under subclause (2), iwi and hapu request that the Minister exclude land from a permit or competitive tender, the Minister will ordinarily consider the following matters:
 - (a) the particular importance of the land to the mana of iwi and hapu;
 - (b) whether the land is a known waahi tapu site;
 - (c) the uniqueness of the land (for example, whether the land is mahinga kai (food gathering area) or waka tauranga (a landing place of the ancestral canoes));
 - (d) whether the importance of the land to iwi and hapu has already been demonstrated (for

example, by Treaty claims or Treaty settlements resulting in a statutory acknowledgment or other redress instrument under settlement legislation):

- (e) any relevant Treaty claims or settlements:
 - (f) whether granting a permit over the land or the particular minerals would impede the progress of redress of any Treaty claims:
 - (g) any iwi management plans that specifically exclude the land from certain activities:
 - (h) the ownership of the land:
 - (i) whether the area is already protected under an enactment (for example, the Resource Management Act 1991, the Conservation Act 1987, or the Historic Places Act 1993):
 - (j) the size of the land and the value or potential value of the relevant mineral resources if the land is excluded.
- (4) Before determining an application or a competitive tender, it is the policy that the Minister will—
- (a) consider the report arising out of the consultation with iwi and hapu (see clause 6 of Schedule 4); and
 - (b) have regard to any Treaty claims that are before government or the Waitangi Tribunal which may have implications for the management of Crown owned minerals.
- (5) The Minister will ordinarily ensure that iwi and hapu consulted under subclause (1) are informed in writing of the Minister's decision concerning the permit application or the competitive tender, as the case may be.

5.4 Good exploration and mining practice

In determining whether a work programme or modified work programme meets good exploration and mining practice, the Minister will ordinarily consider (but is not limited to) any or all of the following matters:

- (a) that the methods of prospecting, exploration or mining proposed are suitable and will be technically effective and meaningful, given the objectives of the work programme, the geology of the area, and the results of previous prospecting, exploration or mining:
- (b) that prospecting and exploration activities are conducted in such a way as to ensure good quality objective data is obtained, which adds to the knowledge of the mineral resource:
- (c) that exploration activities, mine development and production operations are designed and conducted so as to maximise extraction of a saleable commodity and avoid sterilisation and waste, within technical and economic constraints:
- (d) that for mining, there is ongoing appraisal and definition of the geology and structure of the mineral deposit, in sufficient detail, in order to facilitate the most suitable mine development and production operations.

5.5 Other matters to be considered by Minister

- (1) In forming a view as to whether the applicant will comply with the conditions of, and give proper effect to the permit, the Minister will ordinarily consider (but is not limited to) any or all of the following matters:
- (a) the applicant's financial ability to carry out the proposed work programme and to pay monies owed to the Crown (in particular, royalties and the prescribed fees), and also the applicant's past fees payment history with the Secretary:
 - (b) the applicant's technical ability to carry out the proposed work, which may include any evidence of access to technical experts:

- (c) any evidence that the applicant will not obtain access to the land to which the permit application relates, or resource consents to the extent that proper effect would not be able to be given to any permit granted:
 - (d) other prospecting, exploration or mining activities, both in New Zealand and internationally, that the applicant (or any related company) has been involved with, to the extent that these activities reflect on the applicant's ability to comply with the conditions of the proposed permit and pay the prescribed fees.
- (2) If the Minister is aware of any factors that could contribute to the view that the applicant may not give proper effect to the permit, the Minister will ordinarily raise with the applicant the concerns held.

5.6 Permit survey requirements

About permit surveys required by the Minister under section 29 of the Act

- (1) In determining whether a survey is needed, the Minister may require the applicant for a permit, or an applicant to extend land to which a permit relates, to furnish the Minister with the advice of a surveyor chosen by the applicant who the Minister agrees is suitably qualified for this purpose that:
- (a) a survey is necessary, and the reasons for that recommendation; or
 - (b) a survey is not required because the land to which the permit application relates is already adequately defined.

When survey may not be required

- (2) A survey will ordinarily not be required if—
- (a) the application is for a prospecting or exploration permit⁴; or
 - (b) all of the land to which a mining permit application relates⁵ is already recognised as a whole parcel or parcels in either a certificate of title, other instrument of title lodged with the relevant District Land Registrar or a gazette notice; or
 - (c) the land to which a mining permit application relates is already adequately defined on existing survey plans approved (as to survey) by the Chief Surveyor or a qualified surveyor; or
 - (d) a plan of the land to which a mining permit application relates (or application for the extension or partial surrender of land to which a permit relates) is certified by a qualified surveyor as being sufficient for the purpose of clearly identifying the boundaries of the proposed permit (or amended permit).

When a survey may be required

- (3) A survey will ordinarily be required for mining permits if—
- (a) the grant of a mining permit, partial surrender of, or extension to the land to which a mining permit relates is likely to lead to new boundary alignments; or
 - (b) existing survey records are inadequate to define the land to which a permit application relates; or
 - (c) the proposed permit adjoins the land to which an unsurveyed mining permit or existing privilege relates; or
 - (d) subclause (2) does not apply.

5.7 Change to work programme conditions

When assessing an application to change a permit's work programme, the Minister—

⁴ This includes proposals to surrender part of or to extend the land of a prospecting or exploration permit.

⁵ This includes proposals to surrender part of or to extend the land of a mining permit.

- (a) will ordinarily consider whether the change would be inconsistent with the criteria on which the permit was granted; and
- (b) will ordinarily consider (but is not limited to) any or all of the following matters:
 - (i) prospecting, exploration, or mining, undertaken on the permit and the results:
 - (ii) whether the proposed change to the work programme will facilitate a more effective carrying out of activities under the permit:
 - (iii) whether the proposed change to the work programme is in accordance with good exploration or mining practice:
 - (iv) for prospecting and exploration permits, whether the proposed change to the work programme has the objective of identifying the inferred mineral resource in the permit area, or identifying mineral deposits or occurrences, or evaluating the feasibility of mining particular mineral resources or ore reserves, in a timely manner, and provides for prospecting or exploration over the full extent of the permit area:
 - (v) any previous changes to the permit work programme:
 - (vi) whether the proposed change is sought due to an inability to obtain an access arrangement under the Act or consents under any other enactment, provided that negligence or default on the permit holder's part has not caused or contributed to the inability to obtain the access arrangement or consents and the permit holder is making all reasonable efforts to progress the matter:
 - (vii) unavoidable delays in progressing prospecting, exploration or mining in accordance with the work programme due to any unforeseen natural or other disaster beyond the permit holder's control:
 - (viii) whether the permit holder is unable to progress work because there is a need for legal agreements to be in place and these have not been finalised, provided that negligence or default on the part of the permit holder has not caused or contributed to these agreements not being finalised and the permit holder is making all reasonable efforts to progress the matter:
 - (ix) whether an amendment to the work programme is necessary to give effect to the Minister's agreement to extend either the area of land covered by the permit or the duration of the permit or minerals to which a permit relates:
 - (x) whether the proposed amendment is sought due to the terms of an access arrangement under the Act not allowing for certain activities to be undertaken or affecting the timing of certain activities. In this matter any concerns about land access to undertake the activities that the Minister or Secretary had raised with the permit holder before granting the permit may be considered.

5.8 Changes to other permit conditions

In assessing an application to change permit conditions that are not work programme conditions, the Minister will ordinarily consider (but is not limited to) any or all of the following matters:

- (a) whether the imposition of a condition on the permit is affecting the commercial viability of activities related to the permit or the permit holder is experiencing unreasonable administrative or financial difficulties and the change is sought to alleviate these situations:
- (b) whether the permit holder desires that the policies, procedures, or provisions in a replacement minerals programme will apply to the holder's permit.

5.9 Extension or reduction of minerals to which permit relates

In considering whether to grant an application to extend or reduce the minerals to which a permit relates, the Minister will ordinarily consider (but is not limited to) any or all of the

following matters:

- (a) the merits of any geological evidence in support of the application:
- (b) how the permit holder proposes to prospect, explore or mine the additional mineral:
- (c) any impact the extension or reduction of minerals may have on the permit work programme obligations and other permit conditions:
- (d) any complementary applications made at the same time which seek a change to the conditions of the permit or the land to which the permit relates:
- (e) any request or comment from iwi and hapu arising from consultation.

5.10 Extension of land to which permit relates

In considering whether to grant an application to extend the land to which a permit relates, the Minister will ordinarily consider (but is not limited to) any or all of the following matters:

- (a) the results of prospecting, exploration or mining work undertaken on the permit up to the date of application:
- (b) the prospecting, exploration, or mining work that is to be undertaken over the additional land, and how this relates to that undertaken or planned under the existing permit:
- (c) whether extending the land to which the permit relates will enable the permit holder to more effectively prospect, explore, or mine:
- (d) any requests or comments from iwi and hapu arising from consultation:
- (e) any other complementary requests to change the permit.

5.11 Transfers and other dealings

- (1) In considering an application to consent to an agreement which will result in a new permit holder (be this by transfer of the permit or creation or transfer of operating interest in the permit), the Minister will ordinarily consider (but is not limited to) those matters set out in clause 5.5(1) and clause 5.5(2).
- (2) In considering an application to consent to an agreement affecting a permit (other than as provided in subclause (1)), the Minister will ordinarily consider (but is not limited to) any or all of the following matters:
 - (a) whether the agreement may affect the operations of the permit, bearing in mind the duty of the permit holder to comply with the conditions of, and give proper effect, to the permit:
 - (b) whether the agreement may affect the royalties that will be paid by the permit holder:
 - (c) whether the permit holder has applied to change the conditions of the permit or to change the granted permit in any other way, in conjunction with seeking the Minister's consent to an agreement affecting the permit.

Part 6

Procedures for prospecting permits

6.1 Assessment of work programmes

The Minister will ordinarily decline a proposed work programme for a prospecting permit application unless its minimum work commitment—

- (a) has, as its purpose, the identification of land likely to contain exploitable mineral deposits; and
- (b) will add materially to the knowledge about the minerals within the area and is appropriate to the size and term of the permit sought.

6.2 General matters to be considered for assessment of work programmes

In assessing the proposed work programme, the Minister will ordinarily consider (but is not limited to) any or all of the following matters:

- (a) the geology of the land that will be covered by the work programme:
- (b) any prospecting, exploration or mining previously carried out over all or part of that land. In considering previous prospecting, exploration, or mining, the Minister will ordinarily have regard to—
 - (i) how long ago the activities were undertaken:
 - (ii) the type and appropriateness of investigations undertaken:
 - (iii) the methods and analytical techniques that were used:
- (c) the existing knowledge of the mineral resources of the land:
- (d) the proposed prospecting activities, including the extent to which the programme proposes to utilize new or improved sampling, analytical or survey techniques:
- (e) the minimum level of expenditure indicated:
- (f) whether the proposed prospecting activities will investigate the full extent of the land to be covered by the permit:
- (g) the time the applicant estimates will be required to—
 - (i) undertake the proposed prospecting work; and
 - (ii) process and analyse the results.

6.3 Extension of duration of prospecting permits

In considering whether to grant an extension of duration of a prospecting permit, the Minister will ordinarily consider (but is not limited to) any or all of the following matters:

- (a) those matters the Minister considers are relevant as set out in clause 6.2:
- (b) the timing and appropriateness of the proposed technical approach, given prospecting results to date and the geology of the permit area:
- (c) whether the extension is being sought to enable the applicant to complete or extend a work programme already under way, and the Minister is satisfied that an extension is justified from a geological perspective:
- (d) any commitment to a significant increase in expenditure on prospecting over that for the original term of the permit.

Part 7

Procedures for exploration permits

7.1 Assessment of work programmes

- (1) The Minister will ordinarily decline a proposed work programme for an exploration permit application unless its minimum work commitment and technical approach has the objective of—
 - (a) identifying the inferred mineral resource or exploitable mineral deposit within the land to which the application relates; or
 - (b) determining the feasibility of mining particular mineral resources or ore reserves.
- (2) In the case of an exploration permit application for a hard rock metallic mineral or coal deposit, the Minister will ordinarily decline a proposed work programme for that application unless, in addition to the requirements of subclause (1), the proposed work programme includes (but is not limited to) all the following minimum work commitments:
 - (a) exploration targets for drilling and ranking to be finalised within 36 months of the commencement date of the proposed permit:
 - (b) staged minimum amounts of drilling and other exploration activities appropriate to assessing the scale and prospectivity of the identified exploration targets with staged increases in activities required to facilitate the delineation of an inferred mineral resource:
 - (c) undertakings for other appropriate exploration activities necessary to facilitate identification and assessment of the mineral resources within the land to which the application relates.

7.2 General matters to be considered for assessment of work programmes

In assessing a proposed work programme, the Minister will ordinarily consider (but is not limited to) any or all of the following matters:

- (a) the geology of the land to which the permit application relates, including whether the land contains defined exploration targets or is contiguous to defined exploration targets:
- (b) past prospecting, exploration or mining activities that may be relevant to the land covered by the permit application:
- (c) the technical approach to be taken when exploring the land to which the permit application relates and the stated objectives of the work programme:
- (d) whether the proposed exploration is in accordance with good exploration practice; provides for exploration over the full extent of the land to which the permit application relates, and; whether the proposed key exploration activities are contingent on activities that are considered to be prospecting in nature:
- (e) the timing and quantities of committed work, in particular drilling:
- (f) the time the applicant estimates is required to undertake both the committed and conditional exploration work proposed and to process and analyse the results:
- (g) the minimum exploration expenditure indicated for each stage, including the expectation of increased expenditure in line with more intensive exploration activities:
- (h) for a subsequent exploration permit, any extent to which the land to which the application relates is reduced to focus on specific identified exploration targets or a mineral deposit:
- (i) whether the proposed exploration work programme will enable a commercially justifiable decision to be made on the development of a particular mineral deposit at the expiry of the permit:

- (j) for exploration permit applications that have as an objective appraisal of an identified mineral deposit or discovery, the indicated nature, extent and physical characteristics of the mineral deposit, and the technical approach to better defining these characteristics.

7.3 Extension of duration of exploration permits

In considering whether a proposed programme of work will provide for the satisfactory exploration of the land in respect of which the extension of duration is sought, the Minister will ordinarily consider (but is not limited to) any or all of the following matters:

- (a) whether the proposed work programme has the objective of progressing an inferred mineral resource to mineable mineral resource status or evaluating the feasibility of mining a particular mineral resource:
- (b) whether the work proposed to be undertaken is appropriate to the area of land to which the permit relates. In this matter general exploration activities may be appropriate where at least one target has received significant exploration focus during the initial period of the permit and that target has been raised to inferred mineral resource status:
- (c) those matters the Minister considers are relevant as set out in clause 7.1:
- (d) the timing and appropriateness of the proposed work given exploration to date and the geology of the land to which the permit relates:
- (e) any commitment to an increase in both exploration and in expenditure on exploration over that for the original term of the permit.

7.4 Extension of duration of an exploration permit to appraise a discovery

- (1) In assessing the sufficiency of an appraisal work programme submitted with an application to extend the duration of an exploration permit, the Minister will ordinarily consider (but is not limited to) any or all of the following matters:
 - (a) the proposed appraisal work:
 - (b) whether the appraisal work proposed is necessary and sufficient to advance the discovery to an economically mineable mineral resource or exploitable mineral deposit:
 - (c) the proposed staging and timing of the appraisal work, including whether the work programme specifies decision points which will lead to the completion within the extension of duration of mine feasibility and technical studies for the development and mining of the discovery.
- (2) If the Minister is not satisfied that an appraisal work programme is necessary or sufficient to carry out any warranted appraisal work, the Minister will ordinarily—
 - (a) notify the applicant in writing, giving reasons; and
 - (b) give the applicant a reasonable opportunity to submit a modified appraisal work programme.
- (3) The Minister will ordinarily extend the duration of the appraisal extension if the permit holder satisfies the Minister that the appraisal work programme cannot be completed within the original timeframe and that the permit holder is taking all practicable steps to advance appraisal of the discovery.

Part 8

Procedures for mining permits

8.1 Matters that may be considered by Minister

In considering whether a mineral deposit has been sufficiently delineated to support the grant of a mining permit, or in assessing any proposed work programme⁶ (or modified work programme), the Minister will ordinarily consider (but is not limited to) any or all of the following matters:

- (a) the geology and occurrences of minerals within the land to which the mining permit application (or application for extension of duration) relates:
- (b) the applicant's knowledge of the geology and extent of the mineral resource proposed to be extracted:
- (c) estimates of mineable mineral resources that may include indicated and measured mineral resources, probable and proven reserves, and the accompanying documentation on input data, methodology, quality control and validation of the mineral resource estimate:
- (d) inferred mineral resources:
- (e) the applicant's mining feasibility studies, including proposed mining method, extraction schedules, processing, dilution and ore loss control, and geotechnical and mine design aspects of the proposed operation:
- (f) project economics, in particular the financial viability and technical constraints, and the proposed level of expenditure in relation to the scale and extent of operations proposed:
- (g) whether proposed mining operations are in accordance with good mining practice.

8.2 Unit development approval of work programme for subsequent mining permit

- (1) The Minister will ordinarily, on the basis set out in subclause (2), withhold approval of a proposed work programme for a subsequent mining permit until the Minister has considered the unit development scheme if—
 - (a) a mineral deposit extends over more than 1 permit:
 - (b) the Minister has served a notice of unit development:
 - (c) 1 exploration permit holder applies for a subsequent mining permit before a unit development scheme has been approved.
- (2) The basis for withholding of the approval is that the Minister is not reasonably able to determine whether or not the proposed work programme will avoid waste and unnecessary sterilisation of the deposit without assessment in the context of the unit development scheme.

8.3 Evaluation of unit development scheme

In evaluating a proposed unit development scheme, the Minister will ordinarily consider (but is not limited to) any or all of the following matters:

- (a) the matters set out in clause 8.1:
- (b) any approved work programme relating to any of the permit or existing privileges which are subject to the notice of unit development, or any work programmes submitted for approval and under consideration:
- (c) any conditions of the permits or existing privileges which are subject to the notice of unit development:

⁶ This includes any work programme required by the Minister in connection with an application for an extension of duration of a mining permit.

- (d) proposals or agreements entered into by the relevant permit or existing privilege holders concerning obligations, liabilities and entitlement to production:
- (e) whether exploration or prospecting work, with the aim of obtaining further information on the mineral resources of the area, or updating knowledge of the mineral deposit and reducing uncertainty as to the location and quality of the mineral, is proposed.

8.4 Preparation of unit development scheme by Minister

A unit development scheme that is prepared by the Minister will ordinarily provide for (but is not limited to) any or all of the following matters:

- (a) estimating each permit or existing privilege holder's production entitlement, by reference to the mineral resource and reserves in the land to which each affected permit or licence relates:
- (b) whether 1 permit or existing privilege holder has incurred or may incur greater exploration, appraisal and development costs, or will provide more facilities than the other permit or existing privilege holder:
- (c) effective mining of the mineral deposit in accordance with good exploration or mining practice with the objective of achieving the maximum recovery of the mineral within technical and economic constraints:
- (d) the production schedule for the mineral deposit:
- (e) each permit or existing privilege holder's liability for the costs of necessary mining operations:
- (f) each permit or existing privilege holder's obligations when undertaking mining operations:
- (g) the need for a unit operating agreement which provides for each permit or existing privilege holder's entitlement to the mineral obtained as a result of operations undertaken in accordance with the unit development scheme.

8.5 Assessment of mining permit area

- (1) In considering whether the land to which a permit application relates (or any extension of land to which a permit relates) is appropriate, the Minister will ordinarily consider (but is not limited to) the following matters:
 - (a) the delineation of the mineral resource:
 - (b) the proposed work programme and other relevant matters set out in clause 8.1:
 - (c) The extent to which the area of land under application covers the delineated mineral resource.
- (2) A mining permit (or any extension of land) will ordinarily be granted over an unbroken area unless the Minister considers special circumstances exist in relation to any such application.
- (3) The Minister will ordinarily decline a mining permit application if—
 - (a) the application is made for an area adjoining an existing permit held by the applicant or a related party:
 - (b) the Minister considers that it is being sought to avoid payment of royalty to the Crown:
 - (c) it would be more appropriate for the existing permit to be extended.

8.6 Application for subsequent mining permit over more than one exploration permit

Subject to section 32 of the Act, when the Minister has decided to permit mining in respect of land the subject of more than 1 exploration permit held by the applicant, it is the policy to ordinarily grant 1 mining permit, provided that those exploration permits relate to a common

mineable mineral resource and the land to which the mining permit relates is an unbroken area.

8.7 When the duration of mining is less than 40 years

If the Minister reasonably considers that the proposed mining of the mineral resources should take less than 40 years, or the mining proposal is in respect of hobby or recreation operations, then in determining the duration of a mining permit, he or she will ordinarily consider (but is not limited to) any or all of the following matters:

- (a) the estimated mineable mineral resources that may include indicated and measured mineral resources and reserves (probable and proven):
- (b) the proposed production schedule:
- (c) the timing of mine development:
- (d) the proposed commencement date for production:
- (e) any matters set out in clause 8.1 that in the opinion of the Minister are relevant.

Part 9 Royalties

9.1 Overview

- (1) This Part sets out the policies and provisions on which the conditions in a permit relating to the payment of royalties on minerals are based.
- (2) This Part does not apply to prospecting permits or exploration permits when production thereunder in the year in question is not greater than \$200,000 in value.
- (3) Except as otherwise expressly provided in this minerals programme, the permit holder must use accounting procedures that comply with GAAP in calculating royalties.

9.2 Royalty regime

The royalty regime comprises—

- (a) a specific rate royalty (**SRR**) for low value to weight or volume minerals; and
- (b) a tiered ad valorem royalty (**AVR**) for any of the following:
 - (i) precious metals (gold and silver) and platinum group elements (**PGE**):
 - (ii) minerals for which the Minister has set a tiered AVR under clause 9.5(1).

9.3 Specific rate royalty

- (1) SRR for specified minerals is set out in the following table:

Mineral	Rate per tonne sold (unless otherwise stated)
Aggregate and construction materials (including rock, sand, and gravel for roading, building, fill reclamation, and protection purposes)	\$0.10
Bentonite	\$0.80
Clay for brick and tiles	\$0.10
Clay for pottery	\$0.30
Coal (hard and semi-hard coking)	\$1.40
Coal (thermal and semi-soft coking)	\$0.80
Coal (lignite)	\$0.30
Decorative/dimension building stone	\$1.50
Decorative pebbles	\$0.30
Diatomite	\$1.50
Dolomite	\$0.20
Limestone for agriculture, cement, and industry	\$0.20
Marl	\$0.10
Peat	\$0.30 per cubic metre sold
Perlite	\$0.30
Pumice	\$0.10
Serpentinite	\$0.30
Silica sand for industry	\$0.30
Zeolite	\$1.50

- (2) From time to time, to maintain the real value of Crown receipts, the specific rates set out in subclause (1) may be adjusted to take into account changes to prices in line with the appropriate Producers Price Index (**PPI**) outputs index. Any such changes to the rates in subclause (1) will apply to holders of permits subject to the SRR regime from the date of adjustment.

9.4 Ad valorem royalty

AVR is tiered as follows:

- (a) 1% of annual net sales revenues from a permit for net sales revenues \$1.5 million or less:

- (b) 2% of annual net sales revenues from a permit for net sales revenues that exceed \$1.5 million.

9.5 When royalty and rate to be determined by Minister

- (1) An appropriate royalty and rate will be set by the Minister before the grant of a mining permit for—
 - (a) any mineral for which a royalty and rate is not set out in this Part:
 - (b) lignite extracted for the purpose of conversion to synthetic fuels, chemicals, or fertiliser:
 - (c) coal to be converted to product gas by in-situ gasification (underground coal gasification).
- (2) In considering the appropriate royalty and rate to set, the Minister will ordinarily consider (but is not limited to) the following matters:
 - (a) the estimated sales price:
 - (b) the market into which the material is to be supplied:
 - (c) national and international production and price trends:
 - (d) any comments that the applicant has to make.

9.6 Where the permit is for two or more minerals

Where a permit is the subject of 2 or more minerals that encompass both SRR and AVR, the royalty payable is to be calculated as an AVR, in accordance with clauses 9.4, 9.8 and 9.9, and based on the combined net sales revenues.

9.7 Where royalty is payable

- (1) A permit holder is liable for the calculation and payment of royalties to the Crown in respect of all minerals (whether in their natural state or combined or converted in any manner to form a mineral concentrate) taken from the land within the permit that are—
 - (a) sold; or
 - (b) gifted or exchanged or bartered or removed from the permit area without sale; or
 - (c) used in the production process (as a substitute for otherwise having to purchase minerals for this purpose); or
 - (d) unsold on the surrender, expiry or revocation of the permit, that is, inventory or unsold stocks of any mineral (excluding a mineral that has been extracted and returned to the land).
- (2) No royalty is payable by a permit holder if—
 - (a) SRR applies and—
 - (i) the royalty calculated as payable for a calendar year equates to less than \$2,000; or
 - (ii) the royalty calculated as payable averages less than \$167 per month if the royalty return period is less than a calendar year.
 - (b) AVR applies and—
 - (i) net sales revenues from a permit are less than \$200,000 for a calendar year, except where the permit is part of a **production unit**; or
 - (ii) net sales revenues from a permit average less than \$16,666 per month if the royalty return period is less than a calendar year, except where the permit is part of a production unit; or
 - (iii) the permit is part of a production unit and the combined net sales revenues of all permits and licences in the production unit are less than \$200,000 for a calendar

year; or average less than \$16,666 per month, if the royalty return period is less than a calendar year.

9.8 Payment of royalties

- (1) For every calendar year, a permit holder is liable to pay, either a specific rate royalty, or AVR on net sales revenues, except if clause 9.7(2) applies.
- (2) A permit holder is liable to pay a half year interim royalty payment if—
 - (a) the SRR calculated as payable from the total sales of minerals from the permit area exceeds \$5,000 for the first 6 months in a calendar year; or
 - (b) the AVR applies and net sales revenues exceeds \$500,000 for the first 6 months in a calendar year.
- (3) For interim royalty returns and where a permit is in force for only part of a calendar year, the applicable royalty rates will be applied on a pro rata basis.

9.9 Net sales revenue

- (1) Net sales revenues are the basis of calculating the AVR liability for a permit producing any precious metal, PGE, or mineral concentrate on which a royalty is payable. For any calendar year (other than the final reporting period that ends on the expiry, surrender or revocation of a permit), net sales revenues are the sum of gross sales (G), plus the value of any precious metal, PGE, or mineral concentrate not sold but on which royalty is payable (V), plus the value of any precious metal, PGE, or mineral concentrate used in the production process (P), minus any allowable netbacks (N) (or plus any net forwards), as defined in clauses 9.9(3) to 9.10(3)—

i.e. Net sales revenues = (G) + (V) + (P) ± (N).

- (2) For the royalty return prepared for the final reporting period, the fair value of closing inventory or unsold stocks of any precious metal, PGE, or mineral concentrate produced on which royalty is payable (F) must also be included in the calculation of net sales revenues—

i.e. Net sales revenues for the final royalty return = (G) + (V) + (P) + (F) ± (N).

- (3) The value of any precious metal, PGE, or mineral concentrate not sold but on which royalty is payable must be determined by multiplying the quantity of the precious metal, PGE, or mineral concentrate not sold by the average price of the same type of precious metal, PGE, or mineral concentrate sold at arm's length prices during the royalty return period.
- (4) If a permit expires or is surrendered or revoked, and any precious metal, PGE, or mineral concentrate has been produced and not sold, the fair value of closing inventory or stock unsold must be determined by the permit holder in consultation with the Secretary.
- (5) The permit holder may deduct the following as netbacks:
 - (a) direct costs of freight (transportation costs incurred to a party other than the permit holder) and transit insurance between the point of valuation and the point of sale:
 - (b) costs incurred by the permit holder in operating dedicated transportation facilities (including depreciation of fixed assets, insurance and maintenance, but not including interest charges) between the point of valuation and the point of sale:
 - (c) direct costs relating to storage and loading of the precious metal, PGE, or mineral concentrate on to ships, rail wagons, trucks or other forms of transport (beyond the point of valuation and outside the boundaries of the mining permit area but before the point of sale) incurred by a party other than the permit holder:
 - (d) costs incurred by the permit holder in operating dedicated storage facilities incurred by the permit holder (including maintenance, insurance, depreciation of fixed assets and land

rental or rates but not including interest charges) beyond the point of valuation and outside of the boundaries of the mining permit but before the point of sale:

- (e) costs incurred by the permit holder in operating dedicated facilities to load the precious metal, PGE, or mineral concentrate on to ships, rail wagons, trucks or other forms of transport (including depreciation of fixed assets, insurance and maintenance, but not including interest charges) beyond the point of valuation and outside of the boundaries of the mining permit but before the point of sale:
 - (f) processing costs incurred to a party other than the permit holder between the point of valuation and the point of sale⁷:
 - (g) the permit holder's share of costs incurred in operating transportation, storage and loading facilities shared between several permits or licences (including maintenance, insurance and depreciation of fixed assets, but not including interest charges) between the point of valuation and the point of sale.
- (6) If a permit holder's point of sale is to be upstream of any processing, refining, or concentrating of the extracted mineral, the Minister may define the point of valuation as the point of sale of the ore or similar before it is processed, refined, or concentrated, but only if the sale (of ore or similar) is an arm's length transaction.

9.10 Point of valuation

- (1) The point of valuation is expected to be the actual point of sale, and accordingly netbacks and net forwards will not generally arise or will not be significant.
- (2) The point of valuation for calculating net sales revenues—
 - (a) must be defined by the Minister, in consultation with the permit holder at the time of granting a mining permit:
 - (b) must be defined at a point in the mining operations where the precious metal, PGE, or mineral concentrate has attained a generally accepted saleable condition:
 - (c) will generally be defined at a point downstream of where the precious metal, PGE, or mineral concentrate has been extracted from its natural location within the area of a permit and has undergone subsequent processing to the first point where it is saleable.⁸
- (3) If a permit holder's point of sale is to be upstream of any processing, refining, or concentrating of the extracted mineral, the Minister will ordinarily define the point of valuation as the point of sale of the ore or similar before it is processed, refined, or concentrated, but only if the sale (of ore or similar) is an arm's length transaction.

9.11 Allocation of common costs and revenues

- (1) If a project extracts both Crown and privately owned PGE, the Secretary will reach agreement with the permit holder before the filing of the first royalty return concerning the allocation of common costs and revenues between the Crown owned PGE and that privately owned.
- (2) If several permits or licences are being worked together as a single project, the Minister will ordinarily reach agreement with the permit holder, before the filing of the first royalty return concerning the allocation of all common revenues and costs between the permits or licences.
- (3) If an amount expended by a permit holder falls under more than one category of deduction under this Part, no deduction or allowance may be made more than once in respect of any amount expended.

⁷ Where the permit holder does further processing beyond the point of valuation, an arm's length price will be estimated at the point of valuation and no netbacks will be claimable.

⁸ Where there is a saleable product, it should be possible to load the product on to a public transport permanent way and it should be possible to establish a free on board ('FOB') /free on receipt ('FOR') /free on arrival price for the product.

9.12 Arm's length value

- (1) If costs, prices, and revenues used in determining royalties liabilities are not the result of arm's length transactions, the arm's length value of costs, prices, and revenues used is the amount agreed between the permit holder and the Minister or, in the absence of agreement within such period as the Minister allows, is the amount that the Minister determines is the value.
- (2) In determining the arm's length value, the Minister will ordinarily consider (but is not limited to) the following matters:
 - (a) the average price of any precious metal, PGE, or mineral concentrate sold at arm's length by the permit holder during the reporting period:
 - (b) the grade of the precious metal, PGE, or mineral concentrate produced:
 - (c) prices paid to producers of a similar precious metal, PGE, or mineral concentrate elsewhere in arm's length transactions:
 - (d) the point of sale and point of valuation:
 - (e) the nature of the market for the precious metal, PGE, or mineral concentrate being sold or transferred or otherwise used, or the asset or service being purchased or acquired:
 - (f) the terms of relevant contracts or sales agreements and the quantities specified therein and any renegotiation or variation provisions:
 - (g) the state of the market at the time the prices in the contracts or sales purchase, employment, service agreements were set.
- (3) In determining arm's length value, the Minister may seek advice from experts but the Minister's decision is final.

9.13 Additional information and audit of royalty returns

If additional information regarding a royalty return is required, the Secretary may request such information be provided by the permit holder within 20 working days. The Secretary may also audit royalty returns or appoint someone else to do this audit.

Schedule 1 Definitions

In this minerals programme, unless the context otherwise requires,—

ad valorem royalty or **AVR** has the meaning set out in clause 9.4

coal (hard and semi-hard coking), for the purposes of calculating royalties under this minerals programme, means coal that exhibits 2 or more of the following properties:

- (a) Gross Calorific Value (Dry Ash Free) equal to or greater than 34 MJ/kg; or
- (b) Volatile Matter (Dry Ash Free) equal to or less than 39%; or
- (c) Crucible Swelling Number equal to or greater than 6.

coal (thermal and semi-soft coking), for the purpose of calculating royalties under this minerals programme, means coal that exhibits 2 or more of the following properties:

- (a) Gross Calorific Value (Dry Ash Free) less than 34 MJ/kg but equal to or greater than 28 MJ/kg ; or
- (b) Volatile Matter (Dry Ash Free) greater than 39% but less than 51%; or
- (c) Crucible Swelling Number less than 6.

coal (lignite), for the purposes of calculating royalties under this minerals programme, means coal that exhibits 2 or more of the following properties:

- (a) Gross Calorific Value (Dry Ash Free) less than 28 MJ/kg; or
- (b) Volatile Matter (Dry Ash Free) equal to or greater than 51%; or
- (c) Crucible Swelling Number equal to 0.

date of delivery means the actual date the precious metal, PGE, or mineral concentrate is physically delivered to the purchaser or the purchaser's agent as in FOB or FOR sales

date of sale means the date on which a sale is deemed to have occurred in accordance with GAAP, except for forward sales contracts and take or pay contracts, in which it means the date on which ownership is transferred to the purchaser or lender

enactment has the same meaning as in section 29 of the Interpretation Act 1999

existing privilege has the meaning set out in paragraphs (a), (b), (c) and (e) of the definition of existing privilege set out in section 106 of the Act

forward sales contract means a contract to sell production from a mining permit at a future date. Forward sales contracts include contracts without a specified price or fixed date of delivery e.g. spot deferred contract

futures contract has the same meaning as in the Income Tax Act 2004

GAAP means generally accepted accounting practice (as defined in section 2 of the Financial Reporting Act 1993)

gold loan means a debt financing structure involving a bullion bank lending gold to a gold producer in the form of a metal account from which the producer draws down to sell on a spot or forward basis in order to finance a mining operation. The gold producer redelivers to the bullion bank the quantity of gold advanced in accordance with the agreed schedule of delivery and pays gold fees to the bullion bank in either gold or money

gross sales means the total sales of any precious metal or PGE or mineral concentrate in a calendar year, determined in accordance with GAAP (exclusive of GST), always provided that:

- (a) Except for gold and silver, if a forward sales contract or a take or pay contract applies, then the sale of the mineral or mineral concentrate must be included in gross sales at the date of delivery, and the sale price will be that received under the forward sales contract or under the default provisions of the take or pay contract:

- (b) For gold and silver, if a forward sales contract applies or if gold bullion is used to repay a gold loan, then the sale price to be included in gross sales will be calculated at the prevailing spot price of gold or silver as determined by the London PM fix on the preceding date of delivery:
- (c) If any of the sale prices have been denominated in a foreign currency, the exchange rate to be used for calculating the sale price will be the lower of the exchange rate actually received or the buy rate on the date of sale set by a major New Zealand trading bank:
- (d) If any gross sale amount has not been determined on a fully arm's length basis (for example, pursuant to a contract between related parties), then the precious metal or PGE or mineral concentrate must be valued by the permit holder using an arm's length value, as approved by the Minister in accordance with clause 9.12:
- (e) In determining gross sales, foreign currency losses and gains, and losses, gains, and costs associated with futures contracts used for hedging or other purposes, must not be included. Payments received in respect of the default provisions of a take or pay contract, which are not recompensed with delivery of the precious metal, PGE, or mineral concentrate at a later date before the expiry of the permit also must not be included in determining gross sales

hobby or recreation operations means for small scale suction dredging operations where the suction dredge has a engine rating no higher than 5 horse power, and for beach sand mining operations that are limited to hand tools and riffle box

hours of business means 7.30am to 4.30pm on any working day

mineral group means a particular mineral group either metallic minerals, non-metallic minerals, coal, or industrial rocks and building stones

netback or **net forwards** means that portion of the sale price that represents the cost of transporting and/or storing and/or processing the precious metal, PGE, or mineral concentrate between the point of valuation (refer clause 9.10) and the point of sale. If the point of sale of the precious metal, PGE, or mineral concentrate is downstream from the point of valuation, netbacks should be deducted from gross sales to arrive at net sales revenues. If the point of sale is upstream from the point of valuation, the net forwards incurred between the point of sale and the point of valuation should be added to gross sales to arrive at net sales revenues

net sales revenues has the meaning expressed, and is determined, in accordance with clauses 9.9 and 9.10

"Producers Price Index (PPI) means, in relation to a particular mineral or mineral commodity, the PPI output index in respect of that mineral or mineral commodity published by Statistics New Zealand and applicable to the period concerned

production unit means a mining project that comprises two or more permits or a permit and one or more existing privileges held by the permit holder, where the permit and licence are being worked together as a single project and this can be clearly established, for example, there is common ownership

related parties means—

- (a) entities that directly or through one or more intermediaries, exercise control, or are controlled by, or are under common control of the permit holder; and similarly the corresponding set of entities when the relationship is based on significant influence. (Included are holding companies, subsidiaries and associates and fellow subsidiaries and associates, joint ventures and other contractual arrangements):
- (b) individuals and their close family members or controlled trusts owning directly or indirectly, an interest in the voting power of the permit holder that gives them significant influence over that entity. (Close members of the family of an individual are those that may be expected to influence or be influenced by that person in their dealings with an entity):
- (c) key management personnel, that is those persons having authority and responsibility for planning, directing and controlling the activities of the permit holder including directors

and officers of companies and close members of the families of such individuals:

- (d) entities in which a substantial interest in the voting power is owned, directly or indirectly, by any person described in (b) or (c) over which such a person is able to exercise significant influence. This includes entities owned by directors or major shareholders of the permit holder and entities that have a member of key management in common with the permit holder

relinquish means the process by which an area of permit land is excluded from the permit concerned by the operation of section 37(1) or (2) of the Act

sovereign risk means the risk that the Government may change significant aspects of its policy and investment regime

specific rate royalty means a royalty in respect of the quantity of minerals sold from a permit determined in accordance with clause 9.3

take or pay contract means a contract between a producer and a purchaser whereby a purchaser agrees to take or pay for a minimum quantity of product per year whether or not the purchaser takes delivery of the product. Usually, any product paid for but not taken in a particular period may be taken at some later time subject to limitations

three-year exclusion zone/five year extraction zone means an area determined by a realistic annual work plan showing the location of mining proposed under a mining permit over the next 5 consecutive years. The plan will designate a '3 year exclusion zone' and also planned coal extraction for years 4 and 5

Treaty means the Treaty of Waitangi.

Schedule 2

Land that is significant to iwi

The following land is of particular significance to the mana of iwi and must not be included in a permit:

- (a) Crown land in the Muriwai-Moehau-Waioro blocks, containing 4480 hectares more or less, being sections 2; 9; 12; 37; 38; 39; 40; and Lot 2 DPS 2021; Block I, Colville Survey District: sections 12; 25; and 26; Block II, Colville Survey District: sections 4; 6; 8; 9; and 10; Block I, Moehau Survey District: that part of section 8, Block II, Moehau Survey District, lying to the north of Part Moehau 1P and west of a straight line drawn at an angle of 34 degrees west of true north, commencing from a point on the northern boundary of the said Part Moehau 1P, 1000 metres from its north-eastern corner, and finishing on the common boundary between the aforementioned section 8 and section 42, Block II Colville Survey District; that part of section 8, Block II, Moehau Survey District, lying to the south-east of Part Moehau 1P and south of a straight line drawn in a generally south-easterly direction between a point on the eastern boundary of Part Moehau 1P, 1000 metres from its north-eastern corner, and a corner on the eastern boundary of section 19, Block I, Harataunga Survey District, identified on SO 26188 as "XXXIII"; section 9; Block II, Moehau Survey District: part of Part Moehau 1P, lying to the south-east of a straight line drawn between points on the northern and eastern boundaries, 1000 metres from the north-eastern corner of Part Moehau 1P; and section 8, Block IV, Moehau Survey District.

The Moehau Range, at the northern tip of the Coromandel Peninsula, is a place of historical and spiritual significance for the Marutuahu tribes of Pare-Hauraki and other iwi who have spiritual and historical associations with Moehau.

- (b) Mokoia Island, Lake Rotorua, containing 135.165 hectares (334 acres) more or less being Mokoia Island situated in Blocks IX, XIII and XIV Rotoiti Survey District.

Mokoia Island is the symbolic and geographic centre of the Te Arawa iwi, and of particular importance to the mana of the Ngati Whakaue, Ngati Rangiwewehi, Ngati Rangiteaorere and Ngati Uenukukopaku being the four hapu who inhabit lands surrounding Lake Rotorua or have inhabited the island in the past.

- (c) The area of the Hinehopu, Lake Rotoiti, and Lake Okataina Scenic Reserves, containing 5014.5879 hectares more or less, specifically:
- (i) Lake Rotoiti Scenic Reserve containing 451.3874 hectares more or less being Parts Lot 2 DP 11082, Part Rotoiti Block and Part Te Tautara Block, Section 1 SO 56544, Parts Rotoiti 1, 2, 3W, 4, 5A, 5B, 6 and 7A Blocks, Part Rotoiti 3G Block, Rotoiti 3H, 3I and 3J Blocks, Parts Kuharua Block, Part Kuharua 1B Block, Part Te Taheke 2B Block, Te Taheke 7 Block (Oremu), Taheke Papakainga 5B Block, Lot 6 DPS 31392, Parts Paehinahina 2 Block, Part Paehinahina 1 and 3 Blocks, Part Waione 3B Block, Motumauri and Pateko Islands situated in Blocks VII, VIII, X, XI and XII Rotoiti Survey District and Blocks V and IX Rotoma Survey District:
- (ii) Lake Okataina Scenic Reserve containing 4416.1397 hectares more or less being Parts Rotoiti 14 Block, Part Okataina 4 and 5 Blocks, Parts Okataina 3, 6B, 7 and 8 Blocks, Okataina 12 Block, Section 1A Block XVI Rotoiti Survey District and Sections 6, 7 and 8 Block XVI Rotoiti Survey District situated in Blocks XI, XII, XV and XVI Rotoiti Survey District and Blocks III, IV and VIII Tarawera Survey District:
- (iii) Hinehopu Scenic Reserve containing 50.9112 hectares more or less being Parts Rotoiti 6 and 7 Block and Part Te Tautara Block situated in Block IX Rotoma Survey District:
- (iv) Waione Block Scenic Reserve containing 74.7552 hectares more or less being Parts Waione C Block and Sections 2, 3 and 4 Block XVI Rotoiti Survey District situated in Blocks XII and XVI Rotoiti Survey District:
- (v) Okere Falls Scenic Reserve containing 19.2372 hectares more or less being Sections 7, 8 and Part Section 9 Block VI Rotoiti Survey District:

- (vi) Te Akau Road Recreation Reserve containing 2.1662 hectares more or less being Part Lot 1 DP 16449 situated in Block XI Rotoiti Survey District.

The Ngati Pikiao and Ngati Tarawhai gifted the land of the reserves to the people of New Zealand in 1921 as a gesture of goodwill so that the scenic beauty of the land could be enjoyed by all. The reserves include battle sites, sites of special trees (including Rakau o Hinehopu on the Whakatane-Rotorua State Highway) and many other waahi tapu (of special and/or sacred importance) sites, including urupa, rock carvings and former pa. The maintenance of the scenic values and the protection of the historical and spiritual sites of the reserves is highly important to the mana of the Ngati Pikiao and Ngati Tarawhai.

- (d) The areas of land known as Rotoiti 3W3-6 and Rotoiti 13D2 containing 109.6468 hectares more or less, specifically:
- (i) Rotoiti 3W3-6 Blocks containing 81.6059 hectares more or less being Rotoiti 3W3, 3W4, 3W5A, 3W5B, 3W5C, Part 3W5 (Roadway) and 3W6 Blocks situated in Block VII Rotoiti Survey District:
 - (ii) Former Rotoiti 13D2 Block containing 28.0409 hectares more or less being Lots 1 to 28 DPS 4171, Lot 1 DPS 4848 and Lots 1, 2, 3 and 4 DPS 11099 situated in Block IX Rotoma Survey District:
- (e) Mt Taranaki and the Pouakai, Pukeiti and Kaitake Ranges as defined by the area of the Egmont National Park, where the land (surface and subsurface) is above sea level, containing 33899.4419 hectares, more or less, being:

Sections 54, 55 and 68 and Part Section 63 Block IV Kaupokonui Survey District:

Part Section 3 Block XV Cape Survey District:

Part Lots 1B and 1C DP 2309:

Section 1 SO 13356:

Lot 1 DP 10401:

Section 8 Block XI Egmont Survey District:

Section 38 Block VII Egmont Survey District:

Lot 1 DP 10394, Lot 1 DP 11816, Lot 1 DP 8824, Lot 2 DP 8649, Lot 2 DP 7882:

Sections 3, 4, 6, 7, 9, 10, 14, 15 and 20 Block VII Cape Survey District:

Sections 14, 16 and 18 Block XI Cape Survey District:

Section 19 Block V Egmont Survey District:

Sections 1, 2, 3, 11, 12, 13, 14, 15, 16, 17 and 18 Block V Egmont Survey District:

Parts Sections 169 and 170 Oakura District:

Lot 1 DP 13511, Lot 1 DP 15932, Lots 1, 2, 3 and 4 DP 13397:

Subdivisions 3, 4 and 5 of Section 170 Oakura District:

Part Subdivisions 1, 2, 6, 7, 8, 9 and 10 of Section 170 Oakura District:

Section 174 Oakura District:

Part Section 49 Oakura District:

Part Section 134 Omata District:

Sections 6, 7 and 8 Block II Kaupokonui Survey District:

Part Section 2 Block XIV Egmont Survey District:

Lot 1 DP 13427:

Crown Land situated in Blocks V, VI, VII, IX, X, XI, XIII, XIV and XV Egmont Survey District; Blocks XI and XV Cape Survey District; Block IV Opunake Survey District and Blocks I, II, III, V, VI and VII Kaupokonui Survey District.

Mt Taranaki and the Pouakai, Pukeiti and Kaitake Ranges are a fundamental source of tribal identity and mana for the iwi of Taranaki. The iwi of Taranaki consider Mt Taranaki and its associated ranges to be a tipuna (ancestor). The area is regarded as a waahi tapu (of special and/or sacred importance).

- (f) The Titi Islands, which include all Crown Titi Islands and all Beneficial Islands, are unavailable for inclusion in any mineral permit where the land (surface and subsurface) is

above sea level. These islands are a fundamental source of tribal identity and mana for Ngai Tahu and regarded as wahi tapu, The Titi Islands are located in the Southland Land District and are described as follows:

Beneficial Islands:

- (i) Owen Island or Horomamae Island, comprising 35.2 hectares, more or less, as shown on SO 10461:
- (ii) Wharepuitaha Island, comprising 18.2 hectares, more or less, as shown on SO 10461:
- (iii) Kaihuka Island, comprising 10.0 hectares, more or less, as shown on SO 10461:
- (iv) Potuatua Island, comprising 1.3 hectares, more or less, as shown on SO 10461:
- (v) Pomatakiarehua Island, comprising 2.9 hectares, more or less, as shown on SO 10461:
- (vi) Tia Island or Entrance Island, comprising 20.6 hectares, more or less, as shown on SO 10461:
- (vii) Taukihepa Island or Big South Cape Island, comprising 910.0 hectares, more or less, as shown on SO 10461:
- (viii) Rerewhakaupoko Island or Solomon Island, comprising 27.8 hectares, more or less, as shown on SO 10461:
- (ix) Mokonui Island or Big Moggy Island, comprising 99.5 hectares, more or less, as shown on SO 10461:
- (x) Mokoiti Island or Little Moggy Island, comprising 10.1 hectares, more or less, as shown on SO 10461:
- (xi) Timore Island or Chimneys Island, comprising 5.7 hectares, more or less, as shown on SO 10461:
- (xii) Kaimohu Island, comprising 10.8 hectares, more or less, as shown on SO 10461:
- (xiii) Huirapa Island, comprising 4.4 hectares, more or less, as shown on SO 10461:
- (xiv) Tamaitemioka Island, comprising 14.0 hectares, more or less, as shown on SO 10461:
- (xv) Pohowaitai Island, comprising 38.0 hectares, more or less, as shown on SO 10461:
- (xvi) Herekopare Island or Te Marama Island, comprising 24.1 hectares, more or less, as shown on SO 10461:
- (xvii) Pikomamaku Island or Womens Island, comprising 8.2 hectares, more or less, as shown on SO 10461:
- (xviii) Poutama Island, comprising 37.5 hectares, more or less, as shown on SO 10461.

Crown Titi Islands:

- (i) Motonui Island or Edwards Island, comprising 46.9 hectares, more or less, being Section 15 SO 12215:
- (ii) Jacky Lee Island, comprising 30.7 hectares, more or less, being Section 16 SO 12215:
- (iii) Bunker Islets, comprising 10.7 hectares, more or less, being Section 17 SO 12215:
- (iv) Pihore Island, comprising 1.4 hectares, more or less, being Section 14 SO 12215:
- (v) Weka Island, comprising 8.1 hectares, more or less, being Section 11 SO 12215:
- (vi) Rukawahakura Island, comprising 23.3 hectares, more or less, being Section 12 SO 12215:
- (vii) Takawiwini Island, comprising 1.5 hectares, more or less, being Section 13 SO 12215:
- (viii) Kopeka Island, comprising 1.8 hectares, more or less, being Section 10 SO 12215:
- (ix) The Brothers, comprising 4.6 hectares, more or less, being Section 9 SO 12215:
- (x) Ernest Island, comprising 16.7 hectares, more or less, being Section 7 SO 12215:
- (xi) Kaninihi Island, comprising 2.6 hectares, more or less, being Section 8 SO 12215:
- (xii) Putauhinu Island, comprising 149.9 hectares, more or less, being Section 5 SO 12215:
- (xiii) Pukeweka Island, comprising 3.2 hectares, more or less, being Section 6 SO 12215:
- (xiv) Big Island, comprising 23.6 hectares, more or less, being Section 4 SO 12215:
- (xv) Betsy Island, comprising 6.3 hectares, more or less, being Section 2 SO 12215:

- (xvi) Kundy or North Island, comprising 23.0 hectares, more or less, being Section 1 SO 12215:
 - (xvii) Rat Island, comprising 13.1 hectares, more or less, being Section 3 SO 12215:
 - (xviii) Pikomamakau-iti Island or North Island, comprising 8.3 hectares, more or less, being Section 1 SO 12215.
- (g) Crown land comprising the Pupu (Waikoropupu) Springs Scenic Reserve, containing 25.6963 hectares more or less, being sections 301 and 302, Parts Lot 1 DP 6769, section 1 SO 13886, and Lot 1 DP 11091, situated in Blocks V and IX Waitapu Survey District.

Pupu Springs is a place of historical and spiritual importance to Manawhenua ki Mohua and is regarded as waahi tapu.

Schedule 3

Procedures for competitive tender allocation

1 Reservation of land for possible competitive tender allocation

- (1) The Minister will ordinarily give notice in such publications as the Minister considers appropriate, of every decision to close an area of land to allow for a possible competitive tender.
- (2) The notice of closure must state the Minister's intentions to consider the area of land for the competitive tender allocation of permits by staged work programme or cash bonus bidding, and will include the following information:
 - (a) a map and legal description of the area of land which is to be closed:
 - (b) the duration of the closure of the area of land to permit applications which will be for a sufficient period of time to allow for:
 - (i) the investigative stage during which it will be confirmed whether or not the competitive tender will proceed:
 - (ii) the competitive tender, if it is determined that this will proceed:
 - (iii) processing of bid applications.
 - (c) advice as to whether the possible competitive bid will be for minerals exploration or mining permits:
 - (d) advice as to where further information can be obtained.

2 Determining whether to proceed with the competitive tender allocation

- (1) Following the publication of the notice of closure of an area of land, an investigation will be carried out to determine whether or not a competitive tender should be held. This investigation will include the following:
 - (a) a technical evaluation of the area of the competitive tender. The Minister will ordinarily be satisfied that there is adequate information on the mineral potential or mineral resources of the area, to support a competitive tender of either exploration or mining permits. A technical or data package to promote the competitive tender may be prepared:
 - (b) consultation with iwi and hapu concerning the proposal to hold a competitive tender allocation of permits:
 - (c) an evaluation of the likely interest in a competitive tender, which may include calling for expressions of interest in a possible tender by staged work programme or cash bonus bidding.
- (2) This investigation should be completed within 6 months. If the Minister decides that a competitive tender will not proceed, the notice of closure of the area will be cancelled. If the Minister decides to proceed with a competitive tender, a notice of the tender will be published advising this. Any such notice will be given in the same publications as the original notice of closure.
- (3) The notice of closure of an area of land to permits will continue if a competitive tender is undertaken, until the final date for receipt of staged work programme or cash bonus bids, and for a further period of time to allow for processing of bids. If necessary, the Minister may extend the duration of the notice.

3 Procedures for processing cash bonus bids

- (1) All cash bid deposits (which are received with bids) will be deposited in a trust account in accordance with Part VII of the Public Finance Act 1989. For unsuccessful or withdrawn bids, the deposit plus any interest accrued will be returned to the applicant within 15 working days from the decision or withdrawal, as the case may be. For successful bids, the interest will be paid to the Crown Bank Account.
- (2) At a nominated time, all bids received will be opened by at least 2 people, 1 of whom is a government official designated by the Secretary and 1 of whom is a Justice of the Peace. Receipt of every bid will be acknowledged promptly.
- (3) If more than 1 bidding party submits equal highest bids for a permit block, the Minister will ordinarily—

- (a) defer a decision on granting the permit:
 - (b) request the equal highest bidders to modify their original bids:
 - (c) as soon as practicable after receiving the modified bids referred to in subclause (b), make a decision on whether to grant a permit in accordance with this clause.
- (4) Any successful bidder will be formally advised in writing within 10 working days, except as provided for in subclause (3).
 - (5) Any person lodging a cash bonus bid for a permit block will be deemed to have accepted the conditions of permit grant as specified in the Cash Bonus Bidding Tender Notice. Before any permit is granted, the successful bidder must formally accept the conditions of grant by forwarding any outstanding cash bid payment owing within 5 working days of advice to do so. Failure to pay the outstanding amount will result in disqualification of the bid and forfeiture of the deposit (which will be paid to the Crown Bank Account together with any interest accrued). This period of time may be extended, upon written application, if the Minister considers that there are good reasons for doing so.
 - (6) If the successful bidder chooses not to accept the offer to grant a permit, or does not forward any outstanding bid payment owing within 5 working days, the Minister's decision to award the permit will lapse and the deposit will be forfeited. The Minister will ordinarily then choose to approach the next highest acceptable bidder. For a subsequent bid to become acceptable for processing, it needs to be validated by the lodging of a deposit within 10 working days from the Minister notifying the bidder that the bidder's application will be assessed as the highest cash bonus bid.

4 Procedures for processing staged work programme bids

- (1) At a nominated time, all bids received will be opened by at least 2 people, 1 of whom is a government official designated by the Secretary and 1 of whom is a Justice of the Peace. Receipt of every bid will be acknowledged promptly.
- (2) Processing of staged work programme bids will usually be completed within three months of the closing of applications. Applicants will be advised if processing will take longer than this.
- (3) If there is only 1 application for a block and its work programme is considered insufficient, the applicant may be requested to modify the proposed work programme, if to do so would generally be in the interest of ensuring continuing mineral exploration in New Zealand. Otherwise the application will be declined.
- (4) Applicants will not be allowed to modify or improve a bid once it is submitted unless no acceptable bids are received for a block.
- (5) The Minister will ordinarily advise all bidders for that block referred to in subclause (4) of the position and invite them to resubmit modified bids within a specified timeframe.
- (6) Once a permit has been granted, all applicants will be advised in writing of the outcome of their application.
- (7) Except as provided for in subclause (5), if there is not an acceptable bid the Minister will ordinarily decline all bids.

Schedule 4

Provisions relating to consultation with iwi and hapu

Part 1 Consultation principles

1 Principles

Consultation under this minerals programme must be undertaken in accordance with the following principles:

- (a) that the Crown will act reasonably and in utmost good faith to its Treaty partner:
- (b) that the Crown will make informed decisions:
- (c) that the Crown will consider whether a decision will impede the prospect of redress of any Treaty claims:
- (d) that the Minister and Secretary are informed of the Māori perspective, including tikanga Māori and will have regard to the principles of the Treaty:
- (e) that the Minister and Secretary are committed to a process of meaningful consultation with iwi and hapu on the management of Crown owned minerals which involves—
 - (i) early consultation with iwi and hapu during the decision making process, which is aimed at informing the Minister and the Secretary of any Treaty implications or any other matters about which iwi and hapu may wish to express their views:
 - (ii) ensuring that iwi and hapu that are consulted are given enough information to make informed decisions and to present their views:
 - (iii) ensuring that iwi and hapu that are consulted are given enough time to consider the information provided by the Minister or the Secretary and to present their views:
 - (iv) the Minister and the Secretary having an open mind on the views received from iwi and hapu that are consulted:
 - (v) the Minister and the Secretary giving those views full and genuine consideration.

Part 2 Special consultative procedure

2 Notification of permit application

- (1) On receipt of an acceptable work programme offer ('AWP') application for a permit or an AWP application to extend the land or minerals to which a permit relates, or where the Minister is considering granting an application in respect of NAA, the Secretary must notify the affected iwi and hapu in writing and provide any or all (whichever is applicable) of the following information:
 - (a) the details of the application, including a map of the application area:
 - (b) an outline of the proposed work programme:
 - (c) any proposed changes to the work programme of the current permit.
- (2) Iwi and hapu will be asked to advise the Secretary of any issues or questions that they may have with the permit application, and will be given 20 working days to comment on the application.
- (3) Iwi and hapu may request in writing up to an additional 20 working days for making comments.

3 Notification of proposal to hold competitive tender allocation

- (1) The Secretary must give affected iwi and hapu notice in writing of every proposal to designate an area for the possible allocation of permits by competitive tender and must provide the following information:
 - (a) the details of the proposal, including a map of the area under consideration:
 - (b) the types of activities that may take place should a permit be allocated:
 - (c) the proposed timing of the competitive tender:
 - (d) any proposed conditions of the offer.
- (2) Iwi and hapu will have 20 working days to comment on the proposal.
- (3) Iwi and hapu may, upon making a request in writing, and at the Secretary's discretion, be

granted up to 20 additional working days for making comments.

4 Protocols for consultation with iwi and hapu

- (1) A list of iwi and hapu in respect of which the Minister has issued protocols governing the way in which the Minister will consult with them is available on request from the Secretary.
- (2) The Secretary will keep a register of such protocols.
- (3) The Minister has issued a protocol for minerals other than petroleum in respect of Te Uri o Hau, a large hapu of Ngati Whatua located in the Northern Kaipara region.

5 Form of consultation with iwi and hapu may be flexible

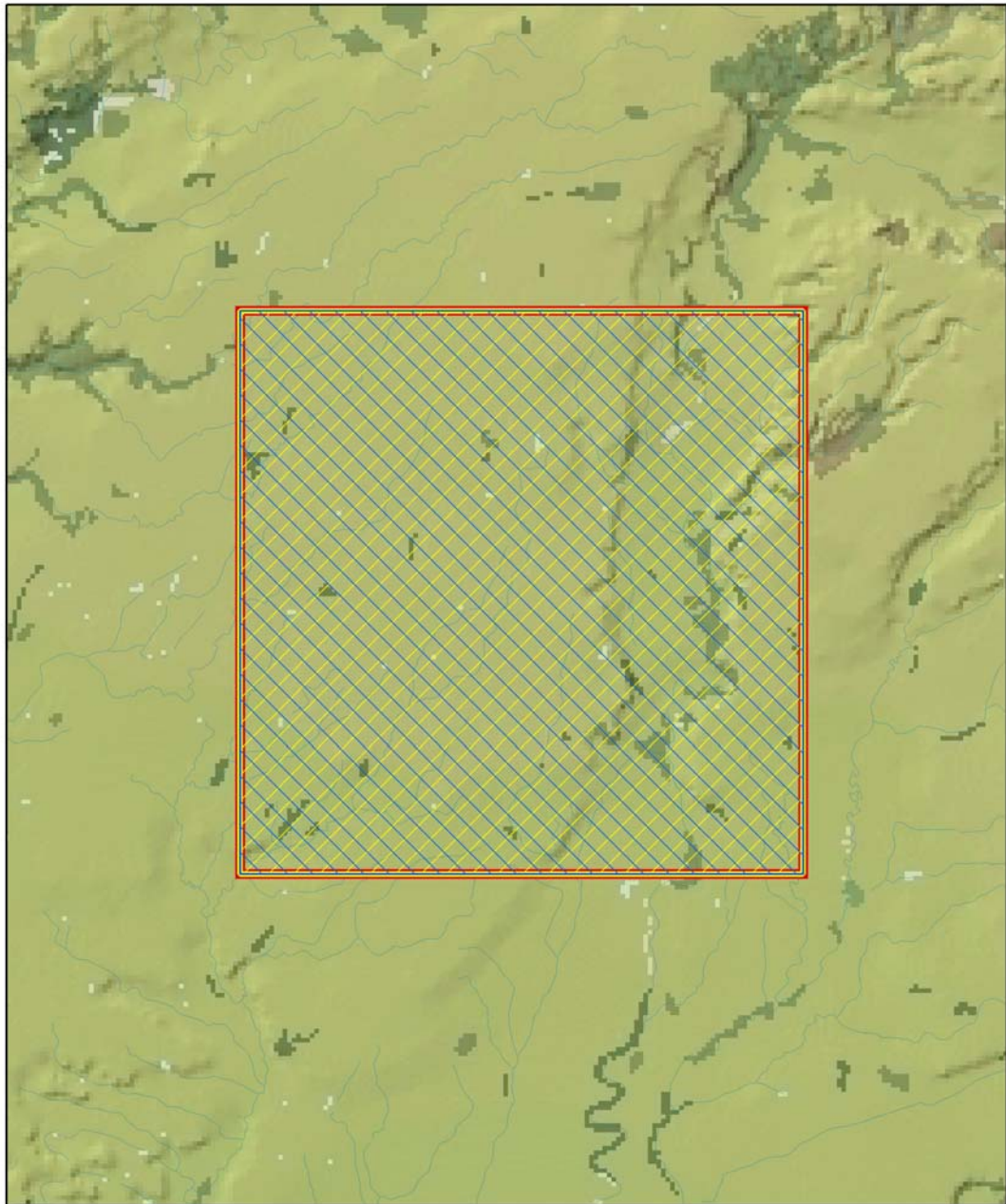
- (1) Subject to any protocols that apply to the consultation concerned, the form of the consultation process is flexible.
- (2) If iwi and hapu and the Crown think it appropriate, there may be face to face (kanohi ki te kanohi) consultation or the holding of a hui.
- (3) If relevant iwi and hapu have an organisation established to foster consultation processes, the Secretary would be pleased to work with it.

6 Report to Minister on consultation with iwi and hapu

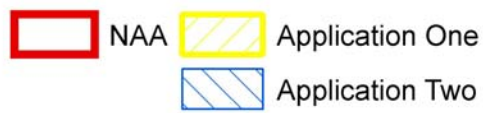
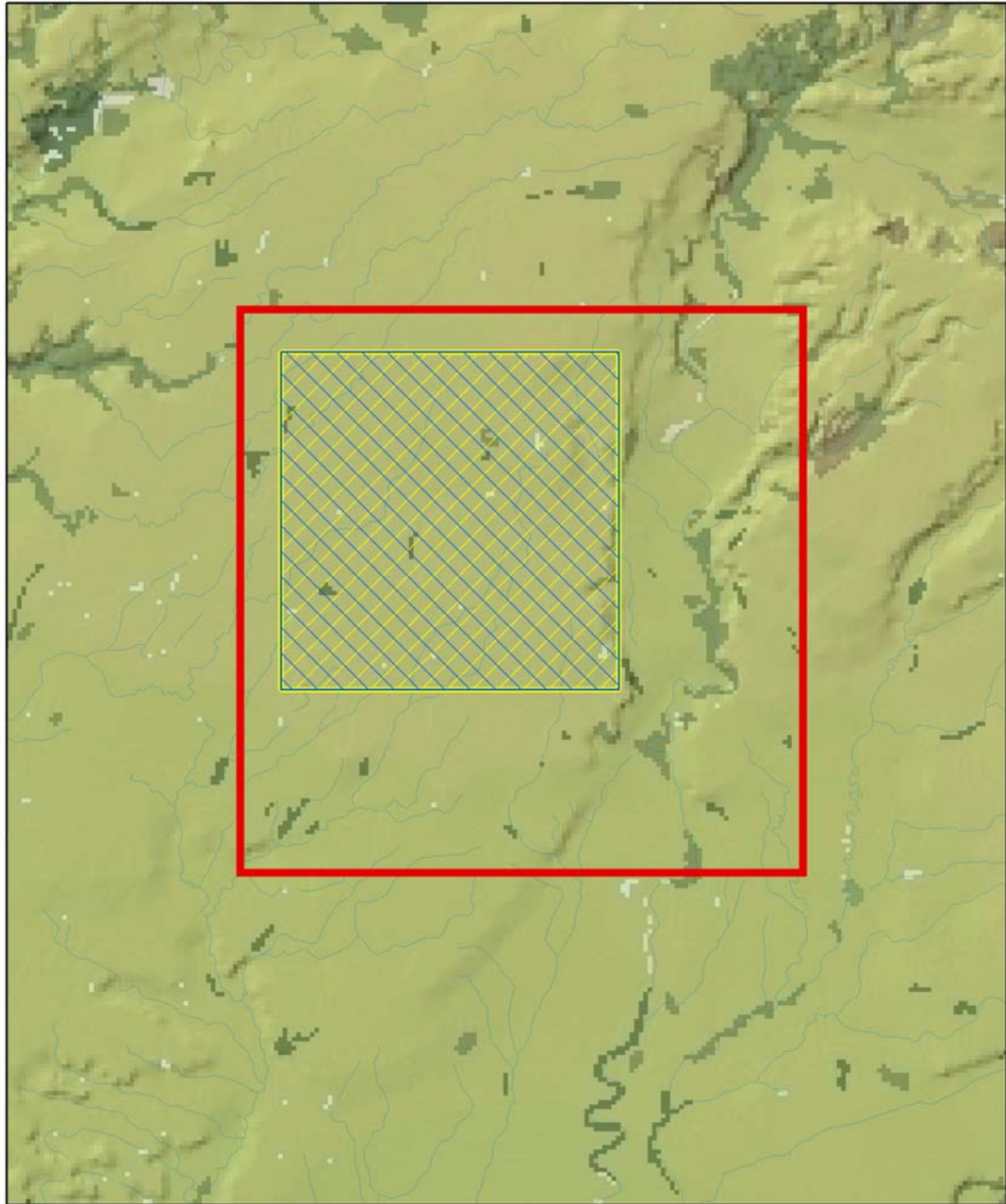
The Secretary must report to the Minister on every consultation with iwi and hapu.

Schedule 5
Drawings to illustrate clause 3.6(3)

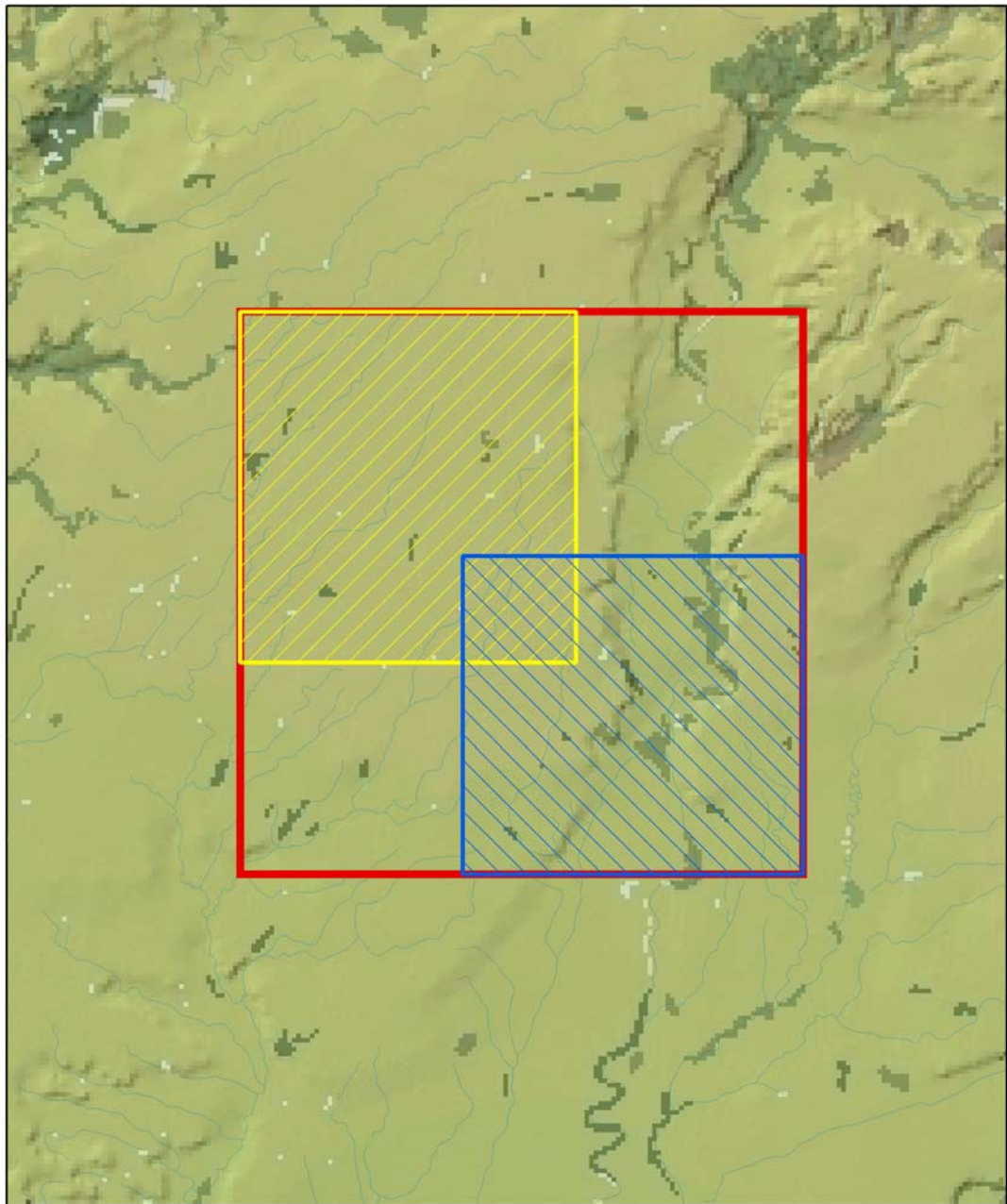
Plan A1
Example for subclause 3.6(a)(i)



Plan A1 continued
Example for subclause 3.6(a)(ii)

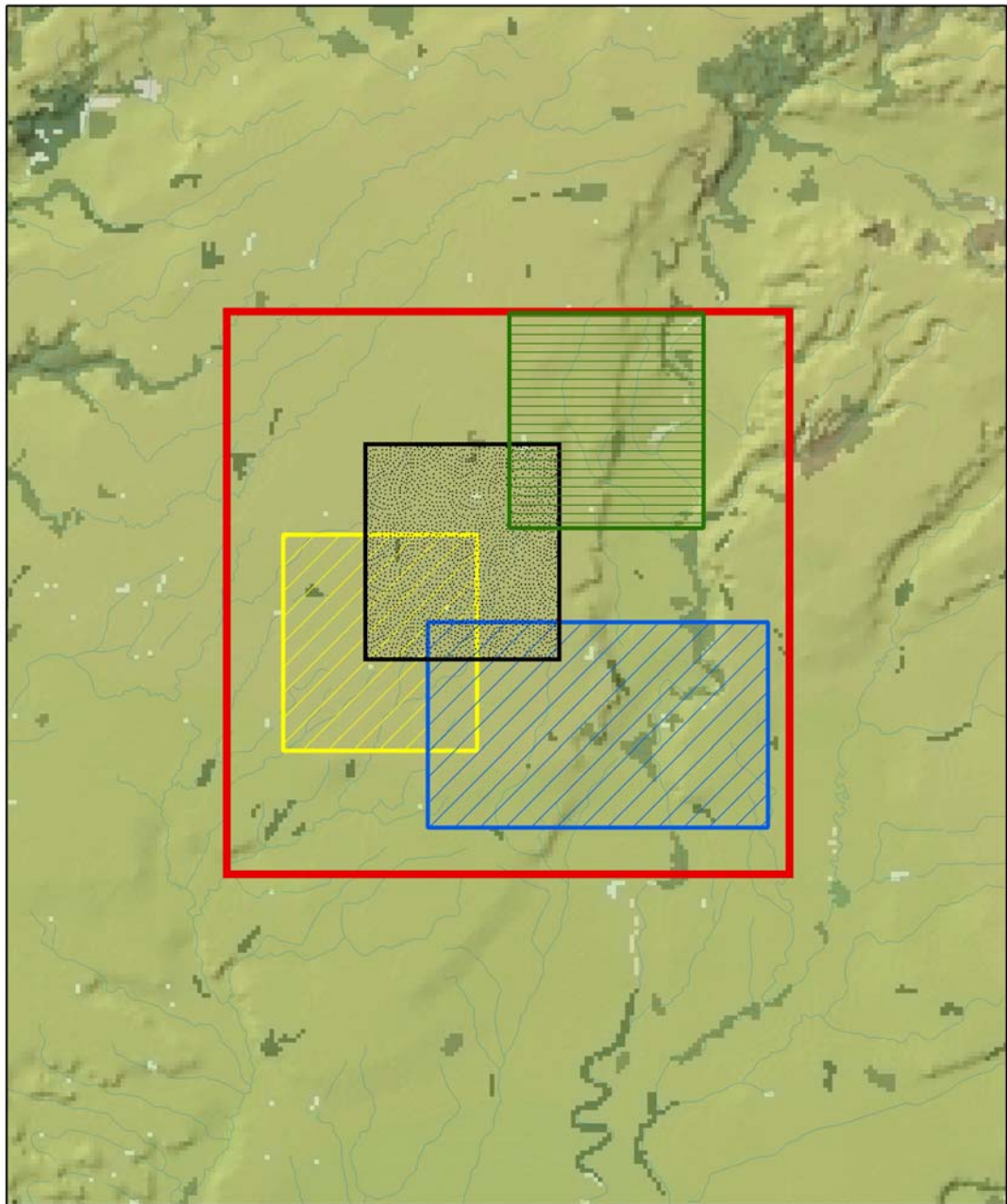







Plan A2
Example for subclause 3.6(b)



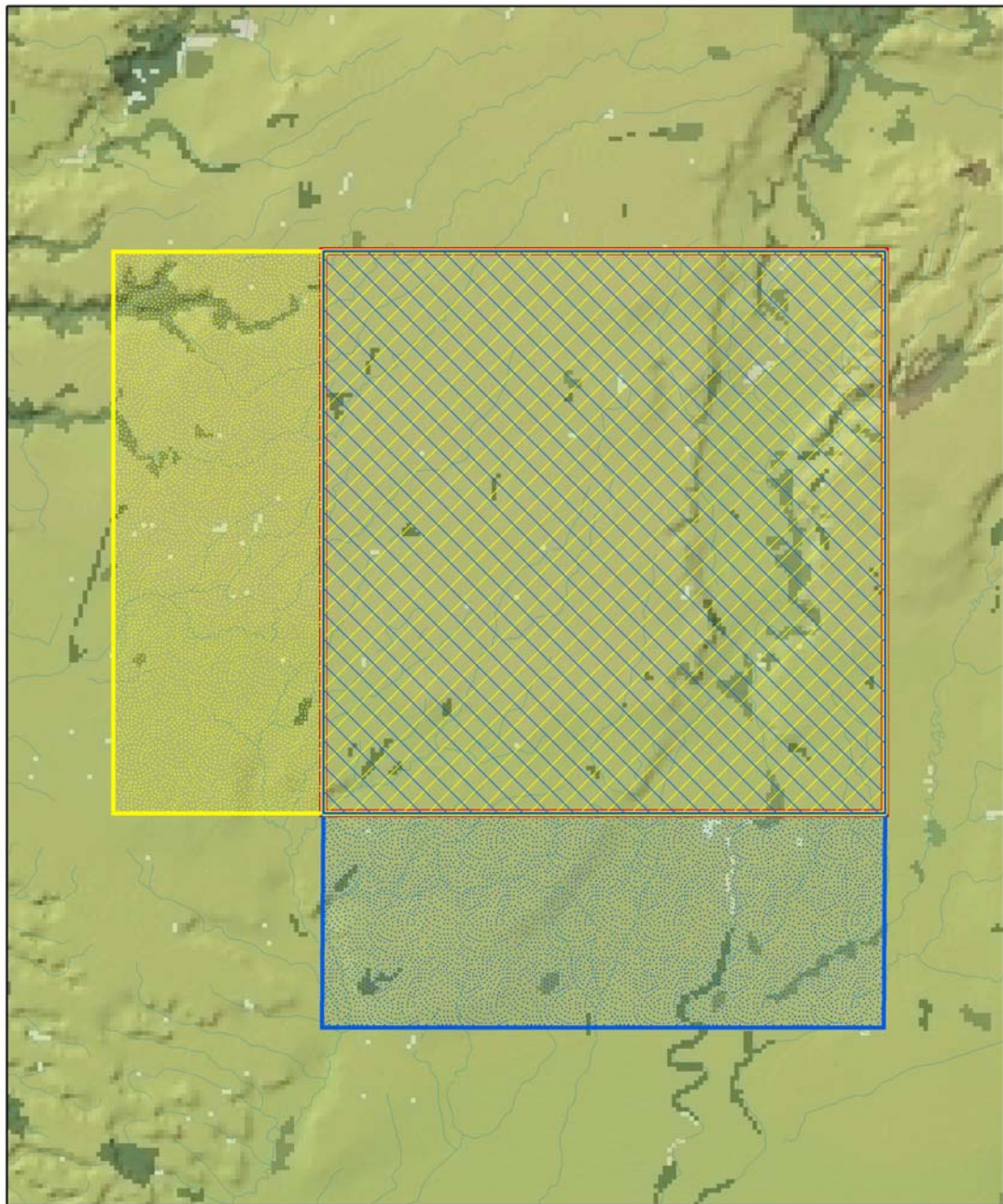
-  NAA
-  Application One
-  Application Two

Plan A3
Example for subclause 3.6(c)



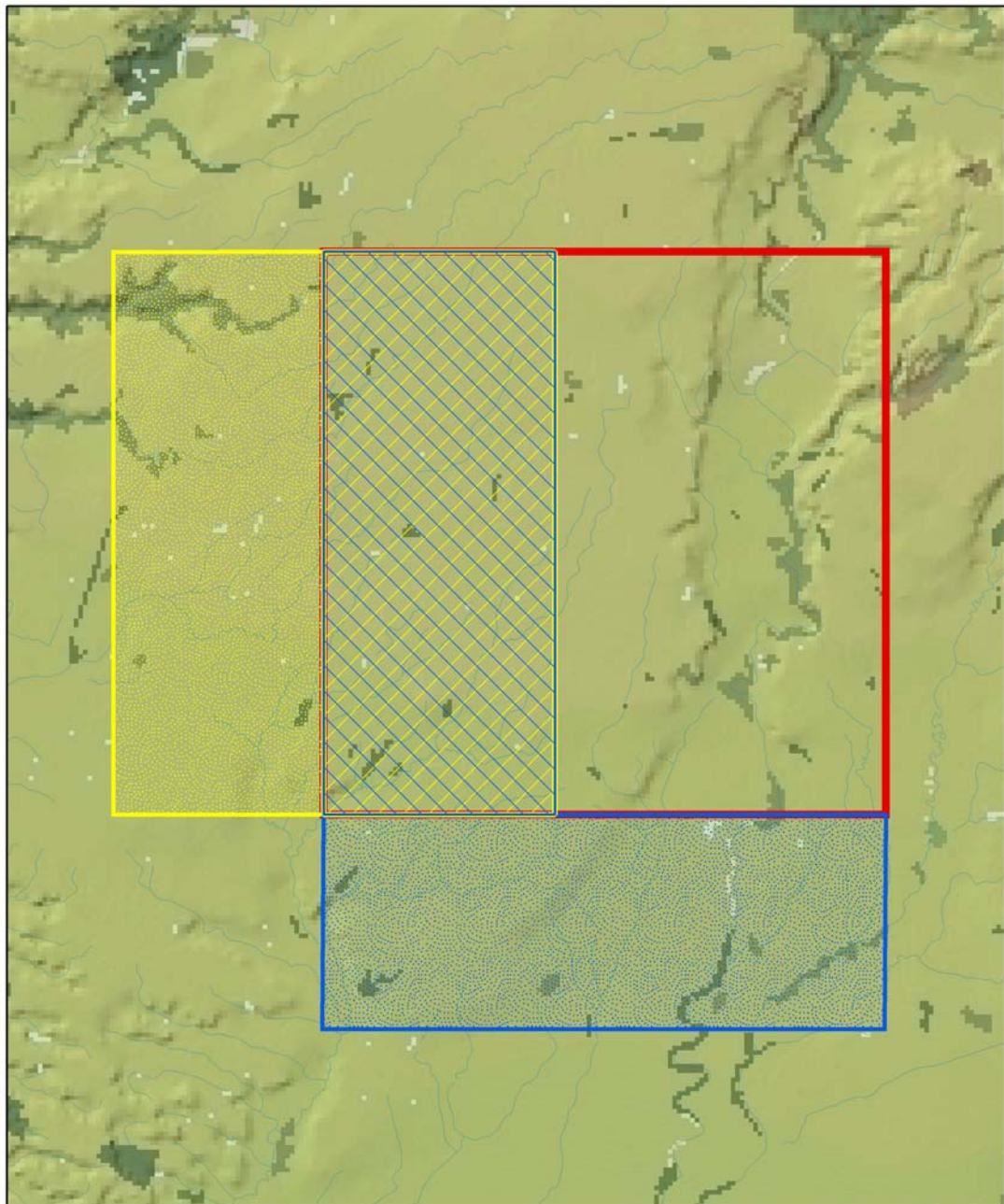
-  NAA
-  Application One
-  Application Two
-  Application Three
-  Application Four

Plan B1
Example for subclause 3.6(d)(i)



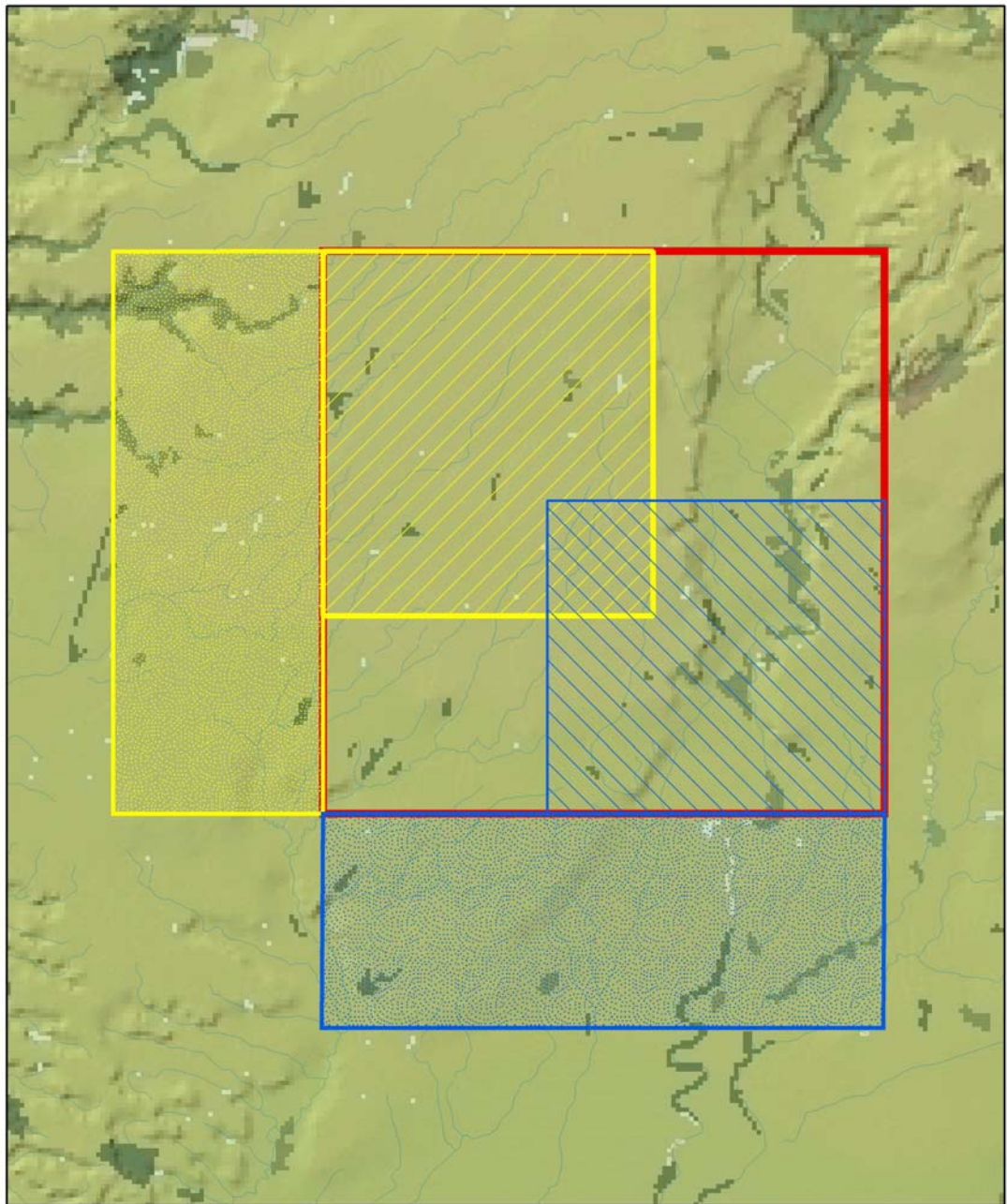
EOL = Extension of Land

Plan B1 continued
Example for subclause 3.6(d)(ii)



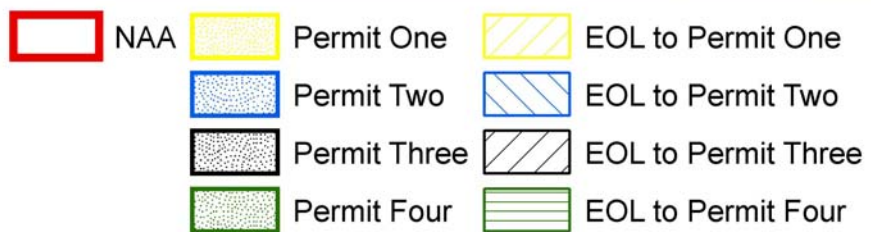
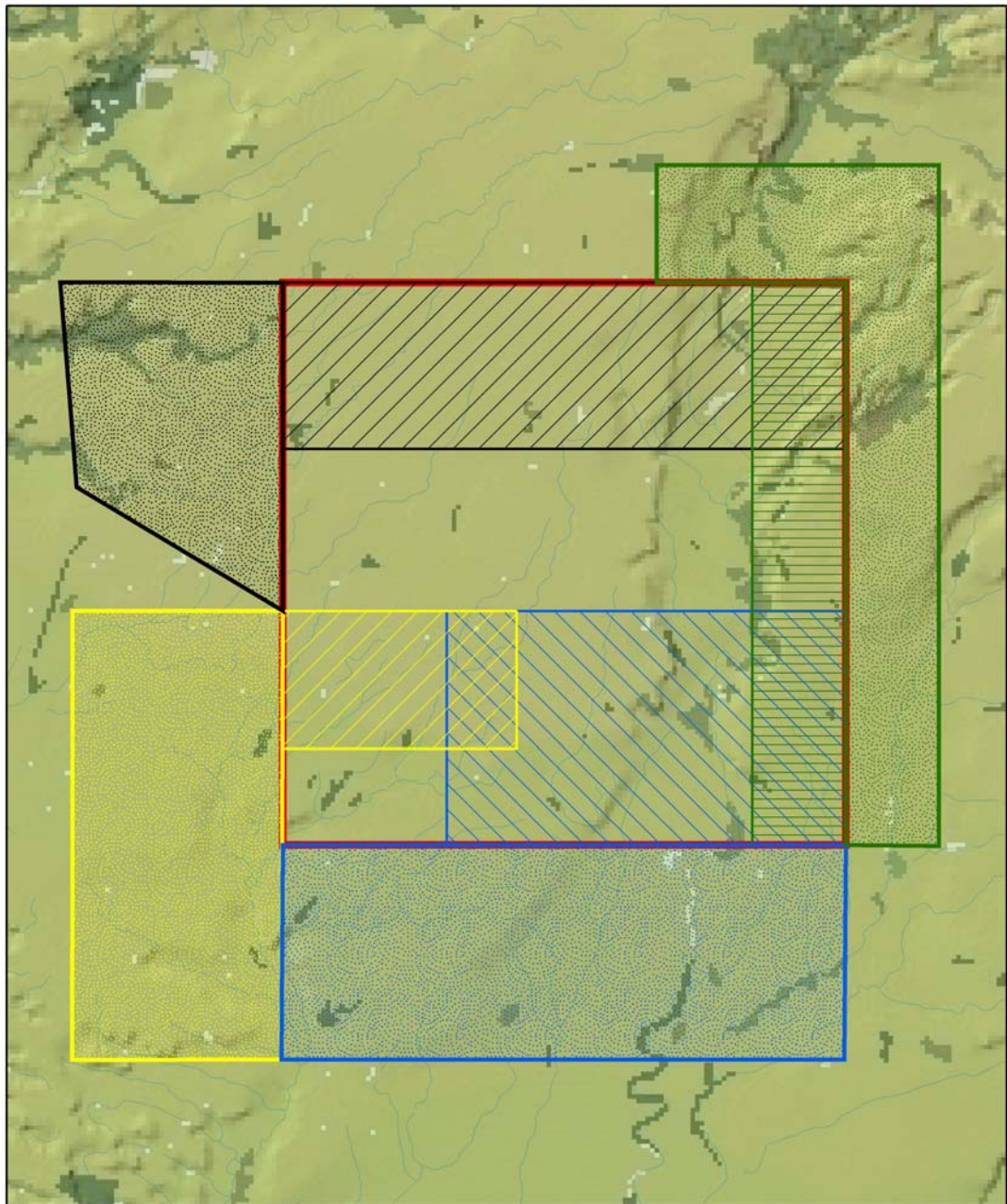
EOL = Extension of Land

Plan B2
Example for subclause 3.6(e)



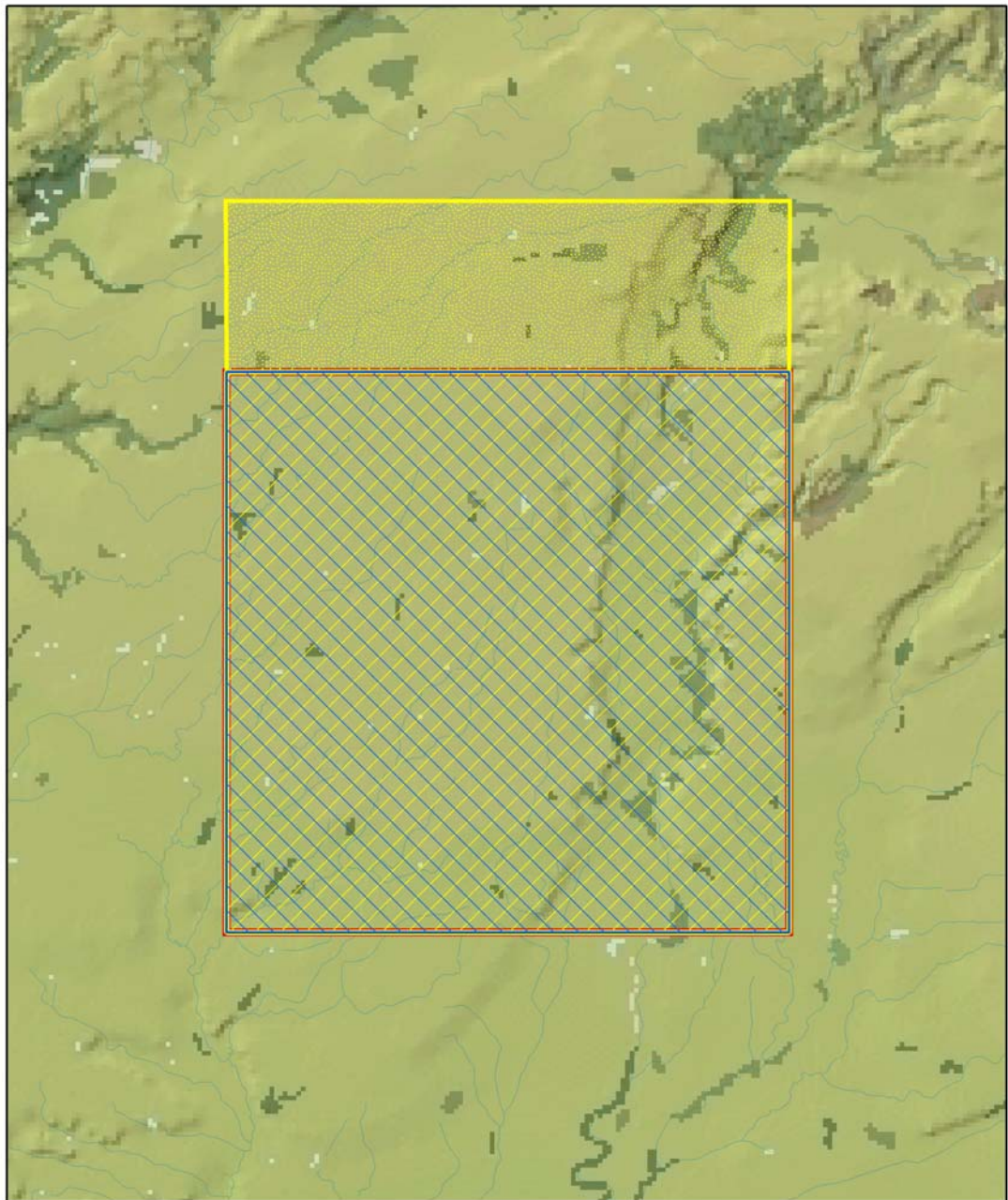
EOL = Extension of Land

Plan B3
Example for subclause 3.6(f)



EOL = Extension of Land

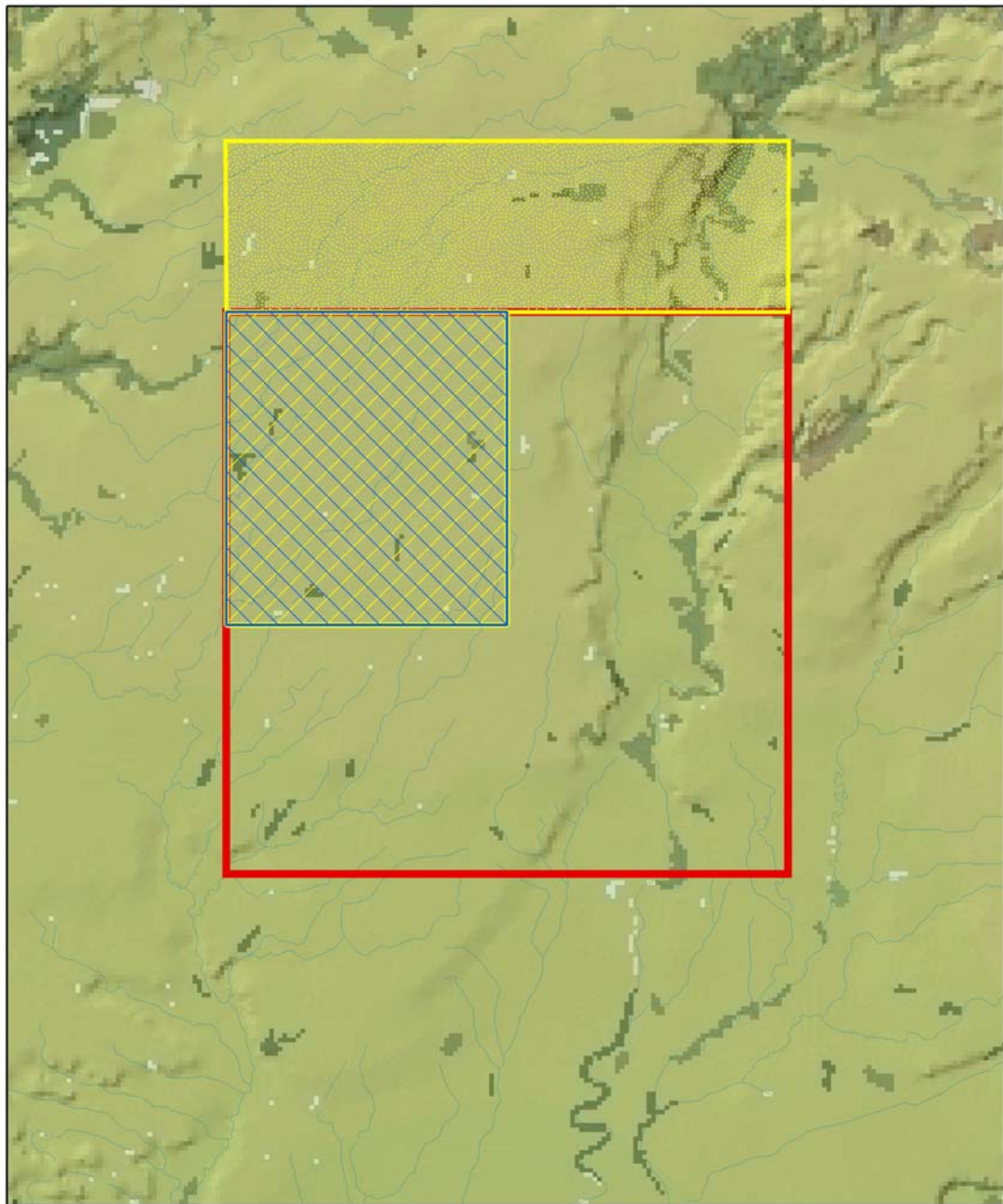
Plan C1
Example for subclause 3.6(g)(i)



- NAA
- Permit One
- EOL to Permit One
- Permit Application

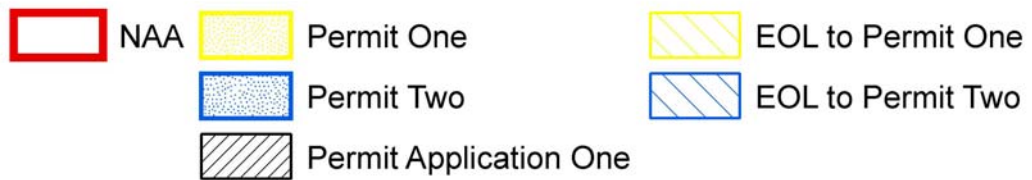
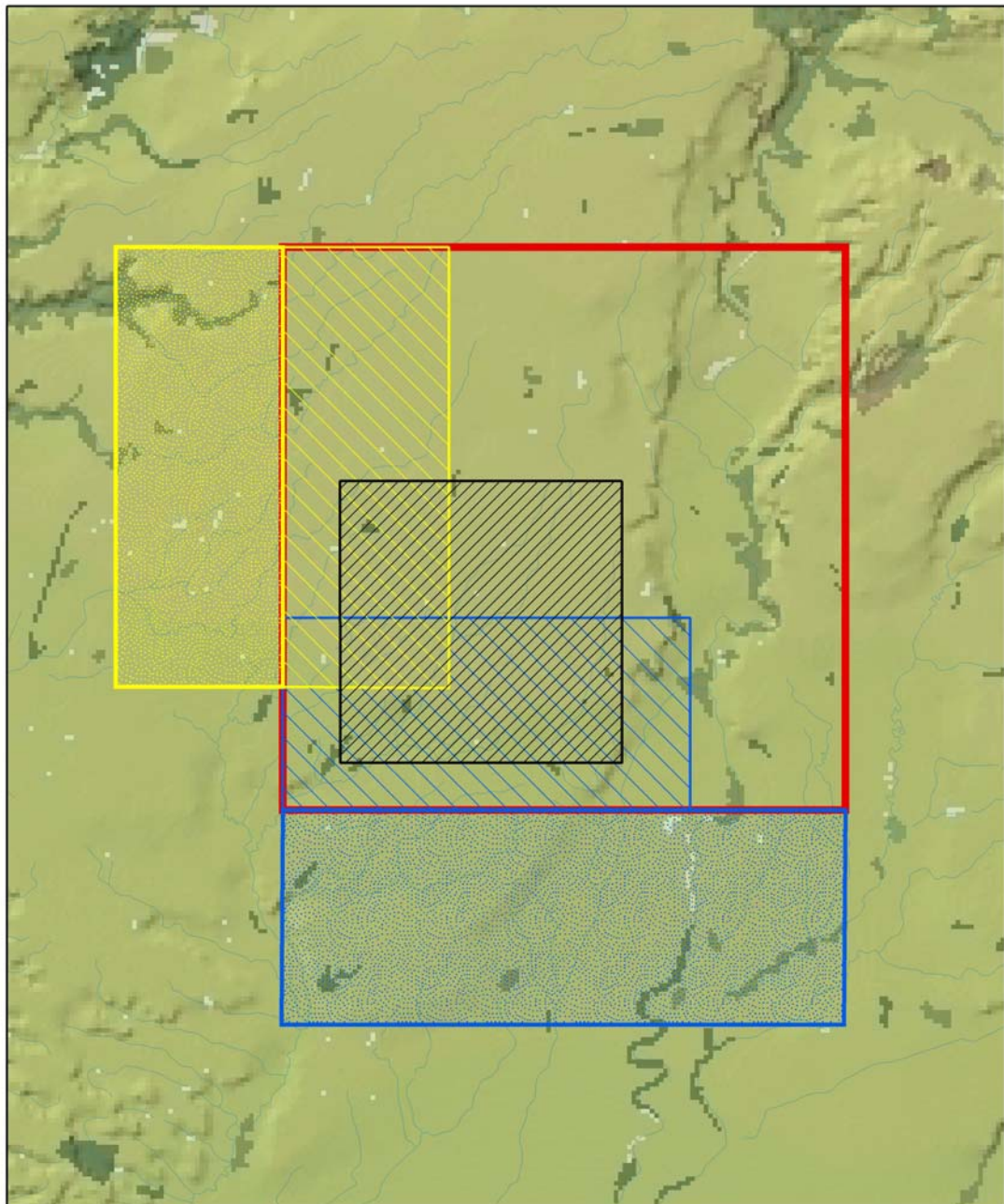
EOL = Extension of Land

Plan C1 continued
Example for subclause 3.6(g)(ii)



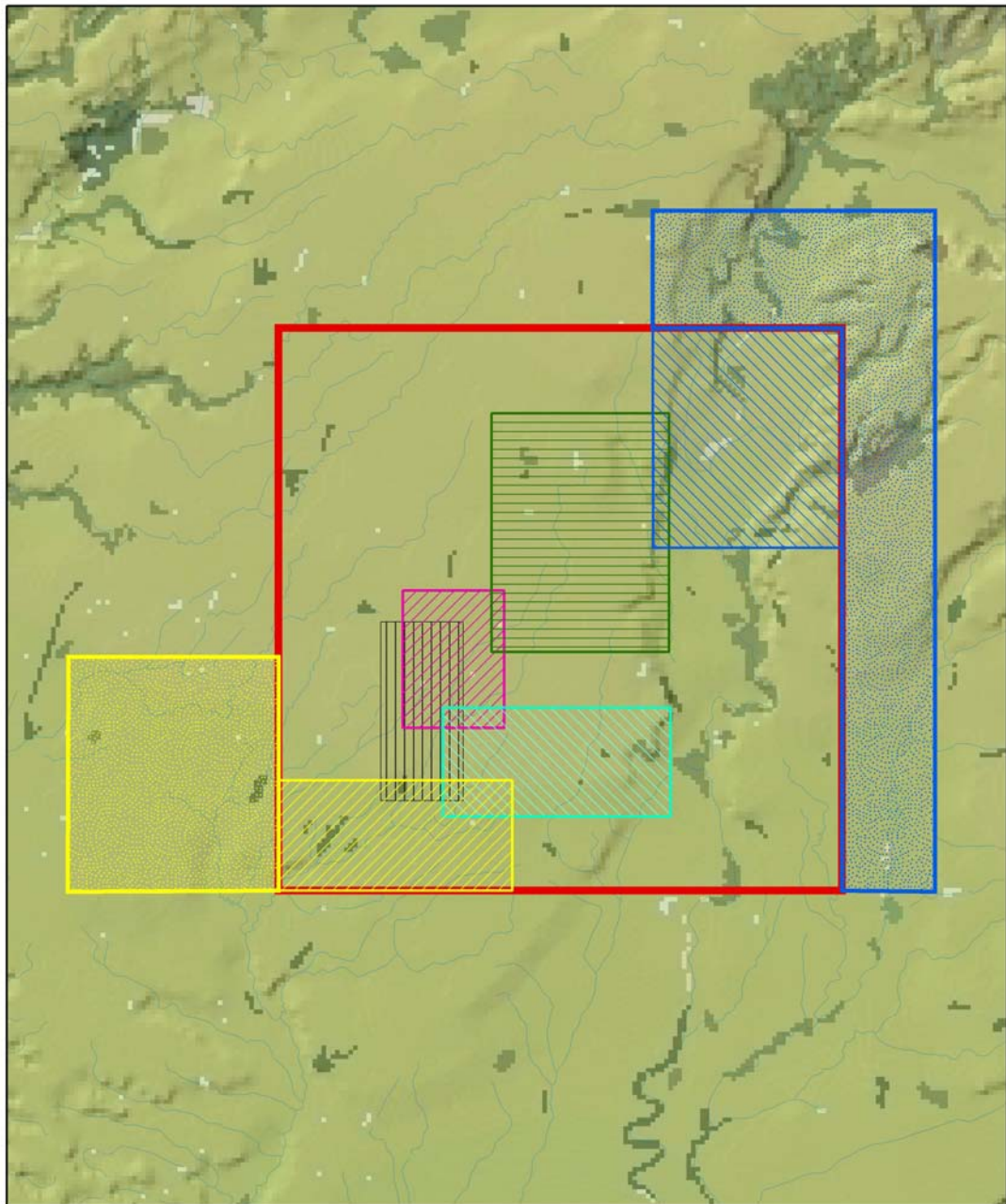
EOL = Extension of Land










Plan C2
Example for subclause 3.6(h)



EOL = Extension of Land

Plan C3
 Example for subclause 3.6(i)



- | | | | | | | | |
|---|------------|---|--------------------|---|--------------------|---|-------------------|
|  | NAA |  | Permit One |  | Permit Application |  | EOL to Permit One |
|  | Permit Two |  | Permit Application |  | EOL to Permit Two | | |
| | |  | Permit Application | | | | |
| | |  | Permit Application | | | | |

EOL = Extension of Land

Appendix 1

Principal reasons for and against adopting policies, procedures, and provisions included in minerals programme

Part 1

Principal reasons for and against policies in Part 2

1.1 The establishment of these policies recognises:

- (1) Sections 4 and 12 of the Act, which respectively direct the Crown to have regard to the principles of the Treaty of Waitangi, and to provide for the efficient allocation of Crown owned minerals and the obtaining by the Crown of a fair financial return from its mineral resources (NB. interpretations of *“efficient allocation”* and *“fair financial return”* are provided below in paragraphs 1.3 and 1.4).
- (2) That New Zealand needs to have an attractive regime which secures continuing investment.
- (3) That mineral acreage is allocated to reputable investors who commit to undertake the best available vigorous and technologically capable exploration or proposed expenditure, in order to develop the Crown mineral estate.
- (4) That decisions on prospecting, exploration and mining are considered most appropriately made by those prepared to invest and take risks rather than being made by the Crown.
- (5) That as a mineral resource owner, the Crown is also concerned to ensure that its mineral resources are explored or extracted in accordance with a best available work programme, and meeting the standard of good exploration or mining practice.
- (6) The development of minerals significantly contributes to regional economic development now and can continue to do so, through direct, indirect and induced impacts. Prospecting, exploration and mining of minerals all provide employment both directly and indirectly, that can contribute significantly to a district's or region's prosperity.
- (7) The value of coal and its availability as a source of resilience in New Zealand's energy system, as raw feed to the iron and steel manufacturing sector, and in generating export income.
- (8) The value of minerals in generating export income, as source material to grow the domestic economy – essential material for agriculture and industry sectors, including steel and cement manufacture, and for meeting New Zealand's continuing needs for building and roading infrastructure.
- (9) There is both Crown and significant private ownership of New Zealand's mineral resources; it is appropriate that the Crown behave similarly to other owners of minerals, enabling the development of mineral resources in response to market demand.
- (10) Where the Minister has discretion as to what matters to have regard to in exercising his or her functions and powers prescribed under the Act, that international obligations may properly be a relevant consideration provided they are relevant to the allocation of mineral permits;
- (11) The rejection of permit applications that overlap granted permits (except where differing minerals are concerned) and undesirability of self-consenting or consenting to other than arm's length companies so as to unreasonably perpetuate interest in a permit project area, the transitional provisions of the Act, and increased efficiency for the Crown in processing permit applications in a cost-effective manner.

1.2 Other policies

- (1) The alternative to allowing continued investment is to decline to allocate permits for minerals. This approach is not considered in the best interests of the economy as a whole in that New Zealand would not be able to take advantage of its mineral resources, and energy security and regional economic development would be seriously impacted.
- (2) Other policies, whereby the Minister might in some way direct or favour who should be preferred in investment or the type of investment to be undertaken under permits, have been considered and rejected as not being an appropriate role for the Crown in a market based economy such as that of New Zealand. Intervention of this nature is unlikely to result in optimal investment decisions and could impact negatively on private sector investment in prospecting, exploration and mining for minerals.

1.3 Meaning of efficient allocation of rights

- (1) The concept of “efficient allocation of rights” is distinct from the concept of efficient extraction of the mineral resource. An efficient allocation should occur if the Minister allocates permits in accordance with the policies established, and includes the obligation on the Minister to be satisfied that the permit applicant will comply with the conditions of, and give proper effect to, any permit granted. As a rule, efficient allocation occurs when a permit is obtained by the person who most values the permit. Attempting to ensure that the allocation of rights is efficient concerns how it is determined who should be the holder of permits and therefore criteria are established that can be used to indicate the value that an applicant attaches to a desired right.
- (2) The Crown considers this is achieved when permits for minerals are obtained by the person who is likely to make all reasonable efforts to prospect, explore or mine effectively and efficiently in accordance with recognised good exploration or mining practice⁹. Although the concept of efficient allocation of rights is distinct from that of efficient extraction of the mineral resource, where there is efficient allocation of rights, an efficient economic outcome should ensue.

1.4 Meaning of fair financial return

- (1) The term “fair financial return” is used in relation to the Crown obtaining a financial return from its mineral resources. Relevant considerations for determining whether the return is fair include—
 - (a) The Crown’s role as owner of the mineral:
 - (b) The non-renewable nature of the mineral resource:
 - (c) The attractiveness of the regime to investors:
 - (d) That any requirements to make payments to the Crown for any mineral obtained under a permit apply equitably to all permit holders:
 - (e) That the requirements to make payments are administratively simple and easy to comply with.
- (2) Determining the attractiveness of the regime requires a balance between royalty payments required by the Crown for extracting its mineral resource and the regime’s capacity to bring about investment. This balance includes taking into account the competitiveness of the regime as compared with opportunities to invest in exploration and mining in other countries, and of privately owned minerals and it includes recognising the risks and potential gains to investors from prospecting, exploration and mining. A regime that is unduly concessionary will result in the Crown not receiving a fair financial return from its mineral resources, whereas an unduly harsh regime is likely to result in declining or no investment.
- (3) The obtaining by the Crown of a fair financial return is achieved not only by policies requiring payments by the permit holder for any minerals obtained under the permit, but also through policies for the allocation and ongoing administration of permits. In particular, the Crown wants to ensure that identification and extraction of minerals is in accordance with good exploration or mining practice.

Part 2

Summary of reasons for and against adopting allocation framework

2.1 The permit allocation regime

- (1) Allocation is the process of matching prospecting, exploration and mining opportunities in the Crown mineral estate with those who wish to take advantage of these opportunities. There are two fundamental approaches to allocation: First received and Competitive tender.
- (2) Overall for managing the Crown mineral estate, ‘acceptable work programme offer’ is considered to be the most suitable permit allocation method for minerals, except in situations where there is expected to be competitive interest.

⁹ From this premise: in areas of low competitive interest, an applicant must commit to undertake a minimum acceptable programme of work to obtain the permit and in areas of high competitive interest, the Crown will use competitive allocation through newly available acreage applications although it has the option of using cash bonus bidding to attempt to improve efficiency of the initial allocation of permits.

- (3) This permit allocation regime is to give best practicable effect to the policy framework in Part 2, and, in particular, to the main policy in clause 2.1 and the policies in clauses 2.3(a), 2.3(b), and 2.4.

2.2 Acceptable work programme offer (AWP)

- (1) AWP is a first received – first processed allocation method to the extent that the first application received is processed first, considered entirely on its own merits and not in competition with any others. Any later applications over the same area are refused rather than considered in priority, unless the first application is declined (or withdrawn).
- (2) The advantage to the Crown is the low sovereign risk from the perception that New Zealand does not deviate from an internationally accepted allocation method, at least for areas of low competitive interest. The attendant secure investment approach ('security of tenure') should attract investment into the exploration sector.
- (3) AWP enables an applicant to obtain a permit with reasonable haste, dependant on only administrative processing. This method therefore has advantages for any interested party who has resources readily available to invest.
- (4) AWP also provides a more secure investment approach compared with competitive bidding allocation methods. Once an area of interest is identified, the explorer can immediately secure exploration rights and then determine the prospectivity of the area. But with competitive bidding allocation, the explorer may need to undertake considerable work and expenditure before a bid, which even then may not be successful. Thence AWP provides low cost access to permits and avoids any bias against small-scale explorers with limited resources.
- (5) AWP is particularly suitable for frontier areas, including areas of low current interest, because competition for such acreage would not normally be expected in the first instance.
- (6) The disadvantage of AWP is where there is competitive interest in an area. In such circumstances, the timing of an application may have priority over the merit of an application, and therefore the area may not be awarded to the company which most values exploring and developing the mineral resources of the area.
- (7) Expenditure-based allocation as an alternative first received – first processed method to AWP affords the Crown minimal control on the extent or type of exploration work that will be undertaken on a permit. Industry to date has tended not to favour expenditure-based allocation.

2.3 Newly available acreage (NAA)

- (1) Where there is expected to be, or there is known, strong competitive interest for exploration or mining in newly available land, allocation by competitive staged work programme (viz., NAA) is considered the preferred mechanism.
- (2) The major advantage of competitive allocation (coupled with the exclusion of permit applications that overlap granted permits) for newly available acreage is that the Crown has an opportunity to take advantage of the competitive interest in the area, by securing the option for optimal exploration and mining activity that has the highest likelihood of ultimately leading to economic discovery and development of its mineral estate. Under this mechanism operators are unable to exploit the concept of tenure for unreasonable duration and as a consequence there are increased opportunities for those seeking acreage of good prospectivity to aggressively explore or mine. Permits are invariably awarded to those applicants who will diligently work land and there is increased likelihood of the Crown realising potential benefits from the value of that part of its mineral estate subject to competitive allocation.
- (3) The disadvantages of the NAA method are two-fold:
 - (a) possible inflation of proposed work programme and subsequent non-compliance:
 - (b) work programme assessment – where there are two or more competing applications, the applicant's work programmes will need to be ranked according to the potential of the proposed work to make a discovery. Flexible criteria need to be utilised and considered alongside technically well-informed judgement to achieve fair and reasonable rankings.

2.4 Competitive tender allocation

- (1) Although not the preferred allocation method, competitive tender allocation is viable where there is strong competitive interest in the acreage, and there is a high level of specific detail on the mineral resource.

- (2) Competitive tender allocation provides for interested parties to bid for a nominated permit block or blocks in respect of specified minerals by a stated date. The tender allocation may be subject to the successful bidders complying with defined conditions. There are two types of bidding upon which permit grant is usually based: cash bidding (or cash bonus bidding) and work programme bidding area.

2.5 Cash bidding and cash bonus bidding

- (1) For cash bidding (also referred to as pure cash bidding), an interested party makes a cash offer or bid for a defined block or permit, in a competitive tendering procedure. The cash bid is used as the allocation tool and also incorporates a one off, upfront economic rent or royalty payment. It may be a condition of any permit purchased to undertake some specified work in a defined period, and there may be a reserve price required to be met before allocation occurs.
- (2) Under cash bonus bidding an interested party makes a cash offer or bid just as with cash bidding, but the permit holder is also required to pay a royalty to the Crown on any production in addition to the cash paid with the original purchase. Cash (bonus) bid payments can be made as an up-front cash payment, or an instalment payment commitment made over a defined period, or a commitment payment discounted with successive exploration work, as well as variations on these approaches.
- (3) With cash (bonus) bidding allocation, the mineral resource owner may have minimal control on the extent or type of exploration work that will be undertaken on a permit.
- (4) Exploration and mining companies tend to be opposed to any type of cash bidding because the cash bid raises the cost of investment. For exploration in particular, this additional cost may reduce the level of funding available for working the permit, in that the set amount of money allocated to a project has to be divided between the cash bid and exploration work.
- (5) Cash bonus bidding, by requiring royalty payments on any mineral production, is considered to be more likely to meet the requirements of the Crown Minerals Act 1991 for a fair financial return to the Crown, than cash bidding. Any decision that New Zealand will use cash bonus bidding allocation needs to recognise that cash bonus bidding allocation could raise the entry costs of exploration and mining in New Zealand, and assuming the same level of exploration, would raise the average cost of exploration. However, where cash bonus bidding may be used, the level of commercial risk would likely be lower.

2.6 Work programme bidding

- (1) Work programme bidding is a commitment tendered in a competitive situation, to undertake a work programme over the duration of a permit. The successful work programme bidder is the person considered most prepared to commit to investing in working a permit area in accordance with established criteria, to achieve the objectives of the permit. A drawback, however, is that companies may propose unnecessary work or inefficient work schedules to become the successful bidder. In particular, there is potential for inappropriate work proposals in areas of high competition.
- (2) A variation of work programme bidding is staged work programme bidding whereby a work programme is committed to for an initial period but having, at defined stages, the right to commit to further work, surrender the permit or amend the work programme conditions. Staged work programme bidding is the more efficient variant because progressive commitments to work are made in the light of additional information on which to progress investment decisions. A criticism of work programme bidding, without commitment stages, is that it locks a company into investing in a programme of work which, with time, may not be appropriate or efficient.
- (3) Work programme bidding is potentially complex to administer and where there is strong competition for a permit, it can be difficult to identify the best bid.

2.7 Other allocation methods

Other allocation mechanisms have been considered, including the application of competitive allocation to all available land situations, and also where at the Minister's discretion any application may be rejected if the Minister considers there is a likelihood of receiving another with a better work programme (this option provides optimal flexibility for the Crown if it wishes to assure itself that it has maximised the financial return from its the mineral estate, but uncertainty for industry). None of these mechanisms encourage investment and they also carry

potentially increased risk of disincentivising industry and could prove to be long term barriers for development of the Crown mineral estate.

2.8 Exclusive or non-exclusive permits

- (1) In determining the most efficient allocation method to use, not only do different allocation methods have to be considered but also whether or not it is appropriate for the permits allocated to be exclusive or non-exclusive.
- (2) For the allocation of permits for minerals, exclusive permits with subsequent permit rights are considered most appropriate. They allow for a permit holder to invest in prospecting, exploration or mining as appropriate with the certainty that the permit holder can benefit solely from this investment. Nonetheless, under this Minerals Programme the policy has also been adopted to make provision for non-exclusive prospecting permits that allow interested parties to formulate bids for competitive tender allocation, or for speculative surveys where a non-exclusive permit will meet the applicant's needs.

Part 3

Summary of reasons for and against adopting royalty regime

3.1 Objectives of the royalty regime

- (1) Royalties are payments to the owner of a mineral resource for the rights to extract or use a particular mineral and may be payable whether the owner is the government or a private individual. The Crown Minerals Act 1991 provides the legal basis for the imposition of royalties by the Crown. A private mineral resource owner would use a contract to achieve the same end. Royalties are not taxes.
- (2) The Act specifies that policies, procedures and provisions to be applied in respect of the management of Crown owned minerals should provide for the obtaining by the Crown of a fair financial return from its minerals. The policies in Part 2 outline the criteria for achieving this.

3.2 Royalty options

A mineral resource owner may obtain a price for the extraction of a mineral resource by either charging in advance for its use (an ex ante basis) or charging on the basis of production (an ex post basis).

3.3 Ex ante mechanisms

- (1) Ex ante pricing methods generally require a high level of knowledge regarding the probable size and profitability of the mineral resource if a fair return is to be achieved.

Cash bidding

- (2) Cash bidding involves a once and for all payment by the producer following competitive allocation by auction with no subsequent royalty liabilities. With respect to minerals, at the allocation stage, there is rarely sufficient information on the identification of the mineral resource and the extraction potential of an area for cash bidding to achieve a fair price. This form of royalty has therefore been rejected as an option.

Cash bonus bidding

- (3) Cash bonus bidding combines cash bidding with a subsequent liability to pay royalties and is a mixture of ex ante and ex post pricing. As cash bonus bidding combines a subsequent liability to pay a royalty on minerals extracted, this method is more likely to achieve a fair price, even though it is expected bidders will discount their bids against assessments of the future levels of royalty payable. Therefore, cash bonus bidding may best meet the objective of a fair financial return when there are high levels of resource information available and competitive conditions.

3.4 Ex post mechanisms

- (1) Ex post pricing methods include specific rate royalties, ad valorem royalties, profit based royalties and equity interest in projects.

Specific rate royalty

- (2) A SRR is a specified price to be paid based on either the crude volume or tonnage produced. SRRs do not take account of either the market value of the mineral resource or the costs of extraction and production, and accordingly could be viewed as an inefficient form of royalty from an economic viewpoint. SRRs are however a reasonably common method of pricing minerals internationally, particularly for low value to weight/volume resources, and have also been widely used in New Zealand as a means of pricing minerals, despite their lack of sensitivity to prices and costs. They are a transparent method of rent recovery and are also simple to implement and administer, though problems can arise in indexing their levels to ensure that the mineral resource owner maintains a fair financial return in periods of inflation.

Ad valorem royalty

- (3) An AVR collects a fixed percentage of the price received on mineral production which is sold. This royalty method is arguably more economically efficient than SRR as it varies according to the price received by the producer. This royalty method is commonly applied to precious and base metals and coal in overseas jurisdictions and is utilised in New Zealand for some minerals. Determining a point-of-valuation and allowable netbacks are common difficulties in implementing AVR regimes.

Profit base royalty

- (4) Profit based royalties take into account both output prices and input costs, and from an economic viewpoint are generally more efficient. There are two main types: a resource rent royalty, and an accounting profits royalty.

Resource rent royalty

- (i) The resource rent royalty is a profit based mechanism that is based directly on the concept of economic rent and attempts to give an economic assessment of the surplus that is available for sharing between the resource owner and the resource developer. Resource rent royalties are levied on the excess of revenues over operating and capital expenditures. Allowable costs include a minimum return to the operator on any investment made.
- (ii) Problems can arise with resource rent royalties if the minimum return to the operator is set too low (as this penalises producers) or too high (as the Crown will collect less royalty revenue). There are also likely to be administrative complexities relating to the need to regularly update the estimate of the economic cost of capital. In addition, if used as the sole royalty mechanism, resource rent royalties may engender sovereign risk as producers may not pay royalties until a project nears the end of its economic life or indeed pay no royalties whatsoever. On this basis, the resource rent royalty has, therefore, been rejected as an option for the pricing of minerals in New Zealand.

Accounting profits royalty

- (i) An accounting profits royalty assesses profit for royalty purposes primarily in financial terms, using defined accounting conventions relating to the treatment of profits, operating expenses and capital expenditures.
- (ii) Accounting profit royalties are used in some overseas jurisdictions to price higher value minerals and have been used in New Zealand recently for some large mining operations that exceed 1 million dollars in annual revenue. One of the notable drawbacks of accounting profits royalties is the high compliance and administrative costs for both the resource owner and the producer. This is particularly significant with the New Zealand minerals industry where there are relatively few large mining operations to justify the imposition and maintenance of a profit based royalty system.
- (iii) Although utilised in New Zealand in recent times, accounting profit royalty has not proven to be cost effective for minerals for reasons of efficiency and equity and is therefore not recommended.

Royalty Equity interest

- (i) Taking an equity interest in a project is another way in which a resource owner can share in the economic rent that is generated by a project. The most economically efficient form of equity interest is one in which the resource owner shares profits with the developer and

meets a proportionate share of all costs. This is known as a contributory interest. It is also possible that the owner may not contribute to the cost of exploration or development. This is known as a carried interest. A further variant is the carried/contributory interest in which the resource owner's cost liability is limited to development, production and operating costs should a project proceed.

- (ii) Most equity interest arrangements involve the direct participation of the resource owner in the development process. This requires the Crown to put up the necessary venture capital and therefore exposes the Crown to the risk that it will not make an appropriate return on its investment. These arrangements do not guarantee the Crown a minimum return on its resources and, therefore, are not recommended as a means of generating a fair financial return for the Crown.

3.5 Assessment of royalty options

- (1) Each type of royalty has its own set of advantages and disadvantages from the economic, financial, accounting, compliance and administrative viewpoints. No single royalty form meets the multiple objectives the Crown has specified of a fair financial return and a regime which is clear and can be complied with without imposing unreasonable transaction costs. To meet these multiple objectives, it is considered desirable to have a royalty regime that accommodates a production based royalty form for low value to weight minerals and a price related royalty form for higher value and more price volatile minerals. It is also necessary to apply thresholds.
- (2) A SRR for low value to weight minerals ensures that the Crown will receive a fair fixed return from such minerals without imposing unnecessary administration costs.
- (3) A tiered AVR component guarantees that the Crown will receive a fair royalty return from the extraction and use of its precious metals and PGE without significantly influencing the timing of investment decisions or disadvantaging small to medium producers.
- (4) The eventual selection of the joint SRR:AVR regime was facilitated by a thorough review of the current AVR:APR regime and the research leading to the implementation of that regime, other available options, including financial modelling exercises, and consultation with industry. The primary objective of the modelling work was to simulate the levels and timing of royalty revenues under alternative royalty regimes.
- (5) The salient results of the review were:
 - (a) cash bonus bidding may be possible as a component of the overall allocation and pricing regime, where there are high levels of prospectivity and competition in new areas, or valuable permits have been revoked or surrendered:
 - (b) for pricing of mineral resources, it has to be recognised that the investment context is somewhat uncertain, with institutional constraints emanating from the regulatory framework and the access regime of the Crown Minerals Act 1991 which grants surface landowners an effective veto over development. It is apparent that there are limited opportunities (on past or current experience) for the Crown to earn significant royalty returns, without prejudicing "go-decisions" on new projects:
 - (c) SRRs for low value to weight minerals can be implemented to offer commensurate returns to Crown to those collected under the current regime while providing for reduced administration and compliance costs:
 - (d) a simpler, robust SRR regime for coal (comprising three separate specific rates dependent on coal specifications) is considered more appropriate than the tiered AVR regime. An SRR regime can provide equivalent returns to the Crown along with considerably lower transaction costs for coal permit holders and the Crown:
 - (e) movement to a SRR for low value to weight minerals means that the real (or inflation adjusted) value of royalties collected will decline over time. SRRs may therefore require a periodic inflation adjustment to capture the effect of inflation over time:
 - (f) a tiered AVR with an initial 1% rate that increases to 2% for net sales revenues that exceed \$1.5 million per annum will meet the Crown's claim to a fair basic return from the use of its precious metal and PGE resources by small to medium producers while providing an opportunity for the Crown to share in the higher returns generated by larger projects without prejudicing investment decisions on new projects:
 - (g) in recognition that the costs of collecting the royalty may outweigh the royalty potentially able to be collected, it has been decided not to require a royalty where a permit holder is

liable for a SRR and the royalty calculated as payable in a calendar year equates to less than \$2,000 or where a permit holder is liable for an AVR and net sales revenues are less than \$200,000 per year.

Appendix 2

Face to face (kanohi ki te kanohi) consultation with iwi and hapu on minerals programme

- (1) This appendix summarises the process of the Crown's face to face consultation with Māori on the management of the Crown's mineral resources for this replacement minerals programme.
- (2) During public consultation on the draft replacement minerals programme, a series of meetings was arranged with key Māori organisations and iwi in regions where there is appreciable and ongoing exploration or mining of Crown owned minerals (excluding petroleum); hui were held in Whangarei, Hamilton, Christchurch and Dunedin.
- (3) The kauapapa (purpose) of the consultation process was to listen to Māori experience under the current minerals programmes (October 1996), to discuss what new approaches may be appropriate going forward to 2016, to discuss the process for protecting areas of land important to the mana of iwi, and to invite further submissions.
- (4) The views expressed at these meetings have been reported back to the Minister and where appropriate have been incorporated into the revised minerals programme.

Appendix 3

Noting of Treaty Settlement Protocols in minerals programme

Ngaa Rauru Kiitahi

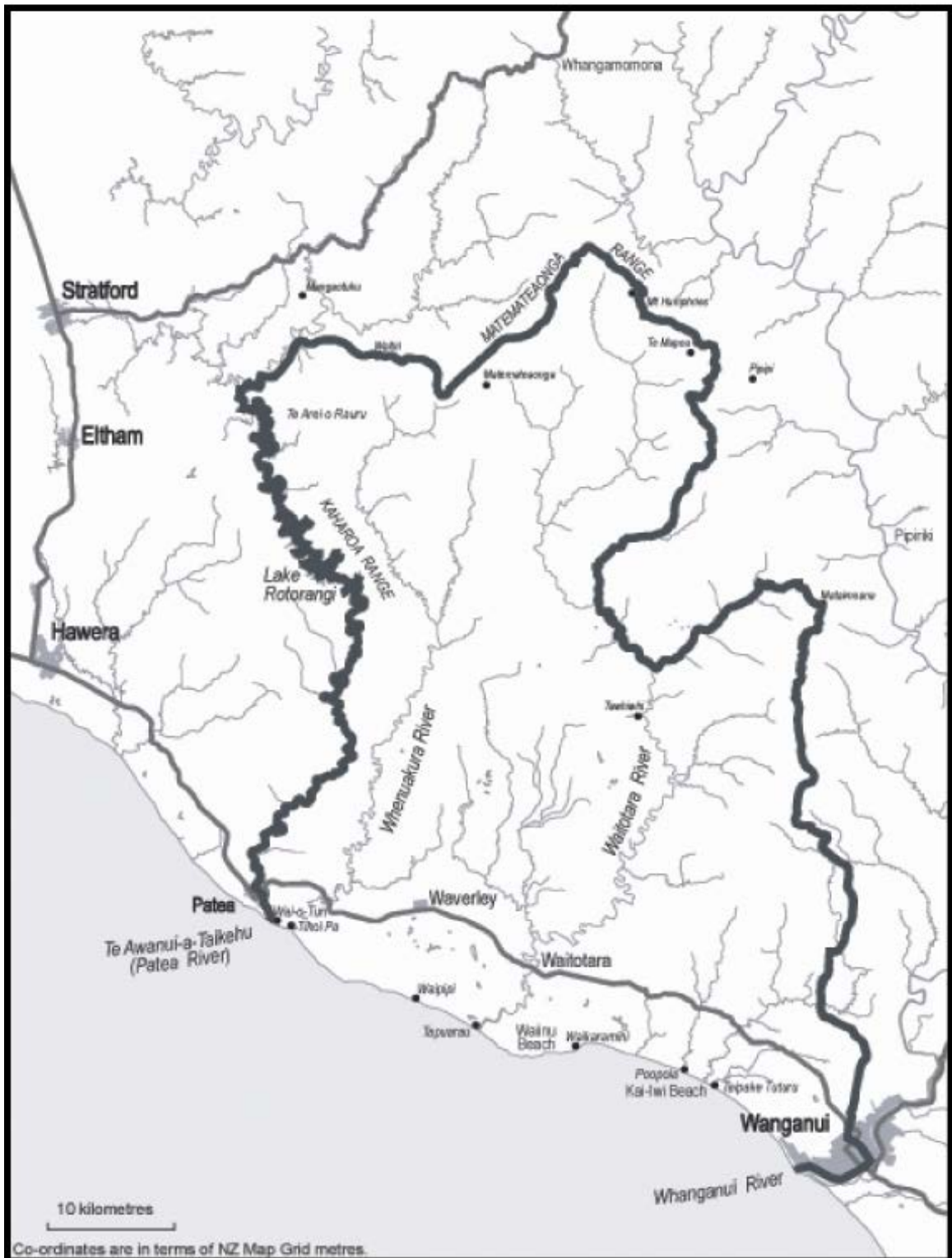
- (1) Under the Deed of Settlement dated 27 November 2003 between Ngaa Rauru Kiitahi and the Crown, and the Ngaa Rauru Kiitahi Claims Settlement Act 2005, the Minister of Energy has issued a protocol setting out how the Ministry of Economic Development (MED) will interact with Ngaa Rauru Kiitahi concerning the administration of Crown owned minerals.
- (2) **Terms of Issue**

For details of the terms of issue of the protocol, reference should be made to Attachment B of the protocol itself. In summary, the terms of issue include the following provisions:

 - (a) A failure by the Crown to comply with the protocol is not a breach of the Deed of Settlement, but its obligations may be enforced subject to the Crown Proceedings Act 1950:
 - (b) The Minister may issue, amend or cancel the protocol:
 - (c) The protocol is consistent with section 4 of the Crown Minerals Act 1991 and does not override or diminish the requirements of that Act, the functions and powers of the Minister of Energy or MED under that Act, or the rights of Ngaa Rauru Kiitahi under that Act.
- (3) **Protocol Area**

The protocol applies to the area shown below:

MED PROTOCOL AREA



Ngati Mutunga

- (1) Under the Deed of Settlement dated 31 July 2005 between Ngati Mutunga and the Crown, and the Ngati Mutunga Claims Settlement Act 2006, the Minister of Energy has issued a protocol regarding consultation with Ngati Mutunga by the Ministry of Economic Development (MED) on the administration of Crown owned minerals.

(2) Terms of the Protocol

For full details of the terms of the protocol, reference should be made to the protocol itself. In summary the protocol includes the following terms:

- (a) The protocol applies across the protocol area
- (b) The protocol is issued pursuant to section 21 of the Ngati Mutunga Claims Settlement Act 2006 and is subject to that Act and the Deed of Settlement
- (c) The Minister will ensure the Governance Entity is consulted by MED in relation to the following that relate to the protocol area:
 - (i) the preparation of new minerals programmes in respect of petroleum
 - (ii) the planning of any proposed petroleum exploration permit blocks offer applications for a petroleum exploration permit
 - (iii) applications to amend a petroleum exploration permit, by extending the land or minerals to which the permit relates
 - (iv) the preparation of new minerals programmes in respect of Crown owned minerals other than petroleum
 - (v) permit blocks offers for Crown owned minerals other than petroleum
 - (vi) other permit applications for Crown owned minerals other than petroleum
 - (vii) amendments to permits for Crown owned minerals other than petroleum
- (d) The principles that will be followed by the Ministry in consulting with the Governance entity
- (e) How the Ministry will seek to fulfil its obligations under the protocol

(3) Protocol Area

The protocol applies to the area shown below:

MED PROTOCOL AREA

