



## Submission to the Economic Development, Science, and Innovation Committee on the Crown Minerals Amendment Bill 2022

23 January 2023

Jamie Strange MP  
Economic Development, Science and Innovation Committee  
Parliament Buildings  
Wellington 6160

Email: [edsi@parliament.govt.nz](mailto:edsi@parliament.govt.nz)

Dear Mr. Strange,

### Re: The Crown Minerals Amendment Bill 2022

Thank you for the opportunity to provide comment on the Crown Minerals Amendment Bill 2022.

I write this submission as secretary for Democracy Action. The contents of this submission do not necessarily reflect all the views of any or all members and supporters of Democracy Action, but it does reflect the group's overall view.

NB: Democracy Action has no vested interest in the outcome of this legislation other than that of responsible citizens who support a fair, just, and politically stable future for all New Zealanders.

**Democracy Action is a group of citizens committed to the principles of democracy, equality of citizenship and the rule of law.**

We can be found at  
[democracyaction.org.nz](http://democracyaction.org.nz)

### Submission

Democracy Action opposes the second part of the proposed changes: "Improvements to permit/licence holder and permit applicant engagement with iwi and hapū"

### General objection on principle

Democracy Action supports the identification of and protection of sites and places of archaeological importance, and has no opposition to respecting history, or courtesy toward cultural values. However, we object to any provisions that provide statutory rights to some citizens, based on race, that are not available to all citizens. The bill (and the principle Act) do this by providing iwi and hapū a statutorily mandated mechanism to influence the actions of the Government and private sector mining companies.

A system that gives special rights to Māori citizens, through their representative organisations such as iwi and hapū, is indisputably incompatible with the principle of equality. Under this legislation, iwi and hapū have rights and advantages greater than those of other New Zealanders. Considerable weight is given to providing for Māori input with no corresponding path for other citizens to do likewise. This is in clear breach of the third article of the Treaty of Waitangi, which guarantees all the people of New Zealand "the same rights and duties of citizenship."

We contend that Māori, iwi and hapū have no special rights or interests over and above those of other citizens in the Crown-owned mineral estate. Therefore, there is no basis for mandated engagement arrangements, let alone new provisions that are designed to “further encourage” engagement.

**Further concerns relating to specific provisions are outlined below.**

Despite the bill’s proclaimed intention to make the Crown’s expectations for permit license holders and permit applicants clear, the provisions regarding engagement continue to create uncertainty.

The reasons for this uncertainty include the following factors:

- The Crown’s engagement expectations with iwi and hapū are not covered in the bill. Instead, the bill requires permit/licence holder and permit applicants to meet the “engagement expectation” of iwi and hapū.
- The bill fails to specify the engagement expectations of iwi and hapū. This gives iwi and hapū carte blanche to define expectations, placing them in a position of power as regards this obligation imposed on the permit operators. Permit and licence holders will also be aware of the provision in the legislation making explicit that decision-makers may have regard to feedback from iwi or hapū on the quality of past engagement with permit and licence holders for future permit allocation decisions.
- Additionally, these expectations are likely to vary from area to area and could include the differing expectations of multiple iwi and hapū. The bill offers no direction as to what should happen if a permit holder were required to engage with multiple iwi and hapū with conflicting views and requirements.
- There is an expectation that permit holders and permit applicants meet the expectation of “good” engagement with iwi and hapū, without clarification as to what constitutes “good” engagement.
- The bill also fails to provide clarification as to the consequences for failing to meet iwi and hapū expectations. However, the bill’s accompanying Regulatory Impact Statement mentions revocation or transfer of permits if permit conditions are not met. If this is the case, then the legislation should make this clear. If not, the legislation should make clear what the consequences would be.

**Other issues the bill fails to address**

- The potential for conflicts of interest to arise. The iwi and hapū provisions appear to ignore the fact that some iwi have an economic interest in mining and extractive industries. Under the engagement obligations, iwi and hapū could well be privy to confidential information that could be used for their own economic benefit.
- The Regulatory Impact Statement notes that work leading up to a block offer includes significant time and resource from iwi and hapū as well as the government. This points to iwi and hapū involvement in the process being extensive. It also provides iwi and/or hapū with insider information on upcoming block offers, valuable information for iwi and hapū who have interests in or wish to have interests in the mining/extractive industries.
- There is no directive for funding iwi engagement in consultation over block offers or in engagement with permit holders and permit applicants. No explanation is given as to who foots the bill.

**Additional considerations**

Uncertainty for investors. It is important that mining and extractive companies are provided with as much certainty as possible over upcoming block offers, and as much clarity as possible about what they need to do to continue to operate successfully in New Zealand. Mining companies typically make large-scale investment

decisions with long timeframes. The Crown sets expectations for the retention of permit rights - reporting, royalties etc. This ensures mining companies know ahead of time what is required. Such clarity is not reflected in the iwi and hapū engagement provisions. Instead, the uncertainty these provisions present will make it difficult for investors to plan long-term with any surety. New Zealand could well be seen as a place with too much uncertainty, and interest in investing in the industry will wane. This will reduce the economic return of Crown-owned minerals, which is used to benefit all New Zealanders.

**Final words....**

New Zealand has an enviable international reputation as one of the least corrupt countries in the world. This reputation is built largely on the stability of our political system of democratic equality, respect for human rights, and adherence to the rule of law. This bill, which entrenches special rights and influence based on race, undermines these values.

**Decision sought**

Democracy Action requests that all provisions relating to engagement expectations between the industry and iwi and hapū be withdrawn from the Crown Minerals Amendment Bill. We also recommend the Crown Minerals Act 1991 be amended to remove all such engagement provisions.

Yours sincerely,

Susan Short

(Secretary)

**Democracy Action**

*Promoting Democratic Principles*  
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