Submission from Straterra
to New Zealand Petroleum & Minerals
Minerals Programme for Minerals
February 2025

Introduction

1. Straterra is the industry association representing the New Zealand minerals and mining sector. Our membership is comprised of mining companies, explorers, researchers, service providers, and support companies.
2. Thank you for the opportunity to make this submission on the Minerals Programme for Minerals (Excluding Petroleum) (MPM).

Key points

3. Overall, Straterra supports the MPM.

Key proposed amendments to the MPM

a) Clarify that **cl 1.5 (1)** does not apply to the royalties regime, as per the 2013 Minerals Programme

b) Amend **cl 1.5 (1)** so that it applies to changes to existing permits, not to existing permits per se

c) In **cl 1.7 (7) (b),** define what is meant by “the start of the next permit year”

d) In **cl. 2.1 (3)**, the MPM should prevail over a Crown Minerals Protocol where there is uncertainty in interpretation, because the MPM is subservient to the Crown Minerals Act and not to other legislation

e) Apply **cl 2.8 (1)** solely to permits under application, or under change applications, including for subsequent permits

f) Delete **cl 2.8 (1) (h)** because archaeological sites are covered already under other legislation

g) Reword **cl 2.9 (f)** to state “how the proposed activity may affect the land being considered for protection,” to clarify the intent of this provision

h) Clarify which other legislation **cl 3.1 (11)** refers to

i) Regarding financial capability guidelines, relating to **cl 5.3 (3)**, we request a return to the previous assessment standards for mining permit applications with respect to financial capability

j) Reword **cl 5.3 (5) (a)** to state, “whether the applicant (or a related party) has failed to substantively comply with …", for workability

k) Delete **cl 6.2(9)** in relation to overlapping permits because it is confusing and unnecessary, alternatively, return to wording of the 2013 Programme

l) Delete the last sentence of **cl 6.3 (1)** to avoid confusion over which provisions apply, or do not apply to Tier 3 permits

m) Delete **cl 9.2 (3) (b)** for clarity of the Crown's intent in relation to test pits and bulk sampling

n) Reword **cl 10.3 (2)** (and other relevant clauses, accordingly) to say, "(2) A mining permit (or any EOL) will ordinarily be granted over an unbroken area, except if the mining is to be carried out in respect of both Crown-owned and privately owned minerals, or unless the Minister considers that special circumstances exist as set out in clause 4.6.", for clarity and completeness

o) In **cl 10.8 (1)**, add to "Subject to section 32 of the Act", the words "and subject to clause 4.6 of this Programme" for consistency with other recommendations

p) Reword **cl 10.12 (4)** to say, "The Minister **ordinarily** will not consider", to avoid confusion, and to provide necessary flexibility for permit holders

q) Replace the term "restoration" with "rehabilitation" everywhere it occurs, for accuracy and workability

r) Delete **cl 10.15 (2)** because it is unnecessary regulatory duplication

s) Reword **cl 12.12 (3)** to say after section 41B (2), "that consent and any corresponding permit conditions will apply to all subsequent Tier 1 permits granted in relation to the same permit participant in respect of the same minerals and the same land unless the Minister", to avoid ambiguity

t) Align wording in relation to the Treaty in **cl 13.3 (1)** to the rest of the MPM, i.e. the corresponding wording for Tier 1 and Tier 2 permits

u) Delete **cl 13.3 (3)** because the meaning of "material concern" is unclear, and because it is unnecessary. Alternatively, change the wording to that for Tier 1 and Tier 2 permits, as follows, "The Minister may, at their discretion, decline a permit application based on the applicant's technical capability, financial capability, or previous compliance record, without proceeding to consider any other aspects of the application. The factors the Minister will take into account in making that determination (without limitation) are outlined below."

Key issues for resource policy team consideration

v) Improve the wording of **cl 4.6 (3)** to recognise that permits may need to be granted over broken areas, e.g. a mosaic of Crown-owned and privately owned mineral tenures, which together make a viable whole, including for subsequent permits

w) Revisit the meaning of "highly likely", as opposed to "likely", everywhere the term occurs in the Act and the Programme, in a minerals context, to avoid the inappropriate application of a petroleum context

Submission

4. Here, we go through the draft MPM chapter by chapter and comment on the relevant sections.

Chapter 1 – About this programme

1.5 Application of this Programme

(1) This Programme applies to all existing permits and existing privileges for minerals (excluding petroleum) and to all applications for permits for minerals (excluding petroleum) received on and after the date it takes effect from..

5. We propose the addition of clarity that cl 1.5 (1) does not apply to the royalties regime, e.g. by using wording from cl 1.5(4) of the 2013 Mineral Programme.
6. Separately, we are concerned that changing all minerals permits onto this new Minerals Programme is not consistent with long-standing good legislative practice regarding retrospective legislation, because this undermines confidence in investments already made.
7. Logically, cl 1.5 (1) should apply to changes to existing permits, rather than to the existing permit per se. We propose the same wording as when the 2013 programme took effect, "This Programme takes effect from [date]. It applies to all applications for permits for minerals excluding petroleum received on and after this date".

1.7 Tier 1 and Tier 2 permits

(2) Section 2B(1) of the Act provides that the following permits are Tier 1 permits:

(b) an exploration permit for gold, silver, platinum group metals, coal, ironsand, or another metallic mineral unless the total work programme expenditure for the final five years of the life of the permit, or for the entire duration of the permit if the permit is for less than five years, is, in the Minister's estimation, less than the amount listed in the second column of Schedule 5 of the Act (which, at the time this Programme commenced, was $1,250,000):

(c) a mining permit for gold, silver, or platinum group metals if, in any one year in the next five years of the life of the permit, the annual royalty in relation to the permit will be, in the Minister's estimation, equal to or more than the amount listed in the third column in Schedule 5 of the Act (which, at the time this Programme commenced, was $50,000):

8. In light of an increase over time in work programme and exploration costs, and, separately, an increase in royalty payments, the dollar figures above need upward revision.

1.7 Tier 1 and Tier 2 permits

(5) The Minister may also determine the tier status of a permit at any other time they think fit.

9. We propose the addition of the following words to cl 1.7 (5), "in consultation with the permit applicant or permit holder", to provide natural justice to the regulated.

1.7 Tier 1 and Tier 2 permits

(7) Section 2D (2) of the Act provides that the Chief Executive will notify the permit holder of a change in tier. Where this occurs, the new tier status and all provisions that apply to it (including those in the Act, this Programme, or the Regulations) will apply as follows:

(a) where a Tier 2 permit is being changed to a Tier 3 permit, from the day after the date on which the Chief Executive notifies the permit holder of a change in the tier status of the permit:

(b) for any other permit tier status change (other than a change of the type referred to in subclause (7)(a)), from the start of the next permit year after the Chief Executive notifies the permit holder of a change in the tier status of a permit.

10. We request that cl 1.7(7) (b) in relation to dropping from a T1 to a T2 permit, that the change and the provisions applying to it take effect from the date of the decision. This is because it is onerous to prepare an annual summary report (ASR) for a T1 permit, and this level of ASR is no longer necessary and on changing to a T2 permit the ASR requirements are substantially less. We propose the insertion of a subclause (c) to address this matter.
11. In the case of a change from T2 to T1, then cl 1.7(7) (b) should remain as worded, because the work required to shift from T2 status, to ASR reporting under T1 status, is substantial and all necessary information may not be available until the following calendar year.
12. In addition, we propose clarifying what is meant by “the start of the next permit year” (cl 1.7 (7) (b)), i.e. whether this refers to the start of the calendar year, or from the permit anniversary.

Chapter 2 – Regard to the principles of the Treaty| te Tiriti

2.1 The Treaty | te Tiriti

(3) The Crown has entered a number of protocols with iwi and hapū which set out how the Crown will engage with a particular iwi or hapū over matters relating to Crown minerals permits (Crown Minerals Protocols). To the extent there is any inconsistency between the text of the Programme and a Crown Minerals Protocol, the Crown Minerals Protocol prevails.

13. Crown Minerals Protocols are agreements between the Crown and Māori under statutes other than the Crown Minerals Act, whereas the MPM is secondary legislation to the Crown Minerals Act and not to other Acts. Accordingly, we propose replacing the last sentence of cl 2.1 (3) with, “To the extent there is any inconsistency between the text of the Programme and a Crown Minerals Protocol, the Programme prevails.”

2.8 Requests by iwi or hapū to protect certain land

(1) Where iwi or hapū request that certain areas of land should be excluded from the operation of the Programme or are not to be included in a permit, or that activities within certain areas be subject to additional requirements, they should provide an accurate description of the areas and set out the reasons for their request to assist the Minister to consider the request effectively. The matters that should be covered include (but are not limited to):

14. Investment uncertainty in New Zealand will increase if cl 2.8 (1) were to apply to permits under application, or under change applications, including for subsequent permits.
15. We propose amending the wording to say, “… are not to be included in a new permit application, or under a change application, or for applications for subsequent permits …”

(h) any land which is protected under the Heritage New Zealand Pouhere Taonga Act 2014 (for example, an archaeological site).

16. Most mining today occurs in areas where mining had been done pre-1900, and, therefore, could be classified as an archaeological site. An issue is that this could be used as a reason to exclude land from permitting without consulting the minerals industry. A regulatory process exists already under the Heritage New Zealand Pouhere Taonga Act 2014, including in relation to wāhi tapu and the like.
17. We propose the deletion of cl 2.8 (1) (h) because it is unnecessary, being covered already under other legislation.

> **2.9 Matters the Minister must consider when considering requests to protect certain land**
>
> (1) When considering requests by iwi or hapū to exclude any land from a permit, or to subject activities in certain areas to additional requirements, the Minister must take into account:
>
> (f) how the proposed activity may affect the land requiring protection.

18. Cl 2.9 (f) implies predetermination, that the land will be protected, which is unlikely to be the Crown's intent. We propose rewording to say, "how the proposed activity may affect the land being considered for protection."

Chapter 3 – Land available for mineral prospecting, exploration and mining

> **3.1 Land unavailable for permits**
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> (2) [The Chief Executive will maintain a database of land that, at the request of an iwi or hapū, the Crown has recognised as being of particular importance to the mana of an iwi or hapū and that is therefore excluded from the operation of this Programme and/or must not be included in any permit issued under this Programme (see clauses 2.8 and 2.9).

19. In the event of an iwi or hapū approaching NZP&M on the above, the industry risks being left in the dark. Almost the entire chapter raises questions as to how the provisions will be implemented. We suggest a review of Chapter 3 for clarity.

> **3.1 Land unavailable for permits**
>
> (11) Other legislation may also restrict permitting.

20. We assume cl 3.1 (11) refers to Treaty settlement legislation? We suggest more specific wording for clarity.

Chapter 4 – Permits: General

> **4.6 Permit area**
>
> (4) Any application for a subsequent permit, an extension of land (EOL), an extension of duration, a relinquishment, or the surrender of land will ordinarily be declined if the area retained is a broken area, unless special circumstances apply. Special circumstances may include (but are not limited to) any of the following:
>
> (c) an extension of duration application to enable the permit holder to complete rehabilitation work.

21. Cl 4.6 (4) (c) is a new clause, and is supported, because it enables an EOD – extension of duration – to complete site rehabilitation. This reflects s36 (4) of the Act.

4.7 Applications for permits

(2) Applications may be made online via the Online Permitting System, or with use of the relevant forms which are available on the NZP&M website. NZP&M prefers applicants to make use of the Online Permitting System where possible.

22. Note that documentation, especially in respect of Tier 1 permits, is usually too large for the Online Permitting System (OPS) to upload it. As long as we are not forced to use the OPS. The existing wording appears to provide the necessary flexibility of approach and we encourage NZP&M to explore methods of enabling large documents to be uploaded online.

4.7 Applications for permits

(3) Section 29A(1)(d) of the Act provides that a Tier 1 or Tier 2 permit application must include “any other information prescribed in the Regulations.” The Crown Minerals (Minerals Other than Petroleum) Regulations 2007 require many permit applications to include “a map of the permit area.” The Crown Minerals (Minerals Other than Petroleum) Regulations 2007 provide that such a map must enable the boundaries of the permit area to be accurately located and relocated, and that such a map must include (among other things):

(a) title and reference information

23. It is not clear what is meant by “reference information”. Add source, or location, or source, or both, for clarity.

Chapter 5 – Permits: Matters the Minister must consider

5.1 Introduction

(6) Section 29C of the Act requires the Minister to have regard to feedback provided in iwi engagement reports and at annual review meetings about the quality of an applicant’s engagement(s) with iwi and hapū (in their capacity as a current or previous permit holder or privilege holder). The Minister may also have regard to other feedback from iwi or hapū about the applicant’s engagement(s) with them (in their capacity as a current or previous permit holder or privilege holder) (see clause 5.6).

24. It is a fair point to seek the view of relevant iwi / hapū on “the quality of an applicant’s engagement”. In the interests of natural justice to all parties, it would be fair to also ask the applicant the same question.

5.3 Complying with and giving effect to the proposed permit and work programme

(3) An applicant will ordinarily be required to demonstrate that it has sufficient funding available to undertake the proposed work programme.

25. The minerals industry has previously submitted on the Guidelines on financial capability. Recent applications for permits or changes to permits have seen the application of financial capability tests suitable for the petroleum industry rather than for the minerals industry excluding petroleum. This is of concern as how mining companies operate and raise finance differs significantly from the petroleum industry.

26. It is not until a company has obtained resource consents for a project, as well as the required mineral permit, is it able to go to the market to secure funding. No lender will provide letters of intent or

similar until there is a project that is fully consented. This means that a company is placed in a chicken and egg situation, where until it can obtain its mineral permit (and other consents) it cannot seek funding (and this is whether by way of equity or otherwise) but is being increasingly required by NZP&M to prove committed funding for a project in order to obtain a mining permit.

27. We request a return to the previous assessment standards for mining permit applications, in particular, with respect to financial capability.

5.3 Complying with and giving effect to the proposed permit and work programme

(5) "Relevant information" for the purposes of section 29A(2)(b)(iii) (see clause 5.1(2)(b)(iii) above) includes information that, in the Minister's view, is material, relates to or has a bearing on the type of activity or activities proposed under the permit application, and relates to compliance in the previous ten years. Matters the Minister may consider include, but are not limited to:

(a) whether the applicant (or a related party) has failed to comply with any petroleum permits, minerals permits or licences granted in New Zealand or internationally:

28. The failure to comply with any permit should be tagged with the word **substantively**. Minor failures to comply can occur without compromising the *bona fides* of a permit holder. We propose rewording cl 5.3 (5) (a) to say, "whether the applicant (or a related party) has failed to substantively comply with …"

5.6 Minister's consideration of feedback from iwi and hapū

(1) Where an applicant is a previous or current permit holder, is or was required to submit an iwi engagement report in their capacity as a previous or current permit holder and they are applying for a Tier 1 permit, then the Minister:

(a) must have regard to feedback provided in iwi engagement reports (see clause 11.9) and at annual review meetings about the quality of the applicant's engagement(s) with iwi or hapū in the applicant's capacity as a previous or current permit holder; and

(b) may have regard to any other feedback from iwi or hapū about the quality of the applicant's engagement(s) with iwi or hapū, in the applicant's capacity as a previous or current permit holder.

29. What happens if there is no engagement, or a refusal on the part of iwi to engage with permit applicants or permit holders? We look forward to any draft guidance on this matter, and to having input into them.

Chapter 6 – Methods of allocating permits

6.1 Introduction

(5) No more than 60 working days after land ceases to be subject to a permit under subclause (4), the Minister will determine which allocation method will apply in respect of the particular mineral group(s) in that land. NZP&M will give notice on its website that the land is either:

(a) (b) (c) available for AWPO applications, as set out in clauses 6.3 to 6.6; or subject to NAA status, as set out in clauses 6.7 and 6.8; or reserved under section 28A of the Act for possible competitive tender allocation.

30. In the industry's experience, NZP&M is undertaking the above process step in much less than 60 working days. We propose 20 working days should be sufficient, noting there does not appear to be a statutory time frame for this process in the Act.

6.2 Overlapping permit applications

(9) The Minister will not consider any application for an Overlapping Permit or Overlapping Land Extension that, in the Minister's opinion, is being made to avoid the provisions relating to extensions of duration that are set out in section 36 of the Act.

31. Cl 6.2(9) is new, introduces a Ministerial discretion, and is not supported. How would the Minister decide whether the application was made to avoid the provisions relating to duration under s36 of the Act. Who would be providing that information? How subjective would it be? Would the applicant be allowed an opportunity to review the information upon which a Ministerial decision was going to be made? Any Overlapping Permit or Overlapping Land Extension should be assessed on its merits and not on subjective views as to the reasons for that application.
32. We propose the deletion of cl 6.2 (9) because it is unnecessary, alternatively, return to the corresponding wording in the 2013 Minerals Programme, because this had more clarity.

6.3 General information about AWPO applications

(1) The AWPO allocation method provides a method for an application for a Tier 1, Tier 2, or Tier 3 permit with an acceptable work programme to be considered, and applies to all available land in accordance with clause 6.4. Clauses 6.3 and 6.4 apply to Tier 3 permits as well as Tier 1 and 2 permits (see clause 13.2).

33. The last sentence in cl 6.3 (1) implies that all other clauses in the MPM do not apply to Tier 3 permits unless specifically stated, which is unlikely to be the Crown's intent. We propose deleting the last sentence to cl 6.3 (1) to provide clarity.

Chapter 9 – Exploration permits

9.2 Assessment of work programmes

(3) For the purposes of subclause (2)(b), where the drilling and other exploration activities involve the establishment of a test pit, the volume of materials extracted from that test pit as a test pit sample or bulk sample must be:

(a) limited to a volume that is consistent with the purpose of an exploration permit (as provided in section 23 of the Act) and does not amount to mining; and

(b) less than the maximum volume (as appropriate) for a test pit or bulk sample as may be agreed in the work programme for the exploration permit.

34. The language of cl 9.2 (3) (a) and (b) is unclear, noting the Crown's intent is understood, i.e. to prevent commercial mining under an exploration permit. By analogy, however, if an exploration drilling programme were to be extended under an exploration permit, there would unlikely be any objection from the regulator. We propose deleting cl 9.2 (3) (b) for clarity, because we view it as problematic having a maximum volume in a minimum work programme requirement.

Chapter 10 – Mining permits

10.3 Assessment of mining permit area

(2) A mining permit (or any EOL) will ordinarily be granted over an unbroken area, unless the Minister considers that special circumstances exist as set out in clause 4.6.

35. We propose rewording cl 10.3(2) as follows: "(2) A mining permit (or any EOL) will ordinarily be granted over an unbroken area, except if the mining is to be carried out in respect of both Crown-owned and privately owned minerals, **or** unless the Minister considers that special circumstances exist as set out in clause 4.6."
36. This consideration applies also to cl 12.14 (3), noting that if cl 4.6 (4) is amended as sought (see above), no further change will be needed because of the cross-reference back to cl 4.6.

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

(1) Subject to section 32 of the Act, when the Minister has decided to grant a mining permit over land that is subject to more than one exploration permit held by the applicant, a single mining permit will ordinarily be granted, provided the exploration permits relate to a common mineable mineral resource and the land to which the mining permit relates is an unbroken area.

37. We propose adding to "Subject to section 32 of the Act", the words, "and subject to clause 4.6 of this Programme", for clarity, and consistency with other clauses relating to the issue of broken or unbroken land.

10.12 Staged work programmes for Tier 1 mining permits

(4) The Minister will not consider a work programme that is set out in development stages where the work that the applicant proposes to carry out in the first stage (or any other stage) is work that the Minister considers better suited to an appraisal extension.

38. Applicants should be able to propose work programmes for mining permits that include drilling, the completion of feasibility level studies, or bulk sampling as part of a staged work programme, which has until now been the case. To give the Minister the proposed discretion increases uncertainty for the applicant and will impact on their ability to seek resource consents for mining and to raise necessary funding.
39. We propose rewording cl 10.12 (4) to say, "The Minister **ordinarily** will not consider ...", which would provide the necessary flexibility for permit holders seeking permit changes.

10.15 Restoration

(1) Environmental protection provisions relating to **restoration** are set by regional authorities under the Resource Management Act 1991 (onshore and up to 12 nautical miles offshore) and the Environmental Protection Authority under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (in New Zealand's exclusive economic zone and continental shelf). Other relevant legislation includes the Health and Safety at Work Act 2015 and the Maritime Transport Act 1994.

(2) The Minister may include provisions in a mining permit work programme for **restoration** in accordance with good industry practice.

40. The term “restoration” is inappropriate here, as well as in cl 13.6, because it implies a perfect return of land to the *status quo ante*, which is unachievable in practice. We propose replacing the term with “rehabilitation”, which is included the Act e.g. s36, and which is a technical term used by the industry, and is in common parlance under the RMA.
41. Cl 10.15 (2) is unnecessary regulatory duplication because this matter is dealt with already under the RMA. We propose deletion.

Chapter 12 – Changes to permits

12.10 Changes of control

(5) The Chief Executive may publish guidance on how a permit holder can demonstrate financial capability on the NZP&M website. Guidance directed at permit holders will also be relevant to how permit participants and guarantors may demonstrate financial capability for the purposes of a change of control.

(6) A statement from the permit participant under subclause (3)(b)(ii) above that it has the financial capability to meet its obligations under the permit should include at least the following information (as applicable):

(a) For work programme commitments costing less than NZ$50,000:

(i) an explanation of the expected running costs of the operation, for example: labour, machinery running costs, machinery hire costs, land access fees; and

(ii) a list of the equipment to be used and how that equipment will be sourced (e.g. owned by the applicant, leased, or to be purchased); and

(iii) bank statement(s) as specified in guidance published on the NZP&M website.

(b) For work programme commitments costing more than NZ$50,000 but less than NZ$1,250,000:

(i) an annual budget of the expected running costs of the operation, for example: labour, machinery running costs, machinery hire costs, and land access fees; and a description of the equipment and how it will be used.

(ii) If the applicant owns equipment, this should be supported by evidence (such as an asset schedule); and

(iii) if the applicant holds multiple permits, they should include an equipment utilisation plan to show how equipment will be distributed across operations; and

(iv) bank statement(s) as specified in guidance published on the NZP&M website.

(c) For work programme commitments costing more than NZ$1,250,000:

(i) a detailed budget (quarterly) of the expected running costs of the operation. For example: labour, machinery running costs, machinery hire costs, and land access fees. a description of the equipment and how it will be used.

(ii) If the applicant owns equipment, this could be supported by evidence (such as an asset schedule); and

(iii) if the applicant holds multiple permits, they should include an equipment utilisation plan to show how equipment will be distributed across operations; and

(iv) financial accounts or a statement of financial position as specified in guidance published on the NZP&M website.

42. The concept of guidance for decision-making on financial capability after a change of control is supported (cl 12.10 (5)). The following subsection (6) is very prescriptive, perhaps, overly so. We ask NZP&M to review carefully the new wording in the MPM.

12.12 Dealings

(3) Where the Minister consents to a dealing under section 41B (2), that consent and any corresponding permit conditions will apply to all subsequent Tier 1 permits granted in relation to the same permit participant, minerals and land unless the Minister directs otherwise at the time the consent is given.

43. Cl 12.12 (3) is ambiguous in its wording. We assume the intent is to ensure that any conditions apply also only to all subsequent Tier 1 permits granted to the same permit participant, in respect of the same land and the same minerals.

Chapter 13 – Tier 3 permits

13.3 Evaluation of application for a Tier 3 permit

(1) There is no general right to a Tier 3 permit. The Minister has discretion whether or not to grant a Tier 3 permit. There are circumstances where the Minister may decide not to grant a Tier 3 permit, including for non-compliance with previous permit obligations, or where granting a permit would be inconsistent with the Crown's Treaty | Te Tiriti obligations.

44. The wording "or whether granting a permit would be inconsistent with the Crown's Treaty | Te Tiriti obligations" is unclear, and could lead to unintended outcomes. We propose aligning wording in relation to the Treaty in cl 13.3 (1) to the rest of the MPM, i.e. the corresponding wording for Tier 1 and Tier 2 permits.

13.3 Evaluation of application for a Tier 3 permit

(3) The Minister may, at their discretion, decline a permit application based on material concerns with the applicant's technical capability, financial capability, or previous compliance record, without proceeding to consider any other aspects of the application.

45. The phrase "material concerns" is novel, and its meaning is unclear. It is also not clear what this provision adds to cl 13.3 as a whole. We propose deletion of cl 13.3 (3), because it is unnecessary, alternatively, use the wording for Tier 1 and 2 permits, as follows, "The Minister may, at their discretion, decline a permit application based on the applicant's technical capability, financial capability, or previous compliance record, without proceeding to consider any other aspects of the application. The factors the Minister will take into account in making that determination (without limitation) are outlined below".

Other issues for consideration

46. It is accepted the below issues are out of scope for the present MPM review; nonetheless, they are in Straterra's view material to the better workability of the Crown minerals regime.

4.6 Permit area

(3) An exploration or mining permit will ordinarily be granted over an unbroken area, except if the exploration or mining is to be carried out in respect of both Crown-owned and privately owned minerals.

(4) Any application for a subsequent permit, an extension of land (EOL), an extension of duration, a relinquishment, or the surrender of land will ordinarily be declined if the area retained is a broken area, unless special circumstances apply. Special circumstances may include (but are not limited to) any of the following:

(a) an exploration permit application or an extension of duration application covers several discrete deposits and the objective is to appraise whether the deposits can be effectively mined as a single project:

(b) a mining permit application covers several discrete deposits that will be mined as a single project:

(c) an extension of duration application to enable the permit holder to complete rehabilitation work.

47. Cl 4.6 (3) recognises that permits may need to be granted over broken areas, e.g. a mosaic of Crown-owned and privately owned mineral tenures, which together make a viable whole. This subclause, however, relates to the first grant of a permit, and is not carried through into cl 4.6 (4). It should be.
48. We suggest the following rewording: "Any application for a subsequent permit, an extension of land (EOL), an extension of duration, a relinquishment, or surrender of land will ordinarily be declined if the area retained is a broken area except if the exploration or mining is to be carried out in respect of both Crown-owned and privately owned minerals, or unless other special circumstances apply.
49. This concept needs to carry through to later chapters of the Minerals Programme. See Chapter 10 clause 10.3(2) which refers back to clause 4.6.

5.1 Introduction

(1) Chapter 5 applies to Tier 1 and Tier 2 permits and permit applications only. Section 29A of the Act sets out the matters the Minister must consider and be satisfied about before deciding to grant a Tier 1 or Tier 2 permit to a permit applicant.

(2) Section 29A requires the Minister to be satisfied:

(a) that the proposed work programme is consistent with:

(i) the purpose of the Act; and

(ii) the purpose of the proposed permit; and

(iii) good industry practice

(b) and that the applicant is **highly likely** to comply with the conditions of, and give proper effect to, the proposed work programme, taking into account:

(i) the applicant's technical capability; and

(ii) the applicant's financial capability; and

(iii) any relevant information on the applicant's failure to comply with permits or rights to prospect, explore or mine in New Zealand or internationally, or to comply with conditions in respect of those permits or rights;

(c) and that the applicant is **highly likely** to comply with the relevant obligations under the Act or the Regulations in respect of reporting and the payment of fees and royalties; and that

(d) for Tier 1 exploration or mining permits, the proposed Operator has, or is **highly likely** to have by the time relevant work under any granted permit is undertaken, the capability and systems that are likely to be required to meet the health, safety and environmental requirements for the types of activities proposed under the permit.

50. "Highly likely" to comply, based on an assessment of financial and technical capability, implies the financial capability of applicants should be of a very high standard. To determine this in practice has seen NZP&M officials delve into the detailed workings of companies, e.g. on how they are going to fund raise. NZP&M is now going through company records. The result is arguments between companies and officials about debt funding, and receiving instructions from officials on what companies can or cannot do.
51. At issue is that funders will not underwrite a project unless project proponents have gained resource consent. The industry has previously given feedback on guidelines, and the issue is common knowledge in New Zealand, including within NZP&M.
52. "Highly likely" was introduced into the CMA by the previous government. We understand the change was driven by 2021 case law, however, this applies to the petroleum industry, and not to the minerals industry, which is substantially different in scale.
53. In an ideal world, the Government would amend the CMA to remove the word "very" every time it precedes the word "likely", in relation to minerals activities, and then amend the MPM accordingly.