

New Zealand Committee of the International Union for Conservation of Nature and Natural Resources



SUBMISSION ON PUBLIC DISCUSSION DOCUMENT: “MAXIMISING OUR MINERAL POTENTIAL: STOCKTAKE OF SCHEDULE 4 OF THE CROWN MINERALS ACT AND BEYOND”

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SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

Question 1 and Question 4: NZIUCN opposes the removal of these lands from Schedule 4 – and any future removal of other protected areas already on the schedule in the localities listed in section 5.1 of the discussion document – and opposes (Question 4) further investigation of the mining potential of Conservation lands

The philosophy and intent of our national parks legislation is basically opposed to those of the Discussion Paper: the designation of national parks (and other legislatively protected areas) amounts to a conscious foregoing by our nation of any unsustainable extractive uses (like mining) of these lands.

Fundamentally, the proposals contained in the discussion document are flawed. They are contrary to longstanding and recognized practice and to the ethic of New Zealanders and are in conflict with a number of significant global considerations and practices.

There is no need to mine the conservation estate in order to develop New Zealand's mining industry.

Full consultations with the tangata whenua on all the proposals are appropriate and overdue

Question 2: The areas listed all fit the criteria in Schedule 4 of the Crown Minerals Act and therefore should be added.

NZIUCN submits that the following high-value conservation area types be added to Schedule 4: national reserves such as Lewis Pass, all of our World Heritage areas (Te Wahipounamu, Tongariro and the Sub-Antarctic Islands), and all ecological areas.

NZIUCN supports a law change to remove any ambiguities and enable automatic addition to Schedule 4 of protected areas which meet the criteria.

Question 3: NZIUCN rejects as grossly overstated the economic assumptions and contentions that form a highly significant part of the rationale for mining in areas included in Schedule 4, and does not accept the Government's stated position that "*it is possible to balance the different values of areas, and that modern mining need not be at the expense of conservation or other values.*" Any valid calculations need to take into account both the environmental and the economic costs of mining including the costs of extraction, environmental damage costs and the losses of market and non-market benefits.

Furthermore, NZIUCN is of the view that if Government is prepared, for example, to countenance mining in Coromandel Peninsula protected areas with their high and threatened biodiversity values, then we have little confidence it is willing to protect other endangered plants and animals in other Schedule 4 lands.

Question 5: NZIUCN recommends that:

because conservation funding is currently woefully inadequate, much more Crown funding of core work is required;

a conservation fund from royalties should not, however, be seen as making mining on conservation land more acceptable;

a royalties fund can supplement efforts, but should not be restricted or capped;

it is appropriate that some royalties from mining on conservation land are allocated to conservation priorities;

a contestable fund will assist in supplementing conservation work - some design features of the proposal are supported, while others are not.

Question 6: NZIUCN strongly opposes the proposed changes to existing provisions in relation to decision-making on mining access to Schedule 4 and other conservation

areas.

Question 7: NZIUCN regards the abandonment, by the current government, of the well-established practice of extensive public consultation on any proposal to alter the designation, management or use of public conservation lands as an unfortunate and undemocratic precedent, and recommends that Ministers and officials resume the usual practice of organizing open public meetings to explain the resource values at stake and to respond to questions.

Global considerations

Tangata whenua considerations

There has been a three week extension to the very brief consultation period on the Stocktake Paper because the government has belatedly accepted that there are significant tangata whenua interests involved. This should have been apparent from the beginning. The first National Park was created as a result of the generosity and far-sightedness of a distinguished Maori leader. Several other National Parks are co-managed by various iwi and there remain unresolved Treaty issues which relate to claims to conservation lands or to mana whenua recognition.

On the international level there is explicit recognition of the place of tangata whenua in global decision-making fora on protected areas. Tuwharetoa Paramount Chief Tumu Te Heuheu is the immediate past Chair of UNESCO's World Heritage Committee, the body which determines which applications for World Heritage status for natural and cultural sites around the world are to be approved, while Aroha Mead (Ngati Awa and Ngati Porou) is the Chair of the IUCN Commission which helps formulate IUCN policy on such issues as Protected Area co-management.

For its part the IUCN membership has consistently shown its awareness of the links between indigenous people and protected areas and the need for full consultation on proposals for changing their status. It has a clear policy to "*promote respect to the free, prior informed consent of indigenous peoples in relation to the interventions of the private sector which may affect the lands, territories and resources of indigenous peoples*", and consistently promotes this principle in its relationships with the private sector.⁵ It calls on governments to "*ensure due recognition of the rights of indigenous peoples in existing protected areas.*" (WCC resolution 4.048, 2008) and in particular supports effective participation of such peoples in the management of protected areas which lie fully or partially within their territories.

NZIUCN recognizes that in relation to many areas currently included in Schedule 4 and elsewhere on the conservation estate there have been, over many years, contentious issues between tangata whenua and Government. These issues often concern acknowledgement of mana whenua and the exclusion from places of wahi tapu and mahinga kai that is imposed by these places being within the conservation estate.

Considering longstanding claims by those that hold traditional mana whenua over the land, and that conservation land is not generally available for Treaty settlements, it seems inequitable to be considering giving rights for prospecting and extractive activities to others. The direction of the proposals is certainly out of line with the trend to co-management as seen in the Ngai Tahu, Waikato-Tainui and other settlements. **Full and considered consultation with tangata whenua on the current proposals is appropriate and overdue.**

Why Conservation land?

It is of great concern that the most valuable conservation areas on the conservation estate, as identified by Schedule 4, are singled out for prospecting. There are millions of hectares of Crown and private land with mineral potential, not only outside of the Schedule 4 lands but also outside the conservation estate, as identified in the discussion document itself (page 5). And furthermore, even the Barker report states quite clearly that, "*both scenarios [of economic growth through mining] can be achieved without access to national parks and other sensitive areas that are now closed to mining*".

NZIUCN believes that, if mining is to be developed in New Zealand, it is negligent of the government not to undertake a stocktake and assessment of mineral prospects on all non-conservation lands. Indeed we believe a responsible government would run such a process before looking at the conservation estate. It is highly likely, as the government's

⁵ IUCN Stat

own discussion paper and the Barker report show, that such an assessment and stocktake would confirm that **there is no need to mine the conservation estate in order to develop New Zealand's mining industry.**

Why, we would ask, are the most precious areas within our conservation protected areas system now being investigated and areas proposed for removal? This has serious implications for our protected areas management systems, and our commitment to our own national Biodiversity Strategy stemming from our commitment to the UN Convention on Biological Diversity. It cannot fail to have detrimental ramifications on our own faith in Government conservation protection, for our marketing brand and our international reputation for environmental management.

As a consequence NZIUCN rejects the proposal to remove any areas that are presently included in Schedule 4 and opposes (Question 4) further investigation of the mining potential of Conservation lands.

Question 2: Areas proposed for addition to Schedule 4

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these are well documented to exist and account for why people who do not visit protected areas nevertheless feel strongly about their retention (Harris 2002, Turner, Pearce, & Bateman, 1994; Pearce & Turner, 1990, Walsh 1986).

While there has been no equivalent study here, a study of household willingness to pay for recreation and environmental protection programmes in Colorado (Walsh, 1986: 541-542) concluded that of the total value expressed in a household contingent valuation survey (sample 198 households), the average household willingness to pay was USD \$464/pa, of which Existence Value accounted for 20%, Bequest Value for 27.6% and Option Value for 21.2%. Recreation Value was 31.2%, and the rest would be for ecosystem services and other benefits which include the protection of air, water, forest, fisheries and wildlife in the state. Since these are annual values per household, the total value per household has to be multiplied by the total population of the state and the number of years in which such benefits may occur or be affected. Analogously, benefits to New Zealand and beyond occur from the protection of the areas in New Zealand.

One problem with such calculations is that they assume that money and conservation and ecosystem services are substitutable by money. In fact that is not the case. Moreover, by virtue of their special place and ecosystems, and the irreversible and non-substitutable values, the targeted conservation areas in the New Zealand Discussion Paper are in effect 'non-tradables'.

Values of stocks v flows

Much of the discussion that followed the announcement of the Minister of Economic Development's intention to commission the Discussion Paper and the content of the paper itself, refers to the work of mineral industry proponent, Richard Barker. His paper, *The Natural Resource Potential of New Zealand*, (March 2008) is not peer reviewed, was commissioned by interested parties (Strattera and New Zealand Minerals Industry Association) and hence should not be accepted as either objective or authoritative. Thus, on p. 2 of the Stocktake Discussion Paper, Barker's estimates of \$140 billion for the stock of onshore metallic minerals is used, despite the fact that he was commissioned by Strattera and the New Zealand Minerals Industry Association, so his work is in the nature of client-driven advocacy work.

Barker's paper refers to the value of **stocks** of minerals that he considers may exist in New Zealand, as well as to some of the annual export and other values. We note that much of the debate compares this gross value of speculative stocks with annual returns from, or spending, on conservation. This is flawed analysis for the following reasons.

If the value of **stocks of minerals** is to be used, as does Barker citing Christie and Brathwaite of GNS, (p7-8 & ff of Barker 2008), then this must be compared with the value of the multitudinous benefits from conservation in perpetuity, i.e., **the value of the services in perpetuity from the stock of natural conservation capital involved**.

Barker's estimates of the values of stocks are in gross terms, and make no allowance for the net value of those stocks. For a true economic value, even in strictly market terms, the costs of mining and the scarcity value of the minerals taken (the economic rent) must be deducted from the gross value. That is not done in his report so it greatly exaggerates the net value of the minerals.

Gross benefits overstated, need to be converted to net benefits from mining.

The discussion document refers to market values of minerals extraction, but fails to adjust for a number of costs and leakages, or for opportunity costs, so that **values from**

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improbably assumes both that all minerals can technically and economically in fact be mined entirely, and that none of the resources used in mining would otherwise be employed. Neither of these sets of assumptions is remotely probable. Capital, labour, entrepreneurship, and conservation land and water all have alternative employment or provide other benefits, (though a little bit of labour may temporarily be unemployed in the short term). In calculating net benefits, only the value added or actually recoverable and minable areas should be counted, not the gross revenues of the mining all estimated reserves.

(ii) The calculation of any net national benefits from mining also needs to be adjusted for any leakage of payments to foreign factors of production such as to foreign personnel, foreign capital, and foreign entrepreneurship.

(iii) To the extent that society is not properly compensated for the loss of finite resources, mineral or protected area, then calculation of net benefit needs further to be adjusted. Given that Australia is now preparing to tax mining profits at 40%, our royalty levels seem too low, and we would have to account for the leakage of any resource rentals to non-New Zealand mining interests

Adjusting for damage costs and lost benefits from loss of protected areas; Environmental damage and costs

The damage cost value of extracting the minerals is not calculated in either Barker's paper or the Discussion Paper. This damage cost may be to any or all of the non-market values discussed above, and to alternative market values e.g. losses to tourism, and damage to the 'clean green' New Zealand brand, and the country's reputation. These damage costs may be considerable and will be in perpetuity. The damage cost of exploration needs also to be subtracted from the benefits of mining.

In undertaking investigations into the value of the extraction of minerals from a protected area, private (that is rival⁶ and excludable⁷) benefits, i.e. market prices, adjusted for costs, must be further adjusted for the value of the environmental damage caused and the loss of the benefits from the protected areas. Unlike market values, the benefits from protected areas are almost all non-

These benefits include those from all the protected area based recreation and tourism activities; film making and other creative benefits; the supply of ecosystem services such as biodiversity, flood control, climate regulation, carbon sequestration, and the like; cultural and national identity and branding values; passive values including the value that each of us puts on retaining the protected areas intact, of handing it on intact to the future, and option value, which is the value placed on retaining options for the future.

minerals' approach taken by Richard Barker, would have to be added up in perpetuity, not just for the annual operating accounts or even for the life of any mine.

Aggregation of non-market vs market values

The non-market benefits of protected areas are for the most part shared by much bigger sets of people than would share the benefits from mining. For instance, all those who benefit from recreation there, all those who hold existence, bequest and option values, all those who benefit, knowingly or not, from ecosystem and biogeophysical services gain sets of benefits and these have to be summed across the entire benefiting population. Since these benefits are non-rival, benefit to one person does not diminish the benefit to others. The marginal benefits must be summed across each of the valuing populations. These valuing populations may range from local populations (e.g. those who see the view) to national and international populations such as those who benefit from each of the various ecosystem services and from passive use values – existence, bequest and option values. The numbers of such summations can easily outweigh the benefits from minerals mining activity, particularly when those are adjusted for the cost of damage done and the leakage of potential benefits to non-New Zealanders and other foreign

areas of intense rainfall, such as Rakiura, the Thames and West coasts, the areas near Whangamata and Great Barrier Island.

Tailings, such as those in the Coromandel and Great Barrier Island and many parts of New Zealand, carry a **toxic legacy** made worse by the formation of sulphites and acid water conditions with toxins including heavy metals present. Here,

Conclusion of

so intractable that the schemes end up doing more harm than good to biodiversity. Viable environmental compensation and meaningful biodiversity protection are often mutually exclusive: we can achieve one or the other, but not both. Although compensation might aid some local conservation efforts, it is inevitable that the mining endeavour proposed by the Government, particularly in Schedule 4 areas, will result in a net loss of biodiversity and conservation values.

Fund design

The fund has a number of design features that we broadly concur with, although NZIUCN would like to be involved in the more detailed design of the fund, particularly the setting of criteria, to ensure that any fund set up does achieve its stated aim.

We support the fund being **additional** to current Crown funding for conservation and used to supplement existing conservation activities for New Zealand. However, we submit that the fund should be predominantly allocated to conservation priorities, rather than historic and recreation activities though historic heritage and recreation opportunities should still be eligible.

We support the proposal that the fund **not be used to mitigate the effects of mining or provide compensation for mining impacts**. We agree with the Parliamentary Commissioner for the Environment's submission that a fund "*should not be used to pay for mitigating the environmental impact of mining; these costs should be borne by the mining companies*". The provisions of the Conservation Act and Resource Management Act must continue to regulate all mitigation or compensation for the environmental impacts of mining.

Fund administration

Finally, we submit that the administrative and decision-making design of the proposed fund will not enable it to achieve its stated objective.

The discussion document proposes that the fund should be run by an independent panel appointed by the Minister of Energy and Resources and the Minister of Conservation. We disagree strongly. The Minister of Conservation should appoint this panel. The panel's task would be to allocate the funds, and its expertise should be firmly focused on the fund's objective: conservation outcomes. The Minister of Conservation is solely placed amongst Ministers to make the appointments: the involvement of the Minister of Energy and Resources would be inappropriate.

The fund should be administered by the Department of Conservation. DOC already has the administrative infrastructure to manage contestable funds that are independent of DOC's own funding. It is essential that DOC's expertise in conservation and connections to the community be available to the panel to enable optimal use of the fund. We point to the Waste Minimisation Fund as a parallel example, overseen by a Board appointed by the Minister for the Environment and administered by the Ministry for the Environment.

It is appropriate that the fund is contestable, to ensure a high quality of applications and allocations of grants to the highest priority conservation projects. However, given the imbalance in institutional resources of Government, Local Government and Corporate organisations and businesses compared to the community and not-for-profit sector, we submit that some balancing be undertaken to ensure the fund is not captured by one conservation sector at the expense of another. The community sector is crucial in that successful conservation projects and durable outcomes rely on community support. It would be appropriate to limit the proportion of funding available to Government, Local Government and Corporate sectors.

NZIUCN accordingly recommends that:

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a conservation fund from royalties should not, however, be seen as making mining on conservation land more acceptable;

a royalties fund can supplement efforts, but should not be restricted or capped;

it is appropriate that some royalties from mining on conservation land are allocated to conservation priorities;

a contestable fund will assist in supplementing conservation work -

the designation, management or use of public conservation lands as unfortunate and undemocratic and recommends that Ministers and officials resume the usual practice of organizing open public meetings to explain the resource values at stake and to respond to questions.

APPENDIX 2: IUCN PROTECTED AREA MANAGEMENT CATEGORIES

IUCN Protected Area Management Categories constitute the global standard for the planning, establishment and management of protected areas. The (IUCN) definition of a protected area is:

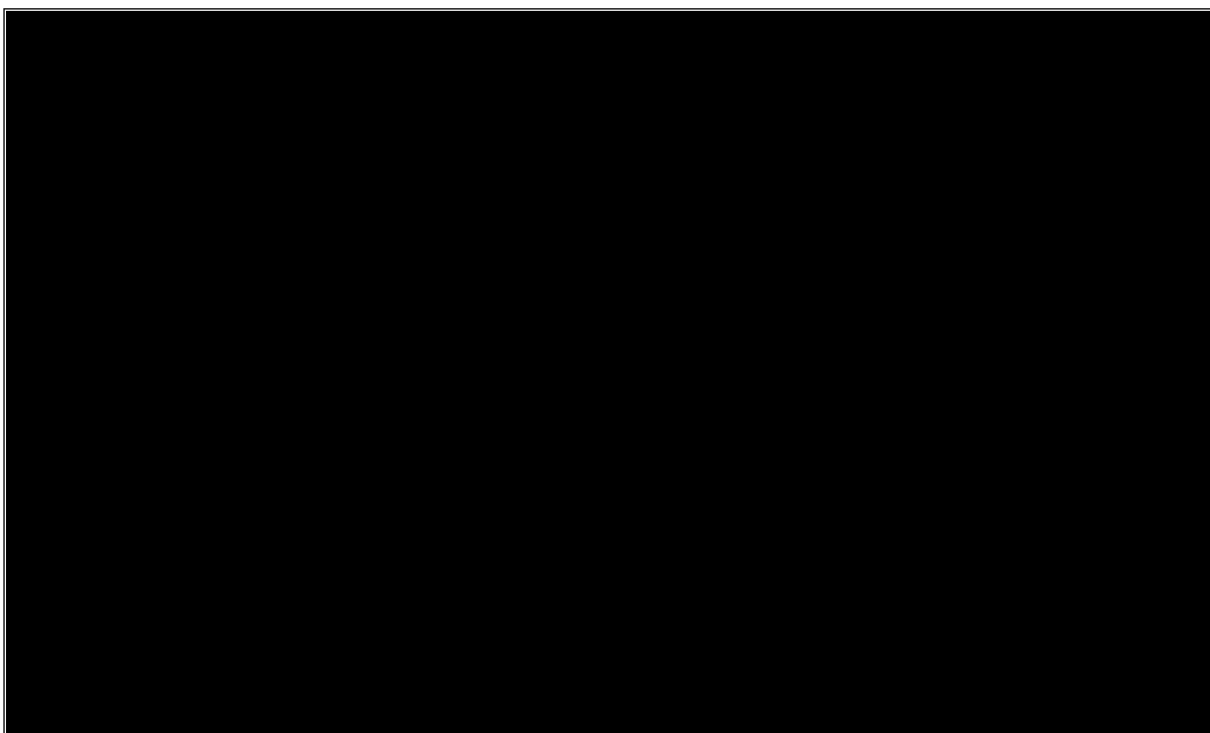
<p>biological, cultural and scenic value: and where safeguarding the integrity of this interaction is vital to protecting and sustaining the area and its associated nature conservation and other values.</p>	
<p>VI. Protected Area with Sustainable Use of Natural Resources</p> <p>Category VI protected areas conserve ecosystems and habitats, together with associated cultural values and traditional natural resource management systems. They are generally large, with most of the area in a natural condition, where a proportion is under sustainable natural resource management and where low-level non-industrial use of natural resources compatible with nature conservation is seen as one of the main aims of the area.</p>	

The categories do not imply a simple hierarchy, either in terms of quality and importance or in other ways. But nor are all categories equal in the sense that they will all be equally useful in any situation. One of the associated principles to the protected area definition states: *“All categories make a contribution to conservation but objectives should be chosen with respect to the particular situation”*.

Choice of categories can often be a complex challenge and should be guided by the needs and urgency of biodiversity conservation, the opportunities for delivery of ecosystems services, the needs, wants and beliefs of human communities, land ownership patterns, strength of governance and population levels. It is, however, an imperative that conservation objectives are given adequate attention and weight in decision-making processes.

Management approaches and categories are not necessarily fixed and can and do change if conditions change or if one approach is perceived to be failing; however changing the category of a protected area should be subject to procedures that are at least as rigorous as those involved in the establishment of the protected area and its category in the first place.

Many people assume that the categories imply a gradation in naturalness in order from I to VI but the reality is more complicated as shown in Figure 1 below, which attempts to compare average naturalness of all the categories.



BIBLIOGRAPHY

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