



Submission on Draft Minerals Strategy for New Zealand to 2040

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SUBMITTER DETAILS

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Introduction

1. This is a submission by the Environmental Defence Society Incorporated (**EDS**) on the Government's Draft Minerals Strategy for New Zealand to 2040 (**Strategy**).
2. EDS is an apolitical, not-for-profit organisation dedicated to achieving improved environmental outcomes for all New Zealanders. It is active as a litigator, policy think tank, and conference organiser. It has dedicated considerable resource over the past seven years looking at freshwater, indigenous biodiversity and the future of the resource management system in Aotearoa New Zealand. It has become a leading voice in this space.
3. EDS acknowledges the important role that mining and minerals play in our national and the global economy. It supports actions that seek to:
 - a. Improve information and data on New Zealand's mineral resources.
 - b. Understand demand for critical minerals required for a clean energy transition.
 - c. Embrace technology and innovation, including re-use and recycling technologies.
4. Mining must, however, be undertaken at the right scale and in the right location having regard to environmental values such as indigenous biodiversity, freshwater and landscape.
5. EDS does not consider that the Strategy will generate growth of New Zealand's mineral resource in a way that appropriately protects the environment.
6. This submission traverses the Strategy's actions and pillars that EDS has comment on, before setting out EDS's relief sought.

Strategy actions

Explore seabed mining

7. **Action 1(d)** seeks to find out more about deep-sea minerals and assess their potential extraction. Indications of this potential are provided in the Strategy’s map of new minerals opportunities, where various mineral resources are shown in the coastal environment and offshore at Chatham Rise.
8. EDS does not support mineral extraction in circumstances where independent decision-makers, including the Courts, have declined consent because of environmental impacts. Seabed mining by Trans-Tasman Resources in Taranaki is a live example.
9. The Strategy and its critical minerals list should also not be used as a justification for mining in sensitive marine environments such as the Kermadec Arc.

A more permissive regulatory framework

10. The Strategy proposes changes to the regulatory framework for mining activities that would make it easier to obtain consent:
 - a. **Action 2(c)**: Explore how critical minerals could be provided with preferential pathways for development.
 - b. **Action 3(a)**: Develop a one-stop shop fast-track approvals regime.
 - c. **Action 3(b)**: Amend the Resource Management Act 1991 (**RMA**) and its national direction to ensure it provides an enabling consenting regime.
11. Mining is a high risk industry with potentially significant adverse effects on the environment. The Strategy aims to see the establishment of 10 significant mining operations, each with the potential to generate \$100 million per year. Projects of this scale are likely to raise a variety of complex environmental concerns.
12. To foster confidence in the sector (action 6 of the Strategy), and maintain New Zealand’s high standards and reputation for transparency to ensure access to international trade (see section “we need to make informed choices about how we wish to develop our minerals”), consent processes must remain rigorous. Climate change, electrification, and the shift to a net-zero economy do not justify environmental damage.
13. The Strategy refers to mining having a “light touch” on the environment, managing environmental impacts to the “highest standard” and that mining “will not come at the expense of environmental outcomes”.
14. These assurances ring hollow, and EDS has no comfort that changes to the regulatory regime as signalled in the Strategy will achieve these environmental outcomes, given:
 - a. The one-stop shop fast-track approvals regime currently proposed in the Fast-Track Approvals Bill is not evidence-based, places decision-making in the hands of 3 development Ministers, has a purpose that is focused exclusively on economic imperatives, overrides prohibited activities and Water Conservation Orders, subserviates sustainable management and RMA policy and plans below development considerations and largely excludes the public.
 - b. Changes currently proposed in the Resource Management (Freshwater and Other Matters) Amendment Bill 2024:

- i. Remove the requirement to have regard to prioritising the health and well-being of water bodies and freshwater ecosystems when process resource consent applications.
 - ii. Suspend the requirement for Councils to identify Significant Natural Areas (SNAs). A nation-wide stocktake of indigenous biodiversity is essential to understanding the state of species, habitats and ecosystems. Key government priorities, such as that outlined in the Strategy, cannot be effectively implemented without this knowledge. How can one assess whether mining will not come at the expense of the environment in the absence of information and data on indigenous biodiversity?
 - iii. Undermine current protections for SNAs by enabling coal mining despite:
 - Loss of ecosystem representation and extent.
 - Disruption to sequences, mosaics, or ecosystem function.
 - Fragmentation of SNAs or the loss of buffers or connections within an SNA.
 - A reduction in the function of the SNA as a buffer or connection to other important habitats or ecosystems.
 - A reduction in the population size or occupancy of threatened or at risk (declining) species that use an SNA for any part of their life cycle.
15. Credible mining operators do not need an accelerated or easier approvals regime. They are skilled at navigating the regulatory frameworks necessary for the operations that they know affect multiple public interests, whether environmental, social, economic, health and safety, or heritage.
16. In jurisdictions where one-stop shop procedures have been attempted, mining companies have reported frustration in not being able to talk directly with the officials responsible for the different aspects of the approval. EDS and many others, including the Parliamentary Commissioner for the Environment, have stated that the Fast-track Approvals process will be slower than existing RMA fast-track procedures, which are working satisfactorily.
17. New Zealand's regulatory settings for mining are already favourable compared to many other competing jurisdictions. New Zealand should not alter its regulatory framework to please companies that have lower levels of skill in managing the regulatory and environmental dimensions of mining; we should concentrate on remaining attractive to companies that bring best practice to New Zealand in all their work.
18. EDS does not therefore support preferential pathways for development, including via the Fast-track Approvals Bill and amendments to the RMA and national direction. We submit that these actions should be amended or deleted as set out below. Any improvements to the RMA should be done at the broader scale, and seek to establish a durable resource management system, rather than targeted edits to better enable one industry.
19. Finally, EDS submits that the Strategy should not focus unduly on consenting, which is only one part of the resource management system. Another essential part is policies, plans, and strategies, including national direction. We agree that greater levels of national direction are important. Another essential part is the continuing relationship between regulators (regional councils, primarily) and the consent-holder. The RMA needs to include more sophisticated tools to

facilitate the ongoing relationship. Part of it is effective compliance, monitoring, and enforcement, and part of it is room for parties to adjust the parameters of the project as time goes on, such as in adaptive management.

Secure access to critical minerals and diversify supply chains

20. With respect of **action 2** generally, and action 7(d), EDS submits that the Strategy should be realistic, and recognise that New Zealand's supply chains for critical minerals do not depend on New Zealand mines.
21. Critical minerals are relevant to the manufacture of many important goods that New Zealand relies on (e.g., computers, mobile phones, EVs, and wind turbines) but all the elements of the supply chain that leads from mines to smelters, processing plants, refineries, factories and finished products are all overseas.
22. New Zealand does not host smelting and refining facilities for critical minerals (except aluminium and recycling scrap), so any production of critical minerals from New Zealand mines would almost certainly be exported to overseas processors and would move from them to overseas manufacturers.

Protect Treaty Settlements

23. EDS supports **action 3(c)** that regulatory changes that grow the minerals sector should protect Treaty settlements. They should, however, go further, to enhance Treaty relationships and other non-Treaty relationships between Māori and the Crown.

Maintain pathways for mining on conservation land

24. EDS opposes **action 3(d)** which seeks to maintain current permitting and access arrangement settings in relation to public conservation land.
25. EDS submits that the current permitting and access arrangement settings for public conservation land, especially stewardship land, need considerable improvement to provide clarity and proper protection of conservation and environmental values.
26. Of the conservation estate, Schedule 4 lands are well protected, but they account for only 40% of the total. Another 30%, about 2.7 million ha, are in the category of stewardship land.
27. Stewardship land has been treated as a 'holding pen' for Crown lands not otherwise classified, and the assumption has grown that it has low conservation value. This is not correct; much of it has exceptional ecological and landscape value, and deserves higher levels of protection. For example lands that were specially selected by the Nature Heritage Fund or through the high-country tenure review process, because of their outstanding environmental values, still remain classified as stewardship land.
28. The process of reviewing and reclassifying stewardship land has barely moved in thirty years. In 2022, a review of West Coast stewardship land commenced, but that is now languishing. That review should be completed. It would remove a great deal of uncertainty, and would provide proper protection of public conservation land.
29. Until stewardship land reviews are completed, EDS submits that there should be no access to stewardship land for mining purposes.

30. Further, the Crown Minerals Act 1991 needs amendment so that access arrangements are decided by the Minister of Conservation, with an arrangement only being granted if it is not inconsistent with the factors identified in conservation legislation. EDS submits that the Act should be amended to this end.
31. Finally, the regime for access arrangements for Crown minerals on private land must be part of the picture, and not dropped from sight. At present the ownership of minerals on private land is difficult to ascertain, and the access arrangement provisions of the Crown Minerals Act are exceedingly cumbersome and obscure. The result is an undue focus on public lands for mineral exploration, often with much more severe environmental risks than there would be on private lands currently used for agriculture or plantation forestry.

Accelerate a circular economy of critical minerals

32. EDS supports **action 5**. The concepts of the circular economy and the waste hierarchy are now generally accepted internationally, to keep products and materials in service for as long as possible.
33. Accelerating the circular economy relies on technical innovation only to a limited extent, so EDS submits that efforts to that end should include educational, behavioural, commercial and regulatory measures.
34. Other agencies are working on circular economy actions. In particular:
 - a. The Waste Minimisation Act 2008 embodies the waste hierarchy.
 - b. The Waste Strategy / Te rautaki para (2023) is grounded in circular economy and waste hierarchy principles, and sets a number of important targets and goals.
 - c. All local bodies have produced waste management and minimisation plans, which directly channel support into initiatives such as 'urban mining' and the separation, collection, and sale of electronic waste.
 - d. Product stewardship schemes: electrical and electronic products (including rechargeable and non-rechargeable batteries) have been designated as priority products under the Waste Minimisation Act. A battery industry group is developing a scheme for large batteries.
35. EDS submits that the Strategy will be strengthened if it is clearly linked to the Waste Strategy and other circular economy policy activity.

Monitor and report on the social, environmental and community effects of mining on regional communities

36. EDS supports **action 6(d)**. The present state of monitoring of social, environmental and community effects of activities is unsatisfactory and requires strengthening. Environmental monitoring has often been neglected and unfunded, so policy action that will improve it is highly desirable.
37. To be credible, a system of monitoring must be independent and objective. Its design (what gets monitored), its execution (who does it, who manages it) and its reporting (how it is communicated) must all be beyond reproach.

Attract investment and build international partnerships

38. With respect to **action 7**, global brands (such as Apple) are coming under increasing pressure to demonstrate that materials they use come from operations that do not cause environmental and social harm. New Zealand must be ready to face close scrutiny of its environmental regulation of mining operations, and must avoid any slippage in its environmental performance. Otherwise, companies exporting minerals from New Zealand can expect to be dropped from the supply chains that are being influenced by leading global corporations.

Measuring success

39. The Strategy has 3 pillars upon which success of the Strategy will be measured.
40. The **second pillar** is demonstrating the sector's value, which will be measured by (among others) annual benchmarking against environmental net benefits to communities. EDS submits that annual benchmarking should also be undertaken of environmental degradation associated with mining activities. This will ensure that both sides of the ledger, the positive and the negative impacts of mining, are assessed. It is irresponsible for the Strategy to ignore the potential downsides of mining. Nature has value too. Impact on it has the potential to be significant, and its loss should be factored into New Zealand's ongoing approach to minerals.
41. The **third pillar** is delivering minerals for a clean energy transition. EDS submits that this pillar should be reframed to 'ensuring that minerals support a clean energy transition'. The Strategy is ambiguous as to whether it includes coal, although changes to the consenting pathways for coal (action 3(b) of the Strategy) and repeated references to coal suggest that it is.
42. Providing for new coal mining is inconsistent with New Zealand's climate change commitments and emissions reduction targets, budgets and plans. New Zealand needs to reduce its reliance on coal while developing renewable alternatives to meet long-term emissions targets.
43. To the extent that coal is included within scope of the Strategy, it does not promote this necessary transition away from a reliance on fossil fuels. Indeed, it does the opposite by providing for long-term increased extraction and consumption of coal. Coal mining needs to be clearly removed from the scope of the Strategy.

Royalties

44. Royalties are not mentioned in the Strategy. EDS considers that it should include a review of royalty amounts to ensure that New Zealand is getting an appropriate return on its minerals.

Relief sought

45. EDS seeks the following relief:
- a. **Amend action 1(d):** "We will find out more about deep-seabed minerals and assess the challenges and opportunities of extracting them, except in high value marine environments and where independent decision-makers have already declined consent.
 - b. **Amend action 2(c):** "We will explore how minerals listed as critical could be provided with preferential pathways for development outside of areas with high environmental values."

- c. **Delete action 3(a):** ~~“We will develop a one-stop shop fast-track approvals regime to accelerate the development of regional and national projects of significance, including mining projects.”~~
- d. **Delete action 3(b):** ~~“We will progress amendments to the Resource Management Act 1991 and its national direction to improve consenting processes and ensure it provides an enabling and enduring framework for responsible development.”~~
- e. **Amend action 3(d):** ~~“We will progress review of stewardship land before deciding on maintain current~~ permitting and access arrangement settings in relation to public conservation land.”
- f. **Add action 3(g):** “We will amend the Crown Minerals Act 1991 so that access arrangements are decided by the Minister of Conservation, based on factors identified in conservation legislation.”
- g. **Amend pillar 2, bullet point 3:** “Improved reporting on environmental, cultural, and social net benefits and costs to their communities.”
- h. **Replace pillar 3 with:** ~~“Delivering minerals for a clean energy transition~~ Ensuring that minerals support a clean energy transition.”
- i. Strengthen the Strategy by clearly linking it to the Waste Strategy and other circular economy policy activity.
- j. Clarify that the Strategy does not apply to coal.
- k. Include a new action to review royalty amounts.