



ENVIRONMENT AND CONSERVATION ORGANISATIONS OF NZ INC.
Level 2, 126 Vivian St, Wellington, New Zealand
PO Box 11-057, Wellington
Email: eco@eco.org.nz Website: www.eco.org.nz
Phone 64-4-385-7545

Minerals Strategy Consultation 2024
Resource Markets Policy
Ministry of Business, Innovation and Employment
PO Box 1473
Wellington 6140
Email: resourcesfeedback@mbie.govt.nz

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ECO Submissions on the NZ Minerals Strategy 2024

1.0 Introduction

This submission is in response to the mid 2024 MBIE paper **NZ Minerals Strategy 2024**.

The Environment and Conservation Organisations of NZ (ECO) is the national alliance of 43 organisations with a concern for the environment, conservation and sustainability. We were established in 1971-72. Some of our member bodies are themselves federations or multiple groups. Many are area-based, some are focused on specific species or activities or impacts, some are not actually environmental groups but share our concerns. We have member groups from all around New Zealand.

ECO has followed issues of mineral and petroleum management and practice, law and policy since our formation in 1971-2, and we have closely followed both the activities of the minerals sectors and resource and environmental management laws and policies.

We support Te Tiriti o Waitangi, and ensuring that the “voice” of the environment is heard.

If you wish to discuss any element of this submission, please email eco@eco.org.nz AND Cath.Wallace10@gmail.com and use our contact details as supplied to accompany this submission.

2.0 The Draft Minerals Strategy 2024

We have responded to some of your questions and raised other issues in this submission.

Overall, the Strategy seems more like a puff piece for the mining industry rather than a serious attempt at examining how New Zealand can meet its needs for minerals and for more renewables and substitutes for minerals.

The strategy is poorly conceived, has little rigour of analysis and does not pass muster as a serious work of policy assessment and projection.

ECO understands that MBIE is under direction from your ministers, but that should not prevent officials from providing high quality analysis and assessments.

A Minerals strategy should not be simply about how to expand minerals production. It should examine the demand and projections for minerals, routes to reduce or manage demand, sources of supply and of alternatives to using minerals (including re-use and recycling), and the impacts and life-cycle of minerals exploration and mining, and the associated activities, including externalities.

A minerals strategy must consider matters of social, cultural, economic and environmental impacts. Risks should be identified and addressed, including issues of national sovereignty, compliance with Te Tiriti o Waitangi, impacts on other rights holders, communities and others.

In 2019, when MBIE called for submissions on a Resource Strategy Petroleum and Minerals 2019-29, ECO said this and we consider it still holds:

New Zealand needs to shift from encouraging minerals industry activities (ie prospecting, exploration and mining) to sustainable alternatives, including:

- a) Substitution to alternative, sustainable products in both consumption and in production. Examples include (genuinely) sustainably grown plantation timber for building instead of steel; construction and design for passive solar energy, solar power and wind, tidal and marine current power generation in the marine environment, and substitution to natural fabrics.
- b) Resource recovery, recycling, reuse; E.g. Sourcing minerals from resource recovery from construction and demolition, from tips, landfills, households and firms etc – “urban mining” to recover minerals – copper, steel, gold and much more; and also to recover and reuse or repurpose sources of embodied energy – e.g. plastics.

- c) demand reduction: NZ should progressively refuse to use or import “virgin” materials; we should promote the use of technology with much greater efficiency and the substitution to renewable products. This should include also strategies to recover and repurpose materials.
- d) Demand substitution: substitution to renewable alternatives from minerals;
- f) Implementation of true cost pricing, including the losses of environmental quality, community disruption, losses associated with restrictions on values generated by other activities that are displaced or diminished.
- g) Efficiency, recycling, and reuse requirements for products and for provision of some services such as in demolition and building and construction, roading etc.
- h) Regulations changes (see also other comments).

In particular regulations should be designed:

- Not to promote mining, but to control and manage any minerals activity and mining and their effects;
- To consider supply issues from secondary sources, (such as recycling and repurposing) and how that can be encouraged and facilitated;
- To consider substitutions;
- To ensure that the regulators do not see the mining industry as their clients whose interests they promote, but to safeguard the public interest, and to avoid industry capture of regulators and politicians. This will require significant changes in the cast and attitudes of the regulatory agencies and their members. The revolving door between industry and government should be firmly shut.

UN Sustainable Development Goal (SDG) 12 calls on countries to implement a framework of programmes on sustainable consumption and production patterns. This includes the development of national action plans and mainstreaming these.

The strategy should require Strategic Environmental Assessment and Environmental Assessments.

2.1 Public Participation

There should be public input into minerals activity proposals under the Crown Minerals Act and the Exclusive Economic Zone (EEZ&CA) legislation, and the secretive, reckless and sloppy fast track procedures should not be available for exploration and mining. The provision in the Fast Track Approvals Bill (FTAB) that projects that are part of a sector plan can use the Fast Track Approvals pathway is in itself objectionable as is the Bill in its entirety. This proposed removal of public participation via the FTAB means that there may be no public participation at all.

We urge officials and ministers not to rob the public of democratic participation – all for the sake of, in this case, an industry dominated by foreign companies, and in an industry notorious for the toxic wastes, water pollution and destruction of natural values.

2.2 Economic assessments – lack of rigour

The economic case and figures in this Draft Strategy and in the previous papers from MBIE on Minerals and Petroleum policy fall far short of sound economic analysis and seem designed as PR rather than a serious assessment or projection for policy analysis and strategic decision making.

Economic assessments should not just use gross values such as revenues and export values, but rather net value added and net value retained in NZ. The Strategy proposal and information that was produced by MBIE in the lead up to the Crown Minerals Act amendments has a very sloppy presentation of economic values. There is no attempt to provide a true assessment that recognises the alternative earnings of capital, labour, energy, land, nor the values lost with impacts on other businesses, loss of ambience and effects on tourism, recreation, well-being etc from the industrialisation, noise, vibrations, and impacts on native species and ecosystems, including terrestrial, marine, and freshwater environments.

There appears to be no attempt to consider what activities and values that are displaced by minerals activities or to subtract from gross figures of revenues these values lost. Similarly there is no consideration of risks, nor of the leakages from New Zealand of the returns to factors of production and revenues.

There is no consideration of the impact of further coal or other fossil fuel mining on our commitments under the Zero Carbon Act or the UN Framework Convention on Climate Change or the Paris Agreement. This includes the costs of buying overseas credits to fill a hole in our Nationally Determined Commitments under the Paris Agreement. This cost is in the multiple billion of dollars and needs to be considered and included.

2.3 Payments and leakages from factors of production

It is documented that the Crown has had annual royalties of \$21m, but there is no documentation of the value of the profits and wages that go offshore. Or where the minerals go and whether any further processing occurs only offshore.

2.4 Employment conditions and transitions

The model of employment in the mining industry is of transience – workers who may live in dystopian conditions and do long hours under authoritarian conditions.

The minerals and mining industry operations are commonly transitory and very much boom-bust. This frequently leads to transient workers, with little commitment to the host communities which can end up as despondent stranded assets, as can workers who choose to stay.

There is no attempt in the strategy to consider alternative or relative job richness of the industry and its parts. The World Resources Institute has published a paper on this issue of Green jobs v jobs in unsustainable industries¹ and there are many other studies on a similar theme.

The Strategy should canvass these issues and also consider how a just transition from minerals and mining can work for employees and for host communities.

Shane Jones, Minister of Resources, has stressed that he is seeking jobs for New Zealanders. Not all jobs are equal. It would be far better to retain the Jobs for Nature funding, and to train people in the doing and management of pest control, than to perpetuate jobs in fossil fuel exploration and extraction, since the chemical, physical, trade and diplomatic realities are that these must be phased out. They are industries that are already sunset occupations. These are strategic considerations but there is no discussion of these matters in the Draft Strategy. The Draft is painfully not focussed on the public interest, and is far too industry-centric.

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<https://www.wri.org/research/green-jobs-advantage-how-climate-friendly-investments-are-better-job-creators> DOI <https://doi.org/10.46830/wriwp.20.00142>

2.4 Critical Minerals

The emphasis on the so-called “critical minerals” is flakey. There is no actual documentation or evidence for the narratives in the Draft Strategy. Instead, there is a Straterraesque advocacy narrative, which appears to have come from industry thinking but that does not acknowledge evidence and projections, nor the considerable work on alternatives.

The paper leans heavily on an implicit distrust of China, and moral blackmail that if mining is not done here, then children in appalling conditions will be exploited in the Congo. This suggestion that we are morally obliged to risk our environment here or see children dangerously exploited is a particularly disingenuous, distasteful and cynical form of shroud waving.

It is entirely open to NZ to insist on standards of environmental protection and human rights observance for products we import and New Zealand companies and the government should insist on that and foster other countries doing the same.

The records of several of the exploration, mining and processing companies operating in New Zealand is far from clean and respectful of the environment. CRA’s highly risky storage in New Zealand of aluminium processing dross has been exposed, and there is considerable contamination around its Tiwai site: but the dross remains highly riskily stored. OceanaGold has been accused of human rights and environmental violations in the Philippines and elsewhere.

Mining companies have left a trail of contaminated sites, poisoned waters and destroyed ecosystems which the taxpayers have spent millions cleaning up sites with many more sites to go. The Tui Te Aroha mine clean up (\$22.5 million) and the Tui petroleum field clean up (\$350 million) show that the costs left by mining companies can be very high.

There are already many efforts underway to find other deposits of “clean tech” minerals for alternative supply sources. There are many developments going on in new technology to change to cheaper and more abundant minerals (eg the shift away from using cobalt or nickel in batteries) and the requirements for re-use and recycling of minerals from batteries or motors etc to reduce the demand for new mining. These aspects should be promoted over new or continued mining. None of this is documented or assessed in the Draft Strategy.

3.0 Strategy

3.1 Strategic Pillars

MBIE says in the paper that “the strategy is built on 3 key pillars:

1 *Enhancing prosperity for New Zealanders,*

2 *Demonstrating the sector's value, and*

3 *Delivering minerals for a clean energy transition*

and discusses the specific actions we could take to position the minerals sector to deliver value in an environmentally and socially responsible manner.”

1 *Enhancing prosperity for New Zealanders,*

We have addressed this pillar above both in relation to the economic analysis or lack of it and in relation to employment.

“We are seeking feedback on our draft Minerals Strategy for New Zealand. We welcome all submissions but are particularly interested in the questions below”:

1. *Are the strategic pillars of the Strategy (Enhancing prosperity for New Zealanders, Demonstrating the sector's value, and Delivering minerals for a clean energy transition) suitable or is there more we need to consider?*

The strategic pillars are not adequate and neither are they sufficient.

The pillars need to consider New Zealand's well-being, not just prosperity, and well-being includes agency, social connectedness, trust, and more.

It also should include public participation, compliance with Te Tiriti o Waitangi and Te Taiao and yet there is no discussion of either of these things, merely a hand-wave to improving public trust, and a provision that those Maori with Treaty settlements should be consulted. That is not good enough.

As an agency of the Crown, MBIE should give sound advice and analysis to Ministers, it should not just follow Ministerial directions. The Treaty exists and is the foundation of legitimacy of government in Aotearoa NZ. It is incumbent on officials to give advice to the government to that effect.

A key part of well-being is a sense of justice in various dimensions – eg to the future, fair sharing, adequate responsibility and liability of those who produce harms, avoidance of harms etc, forbearance in favour of the future, environmental protection; protection of existence, bequest and option values; protection of the existence of nature and natural systems and so on.

“Prosperity” does not capture these essentials of wellbeing, and so is inadequate. The distribution of “prosperity” is a potent contributor or detractor of well-being since relative income and who gets the gains and who gets the pain are well documented influences on well-being.

B. Demonstrating the Sector’s Value

We reject the idea that this is a role of government. It is not. This seems as though NZPAM considers itself as an advocate for the industry. We know that is indeed what many in NZPAM have typically considered to be its role, but NZPAM should be a pro-social, pro-public and robust regulator not an industry advocate.

The question of who the sector’s value should be demonstrated to is left unanswered.

In our discussion of the first proposed pillar above, we have addressed already the inadequacy of the economic figures used and the failure to apply proper economic analysis to the net added value of the minerals and mining sector. Moreover, there is virtually no consideration of the non-market values at stake, or the losses of public value and the capture of resource rents by private interests.

The strategy paper barely seems aware of these values and how to analyse them. It certainly does not explore them. The paper deserves a comprehensive fail grade. It reads much more like an industry promotion paper and may well have been supplied by such.

C. Delivering minerals for a clean energy transition.

We need a clean energy strategy, but this does not mean that NZPAM should promote more minerals exploration, extraction and processing, and it certainly should not be promoting fossil fuel exploration, extraction and use.

The pillar should be to recognise the biophysical constraints, the biodiversity loss and climate change crises and to ensure that we close fossil fuel exploration, production and use.

The role of government should be to regulate, and probably in a different agency, to promote reuse, recovery, repurposing of minerals and to promote substitution from minerals to less damaging and renewable alternatives.

It should promote greater efficiency in resource use and consumption and post-consumer handling so that we minimise or retrieve waste and avoid pollution and losses of biodiversity. These activities provide the bonus of lower environmental impacts for more employment, and enduring reductions in greenhouse gas emissions.

In 2024 and looking ahead to 2040, we all need to avoid perpetuating the idea of endless unconstrained extraction of resources, to accept biophysical limits and live within these.

MBIE should not perpetuate old paradigms and business as usual. It should recognise that climate destabilisation, pollution, biodiversity loss and water quality declines must be tackled and reversed, and to develop strategies to this end. It should shake off the idea it is there for the minerals industry and that expansion of mining is a public goal.

MBIE seems to have taken on many of the beliefs and narrative of Straterra and minerals industry players. We urge a rethink, both as to the roles of government agencies in this area, and the considerations of the public interests and what really contributes to social wellbeing and the flourishing of the environment.

3.2 Other issues

2. ***Are the key actions the right ones to deliver on our strategic pillars, and are they ambitious enough? What else might we need to consider?***
3. ***Are there opportunities for our minerals sector we haven't considered?***

Yes, there are:

- a) Full-cost pricing of exploration and mining so that "virgin" materials are costed to include responsibility for harms and risks. This will then simulate substitution to timber and other alternative materials and actions for post first use recovery, reuse and recycling and mining from wastes, and "urban mining".
- b) There should be a strategy for recovery of minerals from cropping plants that take up minerals from the ground, so harvesting the minerals by biological processes. This already underway in some countries.
- c) Harvesting of minerals from geothermal and other waters with re-injection into the ground systems is a strategy that should have much more attention. It is a known technology and could have a much lower environmental impact method of extracting minerals than digging, dredging, or sluicing for minerals. Extraction of minerals from seawater is also being explored. These are far more promising and less damaging technologies than those that disturb ecosystems and so on.

3.3 Challenges

4. ***Are there challenges for our minerals sector we haven't considered?***

The question should be, are there risks and challenges to or from the minerals sector. Those of us who value the New Zealand land, waters, seas and landscapes, and the ecosystems that inhabit them, consider that the minerals industries pose significant risks to these values, and so do some of the companies involved.

3.4 Institutional Problems

5. Are there any other things we have missed that we should include, or things we should not include?

YES, there is no discussion of institutional issues, agency capture by the exploration and mining industry and the skewing of the thinking of the agency towards promotion of the industry (and of inserting this disposition into the law) instead of its proper role of pursuing public interest regulation, monitoring and enforcement.

There is no discussion of institutional arrangements and conflicts of interest or predetermination on the part of officials and the current Minister.

3.5 Other Missing issues

The Strategy is absurdly silent on the constraints posed by destruction of biodiversity, greenhouse gas emissions, and the need to end fossil fuel use.

The Strategy uses the drive for clean tech as a cover to justify more mining and more environmental damage.

There is reference to transition to clean tech, but there is little or no consideration of the need for a just transition and the necessary actions to do this. The transition for both workers and for host communities is not discussed.

There is no discussion of:

Risk and responsibility for harms.

Mechanisms for joint and several liability including trailing liability need to be discussed and implemented. Officials have addressed this in relation to the Tui field operation but it is needed for other exploration and mining as well.

Liability provisions should be strict liability but must be accompanied by pre-approval bonds so that authorities can take action immediately if needed. The bonds and other instruments relating to liability and to responsibilities should not be attached to permits if these can be relinquished by the holder. Permits must contain provisions that allow the holder to discard them without completing clean up and so on.

The paper is silent on these matters and makes no mention of the existing contaminated sites, the practice of majors selling out to small operators who can be allowed to go bankrupt – like “burner phones” that can be disposed of. Even more disreputable is the practice that was used at the Martha mine site was the arrangement that the company donated the contaminated site to a community group. We have no insight into what was the subsequent arrangement when OceanaGold decided to renovate the Martha mine and drain the lake.

There is little discussion of strategies for dealing with “waste” rock, or of tailings if the mining is hard rock. Tailings are inherently chemically, biologically and physically unstable, and there is always the risk of tailings dam leakage and potentially catastrophic failures.

3.6 Case study - the Tui lead and silver mine

The appalling lesson of the toxic legacy from the Tui mine on Mt Te Aroha is instructive but there is no discussion of the issues or lessons.

In that case, the company mined for lead and other minerals, then closed down and left in the 1950s. There followed long interagency disputes between the local council on whose land the mine was, the catchment board that was very concerned about the instability and toxicity of the tailings and the Mines division of the Ministry of Energy which had issued the mining permit but chose to take zero responsibility for identifying or dealing with the potentially disastrous hazard perched up on the mountain or the water flowing through it.

This menacing legacy stayed there for decades as agencies disputed who should pick up the unfunded task of securing and cleaning up the mess. The catchment board did some unfunded work to try to stabilise the tailings, but water continued to flow through the site on down into the towns water supply.

It was only when a University of Waikato academic took a class of senior inorganic chemistry students to the site and they analysed the water quality only to find it highly contaminated that the alarm was raised. The mine-contaminated water was then switched from feeding the Te Aroha town water supply onto the golf course, and stream that had irrigated the golf course switched to the town supply, that the contamination was diverted. The golf course grass, watered from the contaminated stream previously fed to the townsfolk, then died.

Interagency squabbles continued with the unfunded orphan site only eventually addressed by funding from central government with millions of dollars spent on an experimental fix.

This scenario of unfunded, unbonded orphan contaminated unstable sites and dams is very likely to be replicated again in New Zealand with many unbonded mines operating. Approvals

of minerals and mining if permitted under the Fast Track Approvals Bill will replicate the same problem. Local government and other agencies such as MfE, DoC and others will be sidelined, the public are forbidden to be notified, consents will be granted and the same issues of unfunded liability will arise. MBIE must address such problems and it must push for the public to be both notified and allowed to make submissions and to view monitoring and reporting and other information.

3.7 Investor-State dispute risks

A major risk that is not addressed is the risk of corporates and others using the Investor-State disputes mechanisms in trade and economic and investment agreements.

It is well known that one company is suing the Mexican and other governments for loss of expected economic opportunities.

Far too close to home are the companies owned or controlled by Australian mining magnate Clive Palmer who is reported as suing the Australian government for many billions of dollars. His company Mineralogy was given Overseas Investment Office approval as a fit and proper company and now has 29,000ha of exploration permits in the Hauraki Coromandel area, and more between Rotorua and Taupo, as well as others.

Significantly, media reports are that he shifted his HQ to Aotearoa NZ in order to use investor state dispute provisions to sue Australian governments from New Zealand. It was pointed out to him that there was an agreement with disallowed NZ and Australian interests to sue each other's governments, so he shifted his HQ to Singapore instead, and in March 2023 that he was suing the Australian Federal government for \$AUD 300bn under a trade agreement.² He also tried to sue the West Australian government for amending an agreement with the WA government whom he tried to sue for AUD30bn

This case also points to the need for ministers and officials to be scrupulously circumspect with policy, public claims and assertions etc to avoid rhetoric that could be used by investors who, like Palmer, may wish to claim thwarted expectations and sue governments for eye-watering sums. In particular the Minister of Resources should be warned to not use rhetoric like that NZ is throwing the door open to miners. Many billions that could be claimed and the costs of defending such claims could be much better spent on nature protection, health, education and much more.

Good character and behaviour scrutiny

²

<https://www.abc.net.au/news/2023-03-30/clive-palmer-to-sue-australia-for-300b-over-iron-ore-project/102166246>

The Palmer case also highlights deficiencies in the scrutiny of the track records of some people and companies. In New Zealand, the Overseas Investment Office approved Mineralogy, one of Clive Palmer's companies. While the application was considered, Clive Palmer stepped down from the Board. At the same time he was being prosecuted in Australia for electoral fraud. He had formed a political party in Australia. He has since rejoined the Board.

Other Risks

Moral Hazard

There is a considerable literature around the risk to the integrity of decision makers, inspectors and other officials, gate-keepers, and politicians from the huge wealth of mining companies.

There is no discussion of this in the Draft Minerals Strategy. The risk of moral hazard that can be diminished by the institutional arrangements and design scrutiny and decision making. "Sunlight" and open government goes some way to reducing this risk of corruption, loss of integrity of regulators, etc.

Aotearoa's democracy and sovereignty

We can be pretty confident that mining interests invested a good deal in influencing:

- Political actors and parties to gain the Crown Minerals Act amendments to the Purpose of the Act;
- The environmental regression embodied in the 2024 Draft Minerals strategy compared to the 2029 one;
- The development and PR work around the Fast Track Approvals Bill and the strategies of excluding the public from seeing the list of applications to be fast tracked;
- The set of provisions to open conservation and other land and waters to mining, and the exclusion of the public from notification and participation under the Fast Track Approvals Bill.
- The moves to shorten or exclude the public from having a say, though we applaud the decision to consult on this Draft Strategy. We note though, that quite a number of people and groups are saying there is no point in making submissions because the government is not listening.

We urge officials, MPs and ministers to repudiate this concerted effort to deprive New Zealanders of open participatory government. Sunlight is vital. To fail to challenge and remedy these attempts to deprive the public of our rights, to collaborate in the loss of democratic values and voice, and to achieve dominance of NZ people and communities by foreign minerals and mining interests would be an act of betrayal of citizens. We urge you to do all you can to undo those proposals for secrecy and of privilege of mining and other companies over the citizens and non-extractive uses and companies of this country.

There is a significant concern too at the disregard, displacement, and commodification of the natural environment and Earth systems and the derision directed to those who value the environment for non-extractive purposes.

Cultural impacts are barely addressed in the Draft, and there is no proposal or defence of broader Te Tiriti o Waitangi rights and obligations. This is a major concern and needs to be addressed.

11. Conclusion

We ask MBIE to rewrite the strategy and recirculate it for further submissions.

ECO wishes to be heard in support of this submission. Please contact Barry Weeber Privacy of natural persons or Cath Wallace Privacy of natural persons if you are holding hearings of submissions.

Nga mihi nui

Barry Weeber
ECO Co-Chairperson