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Foreshore and Seabed Review
Ministry of Justice
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**Submission on Consultation Document: "Reviewing the Foreshore and Seabed Act 2004", Ministry of Justice
April 2010**

The AusIMM: Who Are We?

The Australasian Institute of Mining and Metallurgy ('The AusIMM') is the pre-eminent organization representing professionals in the minerals sector in the Australasian region.

The New Zealand Branch represents more than 250 members, many of whom are involved in mineral exploration, mine development and minerals research through mining companies, consultancies, Crown Research Institutes and Universities. Consequently they have insight into the measures that have proven successful for increasing investment in the minerals sector, understand what is needed to maintain the competitiveness of the sector, and support the Government's initiatives to enhance the contribution the minerals industry makes to the New Zealand economy.

Foreshore and seabed

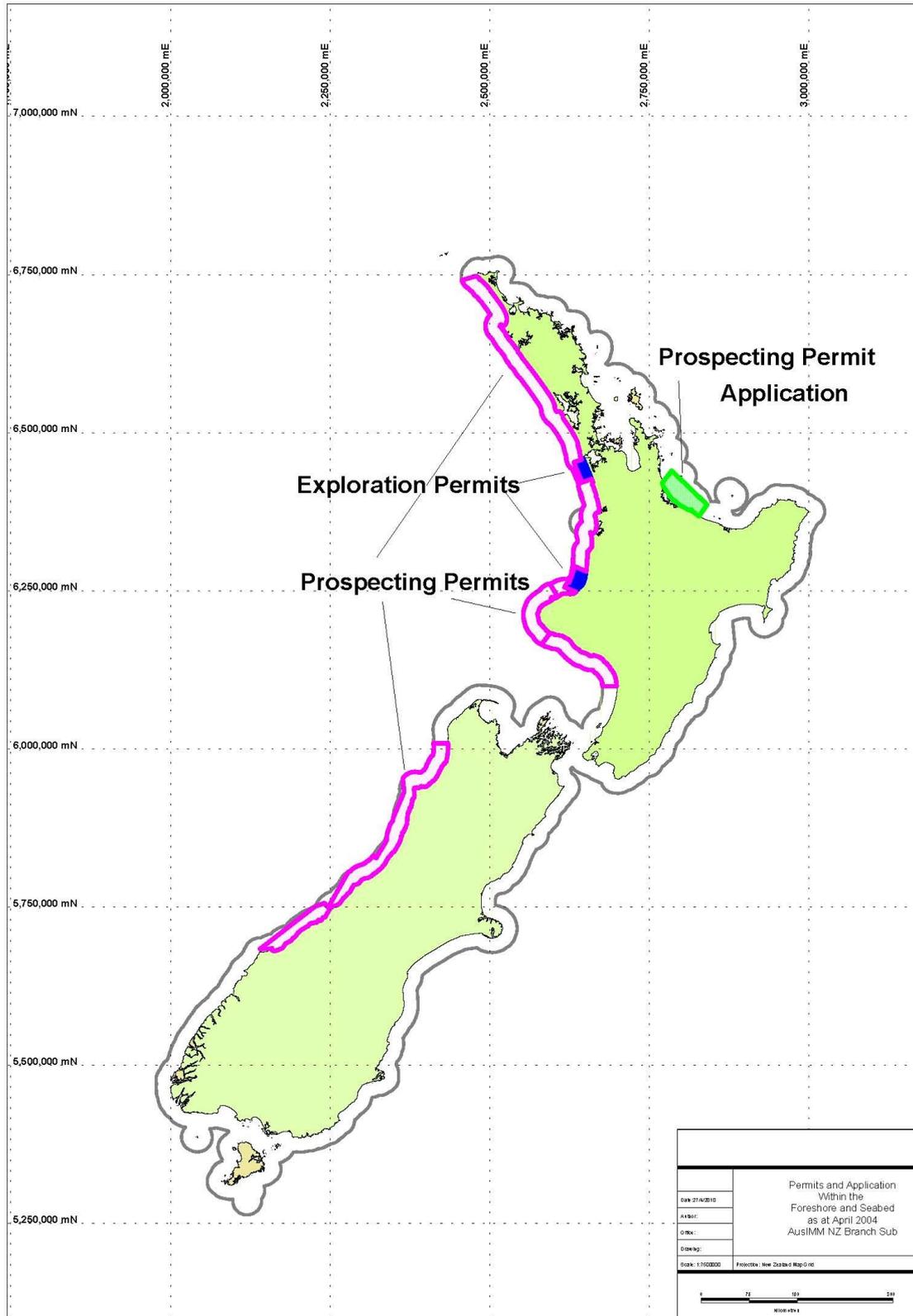
The foreshore and seabed contain significant resources and we are concerned that the consultation document makes no mention of these resources or their potential value. It includes assurances that seek to protect rights and interests such as fishing but is silent on any assurances relating to mineral resources and their use.

About 30,000 sq km of seabed is being actively explored under Prospecting and Exploration permits and applications (see attached map), and a further 70 permits and licences granted under the Mining Act 1971 and the Crown Minerals Act 1991 are listed in the public permit database covering parts of the foreshore and seabed (<https://data.crownminerals.govt.nz/permitwebmaps/default.aspx?commodity=minerals>) These near-shore rights are mainly for gold on the West Coast of the South Island. There is also a permit to extract silica sand from seabed at Parengarenga, Northland. Other building sand extraction occurs from the seabed at Pakiri off East Coast of North Island and within the Kaipara Harbour on the West Coast. The discussion document makes a number of assurances to protect existing rights but none of these refers to the rights of mineral permit and licence holders.

Mineral ownership and access.

The minerals gold, silver and uranium are owned by the Crown and some of the permits relate to Crown-owned gold. However much of the offshore mineral exploration activity is for minerals such as ironsand and other mineral sands that are not owned by the Crown by statute. At present they are Crown-owned by virtue of the fact that the bulk of the foreshore and seabed is owned by the Crown.

Map showing the distribution of current permits in the foreshore-seabed zone:



Our submission

In deciding what changes are made to the Act we urge you to consider the following:

1. There are substantial existing interests in the foreshore and seabed held under Prospecting, Exploration and Mining permits granted under the Crown Minerals Act 1991 and Mining Act 1971, and applications made under the Crown Minerals Act.
2. These interests need to be protected, not just for the current term, but for the term of any subsequent permits that may be applied for and granted under the Crown Minerals Act.
3. These interests will be affected by any change in ownership of minerals, or the creation of new rights that affect access. These could create a veto power that affects the rights of permit holders and the public interest.
4. The mineral resources in the seabed (and the EEZ beyond its seaward boundary) are the focus of continuing research and exploration activity funded by the private sector and the government. The seabed contains resources with a potential value that is highly significant.
5. The public interest can not be protected just by protecting existing rights. Exploration is an evolving process with data from one exploration programme being used as a base for subsequent investigations. Exploration reports are made available at no charge on the Crown minerals website to facilitate this. Maintaining the flow of activity and information will require an ownership and access regime that encourages investment. Mineral explorers can't justify spending high-risk capital on litigation before they can start exploration to learn whether or not a valuable asset exists.

Exploration of the NZ seabed is at an early stage. The total gross value of onshore ironsand resources along the west coast of the North Island has been estimated at between \$52 and \$86 billion¹, and similar ironsand potential is recognised offshore. Potential is also recognised for gold, titanium, non-metallic mineral sand, and high value minerals such as zircon. The way these resources are managed will have a significant effect on the prosperity of New Zealanders in the future.

The consultation document proposes that fishing rights could be protected by a provision that could read

Nothing in the Act affects the rights of fishing recognised under an enactment or rule of law.

Similar provision could be made for minerals, specifically maintaining Crown ownership of all minerals and protecting rights of access to these resources.

The NZ Branch of the AusIMM is willing to assist in the ongoing review of the Foreshore and Seabed Act

Yours sincerely



Cam Wylie
Chairman
New Zealand Branch
Australasian Institute of Mining and Metallurgy

¹ *Stepping up – Options for developing the potential of NZ's oil, gas and minerals sector.* Report prepared for the Ministry of Economic Development by McDouall Stuart, Wellington. June 2009