



Cabinet Economic Development Committee

Minute of Decision

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Seabed Mining in New Zealand

Portfolio Environment

On 29 March 2023, the Cabinet Economic Development Committee:

Background

- 1 **noted** that seabed mining is a divisive issue, as there are high financial opportunities and significant potential adverse impacts on marine ecosystems;
- 2 **noted** that on 17 October 2022, Cabinet invited the Minister for the Environment, working with the Minister of Energy and Resources, to prepare advice on:
 - 2.1 how New Zealand should make any adjustments to domestic regulatory settings for seabed/deep sea mining in light of the government's new position on areas beyond national jurisdiction (BNJ areas);
 - 2.2 the process for considering the issue, or aspects of it, possibly by reference to a select committee for an inquiry;
 - 2.3 the implications for sand mining or dredging or mooring structures, and for customary marine titles and Treaty of Waitangi settlements;
- [CAB-22-MIN-0449]
- 3 **noted** that on 27 October 2022, the Minister of Foreign Affairs announced the new position referred to in paragraph 2.1 above, i.e. New Zealand's support for a conditional moratorium on seabed mining in BNJ areas, to apply until an international regulatory framework can be agreed by the International Seabed Authority to ensure effective protection of the marine environment;
- 4 **noted** that on 19 December 2022, Cabinet deferred consideration until 2023 of a paper seeking agreement to refer the matter of seabed mining to a select committee for the purpose of an inquiry [CAB-22-MIN-0599.01];
- 5 **noted** that seabed mining can occur under domestic regulatory settings¹, and that New Zealand's support for a conditional moratorium on seabed mining in BNJ areas does not require this to change;

¹ Encompassing the territorial sea, EEZ, and extended continental shelf.

The domestic seabed mining framework

- 6 **noted** that seabed mining is regulated under three key pieces of legislation:
- 6.1 the Crown Minerals Act 1991 (CMA) governs minerals permits, i.e. rights to prospect, explore, and mine for Crown-owned minerals;
 - 6.2 the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (EEZ Act) governs marine consents required to undertake seabed mining activities in the exclusive economic zone (EEZ) and extended continental shelf;
 - 6.3 the Resource Management Act 1991 (RMA) governs resource consents required to undertake seabed mining in the coastal marine area;

Existing operators in New Zealand waters

- 7 **noted** that to date, no seabed mining has occurred in New Zealand's jurisdiction (aside from sand mining and dredging activities near shore, which are not traditionally considered seabed mining);
- 8 **noted** that two operators hold mineral mining permits under the CMA (in addition, two operators hold exploration permits), but both have had marine consents in the EEZ refused;
- 9 **noted** that the Environmental Protection Authority is currently reconsidering the marine consent application made by Trans-Tasman Resources Ltd;
- 10 **noted** that, if successful, Trans-Tasman Resources Ltd would have the required permissions to mine the seabed;

The nature of any changes to domestic regulatory settings would determine the legislative options

- 11 **noted** that it is appropriate to consider domestic regulatory settings given the shift in New Zealand's international position on seabed mining in BNJ areas, and growing opposition to seabed mining;
- 12 **noted** that any adjustments in domestic regulatory settings for seabed mining may require changes to all three pieces of legislation (the CMA, the EEZ Act and the RMA) and their secondary instruments;
- 13 **noted** that a broad public conversation on the benefits and risks of seabed mining in New Zealand is desirable, including with the public, Treaty partners, and stakeholders, before adjustments to domestic regulatory settings are considered;
- 14 **noted** that any adjustment to domestic regulatory settings would require careful consideration of:
- 14.1 existing rights of permit and consent holders;
 - 14.2 rights of customary marine title holders;
 - 14.3 impacts on Treaty settlements;
 - 14.4 application to nearshore sand dredging and mining activities;

- 15 **noted** that on 17 October 2022, Cabinet agreed that any adjustments would not have retrospective effect, and therefore no existing permits for mining activities would be repealed [CAB-22-MIN-0449];

Three potential pathways to consider adjustments to domestic regulatory settings

- 16 **noted** that adjustments could be made by:
- 16.1 the government adopting *The Prohibition on Seabed Mining Legislation Amendment Bill* (the Member's Bill) in the name of Debbie Ngarewa-Packer MP;
 - 16.2 a standard policy process;
 - 16.3 a select committee inquiry;
- 17 **noted** that adopting the Member's Bill (with appropriate amendments) could result in the implementation of a seabed mining ban in 9 to 12 months;
- 18 **noted** that the Member's Bill, if enacted as drafted, would retrospectively withdraw minerals permits and marine consents, and that this process would limit the assessment of the merits and risks of a seabed mining ban and the consideration of other options;
- 19 **noted** that a standard process would likely take 12 to 18 months to amend the domestic regulatory framework, and would allow for a robust assessment of the merits and risks of a seabed mining ban or other options available;
- 20 **noted** that a select committee inquiry would provide an opportunity for input from the public, Treaty partners, and stakeholders, and would not commit the government to a predetermined course of action, unlike the Member's Bill;
- 21 **noted** that a select committee inquiry is the Minister for the Environment's preferred approach;

Proposed select committee inquiry

- 22 **authorised** the Minister for the Environment to request the Environment Committee to conduct an inquiry on seabed mining in New Zealand's jurisdiction;
- 23 **noted** that the Environment Committee has before it a petition on banning seabed mining and has received evidence on the petition;
- 24 **agreed** that the draft terms of reference to the select committee be:
- 24.1 an overview of seabed mining operations and proposals;
 - 24.2 the opportunities that could arise from seabed mining in New Zealand;
 - 24.3 the costs and risks of seabed mining in New Zealand;
 - 24.4 comparison to other methods for obtaining minerals (e.g. land-based);
 - 24.5 how seabed mining is managed internationally and in New Zealand;
 - 24.6 how domestic regulatory settings are performing;
 - 24.7 whether any change to domestic regulatory settings should apply to the coastal marine area, the EEZ and extended continental shelf, or both;

- 24.8 the prospect of any change to domestic regulatory settings being supportive of Pacific countries in considering their own positions on seabed mining;
- 24.9 recommendations for maintaining or updating New Zealand's domestic regulatory settings;
- 25 **authorised** the Minister for the Environment, working with the Minister of Energy and Resources, to refine the proposed terms of reference for the inquiry, and to discuss these with the Chair of the Environment Committee;
- 26 **noted** that following an inquiry, the Environment Committee would report back to the House, and the Minister for the Environment would return to Cabinet with advice on the Committee's recommendations;
- 27 **noted** that any adjustments to regulatory settings (if needed) would take a further 12 to 18 months to implement after the inquiry had provided its recommendations.

Jenny Vickers
Committee Secretary

Present:

Hon Carmel Sepuloni
Hon Grant Robertson (Chair)
Hon Dr Megan Woods
Hon Michael Wood
Hon Dr Ayesha Verrall
Hon Willie Jackson
Hon Kiri Allan
Hon Damien O'Connor
Hon David Parker
Hon Peeni Henare
Hon Priyanca Radhakrishnan
Hon Dr Duncan Webb
Hon Rino Tirikatene
Hon Dr Deborah Russell

Officials present from:

Office of the Prime Minister
Officials Committee for DEV