

In Confidence

Office of the Minister of Conservation

Cabinet Environment Committee

No New Mines on Conservation Land: Decisions on approach to pounamu and next steps to progress the Bill

Proposal

- 1 This paper seeks further decisions to implement the Government's policy of 'No New Mines on Conservation Land', including:
 - 1.1 decisions on the approach to pounamu obtained as a by-product of alluvial mining; and
 - 1.2 next steps to progress the Crown Minerals (Restricting Access for Mining on Conservation Land) Amendment Bill (the Bill).

Executive Summary

- 2 On 12 December 2022 Cabinet agreed to progress the policy of No New Mines on Conservation Land (No New Mines) by adding 12 further classifications of public conservation land (PCL) to Schedule 4 of the Crown Minerals Act 1991 (CMA) through a parliamentary legislative process [CAB-22-MIN-0568 refers]. This would have the effect of preventing access being granted for most mining activities on these land classifications.
- 3 The *Crown Minerals (Restricting Access for Mining on Conservation Land) Amendment Bill* has been drafted since December 2022 to give effect to the decisions that Cabinet has made to date.
- 4 As No New Mines would cause an indirect impact to Ngāi Tahu's ability to obtain sizeable quantities of pounamu as a by-product of alluvial mining carried out by third-party operators, Cabinet invited me to engage with Ngāi Tahu on approaches that could provide for their continued access to pounamu.
- 5 Engagement with Ngāi Tahu on the pounamu policy options has concluded and I am now seeking Cabinet's decisions on the approach to pounamu access, for inclusion in the draft Bill. I am also seeking decisions on next steps to progress this Bill this parliamentary term.

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Recommended options to support pounamu access

- 6 Following engagement with Ngāi Tahu, I have developed three options for Cabinet to consider. The options relate to 'carving out' alluvial mining from No New Mines policy:
- **Option 1** – No carve out in the No New Mines Bill to support Ngāi Tahu's access to pounamu as a by-product of alluvial mining operations;
 - **Option 2** – A carve out in the No New Mines Bill to allow access arrangements for alluvial mining operations on the new PCL classifications added to Schedule 4, where those operations sit within pounamu areas;
 - **Option 3** – A carve out in the No New Mines Bill to allow access arrangements for alluvial mining operations on the new PCL classifications added to Schedule 4, where those operations sit within pounamu areas, plus an additional carve out to allow low impact mining on the South Island (in the Ngāi Tahu takiwā).
- 7 If Cabinet wishes to prioritise the environmental objectives of the No New Mines policy, then I recommend Option 1 (no carve out). Option 1 would ensure that most new mining is prevented on the conservation land classifications added to Schedule 4 of the CMA. However, this option would have the highest impact on Ngāi Tahu's ability to source pounamu as a by-product of alluvial mining.
- 8 If Cabinet wishes to implement No New Mines in a way that addresses the potential impacts on Ngāi Tahu's pounamu supply, then I recommend Option 2 (allow all alluvial mining in pounamu areas). This would mean that Ngāi Tahu would continue to be able to obtain pounamu as a by-product of alluvial mining, however it would reduce the environmental benefits of No New Mines policy.

Defining pounamu areas in legislation

- 9 Implementing Options 2-3 would require further work to define pounamu areas in legislation.
- 10 I propose that the Bill refer to Ngāi Tahu's already established Pounamu Management Areas (PMAs). Ngāi Tahu have indicated that they will provide maps and descriptions for PMAs that can be used for this purpose. I propose that the draft Bill includes a geographical definition of the pounamu carveout areas, to be inserted directly into the legislation.

Defining (additional) areas in secondary legislation via Order in Council

- 11 During engagement, Ngāi Tahu expressed the view that there should be a mechanism available to add new parcels of land to the pounamu carveout area if new pounamu deposits are discovered.

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- 12 The carveout areas could be amended through:
- 12.1 an Order in Council mechanism in the Bill that gives the ability to add or remove land areas to/from the carveout (noting that this could be written to ensure a role for Ngāi Tahu in the process); or
 - 12.2 amending the carveout areas through a further parliamentary legislative process.
- 13 The benefit of an Order in Council mechanism is that it would not require the government of the day to prioritise a Bill for House time. However, this would create a ‘Henry VIII clause,’ meaning that Cabinet could amend part of the primary legislation without the agreement of Parliament (by adding or removing areas to/from the carveout).

Recommended approach to progressing the Bill

- 14 I am also seeking Cabinet’s decisions on next steps for progressing the Bill. I propose the three options below:
- 14.1 **Path A:** The Bill is finalised and introduced to the House this term.
 - 14.2 **Path B:** Public consultation commences this term on an exposure draft of the Bill (as currently drafted), accompanied by a summary of any pounamu approach decided by Cabinet today. The conclusion of consultation and introduction of the Bill would take place next term.
 - 14.3 **Path C:** The Bill is revised this term, with public consultation on an exposure draft of the revised Bill next term. Introduction would also take place next term.
- 15 Path A would enable a Bill to be introduced this term, if the Bill is prioritised for House time this August. However, it would not allow for public consultation prior to the Bill being introduced (but the public could still input through the Select Committee process).
- 16 Paths B and C would provide an opportunity for the public, stakeholders, and tangata whenua to provide their views on the exposure draft of the Bill, prior to it being introduced to the House. The Bill would then be amended following public consultation to incorporate any changes.
- 17 If Cabinet agrees to Path A or C, officials will revise the draft Bill and I will return to Cabinet in August to seek approval of the finalised Bill and agreement to either:
- 17.1 introduce the Bill to the House;
 - 17.2 release the Bill at that point for the public’s information; or
 - 17.3 prepare for public consultation in the following term, including approval of draft consultation documents.

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18 If Cabinet agrees to Path B, I seek your approval of the attached draft consultation materials [Appendix 4]. I also seek your agreement that the Ministers of Conservation and Energy and Resources, and the Prime Minister, may make minor changes to finalise the draft consultation materials.

Other issues raised by Ngāi Tahu

19 During the Department of Conservation (DOC)'s engagement with Ngāi Tahu on options to provide for pounamu access, Ngāi Tahu raised a number of issues they consider connected to the No New Mines policy, and that they wish to see addressed as part of this policy work. The issues are:

- Exclusive Ngāi Tahu access to aotea stone;
- Access to pounamu in National Parks;
- Formal role for Ngāi Tahu in the approval, monitoring, and enforcement of CMA access arrangements;
- s9(2)(f)(iv)
- Community wellbeing and economic development impacts ;
- Clean-tech minerals; and
- Implications for the Stewardship Land Reclassification Project.

20 A summary of the issues and a proposed approach to responding to each issue is detailed in this paper.

Potential approaches to manage any economic impacts of No New Mines

21 *[Content to come, following your meeting with on 7 June with the Minister of Energy and Resources (Minister responsible for just transitions) and Regional Development.]*

Background

Mining activities cause harm to conservation values

22 Public conservation land (PCL) is held under the Conservation Act 1987 (and associated conservation legislation) for the purposes of protecting and preserving the intrinsic values of that land (such as biodiversity or historical values), and to ensure that the public (including future generations) can experience and enjoy them.¹

¹ The Conservation Act 1987 determines that DOC shall manage land for conservation purposes and defines conservation as “the preservation and protection of natural and historic resources for the

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- 23 All mining on PCL causes harm to the intrinsic values of the land and typically involves closure of that land to the public for health and safety reasons. Environmental impacts of mining (especially surface mining) include modification of landscapes and habitats through vegetation and soil clearance, and diversion of waterways. Indirect impacts, if not properly managed, can include sedimentation of waterways, acid mine drainage or leaching of chemicals into the ground and water.
- 24 The extent of the negative impact depends on the scale of operations, the location of the site, and how well the operations are managed. However, even when impacts are well mitigated, mining does still cause harm to the intrinsic values of the land and is therefore incompatible with the purpose for which the land is held.
- 25 Large-scale mining operations on PCL (such as large open-cast coal mines) can have dramatic impacts on landscapes and ecosystems and tend to draw the most attention from the public and media. However, the cumulative impacts of medium and small-scale mining operations can be just as detrimental to conservation values over time, as they may result in an ongoing cycle of negative impacts.
- 26 If an area of PCL was used for mining in the past, it often means that access for mining is more likely to be approved on that site again. This is because the conservation values on that site will have been degraded by previous operations, and the site will therefore be less likely to hold high enough conservation values to justify denying a new application for mining access. This creates a cycle of negative impacts where some areas of PCL do not get the chance to fully recover.

Cabinet has made decisions on key elements of No New Mines policy

- 27 The Government committed to a policy of 'no new mines on conservation land' (No New Mines) in the Speech from the Throne in 2017.
- 28 On 12 December 2022 Cabinet made decisions [CAB-22-MIN-0568 refers] to progress the policy of No New Mines, including the following. Cabinet:
- 28.1 agreed to progress No New Mines by adding further classifications of public conservation land (PCL) to Schedule 4 of the Crown Minerals Act 1991 (CMA) through a parliamentary legislative process;
- 28.2 agreed to amend Schedule 4 of the CMA (and to amend associated provisions in section 61 as required) to add 12 PCL classifications, meaning that access cannot be granted for most new mining operations on that land;

purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generations" (cf s(6)(a) and s(2)).

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- 28.3 agreed that stewardship land will not be added to Schedule 4 of the CMA, as this will be assessed over time through the Stewardship Land Reclassification project;
 - 28.4 agreed to specify that mineral access rights provided in Treaty of Waitangi settlement acts will not be impacted by the addition of the recommended land classifications to Schedule 4 of the CMA; and
 - 28.5 invited the Minister of Conservation to engage with Ngāi Tahu on approaches that could provide for continued access to pounamu, either prior to introduction of the Bill or following its introduction.
- 29 *The Crown Minerals (Restricting Access for Mining on Conservation Land) Amendment Bill* has been drafted since December 2022 to give effect to the decisions that Cabinet has made to date.
- 30 On 7 March 2023, the Cabinet Priorities Committee invited me to return to the Cabinet Environment, Energy and Climate Committee (ENV) following the conclusion of engagement with Ngāi Tahu to seek further policy decisions to finalise the Bill, specifically measures to provide for access to pounamu.

No New Mines would impact on Ngāi Tahu's ability to obtain large quantities of pounamu as a by-product of alluvial mining

- 31 No New Mines will not impact the ability of Ngāi Tahu to be granted access arrangements for mining operations specifically to obtain pounamu on PCL, since pounamu is privately-owned by Ngāi Tahu. (No New Mines policy does not apply to privately-owned minerals.)
- 32 However, Ngāi Tahu currently obtains most of their pounamu through finder's fee arrangements with third-party alluvial goldmining operators that uncover pounamu as an incidental by-product of their mining operations.
s9(2)(b)(i)
- 33 Since the Bill will reduce the number of new alluvial mining operations on PCL, over time it would become more expensive and difficult for Ngāi Tahu to obtain commercial quantities of pounamu.

34 s9(2)(h)

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s9(2)(h)



- 36 DOC has now conducted significant engagement with Ngāi Tahu on No New Mines policy and related issues that they have raised. The outcomes of engagement with Ngāi Tahu are outlined later in this paper.
- 37 On 13 March 2023, Cabinet invited the Minister of Conservation to return to the Cabinet Environment, Energy and Climate Committee (ENV) following the conclusion of engagement with Ngāi Tahu to seek further policy decisions to finalise the Bill, specifically the measures to provide for access to pounamu [CAB-23-MIN-0073 refers].
- 38 Engagement with Ngāi Tahu on the pounamu policy options has concluded and I am now seeking Cabinet's decisions on the approach to pounamu access, for inclusion in the draft Bill. I am also seeking decisions on next steps to progress this Bill this parliamentary term.

Summary of engagement with Ngāi Tahu

- 39 Engagement with Ngāi Tahu was initiated by the then-Minister of Conservation in December 2022.
- 40 I met with representatives from Te Rūnanga o Ngāi Tahu on 24 February 2023 and we agreed to work together over the next two months on approaches to provide for access to pounamu. In February and March 2023, I had further phone conversations about No New Mines with representatives from Te Rūnanga o Ngāi Tahu.
- 41 On 14 April, I attended a hui with directors from within the Ngāi Tahu takiwā to hear the key priorities and current issues for each rūnanga. As a result of this hui, DOC and Ngāi Tahu are continuing to work together to roadmap their mutual priorities.
- 42 DOC has met [seven times] between December 2022 and May 2023 with representatives from Te Rūnanga o Ngāi Tahu and representatives from Poutini Ngāi Tahu (two hapū of Ngāi Tahu). Prior to each hui, officials provided Ngāi Tahu with material for discussion.
- 43 Engagement with Ngāi Tahu provided valuable feedback to support the policy development process and has informed the development of policy options.
- 44 Ngāi Tahu have noted broad concerns with the No New Mines policy, including concerns about the wider impacts and implications of No New Mines, including on their commercial and cultural interests and the regional economy in Tai Poutini.
- 45 However, Ngai Tahu have indicated their preferred option for providing ongoing access to pounamu if No New Mines progresses. This approach is discussed along with other options in the following sections.

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- 46 Ngāi Tahu have also raised a number of broader issues that they consider should be progressed alongside the No New Mines policy. These issues are summarised later in this paper.
- 47 Engagement with Ngāi Tahu on policy options has concluded and I am now seeking Cabinet's decisions on an option that supports Ngāi Tahu's ongoing access to pounamu for inclusion in the draft Bill.

Options to support Ngāi Tahu's ongoing access to large quantities of pounamu

- 48 Following engagement with Ngāi Tahu, I have developed three options for Cabinet to consider.
- 49 The options relate to 'carving out' alluvial mining² from No New Mines policy in particular areas. This would mean that access arrangements for alluvial mining operations on the new PCL classifications added to Schedule 4 can continue to be granted under the policy so that Ngāi Tahu can continue to obtain pounamu uncovered as a by-product of this mining.
- 50 Note that because the carveout would be for alluvial mining (rather than pounamu extraction in its own right), this approach would enable third-party alluvial mining even where no pounamu is found.
- 51 The main difference between the options is the extent of the carve out to allow mining to continue on conservation land under the No New Mines policy. In general, the greater the carve out, the lower the impact on Ngāi Tahu's ability to obtain pounamu as a by-product of third-party alluvial mining. Conversely, a larger carve out would reduce the environmental benefits of the No New Mines policy.
- 52 The three options are:
- **Option 1** – No carve out in the No New Mines Bill to support Ngāi Tahu's access to pounamu as a by-product of alluvial mining operations;
 - **Option 2** – A carve out in the No New Mines Bill to allow access arrangements for alluvial mining operations on the new PCL classifications added to Schedule 4, where those operations sit within pounamu areas;
 - **Option 3** – A carve out in the No New Mines Bill to allow access arrangements for alluvial mining operations on the new PCL classifications added to Schedule 4, where those operations sit within

² Alluvium is a type of soil (clay, silt, sand, or gravel) that has been deposited by running water in a stream bed, on a floodplain, in an alluvial fan, or in similar settings. The alluvial mining that occurs on PCL typically involves stripping the top-soil and vegetation to get to the deposit underneath and then processing the clay, sand, silt or gravel to separate out the mineral (over 90% of alluvial mining on PCL targets gold).

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pounamu areas, plus an additional carve out to allow low impact³ mining on the South Island (in the Ngāi Tahu takiwā).

- 53 To provide a carveout for ongoing access to pounamu via alluvial mining in a No New Mines Bill (options 2 and 3), officials have advised that the areas that the carveout will apply to need to be defined in some way in the legislation.
- 54 I propose to define “pounamu areas” using Ngāi Tahu’s “Pounamu Management Areas”, by reproducing those geographic descriptions in the Bill. Appendix 2 includes a map of Ngāi Tahu’s “Pounamu Management Areas”. This is discussed further later in this paper.
- 55 Below I outline the three options; in the subsequent section I provide analysis of the three options. Maps illustrating the three options are provided as Appendix 3.

Option 1 – No carve out in the No New Mines Bill to support Ngāi Tahu’s access to pounamu as a by-product of alluvial mining operations

- 56 Under this option, there would be no particular provision made in the Bill for Ngāi Tahu to access pounamu as a by-product of alluvial mining operations.
- 57 Ngāi Tahu could still obtain access arrangements for pounamu in its own right (as pounamu is privately owned by Ngāi Tahu). However, as mining operator access arrangements expire over time, there would be fewer opportunities for Ngāi Tahu to obtain pounamu through third-party mining operators. As a result, it would become much more expensive and difficult for Ngāi Tahu to obtain commercial quantities of pounamu.

Option 2: A carve out in the No New Mines Bill to allow access arrangements for alluvial mining operations on the new PCL classifications added to Schedule 4, where those operations sit within pounamu areas

- 58 Schedule 4 of the CMA specifies certain areas where mining is restricted on PCL. The Minister of Conservation and the Minister of Energy and Resources must not accept most applications for access arrangements, or most variations to current access arrangements, relating to any Crown-owned minerals in land described in Schedule 4 of the CMA.
- 59 Option 2 would provide a carve out in the No New Mines Bill to allow access arrangements to be considered for alluvial mining operations on the new PCL classifications added to Schedule 4, where the proposed operation sits within a pounamu area (see paragraphs x-x for how these will be defined).
- 60 This option would not change the decision-making framework for mining operations on PCL. In line with current requirements, approvals to mine

³ In evaluating applications for access to PCL for mining operations, DOC assesses whether the proposed operations can be classed as low, medium or high impact, depending on a range of factors. This process is an internal tool currently and would need to be further developed if it was to be referenced in legislation/regulations.

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within a pounamu area on PCL would require a mineral permit (decisions are based on section 29A of the CMA) and a resource consent (decisions are based on Resource Management Act 1991 planning documents).

- 61 In considering applications for an access arrangement on Crown land, decision-makers must have regard to the conditions set out in section 61(2) of the CMA, including safeguards against any potential adverse effects and the direct net economic and other benefits of the proposed activity.
- 62 A mechanism could be included in the Bill to allow new areas to be added to the carveout (e.g., through Order in Council) if/when new pounamu deposits are discovered.
- 63 This option was informed by engagement with Ngāi Tahu. In particular, the mechanism to allow new areas to be added to the carveout was included in response to their feedback. The decision to base the carveout area on Ngāi Tahu's Pounamu Management Areas (discussed later) also responds to feedback from Ngāi Tahu. This option would prioritise access to large quantities of pounamu and would mean their economic aspirations are prioritised.

Option 3: A carve out in the No New Mines Bill to allow access arrangements for alluvial mining operations on the new PCL classifications added to Schedule 4, where those operations sit within pounamu areas, plus an additional carve out to allow low impact mining on the South Island

- 64 As with Option 2, Option 3 would provide a carve out in the No New Mines Bill to allow access arrangements for alluvial mining operations on the new PCL classifications added to Schedule 4 in pounamu areas.
- 65 In addition, this option would allow consideration of applications for all low impact mining operations on the South Island (in the Ngāi Tahu takiwā), even outside of pounamu areas.
- 66 A formal process to assess low impact operations would be required to implement this option. In evaluating applications for access to PCL for mining operations, DOC currently assesses whether the proposed operations can be classed as low, medium or high impact, depending on impacts on flora, fauna, freshwater ecology, the landform, and on historic, recreation, enjoyment and scenic values. This process is an internal tool currently and would need to be further developed if it was to be referenced in legislation/regulations.
- 67 As for Option 2, this option would not change the current decision-making framework for approvals to mine on PCL. Existing requirements in relation to mineral interest, land access, and effects management would still apply (paragraph xx refers).
- 68 This option could include a mechanism to allow new areas to be added to the carveout (e.g., through Order in Council) if/when new pounamu deposits are discovered.

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- 69 This option goes beyond the scope of the problem definition, as it provides for broader mineral access. Depending on applications received, it would allow the consideration of applications to access PCL for mining operations targeting minerals such as coal, gold or aggregates and is not focussed just on pounamu as a by-product of alluvial mining.
- 70 Ngāi Tahu have indicated that this is their preferred option if No New Mines is progressed. This would provide for access to pounamu, as well as Ngāi Tahu's broader economic aspirations in relation to mining.
- 71 Ngāi Tahu have emphasised that this option (or any option) should not be progressed in isolation but should be coupled with work to progress other mineral-related issues they have raised, discussed later in this paper (paras x-x).

Analysis of the three options

The options vary in terms of how much mining would continue to be allowed on conservation land

- 72 Option 1 is most closely aligned with the environmental objectives of No New Mines, as it would ensure that most new mining is prevented on the conservation land classifications added to Schedule 4 of the CMA.
- 73 However, this option would have the highest impact on Ngāi Tahu's ability to source pounamu as a by-product of alluvial mining. It would mean that new applications to access PCL for mining operations (including renewing current access arrangements) on those land classifications would no longer be considered.
- 74 In contrast, the carveouts for alluvial mining in pounamu areas under options 2 and 3 would mean that a significant amount of mining will be able to continue under the No New Mines policy.
- 75 Using current mining access arrangements for illustrative purposes, officials have estimated that 23 of 29 current alluvial mining operations would be allowed under Option 2, and 27 of 29 current operations would be allowed under Option 3.
- 76 In addition, Option 3 allows the continuation of a significant amount of mining targeting a wider range of minerals. Officials estimate that approximately 70 out of 88 current access arrangements for mining operations on PCL would be allowed under this option (including operations on stewardship land)⁴. Most low impact arrangements currently provide access for mining operations targeting gold.

⁴ These estimates are provided for illustrative purposes and are based on the number of current mining operations that DOC has assessed as low impact and that DOC estimates will sit outside the proposed pounamu areas, but within the South Island.

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- 77 This would be in addition to the fact that more than 30% of public conservation land is already exempted from the policy since Cabinet has decided that stewardship land will not be covered.
- 78 Appendix 2 provides a map of the Pounamu Management Areas which would be carved out from No New Mines policy under Options 2 and 3. These areas are primarily located in the West Coast region, but also extend into Southland and Otago. Appendix 3 provides illustrative maps of the number of current mining operations that DOC estimates would be allowed under each option, as well as the status quo without No New Mines policy.
- 79 As noted earlier, Options 2 and 3 were informed by engagement with Ngāi Tahu. Option 2 addresses Ngāi Tahu's concerns and interests related to access to pounamu and would prevent most new mining activities outside of pounamu areas.
- 80 Option 3 goes beyond the scope of No New Mines and addresses Ngāi Tahu's wider economic interests (beyond pounamu). s9(2)(g)(i)
- 81 Both Options 2 and 3 are indirect ways of supporting Ngāi Tahu's interests in obtaining pounamu. In effect, the carveout options would be supporting the alluvial goldmining sector (to varying degrees) because this provides Ngāi Tahu with a cost-effective way of obtaining pounamu. Currently, alluvial goldmining operations on PCL are undertaken by a range of actors, ranging from small-scale operators to large multinational companies.

Some mining would continue to be allowed in a World Heritage Area under all options

- 82 Currently, mining access is allowable in some parts of Te Wāhipounamu - South West New Zealand World Heritage Area (WHA).
- 83 The proposed approach to No New Mines and the options for the pounamu carveout would not allow any additional mining within the WHA compared to the status quo. However, under all three options, some of this mining would continue to be allowed.
- 84 There are two reasons for this. Firstly, Te Wāhipounamu includes some stewardship land parcels which will not be covered by No New Mines policy. The status quo will not change for these areas until or unless the relevant stewardship land is reclassified.
- 85 Secondly, further alluvial mining would be allowed in Te Wāhipounamu under Options 2 and 3, because the proposed pounamu carveout areas would partially overlap with the WHA. This means that access for alluvial mining could continue to be approved within these areas.
- 86 Continuing to allow mining activities in Te Wāhipounamu WHA would be incompatible with the World Heritage Committee's position that such

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activities should not be undertaken within a WHA. For example, World Heritage Committee Decision 37 Com 7 urges parties to not permit extractive industries in World Heritage properties.

- 87 This issue would be partially addressed through the Stewardship Land Reclassification Project, as it aims to ensure that all land is appropriately classified and have protections in place to reflect the values of the land.

Comparison of the three options

- 88 Table 1 below provides more detailed comparison between the three options.

Table 1: Comparison of options to provide for pounamu access in the Bill

Option	Option 1 - No carveout for alluvial mining	Option 2 - Allow all alluvial mining in pounamu areas	Option 3 - Allow all alluvial mining in pounamu areas, and allow all low impact mining on the South Island (in the Ngāi Tahu takiwā)
Comment	<ul style="list-style-type: none"> This option is most in line with the policy commitment of No New Mines – but it would have the highest impact on Ngāi Tahu’s ability to source pounamu. If the Government wished to progress with this option, other avenues to support Ngāi Tahu’s sourcing of pounamu could be explored. 	<ul style="list-style-type: none"> This option was developed based on feedback from Te Rūnanga o Ngāi Tahu. We understand that this approach would address Ngāi Tahu’s concerns and interests related to pounamu. However, Ngāi Tahu have stated that they have wider concerns and interests (beyond pounamu) relating to impacts on the regional economy of the West Coast and Ngāi Tahu’s economic aspirations. 	<ul style="list-style-type: none"> This option was developed based on feedback received from Poutini Ngāi Tahu and Te Rūnanga o Ngāi Tahu. We understand that this option would go some way towards addressing Ngāi Tahu’s wider concerns and interests (beyond pounamu) relating to impacts on regional economies and Ngāi Tahu’s economic aspirations.
Indicative mining activities that would be allowed	<ul style="list-style-type: none"> 42 out of 88 current mineral access arrangements on PCL would have been allowed under this option. (These operations are on 	<ul style="list-style-type: none"> As with Options 1 and 3, mining on stewardship land would continue to be allowed. 	<ul style="list-style-type: none"> As with Options 1 and 2, mining on stewardship land would continue to be allowed.

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Option	Option 1 - No carveout for alluvial mining	Option 2 - Allow all alluvial mining in pounamu areas	Option 3 - Allow all alluvial mining in pounamu areas, and allow all low impact mining on the South Island (in the Ngāi Tahu takiwā)
under each option (using current mining access arrangements for illustrative purposes)	stewardship land, which is not covered by No New Mines policy. This figure is likely to decrease through the reclassification of stewardship land.)	<ul style="list-style-type: none"> 52 out of the 88 current mineral access arrangements on PCL would have been allowed under this option. This figure includes 23 out of 29 current alluvial mining operations. 	<ul style="list-style-type: none"> 72 out of 88 current mineral access arrangements on PCL would have been allowed under this option. This figure includes 27 out of 29 current alluvial mining operations.

- 89 I seek Cabinet’s decision on an approach to providing for access to pounamu, for inclusion in the draft Bill.
- 90 If Cabinet wishes to prioritise the environmental objectives of the No New Mines policy, then I recommend Option 1 (no carve out). If Cabinet wishes to implement No New Mines in a way that addresses the potential impacts on Ngāi Tahu’s pounamu supply, then I recommend Option 2 (allow all alluvial mining in pounamu areas).
- 91 I do not recommend progressing Option 3, as it would allow a significant amount of mining to continue under the No New Mines policy. s9(2)(g)(i)

Defining areas where there is a reasonable expectation that pounamu is likely to be found

- 92 Implementing Options 2-3 would require further work to identify and specify areas where there is a reasonable expectation that pounamu is likely to be found. This is needed so that mining in those areas could be carved out from the No New Mines policy in the Bill.
- 93 Ngāi Tahu has suggested that the Bill could refer to Ngāi Tahu’s already established Pounamu Management Areas (PMAs). PMAs are geographic categorisations developed by Ngāi Tahu at the regional Papatipu Rūnanga level. The PMAs are not statutory instruments under the CMA, but New Zealand Petroleum and Minerals does provide contact information for the relevant Papatipu Rūnanga to mining operators with permits within PMAs.
- 94 DOC agrees that PMAs would provide an appropriate basis for a carve out. This is because they relate to known areas where pounamu may be found through alluvial mining, and are already used by alluvial mining operators.

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Mechanism to identify Pounamu Management Areas in legislation

- 95 The pounamu carveout areas could be defined in legislation either–
- 95.1 In regulations/secondary legislation via Order in Council; or
- 95.2 Directly in the Act (e.g., in a new Schedule).
- 96 The two approaches would have the same net effect once implemented, as they would both mean that a geographic description of Pounamu Management Areas would be specified, for reference in making decisions on alluvial mining on conservation land.
- 97 Ngāi Tahu have indicated that they have a strong preference for the pounamu carveout areas to be defined in primary legislation. Ngāi Tahu expressed concerns that if the carveout areas are not set in the Bill, there would be no guarantee that the carveout will be defined through Order in Council in a timely fashion.
- 98 To define the carveout directly in the Act, it is necessary to obtain maps and geographic data of sufficient quality. Ngāi Tahu have indicated that they will provide maps and descriptions for Pounamu Management Areas that can be used for this purpose.
- 99 If maps and geospatial data of sufficient quality are not available by the time the draft Bill is to be considered by Cabinet in August *if this option is agreed to, or if these are not available in time for an exposure draft*, I propose to include provisional maps and descriptions in the draft Bill as a placeholder that would then be further refined during the Select Committee process.

Defining (additional) areas in secondary legislation via Order in Council

- 100 During engagement, Ngāi Tahu expressed the view that there should be a mechanism available to add new parcels of land to the pounamu carveout area if new pounamu deposits are discovered.
- 101 *I agree that it would be good to have the ability to amend the pounamu carveout to extend or reduce its area. This would ensure that the carveout accurately reflects areas where pounamu may be found.*
- 102 *The pounamu carveout areas could be amended by either:*
- 102.1 *Including an Order in Council mechanism in the Bill that gives the ability to add or remove land areas to/from the carveout; or*
- 102.2 *Amending the carveout areas through a further parliamentary legislative process.*
- 103 *The benefit of an Order in Council mechanism is that it would provide a faster approach to amend the carveout areas, and would not require the government of the day to prioritise a Bill for House time.*

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- 104 A potential Order in Council mechanism could be written to ensure a central role for Ngāi Tahu in the process and ensure that an Order in Council could not be made without the agreement of Ngāi Tahu.
- 105 However, I understand that this approach of using an Order in Council mechanism to amend pounamu areas that are set in primary legislation is not in line with good legislative practice. This is because it would create a so-called ‘Henry VIII clause’ – meaning that it would be possible for Cabinet to amend part of the primary legislation without the agreement of Parliament (by adding or removing areas to/from the carveout).
- 106 If Cabinet prefers to avoid creating a Henry VIII clause, then we could instead choose not to include this Order in Council mechanism in the Bill. Instead, the pounamu areas could be amended through a parliamentary legislative process. This would take longer than an Order in Council process, however it would ensure that Parliament is able to approve changes to the pounamu areas set in legislation.

Next steps for progressing the Bill

- 107 This paper also seeks Cabinet’s decisions on next steps for progressing the Bill. It presents three pathways, namely:
- 107.1 **Path A:** The Bill is finalised and introduced to the House this term.
- 107.2 **Path B:** Public consultation commences this term on exposure draft of the Bill (as currently drafted), accompanied by a summary of any pounamu approach decided by Cabinet today. The conclusion of consultation and introduction of the Bill would take place next term.
- 107.3 **Path C:** The Bill is revised this term, with public consultation on an exposure draft of the revised Bill next term. Introduction would also take place next term.
- 108 The implications of each timing pathway are provided in Table 2.

Table 2: Assessment of pathways to progress the No New Mines Bill

Option	Path A – Bill finalised and introduced this term	Path B – Public consultation on exposure draft with summary of pounamu provisions	Path C – Bill revised, public consultation on exposure draft
Summary	<ul style="list-style-type: none"> • Cabinet makes decisions on approach to provide access to pounamu. • Potential to announce policy decisions in early July. 	<ul style="list-style-type: none"> • Cabinet makes decisions on approach to provide access to pounamu in July and approves draft consultation materials at the same time. 	<ul style="list-style-type: none"> • Cabinet makes decisions on approach to provide access to pounamu. • Potential to announce policy decisions in early July.

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Option	Path A – Bill finalised and introduced this term	Path B – Public consultation on exposure draft with summary of pounamu provisions	Path C – Bill revised, public consultation on exposure draft
	<ul style="list-style-type: none"> • The Bill is revised to reflect agreed approach. • Cabinet approves the revised Bill. • The Bill is introduced to House in August. 	<ul style="list-style-type: none"> • Potential to announce policy decisions in early July. • Decisions on final consultation materials delegated to Ministers of Conservation and Energy and Resources, and the Prime Minister. • Exposure draft of Bill released as drafted, along with a summary document on the pounamu approach agreed by Cabinet. • Public consultation late July/early August to November 2023. 	<ul style="list-style-type: none"> • The Bill is revised to reflect agreed approach. • Cabinet approves the revised Bill and approves consultation material in August. • Prepare for public consultation on exposure draft.
Comment	<ul style="list-style-type: none"> • Would enable a Bill to be introduced this term. • Would not allow for public consultation prior to the Bill being introduced (but the public could still input through select committee process). • Would require the Government to prioritise the Bill for House time in August. 	<ul style="list-style-type: none"> • Would allow for public consultation on an exposure draft to commence prior to the House rising in late August. • A Bill would not be introduced to parliament this term. • This path could mean further pressure for Treaty partners and stakeholders to participate in engagement, at the same time as engagement on other significant work programmes such as resource management reform and affordable water reform. 	<ul style="list-style-type: none"> • Would allow for public consultation on an exposure draft in the following parliamentary term. • Consultation in the following parliamentary term. • The Government could choose to release a draft of the Bill for the public's information after Cabinet has approved the revised Bill in August. This provides an opportunity for public consideration of the Bill but without the additional contextual information and opportunity to comment, as

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Option	Path A – Bill finalised and introduced this term	Path B – Public consultation on exposure draft with summary of pounamu provisions	Path C – Bill revised, public consultation on exposure draft
			<p>provided in a consultation process.</p> <ul style="list-style-type: none"> • A Bill would not be introduced to parliament this term.

109 If Cabinet agrees to Path A or C, officials will revise the draft Bill and I will return to Cabinet in August to seek approval of the finalised Bill and agreement to either:

109.1 introduce the Bill to the House;

109.2 release the Bill at that point for the public’s information; or

109.3 prepare for public consultation in the following term, including approval of draft consultation documents.

110 If Cabinet agrees to Path B, I seek your approval of the attached draft consultation materials. I also seek your agreement to delegate final decisions on approval of consultation materials to the Ministers of Conservation and Energy and Resources, and the Prime Minister.

111 Paths B and C would provide an opportunity for the public, stakeholders, and tangata whenua to provide their views on the exposure draft of the Bill, prior to it being introduced to the House. The Bill would then be amended to incorporate any changes following public consultation.

Wider issues raised by Ngāi Tahu during engagement

112 During DOC’s engagement with Ngāi Tahu on options to provide for pounamu access, Ngāi Tahu raised a number of issues they consider connected to the No New Mines policy, and that they wish to see addressed as part of this policy work.

113 Table 3 below provides an overview of the issues raised and associated responses.

Table 3: Wider issues raised by Ngāi Tahu during engagement

Issue raised	Key context	Response
Exclusive Ngāi Tahu access to aotea stone	Aotea stone is considered a taonga and a sister stone to pounamu by Ngāti Māhaki ki Makaawhio (a hapū of Ngāi Tahu). In contrast to	s9(2)(f)(iv)

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Issue raised	Key context	Response
	<p>pounamu, aotea has not been vested, meaning that it is still owned by the Crown.</p> <p>s9(2)(g)(i) [redacted] [redacted] [redacted] [redacted] [redacted] I understand that an associated access arrangement will shortly be granted. These arrangements will be in effect until 2044.</p> <p>s9(2)(ba)(i) [redacted] [redacted] [redacted] [redacted]</p>	<p>s9(2)(f)(iv) [redacted]</p> <p>The existing permit and access arrangement mean that Te Rūnanga o Makaawhio will have exclusive access to aotea until 2044. s9(2)(f)(iv) [redacted] [redacted] [redacted] [redacted] [redacted]</p> <p>s9(2)(f)(iv) [redacted] [redacted] [redacted] [redacted]</p>
<p>Access to pounamu in National Parks</p>	<p>There is a widespread misconception that all mining is banned in National Parks. However, it is only mining for Crown-owned minerals that is banned in National Parks, which means that if a mineral is privately owned (like pounamu is) access for mining of that mineral in National Parks is allowable.</p>	<p>DOC has communicated to Ngāi Tahu that they are able to apply for access to extract pounamu from National Parks.</p> <p>DOC will also work with Ngāi Tahu to update the existing Tribal Access arrangement for minimum impact removal of pounamu.</p>
<p>Formal role for Ngāi Tahu in the approval, monitoring, and enforcement of CMA access arrangements</p>	<p>Under the Crown Minerals Act, decisions on access arrangements for Crown-owned land must be taken by the responsible Minister(s), as representatives of the Crown. When DOC officials make decisions on access arrangements, this is on delegation from the Minister(s).</p>	<p>The issue of potential roles in statutory decision-making, monitoring and enforcement under the CMA goes beyond the scope of No New Mines and would be an issue of relevance for mana whenua throughout the country.</p> <p>Officials advise that work on this matter could be undertaken, should Ministers wish, but that it would require reprioritisation of resources both for DOC and MBIE, and would not be possible within the current timeframes for</p>

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Issue raised	Key context	Response
		<p>progressing the No New Mines Bill.</p> <p>MBIE is the agency responsible for administering the CMA and wider work on this would be led by them.</p>
s9(2)(f)(iv)		
Community wellbeing and economic development impacts	Ngāi Tahu have expressed concerns that the No New Mines policy may have significant adverse effects on the regional economy and community wellbeing of the West Coast region.	[Placeholder – you are meeting with Hon Megan Woods (Minister of Energy and Resources and responsible for Just Transitions) and Hon Kiritapu Allan (Minister of Regional Development) on Wednesday 7 June to discuss the approach to measures to address the regional impacts

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Issue raised	Key context	Response
		of No New Mines in the Cabinet paper.]
Clean-tech minerals	<p>Ngāi Tahu would like to retain the ability to potentially mine for 'clean-tech minerals' on PCL in the future, as a way to provide for the economic wellbeing of their communities.</p> <p>There is no agreed definition for what constitutes a 'clean tech' mineral, but prominent examples include copper, nickel, cobalt, rare earth elements and lithium.</p>	<p>DOC has conveyed to Ngāi Tahu that all Crown-owned minerals will be treated the same under the No New Mines policy, including minerals that may be used in clean-tech products.</p> <p>DOC does not consider there is a strong rationale for treating such minerals differently under No New Mines policy.</p>
Implications for the Stewardship Land Reclassification Project	Ngāi Tahu have sought clarity on the interactions of No New Mines and the Stewardship Land Reclassification project.	See section below on the Stewardship Land Reclassification project.

Potential approaches to manage any economic impacts of No New Mines

- 114 The economic impact of No New Mines was considered as part of analysis to support Cabinet's earlier decisions on the policy. Analysis shows that the West Coast region would likely be particularly impacted by No New Mines, as around three quarters of mining on PCL occurs in this region.
- 115 There is a range of potential tools for supporting communities that Ministers may wish to consider in the implementation of No New Mines.
- 116 *[This section to be finalised following the meeting on 7 June between the Ministers of Conservation, Energy and Resources (Minister responsible for just transitions) and Regional Development.]*

Update on the Stewardship Land Reclassification work programme

- 117 'Stewardship' is a classification of public conservation land which is applied to land that is not specifically protected through other classifications. Under the Conservation Act 1987, stewardship land is managed so that 'its natural and historic resources are protected'.
- 118 There are over 2.7 million hectares of stewardship land, making up over one third of all public conservation land.

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- 119 In April 2021 the Cabinet Business Committee agreed to a two-part programme of work to reclassify stewardship land by appointing two National Panels to provide recommendations to the Minister of Conservation about how to reclassify stewardship land, as well as legislative amendments to streamline the process [CBC-21-MIN-0045 refers].
- 120 Cabinet has agreed that No New Mines policy would not apply to stewardship land, as this will be assessed over time through the Stewardship Land Reclassification Project [CAB-22-MIN-0568 refers]. If stewardship land is subsequently reclassified into one of the classifications covered by No New Mines policy, that land would then be subject to the restrictions on mining.
- 121 DOC has designed a regional approach to delivering this work rather than considering all stewardship land at once. This approach was designed to allow the panels to focus on one region and build the relationships required to successfully progress reclassification of stewardship land. The work started on the West Coast given the large volume of stewardship land there.
- 122 A Ngāi Tahu-appointed Mana Whenua Panel was also established to provide information on mahika kai (natural resources practices), mātauranga Māori and Ngāi Tahu interests in relation to stewardship land within its takiwā.
- 123 The Western South Island reclassification process has advanced significantly, with draft recommendations being made on 504 pieces of stewardship land. These were publicly notified in May 2022, followed by hearings in September 2022.

124 s9(2)(f)(iv)

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126

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s9(2)(f)(iv)

Financial Implications

- 129 As noted in the December 2022 Cabinet paper, preventing mining on PCL would impact the royalties the Crown receives from mining. Mining provided \$176.6m in royalties to the Crown in 2021, as well as tax revenue.
- 130 Reducing new mining on PCL would also mean a reduction in the compensation fees that DOC receives for loss and/or damage to conservation values caused by mining activities. In 2020/2021, DOC received \$1.2m in compensation payments associated with mining access arrangements. For comparison, DOC's concession revenue (mostly from tourism operators) in 2018/2019 (prior to COVID-19) was \$27.3m.
- 131 The pounamu carveout options covered in this paper would not have any additional financial implications.

Legislative Implications

- 132 Amendments to Schedule 4 and section 61 of the CMA are needed to implement the proposals recommended in this paper. Amendments to associated sections of the body of the Act may also be necessary.
- 133 If Cabinet decides to progress Option 2 or 3, I will issue drafting instructions to the Parliamentary Counsel Office giving effect to the policy decisions in this paper. To ensure the drafting process is managed efficiently in the short time available, I seek approval to make decisions on any issues that arise during the drafting process, consistent with the policy framework agreed upon.
- 134 I will be working with the Minister of Energy and Resources to progress the proposed amendments.
- 135 Amendments to the CMA will be binding on the Crown.

Population Implications

- 136 As noted earlier, the No New Mines policy will have a particular impact on Ngāi Tahu's ability to access commercial quantities of pounamu. This is why this Cabinet paper provides options for potential carveouts that would mitigate these impacts.
- 137 Officials have advised that No New Mines proposals do not present any inconsistencies with the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993.

Impact analysis

- 138 Cabinet's impact analysis requirements apply to the proposals to provide for Ngāi Tahu's ongoing access to pounamu.

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139 *[Regulatory Impact Statement to come]*

Consultation

[to be updated]

- 140 DOC has worked with MBIE throughout the No New Mines policy development process. MBIE officials were consulted on this paper and the Crown Minerals (Restricting Access for Mining on Conservation Land) Amendment Bill.
- 141 The following agencies were also consulted on this paper and the draft Bill: Te Arawhiti; the Treasury; the Ministry of Justice; the Ministry of Foreign Affairs and Trade; the Ministry for the Environment; Land Information New Zealand; Te Puni Kōkiri; and the Parliamentary Counsel Office. The Department of the Prime Minister and Cabinet was informed.
- 142 Following Cabinet's direction on 12 December 2022, targeted engagement with Ngāi Tahu has taken place from late December 2022 – May 2023 (described further above).

Communications

- 143 Communications will be led by the Minister of Conservation, in consultation with the Minister of Energy and Resources and the Prime Minister.
- 144 There is the potential for us to announce our policy decisions on No New Mines in early July, following Cabinet's decisions on the matters outlined in this Cabinet paper. This announcement would include outlining our preferred pathway for progressing the Bill.
- 145 The approach to subsequent communications will depend on the pathway Cabinet chooses to progress the Bill.
- 146 If Cabinet agrees to Path A, subsequent communications would be timed to align with the introduction of the Bill to the House in August.
- 147 If Cabinet agrees to Path B, consultation on an exposure draft will [commence in late July/early August and run for four months to November 2023](#). If Cabinet agrees to Path B, I seek your approval of the materials to support public consultation which are attached to this Cabinet paper (Appendix 4). I also seek Cabinet approval for further decisions on communications materials and approach to be delegated to the Minister of Conservation, in consultation with the Minister of Energy and Resources and the Prime Minister.
- 148 If Cabinet agrees to Path C, we could choose to release the revised Bill once it has been approved in August, for the public's information. Alternatively, we choose to wait until we commence public consultation in the following parliamentary term.

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Proactive release

- 149 This Cabinet paper follows on from two previous Cabinet papers that were considered in March 2023 [CAB-23-MIN-0073 refers] and December 2022 [CAB-22-MIN-0568 refers], as well as an oral item taken by the previous Minister of Conservation [CPC-22-MIN-0038 refers].
- 150 Accordingly, I recommend that these three Cabinet papers and the minutes from the four Cabinet items be released together as a package once announcements are made, with information withheld consistent with the Official Information Act 1982.

Recommendations

I recommend that the Cabinet Environment Committee

- 1 **note** that on 12 December 2022, to give effect to the No New Mines policy, Cabinet [CAB-22-MIN-0568]:
 - 1.1 agreed to amend Schedule 4 of the Crown Minerals Act 1991 (CMA) (and associated provisions in section 61 as required) to add 12 named public conservation land (PCL) classifications, meaning that access cannot be granted for most new mining operations on that land;
 - 1.2 agreed to specify that mineral access rights provided in Treaty of Waitangi settlement acts will not be impacted by the addition of the recommended land classifications to Schedule 4 of the CMA;
 - 1.3 noted that that No New Mines would not impact the ability of Ngāi Tahu to be granted access arrangements to obtain pounamu on PCL, as pounamu is privately-owned by Ngāi Tahu;
 - 1.4 noted that adding further land classifications to Schedule 4 would have a significant secondary impact on Ngāi Tahu's ability to obtain commercial quantities of pounamu as a by-product of alluvial mining;
 - 1.5 invited the Minister of Conservation to engage with Ngāi Tahu on approaches that could provide for continued access to pounamu;
- 2 **note** that *The Crown Minerals (Restricting Access for Mining on Conservation Land) Amendment Bill* (the Bill) has been drafted since December 2022 to give effect to the decisions that Cabinet has made to date;
- 3 **note** that on 13 March 2023, Cabinet invited the Minister of Conservation to return to the Cabinet Environment, Energy and Climate Committee following the conclusion of engagement with Ngāi Tahu to seek further policy decisions to finalise the Bill, including the measures to provide for access to pounamu [CAB-23-MIN-0073];
- 4 **note** that engagement with Ngāi Tahu concluded in May 2023 and has informed the development of policy options;

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Options to provide for Ngāi Tahu's ongoing access to pounamu

EITHER

Option 1:

- 5 **agree** that the Bill will not include a specific carve out for pounamu obtained as a by-product of alluvial mining; or

OR

Option 2:

- 6 **agree** that the Bill will include a carve out to allow access arrangements for alluvial mining operations on the new PCL classifications added to Schedule 4, where those operations sit within pounamu areas; or

OR

Option 3:

- 7 **agree** that the Bill will include a carve out to allow access arrangements for alluvial mining operations on the new PCL classifications added to Schedule 4, where those operations sit within pounamu areas, plus an additional carve out to allow low impact mining on the South Island (in the Ngāi Tahu takiwā);

Defining pounamu areas in legislation

If Cabinet agrees to Option 2 or 3 above:

- 8 **agree** that the pounamu carveout areas will be based on the existing Pounamu Management Areas from Ngāi Tahu; and
- 9 **agree** that the draft Bill includes a geographical definition (maps and geospatial descriptions) of the pounamu carveout areas, to be inserted directly into the legislation (e.g. in a new schedule);

If maps and geospatial data of sufficient quality are not available by the time the draft Bill is to be considered by Cabinet in August 2023

- 10 **agree** that the draft Bill includes a placeholder provision, using current maps and descriptions of existing Pounamu Management Areas from Ngāi Tahu;
- 11 **note** that the placeholder maps and geographic information will be further refined in the Select Committee process;

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Defining (additional) pounamu areas in secondary legislation via Order in Council

If Cabinet agrees to Option 2 or 3 above:

EITHER

12 **agree** that the Bill provides for areas of land to be added or removed from the pounamu carve out by including a provision in the Bill stating that proposals to add or remove land from the schedule may be:

12.1 designated by an Order in Council made on the recommendation of the Minister of Conservation and the Minister of Energy and Resources;
 and

12.2 with the agreement of Ngāi Tahu;

13 **note** that including an Order in Council mechanism to amend the primary legislation is not in line with good legislative practice as it would create a so-called 'Henry VIII clause';

14 *[potential further rec to come about trigger for decisions]*

OR

15 **agree** that the areas of land to be added or removed from the pounamu carve out be amended through a parliamentary legislative process;

16 *[potential further rec to come about trigger to consider whether parliamentary legislative process is warranted]*

Options for progressing the Bill

17 **agree** the preferred option for progressing the Bill:

EITHER

Path A – Finalise the Bill and aim to introduce the Bill to the House this term

17.1 **agree** to progress the Bill with the aim of introduction to the House this parliamentary term;

17.2 **invite** the Minister of Conservation to issue drafting instructions to Parliamentary Counsel Office consistent with decisions made through this Cabinet paper;

17.3 **agree** to delegate detailed decisions on the drafting of provisions, consistent with the policy agreed by Cabinet, to the Ministers of Conservation and Energy and Resources;

17.4 **note** that the legislation drafted to give effect to the decisions in this paper will bind the Crown;

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- 17.5 **invite** the Minister of Conservation to report to Cabinet Legislation Committee in August with the revised Bill to implement No New Mines, for approval for introduction to the House;

OR

Path B – Public consultation on exposure draft (with summary of pounamu provisions) prior to end of parliamentary term

- 17.6 **agree** to release:
- 17.6.1 an exposure draft of the Bill as currently drafted (but excluding the pounamu provision, if any, which would have not yet been drafted) to commence public consultation prior to the end of the parliamentary term;
 - 17.6.2 a summary document explaining the provision agreed by Cabinet to provide for pounamu access, if any;
- 17.7 **approve** the attached draft consultation materials for release (Appendix 3 refers);
- 17.8 **agree** to delegate decisions on the final consultation materials to the Ministers of Conservation and Energy and Resources, and the Prime Minister;

Path C – Finalise the Bill with the aim of releasing an exposure draft of the revised Bill for public consultation next parliamentary term

- 17.9 **agree** to progress the Bill with the aim of releasing an exposure draft of the revised Bill for public consultation in the next parliamentary term;
- 17.10 **invite** the Minister of Conservation to issue drafting instructions to Parliamentary Counsel Office consistent with decisions made through this Cabinet paper;
- 17.11 **agree** to delegate detailed decisions on the drafting of provisions, consistent with the policy agreed by Cabinet, to the Ministers of Conservation and Energy and Resources;
- 17.12 **note** that the legislation drafted to give effect to the decisions in this paper will bind the Crown;
- 17.13 **invite** the Minister of Conservation to report to Cabinet Legislation Committee in August with the revised Bill to implement No New Mines, and to seek approval to either release the Bill at that point for the public's information, or prepare for public consultation in the following term;

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Announcement of policy decisions

- 18 **agree** to delegate decisions on timing and approach to policy announcement to the Minister of Conservation, in consultation with the Minister of Energy and Resources and the Prime Minister;

Other issues raised by Ngāi Tahu

- 19 **note** that during the engagement process, Ngāi Tahu raised a number of issues that they consider should be addressed alongside No New Mines;
- 20 **note** that Ngāi Tahu has an existing Tribal Access arrangement for minimum impact removal of pounamu from PCL which is currently rolling over on a month-by-month basis;
- 21 **note** that DOC will work with Ngāi Tahu to update this Tribal Access arrangement to provide greater long-term certainty for Ngāi Tahu;

- 22 **s9(2)(f)(iv)** [REDACTED]

Potential approaches to manage any economic impacts of No New Mines

- 23 [rec to come]

Authorised for lodgement

Hon Willow-Jean Prime

Minister of Conservation

Appendices

Appendix 1 – Draft Bill considered by Cabinet in March 2023 (excluding provisions relating to approach to provide for pounamu access)

Appendix 2 – Map of Ngāi Tahu’s Pounamu Management Areas

Appendix 3 – Maps illustrating estimated impact of Options 1-3

Appendix 4 – Draft consultation materials.

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Appendix 1 – Draft Bill considered by Cabinet in March 2023 (excluding provisions relating to approach to provide for pounamu access)

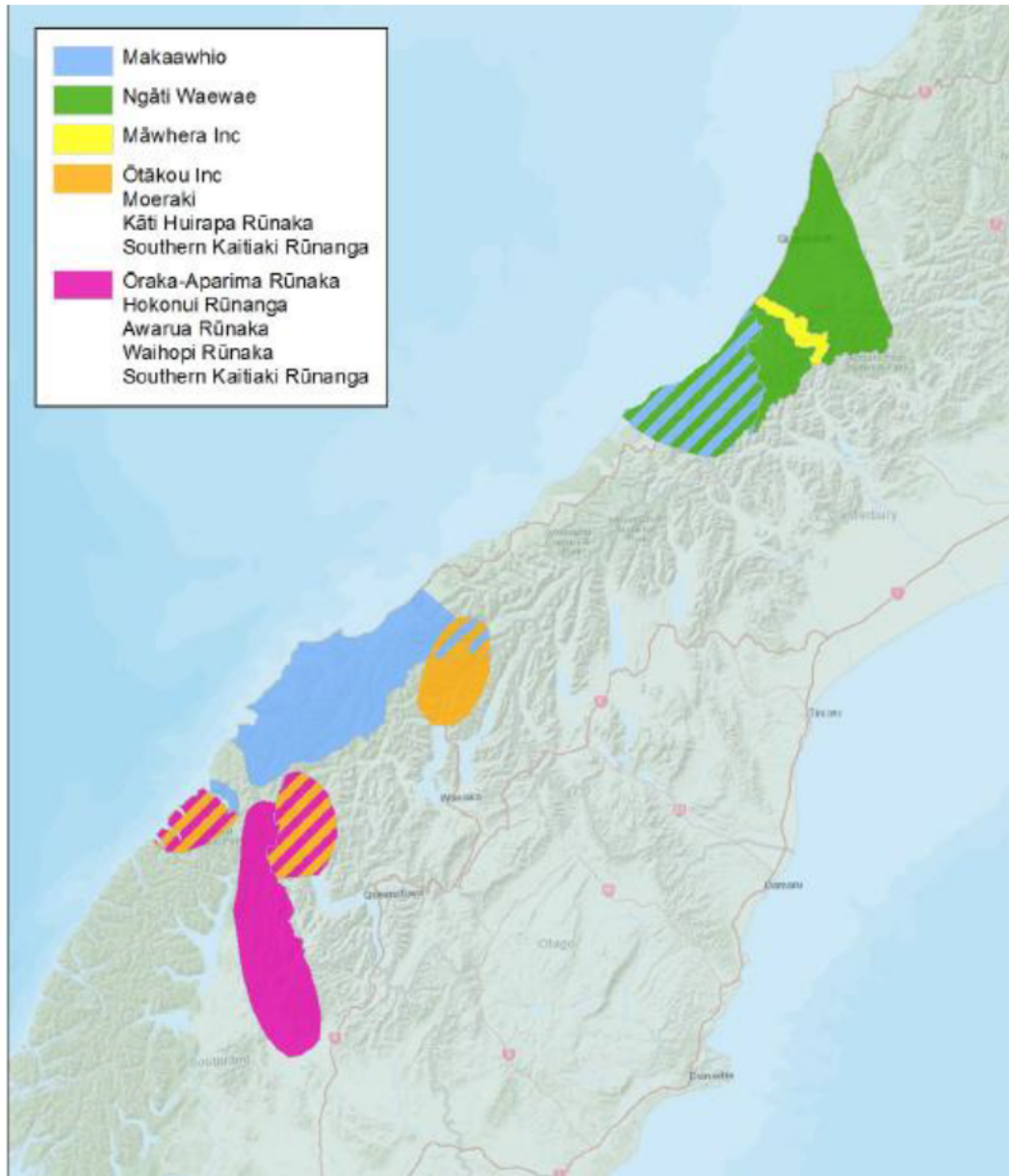
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Appendix 2 – Pounamu Management Areas

On their website, New Zealand Petroleum and Minerals (NZP&M) refer mineral permit applicants to a guidance document developed by Ngāi Tahu which includes the below map of their Pounamu Management Areas.

[More detailed maps to be included once provided by Ngāi Tahu]



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Appendix 3 – Maps illustrating estimated impact of Options 1-3

[To come]

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Appendix 4 – Draft consultation materials

[To come]

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