



Petition 2005/111 of William McNatty on behalf of Kiwis Against Seabed Mining Inc (KASM) and 15,113 others

Report of the Local Government and Environment Committee

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Recommendation

The Local Government and Environment Committee has considered petition 2005/111 of William McNatty on behalf of Kiwis Against Seabed Mining Inc (KASM) and 15,113 others and recommends that the House take note of its report.

The Local Government and Environment Committee has considered petition 2005/111 of William McNatty on behalf of Kiwis Against Seabed Mining Inc (KASM) and 15,113 others, requesting that the House of Representatives protect New Zealand's coastal and marine environment by enacting legislation that prohibits ironsand mining of the seabed.

Petitioners' concerns

The petitioners are concerned that Crown Minerals issues permits for prospecting, exploration, and mining without considering social and environmental issues. They argue that the current application of the Resource Management Act (RMA) 1991 to seabed mining activities is not sufficiently thorough, as not all applications come within the scope of the RMA. The petitioners have asked that no minerals permits be issued until a comprehensive oceans policy is formulated and implemented, and that no permits be issued unless data can be produced to show that no environmental harm will be done to coastal marine ecosystems. The process for considering permit applications under the Crown Minerals Act 1991 should require public consultation, the petitioners suggested, and should also entail environmental scrutiny. Despite requirements for consultation, the petitioners also claim that iwi and hapu are not being consulted properly.

The petitioners have suggested various changes to current legislation, including the following:

- merging the Crown Minerals Act with the Resource Management Act
- making all prospecting, exploration, and mining of the seabed restricted coastal activities
- requiring the Environment Court to consider any mineral permit applications under the Crown Minerals Act
- amending the Crown Minerals Act to specify that prospecting, exploration, and mining permits will not necessarily be rolled over
- specific amendments relating to the Treaty of Waitangi.

Legislation controlling seabed mining

The legal arrangements for mining activities are complicated, and we recommend that legislation to simplify this situation and to eliminate gaps in coverage be given high priority.

Three Acts regulate most seabed mining activities in New Zealand. The Resource Management Act and the Crown Minerals Act apply to territorial waters, and the Continental Shelf Act 1964 applies to mining in the Exclusive Economic Zone (EEZ). The Department of Conservation informed us that there are gaps, inconsistencies, and a lack of clarity in the legislation controlling mining in the EEZ.

Mining regulations in territorial seas

Most mining activities in the territorial sea (that is, within twelve nautical miles of the coastline) require a permit under the Crown Minerals Act. Crown Minerals, an agency within the Ministry of Economic Development, is responsible for administering permits for prospecting, exploration, and mining under this Act. Crown Minerals does not consider environmental issues when evaluating a permit, as they are outside the scope of the Crown Minerals Act.

The environmental effects of mining in the territorial sea are managed under the RMA, which gives local authorities responsibility for managing the environmental, social, and cultural effects of any mining of, prospecting for, and exploration for minerals in the seabed. Regional coastal plans vary between councils, so different rules apply along the coastline. In addition to a permit under the Crown Minerals Act, resource consent might also be required for mining activities. Regional councils consider consent applications for activities that will disrupt less than 50,000 cubic metres of sediment. Activities that involve disturbing 50,000 or more cubic metres of sediment in a twelve-month period are “restricted coastal activities” and the Minister of Conservation approves the resource consent.

Mining regulations in the EEZ

Beyond the territorial sea, in the 200-nautical-mile EEZ, the Continental Shelf Act governs mining activities. The Minister for Energy authorises consent under this Act. The legislation does not have any specific mention of environmental considerations, but promotes the responsible economic development of mineral and coal resources.

Status of seabed mining activities in New Zealand

Crown Minerals informed us that there are no current proposals to mine the seabed, though prospecting permits and licenses have been issued to companies to investigate minerals offshore.

Existing permits and licences

Seabed mining activities fit into three broad categories:

1. Consents for sand extraction in the territorial sea under the RMA

Ten coastal permits (a type of resource consent) have been issued under the RMA for sand extraction in territorial seas off Mangawhai, Pakiri and Kaipara Harbour, which does not also require a permit under the Crown Minerals Act. The first permits were issued in the 1990s.

2. Mineral prospecting permits under the Crown Minerals Act in the territorial sea

Two permits have been granted for prospecting in territorial seas under the Crown Minerals Act. One is held by Seafield Resources Limited for an area of 8,728 square kilometres located off the South Island's west coast. The second is held by Iron Ore New Zealand Limited and Rio Tinto Exploration and Mining Limited, and covers an area of 1,270 square kilometres within the territorial sea in three places offshore from Taranaki, Waitomo, and Kaipara. This company has a primary interest in ironsand. A two-year prospecting permit over an area of 3,393 square kilometres off Cape Fairwell and Golden Bay in the name of Bonaparte Diamond Mines Limited has been surrendered.

3. Mineral prospecting licences under Continental Shelf Act in the EEZ

The Minister of Energy has granted four licences for prospecting for minerals under the Continental Shelf Act. Seafield Resources holds two prospecting licences under this Act for approximately 1,490 square kilometres in the EEZ (contiguous to its permit mentioned above in the territorial sea). The Minister has issued a further three licenses under the Continental Shelf Act to Neptune Resources Limited, to allow prospecting along the Tonga-Kermadec, Collville, and Monowai ridges between 2002 and 2010.¹

Environmental impact of mining

Crown Minerals' view

Crown Minerals considers that prospecting for mineral sands carries only a minor environmental risk. They argued that any sand removed from the west coast would be negligible compared with the overall deposits and advised that sediment deposits usually increase. While no mining or dredging applications relating to mineral sands are before the Crown, if a mining application were approved a conventional seabed surface dredge would probably be used. Crown Minerals acknowledged that dredging has environmental impacts, including turbidity caused by fine sediments, and the dispersal of sediment containing toxic materials. Species living on and in sediment that is dredged would be affected, but they suggested that storms cause the same effects.

Department of Conservation's view

In contrast to Crown Minerals, the Department of Conservation considers that environmental impacts from mining activities could be significant, and emphasised that knowledge about deep waters offshore is incomplete. Little research is available into the impact of mining on deep-water environments in particular. While it is more familiar, knowledge of the effects on environments closer to shore is also limited. The department recommends that any proposed mining activities be examined to determine the possible impacts on marine mammals and the marine environment, including soft sediment habitats and hard-substrate seamounts and vents. Dredging would be likely to destroy soft sediment habitats, creating flow-on effects on the marine food chain. Hard-substrate environments, such as seamounts and vents, are a prominent feature of New Zealand's marine

¹ The Department of Conservation informed us that it has been advised by the World Heritage Advisory Group that this area might achieve World Heritage status in the future.

environment. Knowledge is limited regarding the impact mining might have on seamounts and vents, many of which are considered to be fragile habitats.²

The department expressed concern about the effect of seismic survey operations on marine mammals including baleen whales, beaked whales, killer whales, pilot whales, and the endangered Hector's dolphin. The oil industry voluntarily follows guidelines to minimise the impact of acoustic disturbance on marine mammals, and the department encourages any other developers to adhere to them if possible. The department also wishes to be informed before any seismic survey activities are undertaken in the sea. Mining might also affect food supplies for species such as the Hector's dolphin.

Ministry for the Environment proposals for new legislation

The Ministry for the Environment briefed us on proposed legislative changes that would deal with the issues raised by the petitioners. The ministry is in the process of developing options for improved regulation of environmental effects in New Zealand's EEZ. It has issued a consultation document entitled *Improving Regulation of Environmental Effects in New Zealand's Exclusive Economic Zone* and has met stakeholders to discuss the issues. The consultation document contains proposals for new legislation to fill gaps and resolve inconsistencies in the existing law covering New Zealand's EEZ. Seabed mining in the EEZ has been recognised as an area incompletely covered by existing law. The Continental Shelf Act does not have effective environmental provisions. The ministry has proposed that legislation should promote sustainable management with decisions weighted toward environmental protection. Following further consultation with stakeholders and iwi in January 2008 more detailed proposals have been developed. Cabinet is expected to consider these proposals with a view to introducing legislation this year.

The ministry informed us that it shares many of the petitioners' concerns and its proposed changes will partially accommodate the petitioners' suggestions. The ministry will consider the petition along with other submissions on the EEZ management proposals.

Crown Minerals' view

We sought a response to the petitioners' concerns from Crown Minerals as the agency responsible for issuing most mining permits. Crown Minerals informed us that the RMA provides any necessary environmental protections, and that while permits issued under the Crown Minerals Act do not require general consultation, the RMA process allows consultation. When considering a permit, in recognition of the Treaty of Waitangi, Crown Minerals noted that they inform local iwi and hapu about any permit applications and normally provide two months to respond, and meetings or hui may also be held.

Crown Minerals asked us to ensure that any changes to law and regulations continue to allow the development of mineral resources. They wish to emphasise the importance of iron, as the raw material of steel, to the economy, and the direct and indirect value of ironsand mining to regional economies. In this area, New Zealand is competing with other countries for international investors, and any restrictions will affect New Zealand's competitiveness. Crown Minerals acknowledge that mining may not always be appropriate,

² Neptune Minerals is prospecting between the Bay of Plenty and the Kermadec Ridge where one of the main hydrothermal areas is located.

but wish to see the sustainable management of mineral resources and due consideration of the economic benefits such resources might provide to New Zealand. We were informed that relatively little investigation has been undertaken into New Zealand's ironsand deposits. There is potential for the mining of ironsand deposits on the North Island's west coast stretching 480 kilometres southward from Kaipara to the Whangaehu river, south of Wanganui.

Conclusion

We note the large number of signatories to this petition and acknowledge their concern. The petitioner has performed a public service by bringing this matter to our attention and opening debate about it.

We recognise that seabed minerals are a valuable resource and consider that a blanket ban on their exploitation is unjustified. We also acknowledge, however, that mining should be undertaken with appropriate environmental safeguards, and that further research into the environmental impacts of seabed mining is needed. The approval process for acquiring permits and licenses for mining activities is confusing and needs to be standardised. We suggest that a high priority be given to legislation to simplify the complex arrangements for the approval of prospecting, exploration, and mining on the seabed.

We have no further matters to bring to the attention of the House.

Green Party view

The Green Party member considers that the risk presented by seabed prospecting and mining to critically endangered species such as the Maui's dolphin is unacceptable and that no such activity should occur within their habitat. The opportunity for economic benefits can be sought in other uses of the marine environment that are not of such critical biodiversity value. The risk to the Maui species in particular is so acute that action to prevent any prospecting or mining licenses in that habitat is urgently required.

Appendix

Committee procedure

Petition 2005/111 of William McNatty on behalf of Kiwis Against Seabed Mining Inc (KASM) and 15,113 others was referred to the Local Government and Environment Committee of the forty-eighth Parliament.

We received submissions from Kiwis Against Seabed Mining Inc, Crown Minerals, the Department of Conservation, and the Ministry for the Environment. We heard evidence from the petitioner, Crown Minerals, and the Department of Conservation.

Committee members

Moana Mackey (Chairperson) (from 7 November 2007)
John Carter (Deputy Chairperson)
Hon David Benson-Pope (from 7 November 2007)
Mark Blumsky
Hon Mark Burton (from 7 November 2007 until 2 April 2008)
Hon Steve Chadwick (until 7 November 2007)
Jacqui Dean
Russell Fairbrother (until 7 November 2007)
Martin Gallagher (until 7 November 2007)
Hon Marian Hobbs
Su'a William Sio (from 2 April 2008)
Hon Dr Nick Smith
Mētiria Turei