Energy Resources Aotearoa
POWERING A BETTER NEW ZEALAND TOGETHER

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Hon Chris Bishop
Associate Minister of Finance
Minster Responsible for RMA Reform

Meeting with Energy Resources Aotearoa on 26 February 2025

Agenda and key messages:

1. **The perception of New Zealand having an elevated sovereign risk remains:**

   Investors need durable, long-term policy settings to make investment decisions. While the Crown Minerals Act ('the CMA') amendment Bill, currently before the House, looks to address some of the worst excesses of the previous amendments, the opposition has signalled their intent to reinstate those amendments once returned to government. Investors in long-term projects cannot tolerate such a volatile policy environment.

   We believe additional measures to manage the effects of adverse policy changes are needed to protect investments with a timescale beyond the electoral cycle.

2. **Other mechanisms for attracting and encouraging investment**

   We have been working positively with the Minister of Resources on measures to encourage new exploration and appraisal to protect and rebuild our petroleum reserves. There are a range of measures that could be implemented to improve the business case for new appraisal drilling. These include flexible royalty arrangements and enhanced CAPEX depreciation. Many of these changes could be handled through changes to secondary legislation, although any impacts on potential Crown revenues need to be considered.

3. **Aligning operational policies with the CMA goals to deliver success**

   In order to achieve the government's objectives from the CMA policy changes, of encouraging further exploration and development, while ensuring permit holders undertake and pay for decommissioning, bureaucratic operational policies need to be consistent and aligned. The promotion of the opportunity to invest in New Zealand's petroleum estate and placing the consenting of thermal generation capacity on an equal process footing, are two areas where further effort could be made to give greater alignment and overall coherence to deliver success.

See **attached** briefing for further information.

26 February 2025

Hon Chris Bishop
Associate Minister of Finance
Minister Responsible for RMA Reform

We are meeting with you in your capacity as the Associate Minister of Finance. Thank you for agreeing to meet with us to discuss measures to revitalise New Zealand's gas sector in light of your delegated responsibilities.

The perception of New Zealand having an elevated sovereign risk remains:

1. The financial failure of the Tui permit holder was a catalyst for a slew of Crown Minerals Act ('the CMA') reforms designed to protecting the Crown from the risk of having to undertake and fund another petroleum decommissioning project.

2. The approach adopted by the then Labour-led Government was one of risk elimination over risk management. The resulting primary legislation layered increasingly onerous protective measures, including the shedding of the risk of regulatory failure, onto permit and license holders. These changes were on the back of the 2018 restrictions on accessing future exploration acreage outside of onshore Taranaki ('the exploration ban').

3. Despite assurances that existing rights would be protected, many exploration permit holders have exited New Zealand, with only about five per cent of the 100,000km^2 of exploration acreage under permit in 2018 remaining.

4. This dramatic fall in acreage under permit was the result of New Zealand now being viewed as an investment destination with an elevated sovereign risk.

5. While we welcome the positive developments in the Crown Minerals Act amendment Bill 2024, and are working positively with the responsible Minister, we continue to have two concerns, being:

   a. that the changes made will not go far enough. For example, the criminalisation of directors' responsibilities and the presumption of complete removal when determining the level of financial security are two cases in point. With a crowded legislative agenda for the remainder of the term we fear these issues will not be addressed; and

b. regardless of the quality of the changes to the CMA, that measures to address that massive sovereign risk now faced by existing and future prospective investors are required.

6. Until the disastrous 2018 exploration ban, the fundamentals of energy policy were largely bipartisan. With the opposition already signalling they will “reverse the reversal” it is unlikely we will return to a condition of long-term, stable energy policy settings. We are now seeing the longer-term effects of these policies in our energy security outlook.[1]

7. In the absence of energy bipartisanship, we think it is unlikely overseas investors will return to New Zealand petroleum sector without the comfort that their businesses will survive the political cycle. Volatile policy settings do not make a good investment thesis.

8. We urge you to consider implementing additional measures to lower the perception of sovereign risk to encourage further exploration and production of New Zealand’s petroleum estate.

9. Having sort the counsel of an eminent lawyer, Justin Smith KC, his advice is that the most durable mechanism would be achieved by amending the CMA and including suitable terms in permits, or alternatively by way of a contractual “economic stabilisation clause” outside of the CMA regime. Both would serve to protect investments already made from adverse policy changes and would go a long way towards addressing the concerns outlined above.[2]

10. To be clear, such measures are not sought to manage business risk or future earnings and can be tightly defined to cap any compensation. These types of clauses are not uncommon in business, appearing as contractual termination clauses or similar. Such a clause would likely require a contingent liability on the Crown’s account but would be unlikely to crystallise under a National Party-led coalition.[3]

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1 Transpower’s February 2025 Energy Security Outlook is warning of potential generation shortfalls for the coming winter citing concerns about water levels in the hydro-lakes and tight gas supply (available: here)

2 It might on the face of it seem counterintuitive that using a legislative vehicle which is subject to the whim of the Parliament is considered the best, most secure way to achieve the objective of mitigating sovereign risk. While one Parliament *cannot* bind another, the use of permits creates an ongoing contractual relationship that will survive any changes to the empowering legislation (unless, of course, the legislative change explicitly abrogates the new permit terms). While this is not impossible, nor unheard of, Parliament tends to avoid unwinding such property rights by legislative fiat due to the likely adverse implications on New Zealand’s reputation to invest (in other words, should this occur, the damage done in the specific instance of the oil and gas ban would be amplified and generalised to a broader, economy wide investment risk).

3 Such a contingent liability would be similar to that related to the meeting of New Zealand’s Nationally Determined Contribution under the Paris Agreement.

Other mechanisms for attracting investment in the upstream sector

11. Broadly speaking, discovered volumes are classified as reserves and resources. Petroleum reserves are known volumes of oil or gas (confirmed by drilling) and are economically recoverable using current technology and today's prices. Petroleum resources on the other hand are geologically proven stocks that do not have an economic case for recovery at and prices, using existing technology.

12. New Zealand desperately needs to arrest the decline in our petroleum *reserves*. In our view, the best way to do this, in the short term, is to encourage more drilling of mature exploration targets in existing permits, and through appraisal drilling with the intention of turning resources into reserves.[4]

13. As we understand it, the Government's objectives for the petroleum sector are to encourage further exploration and development, while ensuring permit holders undertake and pay for decommissioning. We agree with this approach.

14. During the first year of this government, we have been working constructively with the Minister of Resources on changes to the CMA, culminating in the CMA amendment Bill currently before the House.

15. This Bill reverses restrictions on accessing exploration acreage and addresses some of the more damaging decommissioning rules. However, an opportunity has been missed to secure a fairer and more proportionate minerals regime.

16. Given the crowded legislative agenda, it is unlikely we will have the opportunity to work with your government on further changes. Therefore, we recommend the Government look at other ways to encourage bringing more gas to market.

17. Our thoughts are premised on a strong preference of delivering energy security with indigenous gas supplies. The alternative is a reliance on expensive imported LNG (including investing in Australian jobs and gas exploration) or high emitting coal to meet our energy needs or unmet demand from industrials. Reliance on imported gas and coal introduces unnecessary supply chain risks, and exposure to a different, external gas pricing mechanism. Options to encourage exploration and appraisal drilling in the short-term include, but are not limited to:

    a. introducing flexible royalty settings, for example through a royalty holiday on a proportion of reserves or lower royalty rates;

    b. enhanced CAPEX depreciation for new developments or redevelopment of existing operations;

    c. allowing CAPEX uplift for discoveries prior to a prescribed date, for example a greater than 100% tax credit on CAPEX (i.e. get the prescribed

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[4] The vast majority the investment we are seeing in the upstream is in existing fields. These programmes focus on maintaining production levels as fields decline, rather than bringing new reserves to market.

percentage of investment back as a full tax credit in the year of expenditure) on all activities designed to grow 2P reserves; and

d. removing the energy resources levy ("ERL") for petroleum mining license ("PML"s).

18. These changes would be timely, temporary, and targeted. We would not expect these to remain available in the longer term as this diminishes their effectiveness.

Aligning operational policies with CMA-related policy decision and objectives

19. In order to achieve the government's objectives from the CMA policy changes, of encouraging further exploration and development, while ensuring permit holders undertake and pay for decommissioning, bureaucratic operational policies need to be consistent and aligned. We outline two areas where further effort could be made to give greater alignment and overall coherence.

Promoting New Zealand as an investment destination

20. Promoting New Zealand's petroleum sector is not without its challenges. Our petroleum basins remain underexplored, including Taranaki, our only producing basin. This offers enormous 'yet-to-find' potential.

21. However, our geographic isolation, small market size, high costs, and limited supporting infrastructure are barriers to entry.

22. We welcome the efforts of the Minister of Resources to champion the sector, but this enthusiasm is not necessarily reflected by other departments and agencies responsible for promoting New Zealand's economic potential.

23. By way of examples, we understand that NZTE retains a renewable energy focus, and MFAT a green energy team. This is not bad in or of themselves. However, we consider that such foci risks sending confusing signals to the market about what inward investment we require. We also wonder about the extent to which MBIE in promoting the petroleum sector will see its effort siloed and become discordant with the 'mainstream' government investment narrative about renewables. Finally, we are also curious about the role of Invest NZ and the forthcoming global investment summit (for example, has the USA or UAE been engaged in a conversation about New Zealand needing petroleum investment?)

24. We ask that you work with your Cabinet colleagues to ensure there is a consistent and positive message *across government* that New Zealand is open for business, and that this includes the exploration and development of Crown-owned minerals, including petroleum.

Aligning consenting processes and CMA goals to enhance our energy security

25. In addition to the points above about the lack of promotion for the petroleum sector, we also note resource consents, through the fast track and more recently the RMA amendment Bill currently before the House, strongly favour investments in renewable energy.

26. Rather than treating energy as a system, the scales are tipped in favour of particular solutions. This not only undermines the intended fuel and technology agnostic approach that is the basis for effects management legislation like the RMA or the EEZ Act but also has the potential to undermine our other energy priorities – such as energy affordability and security.

27. Lessons from other jurisdictions show that a narrow focus on intermittent renewable energy projects leads to a connection logjam without the necessary firming capacity in place to underpin this when they are unavailable. Energy needs to be thought of as a system, and this should be reflected in policy settings.

28. Our submission on the Resource Management (Consenting and Other System Changes) Amendment Bill recommended broadening of the class of 'specified energy activities' to include all energy projects that enhance energy security and affordability. This includes thermal power projects to provide the necessary stability to the electricity distribution system.

29. We believe broadening the aperture to include applications that improve our energy affordability, security, and in the case of carbon capture and storage, our sustainability should all be eligible for these improved consenting processes. This would be consistent with a fuels and technology agnostic approach to energy preferred by the government.

Concluding remarks

30. New Zealanders deserve affordable, reliable, and secure energy. We can achieve this through accessing all of our natural resources, including our petroleum reserves.