



24 July 2019

Mr Peter Hughes CNZM
State Services Commissioner
State Services Commission
PO Box 329
WELLINGTON 6140

Dear Peter

Update on external review into how the non-interference provisions of the Crown Minerals Act are effected – review now complete

As per my letter of 18 December 2018, I agreed to commission an external review of Operation Exploration to ensure MBIE is planning and operationalising our responsibilities in relation to the non-interference provisions in the Crown Minerals Act.

In February 2019 I appointed Simon Murdoch to undertake this review, which is now complete.

Mr Murdoch was tasked with examining how the non-interference provisions of the Crown Minerals Act 1991 (the Act) have been effected. The purpose of the review was to recommend an approach as to how MBIE and other agencies might utilise the non-interference provisions and, if necessary and relevant, support their enforcement, so that:

- the provisions of the Act are properly given effect; and
- State Sector entities operate in a manner that is consistent with good regulatory practice, including the guidelines recently released by the SSC on Information Gathering and Public Trust.

In particular, the review was to focus on recommending an appropriate governance arrangement (including membership) for overseeing the work of MBIE and other agencies related to operationalising and enforcing the non-interference provisions.

Review now complete

Mr Murdoch delivered his 32-page report to me in May 2019. I have accepted the report and all 13 recommendations contained within it.

MBIE officials have now completed initial planning work on how to respond to the recommendations. I will soon establish a new cross-agency project titled **Non-Interference Zone (NIZ) Plan Refresh**, which aims to complete all work by June 2020.

Accordingly, I aim to publicly release the Murdoch Report on **Thursday 8 August 2019**.

Responding to the recommendations – NIZ Plan Refresh

The Murdoch Report makes 13 recommendations for improvement in three key areas: enhanced governance; updating our risk management; and improved knowledge management. A copy of the Murdoch Report is attached.

The NIZ Plan Refresh is about to be established to complete three phases of work between now and June 2020:

- Phase I - project initiation (July – Aug 2019) is currently underway
- Phase II - implementation and proof of concept test (Aug 2019 - Feb 2020)
- Phase III - transition to business as usual (Jan – June 2020)

The NIZ Plan Refresh will be a cross-agency project, led by the MBIE Energy and Resource Markets branch, together with Police, Maritime NZ and the New Zealand Defence Force (both senior management and operational specialists). Customs and the Ministry for Primary Industries will also be involved as needed, based on our overlapping regulatory responsibilities in the maritime space.

The areas of focus for Phase II of the project include the following:

- MBIE will work with Police, Maritime NZ, and NZDF to increase the level of governance oversight of the regime in line with the report's recommendations.
- MBIE and Police already have a memorandum of understanding in place governing the two agencies' broader working relationship. This will be reviewed and amended to explicitly include expectations of professional conduct around information gathering and sharing in line with departmental best practice. This will be aligned with the wider work MBIE is already undertaking to give effect to the SSC's model standards on information gathering and public trust. The Police have told me that MEJIG has been disestablished and that any future informant information relevant to potential offences against the non-interference provisions will be treated like any other informant information provided to the Police.
- The National Plan that governs the implementation of the non-interference provisions will be amended to provide for greater emphasis on being proportionate in terms of risk mitigations, and wider engagement with environmental and civil society groups.
- The Energy and Resource Markets team will work with MBIE's Enterprise, Risk and Assurance team to develop a risk register that will be embedded into the National Plan. The register will include any risks to effective knowledge management and mitigations.

Next steps

MBIE will provide a separate copy of our communications plan to your office in advance of the report being released. I plan to issue a media release when the report is published on the MBIE website.

If you would like to meet with Mr Murdoch to discuss any aspect of his report and recommendations, I am happy to arrange this. I recommend this meeting take place soon, before the planned public release of the report on 8 August.

Thank you for your support for this work and the input on the Terms of Reference. Please do not hesitate to contact me if you would like to discuss any aspect of my response.

Yours sincerely

A handwritten signature in black ink, appearing to read 'C. Tremain'.

Carolyn Tremain
Chief Executive