



3 July 2002

Kenn Landaus
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GOLDEN BAY

Dear Kenn

I reply to your letter of 17 June 2002 in which you asked for information on the effect of the *Glenharrow* decision, whether you can apply for a new licence and proposed amendments to the Crown Minerals Act.

The Glenharrow decision

As you know, prior to 1991, licences to mine minerals or coal were granted under the Mining Act. The Mining Act provided a right in priority for the holder to apply for a new mining licence if they applied for it before the current mining licence expired.

The policy intention when the Crown Minerals Act was enacted was that existing mining licences under the Mining Act and the Coal Mines Act would have a limited life and would not be able to renewed.

However, a recent Court decision in *Glenharrow Holdings Limited v The Attorney General* [2001] 1 NZLR 578 ('Glenharrow') held that the right of mining licence holders to apply for a new mining licence has not been extinguished by the Crown Minerals Act, and it is possible to extend the term of a mining licence as a variation of the conditions of the licence.

The effect of the Glenharrow decision is that holders of current mining licences under the Mining Act have a right in priority to be granted a new mining licence if they apply for it not less than 30 days before the expiry of existing licence. If such an application is made, the Ministry must accept and process the application in accordance with the Mining Act.

Can you apply for a new licence?

However, it is the Ministry's view that notwithstanding the decision in the *Glenharrow* case, you can not apply, as the former holder of mining licence 32 3021 that expired on 21 December 1999, for a new licence under section 77(2) of the Mining Act 1971. Prior holders of mining licences that have already expired or been surrendered, no longer have the right to apply for a new mining licence under section 77(2).

You should note that although the judge in the *Glenharrow* case held that the rights under section 77(2) of the Mining Act continue, he did not determine what effect the

Ngai Tahu (Pounamu Vesting) Act 1997 has on applications for new mining licences for pounamu. It is the Crown's view that because of the enactment of the Ngai Tahu (Pounamu Vesting) Act when considering any application for the renewal of a mining licence for pounamu under section 77(2) of the Mining Act 1971 the Minister of Energy must consider the views of Te Runanga o Ngai Tahu and the fact that Te Runanga o Ngai Tahu is now the owner of the mineral. Issues concerning the relationship between the right of renewal for mining licences for pounamu and the Ngai Tahu (Pounamu Vesting) Act are far from settled.

The Crown Minerals Amendment Bill

The government has proposed an amendment to the transitional provisions of the Crown Minerals Act to give effect to the original policy intention which was that mining licences should have a limited life and should not be able to be renewed or extended.

Clause 22 of the Bill removes the right to apply for a new mining licence under the Mining Act and Coal Mines Act. Clause 23 removes the right to vary the term of a mining licence under the Mining Act. Clause 24 makes it clear that mining licence holders are not entitled to compensation for the loss of the right to apply to renew or extend a licence.

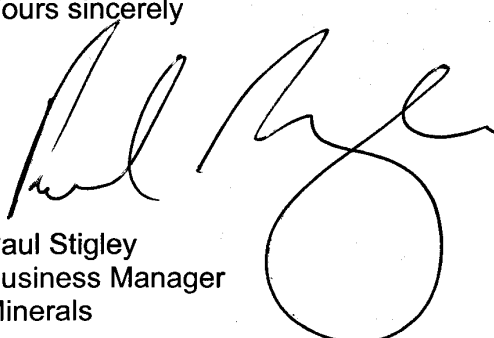
The Commerce Select Committee has received submissions on the bill and is due to issue its report on 17 September 2002.

Copies of the Crown Minerals Amendment Bill can be purchased from any of the Bennetts Government Bookshops around the country and ordered through any of the following stockists:

- McLeods Booksellers (Rotorua)
- Books "A" Plenty (Tauranga)
- London Bookshop Centre City (New Plymouth)
- Hedleys Bookshop (Masterton)
- Chapters and Verses (Timaru)
- Muirs Bookshop (Gisborne)
- Beattie & Forbes (Napier)
- Whitcoulls bookstores nationwide.

I trust this answers your queries.

Yours sincerely


Paul Stigley
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Minerals