



Environment (Seabed Minerals Activities) Regulations 2023

Sir Tom J. Marsters, KBE

King's Representative

Order in Executive Council

At Avarua, Rarotonga this

day of

2023

Present:

His Excellency the King's Representative in Executive Council

Pursuant to section 70 of the Environment Act 2003, His Excellency the King's Representative, acting on the advice and with the consent of the Executive Council, makes the following regulations—

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Regulations

- Title**
These regulations are the Environment (Seabed Minerals Activities) Regulations 2023.

2. **Commencement**

These regulations come into force on the day after the date on which they are made.

3. **Application**

These regulations apply to the administration and management of environmental matters relating to seabed minerals activities being undertaken in the Cook Islands exclusive economic zone pursuant to a licence issued under the Seabed Minerals Act 2019.

4. **Interpretation**

(1) In these regulations, unless the context otherwise requires,—

acceptable level is the specified amount or level of effect that may result from carrying out an activity that is tolerable and compatible with the nature and scale of the activity taking account of any applicable standards and applicable guidelines or that conforms to an applicable standard

Act means the Environment Act 2003

activity means any seabed minerals activity or regulated activity, or any part of such an activity, including a proposed activity, as the context requires

adaptive management—

- (a) means a planned and systematic process for continuously improving environmental management and monitoring practices by learning about their effects on the marine environment; and
- (b) includes flexible measures to identify and implement new mitigation measures or to modify existing ones during the life of an activity; and
- (c) includes specific contingencies that identify threshold levels of effects that can trigger modification to activities

applicable guidelines means guidelines issued by the Service under regulation 93 or issued by the Authority

applicable standards means standards recommended by the Service and approved by the Minister under regulation 92 or issued by the Authority

applicant means a person that makes an application for a consent or project permit under the Act and these regulations, in connection with the conduct of an activity under the Seabed Minerals Act 2019

approved expert means a scientific or technical expert approved by the Service, who is qualified and competent to undertake the work for which they are retained

approved form means any form approved for use under these regulations by the Service

approved manner means the manner in which applications are to be submitted under these regulations in accordance with regulation 107

as low as reasonably practicable, in relation to a risk, means a level of risk for which the time, cost, or effort of further reducing it would be grossly disproportionate to the benefits of such a reduction

Authority means the Cook Islands Seabed Minerals Authority continued by section 10 of the Seabed Minerals Act 2019

best available scientific evidence means the best scientific information and data accessible and attainable that, in the particular circumstances, is of good quality and objective, taking into account reasonable technical and economic constraints, and is based on internationally recognised scientific practices, standards, technologies, and methodologies

best available technology and techniques means the latest stage of development (state-of-the-art) or proven technology and processes, of facilities or of methods of operation that indicate the practical suitability of a particular measure for limiting waste and other matter and the protection of the marine environment from the harmful or likely harmful effects of the seabed minerals activities, taking into account any applicable standards and applicable guidelines

best environmental practice means the application of the most appropriate combination of environmental control measures and strategies, based on the best available scientific evidence and best available technology and techniques, which will change in the light of improved knowledge, understanding, or technology, taking into account any applicable standards and applicable guidelines

best practicable environmental option means, for a given set of environmental objectives, the option that provides the most benefits or least damage to the marine environment, as a whole, within reasonable technical and economic constraints, in the long term as well as the short term

closure plan means a plan described in subpart 1 of Part 7

competent person means a person who—

- (a) is qualified by virtue of their knowledge, expertise, qualifications, skills, and experience in the relevant subject matter; and
- (b) is familiar with the provisions of the Act and these regulations

component testing means the use and testing of recovery systems and equipment and the component parts of a mining system, including sea-floor collectors, riser systems and equipment, and discharge systems and equipment

consent means a consent to undertake a tier 2 activity required under regulation 11 and Part 3

continual improvement means a process of enhancing control measures, on an ongoing basis, in order to achieve improvements in overall environmental performance consistent with a holder's environmental policy and objectives

control measure means a system, an item of equipment, a person, or a procedure that is used as a basis for managing effects and risks, and includes an environmental management system

day means any day except—

- (a) a Saturday, a Sunday, and official public holidays and observances; and
- (b) other days on which the Service's offices are officially closed

discharge—

- (a) means the release, disposal, spilling, leaking, pumping, emitting, or emptying into the marine environment of any waste or other matter produced as an integral part of, or directly resulting from, an activity (including from shipboard processing or from the transfer of materials between vessels in Cook Islands waters); but

- (b) does not include the discharge of pollutants or the dumping of waste or other matter regulated under the Prevention of Marine Pollution Act 1998

discharge plume is a stream of water containing suspended particles of sea floor sediment, abraded seabed minerals, and macerated benthic biota resulting from the separation, on board a surface vessel, of the minerals from the water carrier and that spreads in an area above the seabed from a predetermined point of discharge

effect, includes—

- (a) any positive or adverse effect; and
- (b) any temporary or permanent effect; and
- (c) any past, present, or future effect; and
- (d) any cumulative effect that arises over time or in combination with other effects, regardless of the scale, intensity, duration, or frequency of the effect; and
- (e) any potential effect of high probability; and
- (f) any potential effect of low probability that has a high potential impact

environmental baseline means the starting point (at a certain date or state) of the marine environment against which changes in the condition or set of variables are measured

environmental bond means the insurance, bank guarantee, trust fund, cash, or other form of security acceptable to the permitting authority that a holder may be required to provide as a condition of any consent or project permit

environmental factors means the components of the marine environment that may be impacted by the activity, including—

- (a) human health; and
- (b) biodiversity (fauna and flora); and
- (c) benthic habitats (seabed and subsoil); and
- (d) marine water quality; and
- (e) air quality; and
- (f) the interaction between two or more of the factors referred to in paragraphs (a) to (e)

environmental impact assessment means a process of—

- (a) identifying and systematically studying the baseline of existing environmental conditions of the project area; and
- (b) conducting a scoping exercise, including an environmental risk assessment of the proposed activity and preparation of the scoping report; and
- (c) identifying, predicting, and evaluating the potential effects and risks of the proposed activity; and
- (d) identifying and evaluating measures to mitigate the effects and risks; and
- (e) stakeholder consultation; and
- (f) preparing an environmental impact statement

environmental impact statement means a document prepared in accordance with regulation 67 that is based on the results of an environmental impact assessment and describes the proposed activity, its potential effects and risks, and sets out measures to avoid or mitigate such effects and risks

environmental information means any data and information relating directly to the assessment, monitoring, and management of the marine environment

environmental management and monitoring plan means a plan, as revised from time to time, that is prepared in accordance with regulations 71 and 72 and meets the criteria in regulation 73, that takes account of the environmental impact statement, and that documents the methods and procedures to be implemented in order to monitor, manage, and mitigate the effects on the environmental factors

environmental management programme means an environmental management programme that is conducted under an exploration licence and that is prepared in accordance with Schedule 3 of the Seabed Minerals (Exploration) Regulations 2020

environmental management system means the part of the overall management system implemented by a licence holder in its operations that—

- (a) includes organisational structure, planning activities, responsibilities, practices, methodologies, processes, procedures, and resources, including quality control and management standards and risk assessment and management techniques for developing, implementing, achieving, reviewing, and maintaining environmental performance; and
- (b) is based on internationally recognised standards

environmental performance means the performance of a holder in relation to the following that are provided for in an environmental management and monitoring plan:

- (a) environmental management objectives:
- (b) environmental performance outcomes:
- (c) environmental performance standards

environmental performance outcome means a measurable and acceptable level of performance (qualitative or quantitative) for the desired state of the marine environment or relevant environmental factor, and includes achieving environmental quality standards

environmental performance standard means a standard or statement of the performance required of a control measure relating to the management of the environmental effects and risks of the activity

environmental quality standard means the quantitative value or concentration of a particular substance in the water column, sediment, or biota, whether arising from a discharge or an activity, that must not be exceeded in order to protect human health or the marine environment

environmental risk means the chance of something happening that will have an adverse effect measured in terms of the environmental consequences and the likelihood of those particular consequences occurring

environmental risk assessment means the process for identifying and evaluating environmental risk using a generally accepted risk assessment methodology

holder, in relation to a consent or project permit, means the holder of the consent or project permit under the Act

impact reference zone means an area or areas that are impacted by a tier 3 activity or activities and used to monitor the effect of activities on the marine environment, and that must be representative of the environmental characteristics (physical, chemical, and biological) of the area impacted by the mining operations

inspector means an inspector appointed under section 21(3) of the Seabed Minerals Act 2019

licence holder means the holder of a licence under the Seabed Minerals Act 2019

marine management measure means a management measure developed and implemented under section 29(1) of the Marae Moana Act 2017

material change—

- (a) means, according to any applicable standards and applicable guidelines, a change that affects the fundamental basis on which an original report, document, or plan was accepted or approved by the Service or permitting authority; and
- (b) includes, for example, a physical modification, new knowledge or technology becoming available, or an operational management change; and
- (c) does not include a minor or administrative change

mining area means the part or parts of the licensed area delineated in a mining work plan where the seabed minerals will be extracted from the seabed

mitigate or **mitigation** means—

- (a) minimising effects by limiting the degree or magnitude of the activity and its implementation to the extent practicable and necessary to ensure protection of the marine environment; and
- (b) rectifying the effect by rehabilitating the affected marine environment; and
- (c) reducing or eliminating the impact over time through preservation and maintenance operations during the life of the activity

monitor or **monitoring** means the systematic sampling and assessment of the marine environment in order to observe, study, detect, or measure the effects of the activity on the marine environment and environmental factors

performance improvement plan means a plan to address the issues identified by the Service required by regulation 75(7)

permitted activity means an activity that may be undertaken without conditions under section 36AA(1) of the Act (referred to in that section as a tier 1 activity)

permitting authority means the National Environment Council

preservation reference zone means an area or areas in the project area that is representative of the environmental characteristics (physical, chemical, and biological) of the mining area, in which no resource extraction must occur and that must be used to—

- (a) monitor changes in the biological status of the marine environment caused by or likely to have been caused by mining operations; and
- (b) protect and conserve the biodiversity of project areas, including areas impacted by the seabed disturbance plume or discharge plume

project means all activities undertaken or to be undertaken pursuant to a licence

project area means the area specifically delineated in a consent or project permit and includes—

- (a) the licensed area; and
- (b) in relation to any environmental matter under these regulations, any adjacent, surrounding, or far-field area on which the activities have not been authorised but upon which the activity may give rise to an effect; and
- (c) preservation reference zones

project permit or **permit** means a permit to undertake in the licensed area a tier 3 activity required under regulation 12 and Part 4

public consultation means consultation undertaken by the Service under section 36A of the Act

register means the public register maintained by the Service

rehabilitation includes the process of assisting, where practicable, the recovery of marine ecosystems affected by an activity

reportable event means—

- (a) an event that is classified as such under a consent, permit, or environmental management and monitoring plan for the activity; or
- (b) an accident or incident arising from the activity if—
 - (i) the accident or incident has caused, or has the potential to cause, a significant adverse effect; and
 - (ii) under the environmental risk assessment process described in the environmental management and monitoring plan for the activity, that effect is categorised as moderate or more serious than moderate; or
 - (iii) a failure to attain an environmental performance standard or environmental performance outcome in an environmental management and monitoring plan

seabed disturbance plume means a body of water containing suspended particles of sea floor sediment, abraded seabed minerals, and macerated benthic biota, that emanates from a seabed minerals collector or its interface with the lift system near the seabed

seabed minerals regulations means regulations made under the Seabed Minerals Act 2019

sediment means the organic and inorganic material on or in the seabed

trial mining means activities normally involved in mining that are undertaken on an appropriate scale to perform engineering tests on equipment, establish the economic viability of the resource, or assess the effects on the marine environment

waste or other matter means material and substances of any kind, form, or description arising from an activity, including—

- (a) the sediment from mining operations; and
 - (b) the water evacuated during shipboard processing; and
 - (c) any waste or other matter that is ecotoxic to marine organisms.
- (2) Any term or expression that is defined in the Act, the Seabed Minerals Act 2019, or the seabed minerals regulations and used, but not defined, in these regulations has the same meaning as in the Act, the Seabed Minerals Act 2019, or the seabed minerals regulations as the context requires.

Part 1 General

Subpart 1—Overview and principles

5. Overview

- (1) These regulations impose requirements on seabed minerals activities with respect to the marine environment.

- (2) In summary,—
- (a) Part 1 provides for the application of principles in the Marae Moana Act 2017 and the Seabed Minerals Act 2019 and makes it an offence to carry out an unauthorised seabed minerals activity:
 - (b) Part 2 specifies when a consent or project permit is required and enables prospective applicants for a consent or project permit to request a screening opinion before applying:
 - (c) Part 3 sets out requirements in respect of applications for a consent to undertake particular seabed minerals activities during exploration:
 - (d) Part 4 sets out requirements in respect of applications for a project permit to undertake particular seabed minerals activities during exploration or mining:
 - (e) Part 5 imposes obligations regarding environmental impact assessments:
 - (f) Part 6 imposes obligations regarding environmental management and monitoring plans:
 - (g) Part 7 sets out requirements for closing a seabed minerals activity:
 - (h) Part 8 imposes duties on holders, the Service, and the Authority to co-operate and disseminate environmental information:
 - (i) Part 9 covers the approval of applicable standards by the Minister and the issue of applicable guidelines by the Service in respect of seabed minerals activity:
 - (j) Part 10 sets out requirements that the Service must comply with when setting fees:
 - (k) Part 11 covers monitoring and review activities to be undertaken by the Service and the permitting authority's enforcement powers:
 - (l) Part 12 covers administrative obligations including on the Service and the Authority:
 - (m) Part 13 covers the procedure for making an objection to certain decisions made by the Service or the permitting authority:
 - (n) Part 14 requires the Service to review and report to the Minister on these regulations at least every 5 years.
- (3) This regulation is a guide only to the general scheme and effect of these regulations.

6. Application of principles

The principles of ecologically sustainable use set out in section 5 of the Marae Moana Act 2017 and the principles set out in section 7(2) of the Seabed Minerals Act 2019—

- (a) apply to the conduct of all activities and any matter relating to such activities; and
- (b) serve as guidelines for the interpretation, administration, and implementation of the environmental requirements of the Act, these regulations, and any decisions made under them.

Subpart 2—Breach of general duties and restriction on seabed minerals activities

7. Breach of general duties

A licence holder must comply with the general duties in Schedule 1 when it carries out any activities in the Cook Islands exclusive economic zone, to the extent required in each case by the Service. The extent to which a licence holder must comply with the general duties is at the absolute discretion of the Service.

8. Restriction on activities and discharges except where permitted or authorised

- (1) A licence holder commits an offence if, without reasonable excuse, it carries out activities in the Cook Islands exclusive economic zone, including making or allowing any discharge into the sea of the exclusive economic zone, unless the activities or discharge is—
 - (a) authorised by a consent or project permit issued under the Act and these regulations; or
 - (b) otherwise a permitted activity under the Act or these regulations.
- (2) A licence holder that commits an offence against subclause (1) is liable on conviction to a fine not exceeding \$50,000.
- (3) The licence holder is also liable on conviction, if the offence is a continuing one, to a fine not exceeding \$1,000 for every day or part of a day during which the offence continues.

9. Defence

It is a defence to proceedings for an offence under regulation 8(1) in connection with an unauthorised discharge if the licence holder proves that—

- (a) the waste or other matter was discharged for the purpose of securing the safety of a vessel or installation or for the purpose of saving life, and the discharge was a reasonable step to take, including with regard to the extent of the discharge, to effect that purpose; or
- (b) the waste or other matter escaped as a consequence of damage to the vessel, or to any equipment used in connection with any recovery operations, and—
 - (i) the damage occurred without the negligence or a deliberate act of the licence holder (or their employees and contractors); and
 - (ii) as soon as practicable after the damage occurred, all reasonable steps were taken by the licence holder to prevent the escape of the waste or other matter or, if any escape could not be prevented, to minimise the escape.

Part 2

Specified seabed minerals activities

Subpart 1—When consent or project permit is required

10. Tier 1 activities: permitted activities during exploration

- (1) An activity described in Schedule 2 is categorised as a tier 1 activity for the purposes of section 36AA of the Act.
- (2) A licence holder may undertake a permitted activity described in Schedule 2 without a consent or project permit under this Act and without further conditions.

- 11. Tier 2 activities: requiring consent during exploration**
- (1) An activity described in Schedule 3 is categorised as a tier 2 activity for the purposes of section 36AA of the Act.
 - (2) A licence holder may carry out a specified activity described in Schedule 3 if it holds a consent for that activity issued by the permitting authority in accordance with section 36AA(2) of the Act and Part 3 of these regulations.
- 12. Tier 3 activities: requiring project permit during exploration or mining**
- (1) An activity described in Schedule 4 is categorised as a tier 3 activity for the purposes of section 36AA of the Act.
 - (2) A licence holder may carry out a specified activity described in Schedule 4 if it holds a project permit for that activity issued by the permitting authority in accordance with section 36 of the Act and Part 4 of these regulations.

Subpart 2—Screening opinion

- 13. Request for screening opinion from permitting authority**
- (1) If a proposed activity is not or appears not to be included in Schedules 2 to 4, a prospective applicant must request a screening opinion from the permitting authority (through the Service) to determine whether or not the activity is a tier 1, 2, or 3 activity.
 - (2) If the Service considers that an activity listed in Schedules 2 to 4 should be re-categorised,—
 - (a) it may request a screening opinion from the permitting authority to determine the issue; and
 - (b) if the determination is that the activity is in a different category than as indicated in the schedules, it may implement the new categorisation only once the relevant schedules have been amended.
 - (3) The permitting authority may request information or advice from the Service (which may engage approved experts if it considers necessary), or information or advice from relevant Crown agencies, or advice from an approved expert (through the Service), for the purpose of giving a screening opinion.
 - (4) An opinion given under this regulation must set out the reasons for the opinion.
 - (5) An applicant must lodge a screening application with the Service in the approved form and in accordance with any applicable standards and applicable guidelines.

Part 3

Application for consent to undertake tier 2 seabed minerals activities during exploration

- 14. When application for consent is to be made**
- An application for consent must be made to the Service before the commencement of any tier 2 activity under an exploration licence.
- 15. Application for consent**
- (1) An application must—
 - (a) be made in accordance with any applicable standards and applicable guidelines; and
 - (b) be made using the approved form and submitted in the approved manner; and

- (c) contain the following information:
 - (i) a description of the proposed activity the applicant wishes to carry out, including proposed time frames and milestones; and
 - (ii) a description of the marine environment likely to be encountered when the proposed activity is being undertaken, supported by the results of baseline studies (if any) carried out under the environmental management programme; and
 - (iii) an assessment of the potential effects of the proposed activity on the marine environment based on an environmental risk assessment; and
 - (iv) a description of the plan for the monitoring of the pelagic and benthic organisms and habitats (before, during, and following the specified activity), including an overview of the technology to be deployed in monitoring; and
 - (v) a description of the measures to be undertaken to protect the marine environment during the conduct of the proposed activity; and
 - (vi) details of stakeholder consultation conducted before an application and the proposed stakeholder consultation to be conducted during the proposed activity; and
 - (vii) details of the proposed reporting of information, observations, and measurements to the Service; and
 - (d) include the following:
 - (i) a map showing the location and geographic area of the work; and
 - (ii) the relevant environmental management programme; and
 - (e) be accompanied by the prescribed fee.
- (2) The information required under subclause (1)(c) must be provided in sufficient detail to correspond to the scale and significance of the effects and risks that the activity may have on the marine environment.
 - (3) An applicant may make one application for consent to cover one or more tier 2 activities to be carried out under an exploration licence.

16. Service must determine if application complete

- (1) Unless regulation 17 or 18 applies, the Service must, within 20 days after receiving an application, determine whether or not the application is complete in that it complies with regulation 15.
- (2) If regulation 17 or 18 apply, the Service may extend the 20-day period specified in subclause (1) or the 10-day period specified in regulation 17(5) by an additional period not exceeding 10 days, and may extend both periods in the same case.

17. Service may ask applicant to complete incomplete application and return incomplete application

- (1) If the Service considers that an application does not comply with regulation 15, the Service must request further information from the applicant to complete the application.
- (2) A request under subclause (1) must be in writing and must set out the Service's reasons for requesting further information.
- (3) The applicant must provide the information within 10 days after receiving the request.

- (4) However, the applicant can request further time to provide the information and, taking account of the nature and complexity of the application, provide it at a later date agreed by the Service.
- (5) The Service must, within 10 days of receipt of the information, determine whether the application is complete.
- (6) The Service must return an application without a decision or further processing if—
 - (a) the applicant does not provide further information—
 - (i) within the time required by subclause (3); or
 - (ii) by the date agreed under subclause (4); or
 - (b) the applicant provides the information (within the time or by the date required) but the Service considers that the application is still incomplete.
- (7) If, after the Service returns an application as incomplete, the application is made to the Service again, the application must be treated as a new application.
- (8) An applicant may object, under regulation 110, to a decision by the Service that an application is incomplete.

18. Service may seek information or advice from Crown agencies or approved expert

- (1) The Service may request information or advice from relevant Crown agencies or advice from an approved expert for the purpose of determining whether an application complies with regulation 15, including the consideration of further information received under regulation 17.
- (2) If the Service obtains any information or advice under subclause (1) it must provide a summary to the applicant within 10 days after receiving it.

19. Service to refer application to permitting authority

- (1) If the Service is satisfied that an application is complete, the Service must refer a copy of the application to the permitting authority within 10 days after that determination.
- (2) The application must be accompanied by—
 - (a) a statement by the Director that the application is complete; and
 - (b) a report from the Service—
 - (i) providing a summary of the key issues in the application identified by the Service; and
 - (ii) attaching any information or advice received by the Service from other Crown agencies or an approved expert.

20. Consideration of application by permitting authority and return of application if information or modified application not provided

- (1) In reviewing and assessing the application, the permitting authority must take account of the following matters:
 - (a) the Service's report:
 - (b) the nature and scale of the proposed activity:
 - (c) the environmental risk assessment:
 - (d) the environmental management programme and the results of baseline studies (if any):
 - (e) the effects on the marine environment of consenting to the proposed activity:

- (f) the extent to which any effects will be mitigated by the proposed management measures specified in the environmental management programme;
 - (g) the efficacy of the studies, observations, and measurements to be carried out under the environmental management programme in relation to the proposed activity.
- (2) The permitting authority, before making its decision, may, within 20 days of receipt of the application under regulation 19,—
- (a) request that the applicant provide further information considered necessary by the permitting authority to consider the application; or
 - (b) request that the applicant submit modifications to the application within a period specified by the permitting authority; or
 - (c) obtain advice or information from the Service (which may engage approved experts if it considers it necessary), or information or advice from relevant Crown agencies, or advice from an approved expert (through the Service), to assist with the permitting authority’s review and assessment of the application (and *see* regulation 22(2) that allows the Service to engage approved experts in formulating conditions).
- (3) A request under subclause (2)(a) or (b) must be in writing and must set out the permitting authority’s reasons for requesting further information or a modified application.
- (4) The applicant must provide the further information or submit a modified application—
- (a) within 10 days after receiving a request under subclause (2)(a) or (b); or
 - (b) by a later date, taking into account the nature and complexity of the application, agreed with the permitting authority.
- (5) If the permitting authority obtains any advice or information under subclause (1)(c) it must (through the Service) provide a summary to the applicant within 10 days after receiving it.
- (6) The permitting authority must return an application without a decision or further processing if the applicant does not provide further information or a modified application—
- (a) within the time required by subclause (4)(a); or
 - (b) by the date agreed under subclause (4)(b).
- (7) If, after the permitting authority returns an application, the application is made to the Service again, the application must be treated as a new application.

21. Consent decision

- (1) The permitting authority, within a reasonable period, and no later than 20 days after the receipt of the further information, modified application, or advice or information contemplated by regulation 20(2) (and if more than 1 of these apply, whichever is the later), must—
- (a) grant consent, with or without conditions; or
 - (b) refuse to grant consent.
- (2) The permitting authority must not unreasonably refuse to grant consent if it determines the activity has some but not significant environmental impacts or the proposed measures to monitor and manage the effects of the activity on the marine environment are adequate.

- (3) The permitting authority may, at its discretion, extend the 20-day period by an additional period not exceeding 10 days, and the Service must inform the applicant of any such extension within 5 days before the expiration of the initial period.

22. Conditions of consent

- (1) Under section 36AA(2)(b) of the Act, the permitting authority may grant consent to the activity subject to 1 or more conditions that it considers necessary to deal with the adverse effects of the activity on the marine environment, which may include the duration of the consent.
- (2) The permitting authority may obtain advice or information from the Service (which may engage approved experts if it considers it necessary), or information or advice from relevant Crown agencies, or advice from an approved expert (through the Service), to assist the permitting authority's formulation of any conditions.
- (3) If the permitting authority obtains any advice or information, it must (through the Service) provide a summary to the applicant within 10 days after receiving it.

23. Decision of permitting authority to be in writing

The permitting authority must, within 5 days after making its decision under regulation 21, provide the Service with a written statement of its decision setting out—

- (a) the main reasons for its decision; and
- (b) if a consent is granted subject to conditions, a summary of the reasons for any conditions imposed under regulation 22.

24. Notification of permitting authority's decision

- (1) The Service must immediately provide the applicant with a copy of the decision of the permitting authority, and within 2 working days—
 - (a) give a copy of the decision to—
 - (i) the Authority; and
 - (ii) the ministry responsible for marine resources; and
 - (iii) the ministry responsible for transport; and
 - (iv) the Marae Moana Technical Advisory Group; and
 - (v) other agencies or persons that the Service considers appropriate; and
 - (b) make a copy of the decision publicly available on an Internet site maintained by or on behalf of the Service.
- (2) An applicant may object, under regulation 110, to—
 - (a) a decision by the permitting authority to refuse to grant consent;
 - (b) conditions imposed on a consent.

25. Duration of consent

- (1) A consent ends when—
 - (a) it is cancelled under regulation 101; or
 - (b) it is replaced with a new consent; or
 - (c) at the time specified as a condition of the consent; or
 - (d) it ceases to have effect on completion of the specific activity to which the consent relates; or

- (e) the licence to which the activity relates terminates under section 88(1) of the Seabed Minerals Act 2019.
- (2) A consent holder must comply with the requirements of the Act, these regulations, and any conditions of the consent that still apply after the consent ends.

26. Content and form of consent

- (1) If the permitting authority decides to grant a consent, the Service must, within the period contemplated by regulation 21,—
 - (a) issue the consent in the form set out in Schedule 5, including any conditions imposed by the permitting authority; and
 - (b) specify, in sufficient detail, each activity covered by the consent; and
 - (c) specify a commencement date; and
 - (d) if applicable, specify the duration of the consent; and
 - (e) lodge a copy of the consent on the register.
- (2) However, the Service may modify the form as it considers appropriate in a particular case.
- (3) A consent must include a map, plan, or other description of the geographical extent of the activity area.
- (4) A consent may be issued in electronic form.
- (5) The applicant or the permitting authority may request the Service to issue an amended consent to correct minor omissions, errors, or other defects within 20 days after the issue of the consent. The Service need not seek advice from, or the agreement of, the permitting authority before making corrections but must provide the applicant and the permitting authority with an amended consent.

27. Duty of consent holder to inform Service of change in activity or new activity

- (1) A holder must inform the Service of—
 - (a) any proposed changes, whether before or after the activity has started, in the nature, intensity, or scale of the activity to which the consent or condition relates; or
 - (b) any proposed new activity not specified in the relevant consent.
- (2) If the Service considers that a proposed change or proposed new activity is a minor matter, it may issue an amended consent or amended conditions of the consent and need not seek advice from, or the agreement of, the permitting authority to do so.
- (3) If the Service makes any minor change to a consent under subclause (2), it must inform the permitting authority within a reasonable period of time after making such a change and provide it and the holder with a copy.
- (4) The Service must, subject to subclause (5), refer any material change or proposed new activity to the permitting authority for its consideration under regulation 20.
- (5) If any material change or proposed new activity is categorised as a tier 3 activity, the holder must apply for a project permit under Part 4 in respect of such a change or new proposed activity.

Part 4
Application for a project permit to undertake tier 3 seabed minerals activities during exploration or mining

Subpart 1—Submission and processing of application for project permit

28. When application for project permit is to be made

An application for a project permit must be made to the Service before the commencement of any tier 3 activity under an exploration or mining licence.

29. Application for project permit

(1) An application for a project permit must—

(a) be made—

(i) to the Service in accordance with any applicable standards and applicable guidelines; and

(ii) using the approved form and submitted in the approved manner; and

(b) include the following:

(i) a map sufficient to identify where each activity will be carried out and to identify the proposed project area; and

(ii) a work plan that includes—

(A) a description of the phases and timing of each activity; and

(B) details of the working methods and operations involved in carrying out the proposed activity; and

(iii) an environmental impact statement prepared in accordance with regulation 67 including all supporting information and reference data; and

(c) be accompanied by the prescribed fee.

(2) An applicant must ensure that the data packages for baseline surveys have been submitted to the Service or the Authority in accordance with any applicable standards and applicable guidelines.

30. Single application for project permit

(1) The Service may accept a single application from an applicant for proposed activities to be carried out by the applicant at different locations in the exclusive economic zone.

(2) Subclause (3) applies if an application proposes multiple non-contiguous mining areas.

(3) In that case, the applicant must submit a separate environmental impact statement, environmental management and monitoring plan, and closure plan for each mining area, unless the applicant can satisfy the Service that the mining areas are similar in physical and environmental characteristics taking account of any applicable standards and applicable guidelines.

31. Service must determine if application complete

The Service must, within a reasonable period after receiving an application, and after taking account of any expert review commissioned under regulation 32, any request for further information under regulation 33, or any information or advice obtained under regulation 34, determine whether or not the application is complete in that it complies with regulations 29 and 30.

32. Service may commission expert review of environmental impact statement

- (1) The Service may commission an approved expert to review an environmental impact statement or part of a statement and the review may include the following matters:
 - (a) whether the statement complies with the requirements of these regulations:
 - (b) a review of the completeness, accuracy, and statistical reliability of the studies and information presented in the statement:
 - (c) the basis for and efficacy of the proposed monitoring programme and measures to mitigate the effects of the activity, by reference to best available technology and techniques and best environmental practice.
- (2) If the Service intends to commission a review, the Service must—
 - (a) notify the applicant in writing; and
 - (b) include, with that notification,—
 - (i) its reasons for deciding to commission a review; and
 - (ii) details of the approved expert; and
 - (iii) a copy of the terms of reference for the review.
- (3) The Service must, within 10 days after receiving the results of a review, send a summary of the results to the applicant.

33. Service may ask applicant to complete incomplete application and return incomplete application

- (1) If the Service considers that an application does not comply with regulations 29 and 30 (including because the environmental impact statement does not comply with the requirements of regulation 67), the Service must request further information from the applicant to complete the application.
- (2) A request under subclause (1) must be in writing and must set out the Service's reasons for requesting further information.
- (3) The applicant must provide the information within 10 days after receiving the request.
- (4) However, the applicant can request further time to provide the information and, taking account of the nature and complexity of the application, provide it at a later date agreed by the Service.
- (5) The Service must return an application without a decision or further processing if—
 - (a) the applicant does not provide further information—
 - (i) within the time required by subclause (3); or
 - (ii) by the date agreed under subclause (4); or
 - (b) the applicant provides the information (within the time required or by the agreed date) but the Service considers that the application is still incomplete.
- (6) If, after the Service returns an application as incomplete, the application is made to the Service again, the application must be treated as a new application.
- (7) An applicant may object, under regulation 110, to a decision by the Service that an application is incomplete.

- 34. Service may seek information or advice from Crown agencies or approved expert**
- (1) The Service may request information or advice from relevant Crown agencies or advice from an approved expert for the purpose of determining whether an application complies with regulations 29 and 30, including the consideration of further information received under regulation 33.
 - (2) If the Service obtains any information or advice, it must provide a summary to the applicant within 10 days after receiving it.

Subpart 2—Public consultation

35. Public notice of application

- (1) For the purpose of section 36A(1) of the Act, the Service must, within 10 days after the date of the Service’s determination that an application is complete,—
 - (a) publish details of the application through a notice on an Internet site maintained by or on behalf of the Service that contains all of the following information:
 - (i) the applicant’s name and address;
 - (ii) a statement that an application for a project permit has been made and that an environmental impact statement has been prepared;
 - (iii) a map and description of the proposed project area;
 - (iv) a brief explanation of the relevant legislation under which the application has been made;
 - (v) a link to the relevant information relating to the application;
 - (vi) a request that any person wishing to make comments regarding the application and environmental impact statement must make them in writing to an address specified by the Service, and that comments must be provided—
 - (A) in the approved form; and
 - (B) within 20 days after the date of the notice; and
 - (b) at the same time, publish a short summary of the notice, along with details of the Internet site where the notice can be accessed, in 1 or more newspapers circulating in the Cook Islands; and
 - (c) make known through social media platforms generally used by the Cook Islands public that the Service has received an application for a project permit.
- (2) For the purposes of subclause (1)(a)(v) above, **relevant information** is a copy of—
 - (a) the application; and
 - (b) the environmental impact statement, including all appendices; and
 - (c) the non-technical summary of the statement; and
 - (d) the results of any expert review under regulation 32; and
 - (e) any further information supplied by the applicant relevant to the application.
- (3) Taking into account the nature and complexity of the application and the regulated activity, the Service may extend the period specified in subclause (1)(a)(vi)(B) for an additional period not exceeding 20 days.

- 36. Consultation with government departments, agencies, or other persons**
Under section 36A(2) of the Act, at the same time as public notice is given, the Service must—
- (a) make available the relevant information under regulation 35(2) to—
 - (i) the Minister; and
 - (ii) the Authority; and
 - (iii) the ministry responsible for marine resources; and
 - (iv) the ministry responsible for transport; and
 - (v) the Marae Moana Technical Advisory Group; and
 - (vi) as the Director considers appropriate, any other Crown agency or person affected by, or having expertise relevant to, the proposed regulated activity or its environmental impact; and
 - (b) request that any comments should be made in writing to the Service within 20 days from the date of the letter.
- 37. Advising applicant of comments received**
- (1) Within 10 days after the closing date for comments under regulation 35(1)(a)(vi)(B) or after any extension given under regulation 35(3), the Service must forward to the applicant a list of those who made comments and a copy of all the comments that it has received in relation to the public notice, including any written comments received under regulation 36.
 - (2) The applicant must—
 - (a) consider the comments received from the Service in relation to the public notice; and
 - (b) provide the Service with its written response to the comments within 20 days after receiving the list and comments; and
 - (c) notify the Service if it wishes to amend its application in the light of any of the comments and, if so, submit a revised application within a reasonable period of time, taking into account the nature and complexity of the application, agreed with the Service.
- 38. Consideration of comments by Service**
- (1) Within 10 days after the period under regulation 37(2)(b) ends, the Service must—
 - (a) review the information contained in any comments submitted following the public notice and any response from the applicant under regulation 37(2)(b); and
 - (b) summarise the comments received, the applicant’s response, and any proposed amendments to the application.
 - (2) If the Director considers that submissions made to the Service are similar in material respects or deal with similar or related issues, it may consolidate those submissions in a summary.
 - (3) The Service need not have any regard to any submission that—
 - (a) it considers on reasonable grounds is frivolous, vexatious, or repetitious; or
 - (b) it considers on reasonable grounds is not relevant to the application or permit decision; or

- (c) is made after the time limit for submissions specified in regulation 35(1)(a)(vi)(B) or after any extension given under regulation 35(3).

39. Service to prepare report for permitting authority

- (1) The Service must prepare a report for the permitting authority including—
 - (a) a summary of the key issues in the application identified by the Service; and
 - (b) a summary of any comments received under regulation 35(1)(a)(vi) or regulation 36 in response to the public notice, and any written responses by the applicant under regulation 37(2)(b); and
 - (c) any expert review under regulation 32; and
 - (d) any information or advice received from Crown agencies or an approved expert under regulation 34; and
 - (e) any information supplied by the applicant in response to any requests for further information by the Service under regulation 33.
- (2) The Service must, subject to regulation 104(1), make a copy of its report publicly available on an Internet site maintained by or on behalf of the Service at the same time as it sends its report to the permitting authority.

Subpart 3—Submission of application to permitting authority

40. Service to submit application to permitting authority

The Service must submit copies of the following documents and information to the permitting authority within 30 days after the end of the 10-day period referred to in regulation 38(1):

- (a) a statement by the Director that the application is complete;
- (b) the application;
- (c) the environmental impact statement;
- (d) the report prepared by the Service under regulation 39;
- (e) any other relevant information submitted to the Service.

Subpart 4—Request for further information by permitting authority

41. Permitting authority may obtain advice, information, or further relevant information, and return of application if information not provided

- (1) Before making a decision on an application, the permitting authority may, within 30 days of receipt of the application under regulation 40,—
 - (a) through the Service, request that the applicant provide further relevant information relating to the application; or
 - (b) obtain advice or information from the Service (which may engage approved experts if it considers it necessary), or information or advice from relevant Crown agencies, or advice from an approved expert (through the Service), on any matter related to the application.
- (2) In subclause (1)(a), **further relevant information** includes any further information the permitting authority considers necessary to consider—
 - (a) the likely significant effects of the activity described in the environmental impact statement; and
 - (b) any matter relevant to imposing one or more conditions under regulation 47.

- (3) A request under subclause (1)(a) must be in writing and must set out the permitting authority's reasons for requesting further relevant information.
- (4) The applicant must provide the information within—
 - (a) 20 days after receiving the request; or
 - (b) a reasonable period of time, taking into account the nature and complexity of the application, agreed with the Service.
- (5) If the permitting authority obtains any advice or information under subclause (1)(b) it must (through the Service) provide a summary to the applicant within 10 days after receiving it.
- (6) The permitting authority must return an application without a decision or further processing if the applicant does not provide further information—
 - (a) within the time required by subclause (4)(a); or
 - (b) within the time agreed under subclause (4)(b).
- (7) If, after the permitting authority returns an application under subclause (6), the application is made to the Service again, the application must be treated as a new application.

Subpart 5—Permitting authority's consideration of application and permit decision

42. Permitting authority's conclusion about likely significant effects

- (1) The permitting authority may establish its own procedures for considering applications based on advice received from the Service.
- (2) The permitting authority must assess and review—
 - (a) the environmental impact statement; and
 - (b) the report prepared by the Service under regulation 39; and
 - (c) any further information provided by the applicant under regulation 41; and
 - (d) any advice or information obtained by the permitting authority under regulation 41(1)(b); and
 - (e) the measures the applicant proposes to take to monitor and manage any likely significant adverse effects of the activity.
- (3) The permitting authority must, following the assessment and review required by subclause (2), reach its own conclusion about what are the likely significant effects of the activity (including the expected effects deriving from the vulnerability of the activity to risks of accidents or incidents) on the environmental factors.

43. Permitting authority's consideration of application

- (1) In reaching its decision whether to issue a project permit, the permitting authority must—
 - (a) have regard to—
 - (i) the principles referred to in regulation 6; and
 - (ii) the relevant legislation and any applicable standards and applicable guidelines; and
 - (iii) any policy endorsed by the Cook Islands Government in respect of the exclusive economic zone; and

- (iv) the nature and effect of the marine management regime under the Marae Moana Act 2017, in particular the national marae moana spatial plan and applicable marine management measures; and
 - (v) the best available scientific evidence, best environmental practice, and best available technology and techniques in relation to seabed minerals activities; and
- (b) consider—
- (i) the application; and
 - (ii) the permitting authority’s conclusion under regulation 42(3); and
 - (iii) the applicant’s ability to implement best environmental practice and best available technology and techniques; and
 - (iv) the appropriateness of the measures proposed to monitor the likely significant effects of the activity on the environmental factors; and
 - (v) the appropriateness of the management measures proposed to mitigate the likely significant adverse effects of the activity on the environmental factors; and
 - (vi) the applicant’s ability to protect rare or fragile ecosystems and habitats; and
 - (vii) the applicant’s ability to rehabilitate (where feasible) and manage the residual significant adverse effects of the activity; and
 - (viii) the proposed management measures and responses to potential environmental risks, including—
 - (A) best practicable environmental options; and
 - (B) the residual significant risks following the successful implementation of the proposed measures; and
 - (C) the extent to which the precautionary approach is integrated into the applicant’s risk assessment and management processes; and
 - (ix) the control measures proposed by the applicant; and
 - (x) the use of an adaptive management approach and systems, if any, proposed by the applicant; and
 - (xi) the effects on human health that may arise from of any discharges if the permit is issued; and
 - (xii) whether attaching conditions might mitigate any significant adverse effects and risks of the activities on the environmental factors; and
 - (xiii) whether the applicant’s environmental quality standards conform to any applicable standards and applicable guidelines.
- (2) When considering the appropriateness of the proposed measures to monitor effects of the activity, the permitting authority must be satisfied that the type and duration of monitoring are proportionate to—
- (a) the nature, location, and size of the activity; and
 - (b) the effect of the measures on the environmental factors.

44. Request to submit modification to proposed project and return of application

- (1) Before making a permit decision, the permitting authority must, where appropriate and under section 36(5)(b) of the Act, request that the applicant submit modifications to the application within a period specified by the

permitting authority or a later date, taking into account the nature and complexity of the modifications, agreed by the permitting authority.

- (2) Within 20 days of receipt of a modified application, the permitting authority may, in its review and assessment of any modifications to an application, obtain advice or information from the Service (which may engage approved experts if it considers it necessary), or information or advice from relevant Crown agencies, or advice from an approved expert (through the Service).
- (3) If the permitting authority obtains any advice or information under subclause (2), it must (through the Service) provide a summary to the holder within 10 days of receiving it.
- (4) The permitting authority must return an application without a decision or further processing if the applicant does not provide a modified application within the time required or date agreed by the permitting authority under subclause (1).
- (5) If, after the permitting authority returns an application under subclause (4), the application is made to the Service again, the application must be treated as a new application.

45. Information principles

- (1) When considering an application for a project permit under this subpart, the permitting authority must—
 - (a) make full use of its powers to request information from the applicant and obtain advice or information under regulation 41(1) as it considers appropriate; and
 - (b) base its conclusions and the permit decision on the best available information; and
 - (c) take into account any uncertainty or inadequacy in the information available.
- (2) In this regulation, **best available information** means the best information that, in the particular circumstances, is available without unreasonable cost, effort, or time.

46. Project permit decision

- (1) The permitting authority must, after complying with regulations 42 to 45,—
 - (a) issue a permit under section 36(5)(a) of the Act; or
 - (b) where there are reasonable grounds to do so, decline to issue a permit under section 36(5)(c) of the Act.
- (2) To avoid doubt, the permitting authority may decline to issue a permit if it reasonably considers that it does not have adequate information to make a determination on the application.
- (3) If the permitting authority issues a permit, it may issue the permit subject to conditions under subpart 6.
- (4) An applicant may object, under regulation 110, to a decision by the permitting authority declining to issue a permit or imposing conditions on a permit under regulation 47.

Subpart 6—Project permit conditions

47. Project permit may be subject to conditions

- (1) Under section 36(5)(a) of the Act, the permitting authority may issue a project permit subject to 1 or more conditions that it considers necessary to deal with the adverse effects of the activity on the marine environment.
- (2) The conditions imposed may include—
 - (a) environmental performance outcomes, specifying a measurable environmental outcome that must be achieved or met or not exceeded;
 - (b) prescriptive conditions requiring the holder to comply with specified actions or procedures under subclause (3) below;
 - (c) the duration of the consent.
- (3) The permitting authority may impose one or more of the following prescriptive conditions, including requiring a holder to—
 - (a) provide an environmental bond under regulation 48; or
 - (b) monitor and report on the exercise of the permit and the effects of the activity to the Service, including specified reportable events (*see* regulation 49 for additional detail); or
 - (c) make records related to the activity available for audit or verification by the Service or approved experts; or
 - (d) limit discharges to a specified quantity over a specified period or the location of the discharges; and
 - (e) implement and maintain specific registers relating to reportable events or environmental complaints; or
 - (f) submit, for acceptance by the permitting authority, a revised environmental management and monitoring plan and closure plan in accordance with Parts 6 and 7 respectively, by an agreed date.
- (4) The permitting authority must determine, where applicable, that the conditions imposed under subclauses (2) and (3) are technically feasible and can be complied with.
- (5) The permitting authority must not impose a condition on a holder—
 - (a) if the condition would be inconsistent with the Act or these regulations; or
 - (b) if the condition would conflict with any marine management measure.
- (6) The permitting authority may obtain advice or information from the Service (which may engage approved experts if it considers it necessary), or information or advice from relevant Crown agencies, or advice from an approved expert (through the Service), to assist the permitting authority's formulation of one or more conditions.
- (7) If the permitting authority obtains any advice or information under subclause (6), it must provide a summary to the holder (through the Service) within 10 days of receiving it.

48. Environmental bond

- (1) A bond may be required for the performance of one or more obligations under the Act, these regulations, or the conditions of a permit.
- (2) However, the permitting authority may only require a bond to be given if it considers that it is appropriate to secure the ongoing performance of obligations or conditions, including—

- (a) responding to incidents:
 - (b) the closure of the activities under a closure plan:
 - (c) rectifying any unpermitted damage to the marine environment:
 - (d) providing for the post-closure monitoring and management of residual significant effects.
- (3) The amount of the bond must reflect the actual or expected costs for the events contemplated by subclause (2), and—
- (a) must be calculated in accordance with any applicable standards and applicable guidelines; and
 - (b) may be provided by way of instalments over a specified period, if agreed by the permitting authority.
- (4) The terms of any bond must provide—
- (a) a date by which the bond must be given, which may be before the permit is exercised:
 - (b) details of the amount and form of security to be given:
 - (c) that the amount of the bond is to be reviewed annually and where necessary adjusted:
 - (d) for the terms of forfeiture, repayment, or release of all or part of the bond:
 - (e) that the bond may be varied, cancelled, or renewed by agreement between the permit holder and the permitting authority.
- (5) If a permit holder is required to lodge a bond with the Service before the commencement of activities under the licence, it may not commence activities until it has provided the required bond in accordance with the conditions of the permit.
- (6) The permitting authority may require that the bond, or a portion of it, continues to be retained by the Service for a specified period after a licence ends to the extent that the permitting authority believes it may be required to remedy residual significant effects or the monitoring of these.
- (7) The Service may appoint, at its expense, an independent assessor to advise on the appropriate amount of any bond to be given or retained under this regulation.
- (8) The provision of a bond does not limit the liability of the licence holder under section 96 of the Seabed Minerals Act 2019.

49. Monitoring conditions

A condition imposed under regulation 47(3)(b) may require the holder to do 1 or more of the following:

- (a) make and record measurements:
- (b) take and supply samples:
- (c) carry out specific analyses, surveys, investigations, or specified tests:
- (d) carry out the procedures in paragraphs (a) to (c) in a specified manner:
- (e) provide information to the Service at specified times or in a specified manner:
- (f) comply with the conditions at the holder's expense.

Subpart 7—Time limits and notification

50. Time limit for decision on application for project permit

- (1) The permitting authority must make its decision on an application for a project permit no later than 60 days after the date on which it has received all of the information or advice it must or may obtain under these regulations and needed to consider the matters in regulation 43.
- (2) Taking account of the nature and complexity of the application and the regulated activity, the permitting authority may extend the period specified in subclause (1), but must inform the applicant in writing of the reasons justifying the extension and of the date on which its decision is expected.
- (3) Any extended period must not exceed 20 days.

51. Statement and notification of permitting authority's decision

- (1) If the permitting authority decides to issue a project permit, the permitting authority must prepare a written statement of its permit decision setting out the following:
 - (a) the conclusion reached by the permitting authority under regulation 42(3); and
 - (b) the main reasons and considerations on which the permit decision is based; and
 - (c) a summary of the results of the public consultation undertaken, and information gathered, in respect of the application and how those results have been incorporated or otherwise addressed; and
 - (d) a summary as to how the permitting authority addressed any uncertainties in the information and in reaching its decision; and
 - (e) any conditions attaching to the permit, and a summary of the reasons for each condition.
- (2) If the permitting authority refuses to issue a project permit, the permitting authority must prepare a written statement of its permit decision setting out—
 - (a) the conclusion reached by the permitting authority under regulation 42(3); and
 - (b) the main reasons on which the refusal is based; and
 - (c) the applicant's right of review under section 36B(1) of the Act.
- (3) Before completing a written statement referred to in subclause (1) or (2), the Service must immediately convey to the applicant its decision to issue or refuse to issue a project permit under regulation 46.
- (4) The written statement referred to in subclause (1) or (2) must then be provided to the applicant as soon as is practicable.
- (5) The Service must, at the same time as providing the written statement to the applicant,—
 - (a) give a copy of the statement to—
 - (i) the Minister; and
 - (ii) the Authority; and
 - (iii) the ministry responsible for marine resources; and
 - (iv) the ministry responsible for transport; and
 - (v) the Marae Moana Technical Advisory Group; and
 - (vi) other Crown agencies or persons that the Service considers appropriate; and

- (b) make a copy of the decision publicly available on an Internet site maintained by or on behalf of the Service.
- (6) If the permitting authority decides to issue a project permit, the Service must make publicly available, on an Internet site maintained by or on behalf of the Service, a copy of the final environmental impact statement and a summary of any information or advice received by the permitting authority under regulation 41.

52. Content and form of project permit

- (1) If the permitting authority decides to issue a project permit, the Service must—
 - (a) issue a permit in the form set out in Schedule 6; and
 - (b) specify the conditions determined by the permitting authority; and
 - (c) specify, in sufficient detail, each activity covered by the permit; and
 - (d) specify a commencement date; and
 - (e) specify the duration of the permit; and
 - (f) lodge a copy of the permit on the register.
- (2) However, the Service may modify the form as it considers appropriate in a particular case.
- (3) A project permit must include a map, plan, or other description of the geographical extent of the project area.
- (4) A project permit may be issued in electronic form.
- (5) The applicant or the permitting authority may request the Service to issue an amended permit to correct minor omissions, errors, or other defects within 20 days after the issue of the permit. The Service need not seek advice from, or the agreement of, the permitting authority before making corrections but must provide the applicant and the permitting authority with an amended permit.

53. Duration of project permit

- (1) Once issued, a permit continues in force until the end of the term of the licence to which the activity relates, unless—
 - (a) the specified activity to which the permit relates ceases; or
 - (b) it is suspended or cancelled in accordance with regulation 101; or
 - (c) otherwise specified as a condition of the permit in accordance with regulation 47; or
 - (d) it is replaced with a new permit; or
 - (e) it is renewed in accordance with regulation 62; or
 - (f) the licence to which the permit relates terminates under section 88(1) of the Seabed Minerals Act 2019.
- (2) A permit holder must comply with the requirements of the Act, these regulations, and any conditions of the permit that still apply after the permit ends.

54. Duty of project permit holder to inform Service of change in activity or new activity

- (1) A project permit holder must inform the Service of—
 - (a) any proposed changes, whether before or after the activity has started, in the nature, intensity, or scale of the activity to which the permit relates; or
 - (b) any proposed new activity not specified in the relevant permit.
- (2) If the Service considers that a proposed change or proposed new activity is a minor matter, it may issue an amended permit and need not seek advice from, or the agreement of, the permitting authority to do so.
- (3) If the Service makes any minor change to a permit under subclause (2), it must inform the permitting authority within a reasonable period of time after making such a change and provide it and the holder with a copy.
- (4) If the Service considers that a proposed change or proposed new activity is a material change or proposed new activity, it must, subject to subsection (5), refer it to the permitting authority for the authority's consideration as to whether a new project permit application under section 29 is required, or whether an amended permit can be issued without a full application.
- (5) If any material change or proposed new activity is categorised as a tier 2 activity, the holder must apply for a consent under Part 3 in respect of such a change or new proposed activity.

Subpart 8—Review of permit conditions

55. Review of permit conditions by Service

- (1) The Service may notify a holder that it intends to review or vary the conditions of the permit—
 - (a) for any purpose specified in the permit; or
 - (b) if the Service becomes aware of a material change to the nature of the activity being carried out under a licence (including under a modification to a work plan) and the change is likely to cause a substantial increase in the risk of harm to the environmental factors; or
 - (c) following an incident resulting in—
 - (i) serious harm to the marine environment; or
 - (ii) pollution of the marine environment; or
 - (d) to deal with any adverse effect on the environmental factors that arises and that—
 - (i) was not anticipated when the permit was issued; or
 - (ii) is of a scale or intensity that was not anticipated when the permit was issued; or
 - (e) if information provided by the holder in its application contained inaccuracies that materially influenced the permit decision and the effects of the exercise of the permit mean that it is necessary to apply more appropriate conditions; or
 - (f) if information becomes available to the Service that was not available to the Service or permitting authority when the permit was issued and the information shows that more appropriate conditions are necessary to deal with the effects of the exercise of the permit, including the monitoring of the effects; or

- (g) if existing conditions in the permit are inconsistent with any applicable standards and applicable guidelines, best environmental practice, or best available technology and techniques.
- (2) The notice—
 - (a) must identify the conditions to be reviewed and give reasons for the review; and
 - (b) may—
 - (i) propose new conditions; or
 - (ii) invite the holder to propose new conditions within 20 days after service of the notice.
- (3) When reviewing the conditions of a permit, the Service may have regard to—
 - (a) the manner in which the activity authorised by the permit has been undertaken; and
 - (b) whether the activity allowed by the permit will continue to be viable after the proposed change of conditions; and
 - (c) any representations made by the holder.
- (4) The Service must, subject to subclause (5), refer any proposed variation to the conditions of the permit (including adding new conditions) to the permitting authority for the authority’s consideration and determination. Regulations 47 to 49 apply, with any necessary modifications, to a review by the permitting authority under this regulation.
- (5) If the Service considers that a proposed variation is limited to minor changes to the conditions of the permit, the Service may make those minor changes. It need not seek advice from, or the agreement of, the permitting authority before doing so but must give a copy of the amended conditions to the holder and the permitting authority.
- (6) The holder may object, under regulation 110, to a decision by the permitting authority or Service to vary or not vary the conditions of a permit.
- (7) An amended permit must be recorded in the register and a copy given to the holder and the permitting authority.

56. Change or cancellation of permit conditions on application by permit holder

- (1) A permit holder may request a change to or cancel a condition of the project permit.
- (2) An application to request a change or cancel a condition must be made to the Service using the approved form.
- (3) If the Service considers that the requested change or cancellation is limited to minor matters, the Service may deal with the request. The Service need not seek advice from, or the agreement of, the permitting authority before making changes or cancelling a condition but must give a copy of the amended conditions to the permit holder and the permitting authority.
- (4) If the requested change or cancellation is not a minor matter, the Service must refer the request to the permitting authority.
- (5) Regulations 47 to 49 apply, with any necessary modifications, as if—
 - (a) the request were an application for a project permit; and

- (b) the references to a project permit and to the activity were references only to the change or cancellation of a condition and the effects of the change or cancellation respectively.
- (6) The permitting authority, within a reasonable period of time, must—
 - (a) change or cancel the condition; or
 - (b) refuse to change or cancel the condition.
- (7) If the permitting authority changes or cancels a condition, an amended permit must be recorded in the register and a copy given to the holder.
- (8) The holder may object under regulation 110 if the permitting authority or the Service refuse to change or cancel the condition of a permit as requested by the holder.

57. Service may seek information or advice from Crown agencies or approved expert and permitting authority may obtain information or advice from Service, Crown agencies, or approved expert

- (1) The Service may request information or advice from relevant Crown agencies or advice from an approved expert for the purpose of reviewing the conditions of a permit under regulation 55 or considering a change or cancellation of a condition under regulation 56.
- (2) The permitting authority may obtain information or advice from the Service (which may engage approved experts if it considers it necessary), or information or advice from relevant Crown agencies, or the advice of an approved expert (through the Service), for the purpose of considering and determining any proposed variation to conditions under regulation 55 or change or cancellation of a condition under regulation 56.
- (3) If the Service or the permitting authority obtains any information or advice under subclause (1) or (2) the Service must provide a summary to the holder within 10 days after receiving it.

Subpart 9—Renewal of project permit for tier 3 activities

58. Application for renewal of project permit for tier 3 activities and return of application if information not provided

- (1) An application for renewal of a project permit in connection with a licence must—
 - (a) be made to the Service; and
 - (b) be made at the same time as an application for a renewal of any licence under the Seabed Minerals Act 2019; and
 - (c) be made using the approved form and be submitted in the approved manner and in accordance with any applicable standards and applicable guidelines; and
 - (d) include—
 - (i) a statement on the applicant’s compliance with the conditions of the existing permit and terms of the environmental management and monitoring plan; and
 - (ii) a description of any planned changes to the activities under the licence subject to renewal; and
 - (iii) the results of monitoring under the environmental management and monitoring plan; and

- (iv) an updated environmental impact statement; and
 - (v) an updated environmental management and monitoring plan; and
 - (vi) an updated closure plan; and
 - (vii) details of the stakeholder consultation undertaken in respect of the proposed renewal before the submission of the renewal application; and
 - (e) be accompanied by the prescribed fee.
- (2) The Service may request that an applicant provide further information relating to an application.
 - (3) A request under subclause (2) must be in writing and must set out the Service's reasons for requesting further information.
 - (4) The applicant must provide the information within 10 days after receiving the request.
 - (5) However, the applicant may request further time to provide the information and, taking account of the nature and complexity of the application, provide it at a later date agreed by the Service.
 - (6) The Service must return an application without a decision or further processing if the applicant does not provide further information—
 - (a) within the time required by subclause (4); or
 - (b) by the date agreed under subclause (5).
 - (7) If, after the Service returns an application, the application is made to the Service again, the application must be treated as a new application.

59. Service may seek information or advice from Crown agencies or approved expert

- (1) The Service may request information or advice from relevant Crown agencies or advice from an approved expert for the purpose of considering an application under regulation 58.
- (2) If the Service obtains any information or advice under subclause (1) it must provide a summary to the applicant within 10 days after receiving it.

60. Service to prepare and submit report to permitting authority

- (1) The Service must prepare a report for the permitting authority providing—
 - (a) a summary of the key issues in the application for renewal identified by the Service; and
 - (b) a summary of the applicant holder's compliance with the conditions of its existing permit and terms of its environmental management and monitoring plan.
- (2) The Service must submit copies of the application and its report to the permitting authority within 30 days of receipt of the application or receipt of further information or advice under regulation 58 or 59 (whichever is the later).

61. Permitting authority's consideration of application for renewal and return of application if information not provided

- (1) The permitting authority must—
 - (a) assess and review the application and the report provided by the Service under regulation 60(2); and
 - (b) assess any further information provided by the applicant under subclause (2)(a); and

- (c) consider any advice or information obtained by the permitting authority under subclause (2)(b); and
 - (d) take account of any changes to the nature and scale of the proposed activity and any increased risk in any likely significant effects on the environmental factors; and
 - (e) take account of the applicant's compliance with the conditions of the existing permit.
- (2) Before making a decision under regulation 62, the permitting authority may, within 20 days of receipt of the application under regulation 60,—
- (a) request that an applicant provide further information relating to the application; or
 - (b) obtain advice or information from the Service (which may engage approved experts if it considers it necessary), or information or advice from relevant Crown agencies, or advice of an approved expert (through the Service), on any matter related to the application.
- (3) A request under subclause (2)(a) must be in writing and must set out the permitting authority's reasons for requesting further information.
- (4) The applicant must provide the information within 10 days after receiving the request.
- (5) However, the applicant may request further time to provide the information and, taking account of the nature and complexity of the application, provide it at a later date agreed by the permitting authority.
- (6) If the permitting authority obtains any advice or information under subclause (2)(b) it must (through the Service) provide a summary to the applicant within 10 days after receiving it.
- (7) The permitting authority must return an application without a decision or further processing if the applicant does not provide further information—
- (a) within the time required by subclause (4); or
 - (b) by the date agreed under subclause (5).
- (8) If, after the permitting authority returns an application under subclause (7), the application is made to the Service again, the application must be treated as a new application.

62. Permitting authority's decision on application for renewal

- (1) The permitting authority must, after complying with regulation 61(1) and within 60 days of receipt of the application under regulation 60(2) or the receipt of further information or advice under regulation 61(2)(a) or (b) (whichever is the later), decide to—
- (a) approve the application for renewal; or
 - (b) where there are reasonable grounds to do so, refuse to approve the application for renewal.
- (2) The permitting authority may renew the permit on the same conditions or renew the permit subject to amended or new conditions.
- (3) The permitting authority may, subject to subclause (4), approve an application for renewal if—
- (a) the effects of the activity proposed in the application are of the same or similar character, intensity, and scale as the effects under the existing permit and the same licensed area; and

- (b) the applicant has complied in all material respects with the conditions of the existing permit.
- (4) If the applicant has not complied in all material respects with the conditions of the existing permit, the permitting authority may refuse to renew the permit or may renew the permit subject to any conditions it considers appropriate.
- (5) The permitting authority's decision must be in writing and include a statement of the main reasons for the decision, including reasons for any amended or new conditions.
- (6) The Service must provide a copy of the permitting authority's decision to the applicant and place a copy of the decision on an Internet site maintained by or on behalf of the Service.
- (7) The applicant may object under regulation 110 if the permitting authority refuses to approve the application for renewal.

63. Duration of renewal

If an application for the renewal of a permit is approved by the permitting authority, the term of the renewal must not exceed the renewal period approved under section 86(5) of the Seabed Minerals Act 2019 in respect of the relevant licence.

64. Period between expiry of permit and renewal of permit

If a renewal is granted after the expiry date of the initial term of a permit, the permit is to be treated as having continued in force during the period between the expiry of the permit and the date the renewal is granted.

65. Transfer of permit

- (1) If a licence is transferred under the conditions of section 102 of the Seabed Minerals Act 2019 and any regulations under that Act, a permit holder may request that the relevant permit is also transferred to the transferee.
- (2) If the conditions specified by subclause (1) are satisfied, the Service must—
 - (a) cancel the existing permit; and
 - (b) issue a new permit in the name of the transferee on the same conditions and for the same period as the cancelled permit; and
 - (c) register the new permit in the register; and
 - (d) provide a copy of the new permit to the transferee.
- (3) To avoid doubt, a permit may not be transferred to apply to another project area.

Part 5

Environmental assessment

Subpart 1—Environmental impact assessment

66. Environmental impact assessment

- (1) If an activity requires an environmental impact assessment under the Act or regulations, an applicant must undertake an environmental impact assessment.
- (2) The purposes of the environmental impact assessment are to—
 - (a) identify, predict, and evaluate the effects and risks of the proposed activity on the marine environment; and

- (b) identify appropriate measures to avoid the effects and risks referred to in paragraph (a) on the environmental factors or identify measures to mitigate the effects to within acceptable levels.
- (3) Before undertaking an environmental impact assessment, an applicant must, taking account of any applicable standards and applicable guidelines,—
- (a) conduct a scoping exercise; and
 - (b) prepare a draft scoping report; and
 - (c) undertake stakeholder consultation on the draft scoping report; and
 - (d) submit the scoping report and results of stakeholder consultation to the Service for its review and comments.
- (4) An environmental impact assessment must—
- (a) be based on the scoping report; and
 - (b) include an environmental risk assessment; and
 - (c) be informed by the baseline data surveys; and
 - (d) be conducted in accordance with any applicable standards and applicable guidelines, best available scientific evidence, best environmental practices, and best available technology and techniques; and
 - (e) include—
 - (i) an impact analysis to describe and predict the nature and extent of the effects that the proposed activity may have on the environmental factors; and
 - (ii) an analysis identifying measures to manage the relevant effects and risks of the proposed activity, which will inform the preparation of the environmental management and monitoring plan and closure plan; and
 - (iii) an assessment of data quality and integrity, gaps or deficiencies in knowledge, and any other uncertainties regarding anticipated impacts and identified mitigation measures, and an analysis of methods to address those gaps, deficiencies, or uncertainties; and
 - (iv) a stakeholder consultation process undertaken under the local engagement, training, and business development plan annexed to the relevant licence.
- (5) The results of an environmental impact assessment must be documented in an environmental impact statement under regulation 67.

Subpart 2—Environmental impact statement

67. Environmental impact statement

An environmental impact statement must be in the form specified by the Service and must—

- (a) include an environmental risk assessment; and
- (b) be based on the results of the environmental impact assessment; and
- (c) be in accordance with the environmental management objectives established by the Service and relevant to each environmental factor; and
- (d) be prepared in accordance with and include the information in Schedule 7.

68. Availability of information held by Service or other government departments or agencies

- (1) An applicant may request that the Service provide to the applicant any environmental information in its possession (or in the possession of other Crown agencies or relevant regional bodies or organisations) that may be relevant to the preparation of the environmental impact statement.
- (2) Subject to subclauses (3) and (4), the Service or other Crown agencies must make such information available if the applicant so requests.
- (3) Subclause (2) does not require the disclosure of information prohibited by section 18 of the Seabed Minerals Act 2019.
- (4) The Service may, as a condition of providing the information, impose a charge reflecting the cost of identifying, retrieving, preparing, and copying the information.
- (5) An applicant must clearly identify in its environmental impact statement any information supplied under this regulation that it relies on in preparing the statement.

Subpart 3—Modification of activities

69. Modification of activities under work plan

- (1) If a proposed modification to the licensed activities under a work plan constitutes a material change to the environmental impact statement upon which a permit decision was based, the holder must, before making any changes to the licensed activities,—
 - (a) undertake an environmental impact assessment of the proposed modification; and
 - (b) prepare an environmental impact statement for the proposed modification in accordance with regulation 67; and
 - (c) submit the environmental impact statement to the Service.
- (2) Regulations 28 to 54 apply, with all necessary modifications, to the proposed modification to the environmental impact statement contemplated by subclause (1) as if—
 - (a) an application was being made for a project permit; and
 - (b) the holder was the applicant for the project permit.
- (3) The permitting authority may, following its consideration of the proposed modification, vary the conditions of the permit.
- (4) The Service must record any variation to the conditions of the permit in the register.

Part 6

Environmental management and monitoring plan

Subpart 1—Purpose of environmental management and monitoring plan

70. Purpose of environmental management and monitoring plan

The purpose of an environmental management and monitoring plan is to ensure that all tier 3 activities in a project area are carried out in accordance with a plan that—

- (a) demonstrates that the effects on the environmental factors will be appropriately managed and kept to an acceptable level; and
- (b) demonstrates that the risks of the activity are reduced to as low as is reasonably practicable; and
- (c) includes appropriate environmental performance objectives and outcomes that comply with these regulations and any applicable standards and applicable guidelines; and
- (d) includes appropriate measurement criteria to determine whether the objectives and outcomes are being met and are compliant with any applicable standards and applicable guidelines; and
- (e) incorporates and implements relevant conditions of the project permit, as may be amended under these regulations; and
- (f) sets out the procedures on—
 - (i) how the measures to manage the effects and risks will be implemented; and
 - (ii) how the effectiveness of the measures will be monitored; and
 - (iii) the management responses to the monitoring results; and
 - (iv) what reporting systems will be adopted and followed; and
 - (v) continual improvement.

Subpart 2—Submission and content of environmental management and monitoring plan

71. Submission of environmental management and monitoring plan

- (1) An environmental management and monitoring plan—
 - (a) must follow the approved form set out by the Service in any applicable standards and applicable guidelines for the preparation of environmental management and monitoring plans; and
 - (b) must be submitted in accordance with the conditions of the relevant project permit and before commencing the activities to which the permit relates; and
 - (c) may relate to activities in one or more identified locations specified in the project permit.
- (2) A plan may be submitted to the Service only after the holder has carried out appropriate stakeholder consultation in relation to the plan.

72. Content of environmental management and monitoring plan

- The environmental management and monitoring plan must—
- (a) take into account the environmental impact statement; and
 - (b) be consistent with the closure plan and incident response and management plan; and
 - (c) be accompanied by certificates issued by independent accreditation or verification agencies relating to systems or equipment; and
 - (d) be prepared in accordance with and include the information in Schedule 8.

Subpart 3—Acceptance of environmental management and monitoring plan

73. Criteria for acceptance of environmental management and monitoring plan

The criteria for acceptance of an environmental management and monitoring plan submitted under regulation 47(3)(f) are that the plan—

- (a) is based on the environmental impact statement or revised statement; and
- (b) includes all the information and meets all the requirements of regulations 71 and 72; and
- (c) is appropriate for the nature and scale of the activity; and
- (d) demonstrates that the activity will be carried out in a manner that reduces the effects on the environmental factors and risks of the activity to a level that is—
 - (i) as low as is reasonably practicable; and
 - (ii) an acceptable level; and
- (e) provides for appropriate environmental performance outcomes, environmental performance standards, and measurement criteria; and
- (f) includes appropriate control measures and monitoring, recording, and reporting arrangements; and
- (g) demonstrates that there has been an appropriate level of stakeholder consultation before the submission of the plan and that stakeholder comments have been considered and, where applicable, incorporated into the plan.

74. Decision on acceptance of environmental management and monitoring plan and return of plan if modified plan not provided

- (1) Within 60 days after a holder submits an environmental management and monitoring plan, the permitting authority, taking account of any advice or information obtained from the Service (which may engage approved experts if it considers it necessary), or information or advice from relevant Crown agencies, or the advice of an approved expert (through the Service),—
 - (a) must accept the plan if the permitting authority is satisfied that the plan meets the criteria set out in regulation 73; or
 - (b) if the permitting authority is not satisfied that the plan meets the criteria set out in regulation 73, must give the holder an opportunity to modify and resubmit the plan.
- (2) The Service must give the holder written notice of the decision made under subclause (1) as soon as practicable.
- (3) If a decision is made under subclause (1)(b), the notice of decision must include—
 - (a) details of the criteria set out in regulation 73 about which the permitting authority is not satisfied; and
 - (b) a date by which the holder may resubmit the plan, which may be extended, taking into account the nature and complexity of the plan, by agreement with the permitting authority.
- (4) The permitting authority must return a plan without a decision or further processing if the applicant does not provide a modified plan within the time required by or the date agreed under subclause (3)(b).
- (5) If, after the permitting authority returns a plan, the plan is resubmitted to the Service again, the submission of the plan must be treated as a new submission.
- (6) Within 30 days after the holder has resubmitted any modified environmental management and monitoring plan, the permitting authority, taking account of

any advice of or information obtained from the Service (which may engage approved experts if it considers it necessary), or information or advice from relevant Crown agencies, or the advice of an approved expert (through the Service),—

- (a) must accept the plan if it is satisfied that the modified plan meets the criteria set out in regulation 73; or
 - (b) must refuse to accept the plan if it is still not satisfied that the plan meets the criteria set out in regulation 73.
- (7) Despite subclauses (1)(b) and (6)(b), the permitting authority may—
- (a) accept the plan in part for a particular stage of the activity; or
 - (b) accept the plan subject to the imposition of limitations or conditions applying to the activity.
- (8) Within 10 days after receiving a notification from the Service that the permitting authority has accepted an environmental management and monitoring plan, the holder must submit to the Service a revised non-technical summary of the plan which the Service must make publicly available on an Internet site maintained by or on behalf of the Service.
- (9) To avoid doubt, the permitting authority may refuse to accept a plan under subclause (6)(b) if it considers that it does not have adequate information to determine whether the plan meets the criteria.
- (10) If the permitting authority receives advice under this regulation it must give a summary to the holder within 10 days of receiving it.
- (11) The holder may object under regulation 110 if the permitting authority refuses to accept an environmental management and monitoring plan under subclause (6)(b).

Subpart 4—Performance assessments of environmental management and monitoring plan

75. Performance assessments

- (1) The holder must undertake the measures in subclause (2) to ensure—
 - (a) the continued appropriateness and adequacy of an environmental management and monitoring plan; and
 - (b) that the environmental performance outcomes and environmental performance standards in the environment plan are being met.
- (2) The measures are—
 - (a) conducting performance assessments of the environmental management and monitoring plan; and
 - (b) compiling and submitting a performance assessment to the Service in which compliance with subclause (1) is demonstrated.
- (3) The frequency of performance assessment reporting must be—
 - (a) in accordance with the period specified in the accepted plan or condition of the project permit; or
 - (b) at least every 2 years.
- (4) The performance assessment report must be in the format required by any applicable standards and applicable guidelines and must include—
 - (a) information regarding the period applicable to the assessment; and
 - (b) the scope of the assessment; and

- (c) the procedure used for the assessment; and
 - (d) the evaluation criteria used during the assessment; and
 - (e) the results of the assessment; and
 - (f) recommendations on how and when any non-compliance and deficiencies will be rectified.
- (5) The holder must appoint a competent person to conduct the assessment and compile the report.
- (6) If the Service determines that the performance assessment conducted is inadequate or the report submitted is unacceptable, including because the holder has not demonstrated continual improvement in performance, the Service may—
- (a) require the holder to repeat the whole or relevant part of the performance assessment and submit a revised report; or
 - (b) require the holder to submit any supporting information requested by the Service; or
 - (c) appoint an approved expert to conduct the whole or part of the performance assessment and to compile a report at the holder's expense.
- (7) If the Service concludes from the performance assessment that a holder has failed to comply with any term of the plan, or that the plan is considered inadequate in any material respect, the Service must—
- (a) consider taking action under regulation 80; or
 - (b) require the holder to submit a performance improvement plan in the approved form for the Service to consider; or
 - (c) require the holder to deliver a revised environmental management and monitoring plan.

Subpart 5—Revision of environmental management and monitoring plan

76. Revision for material change or new or increased effect or risk

- (1) If a holder becomes aware that any of the circumstances listed in subclause (2) are not provided for in the environmental management and monitoring plan, it must notify the Service within 5 days of doing so.
- (2) The circumstances that must be notified to the Service are—
- (a) any material change in an existing activity under a work plan;
 - (b) any likely new significant effect or risk;
 - (c) any significant increase in an existing effect or risk.
- (3) The notice to the Service must include—
- (a) a full description of the relevant circumstances listed in subclause (2); and
 - (b) the likely effect on or risk to the environmental factors (for each circumstance if more than 1 apply); and
 - (c) any proposed revision to the environmental management and monitoring plan (for each circumstance if more than 1 apply).
- (4) Within 20 days after receiving any notification under subclause (1), the Service must assess the information provided by the holder and determine whether a revision to the environmental management and monitoring plan is required.
- (5) If the Service considers a revision is required, it must provide the holder with the following information:
- (a) the matters to be addressed by the revision:

- (b) notice of a reasonable period of time, taking into account the nature and complexity of the plan, within which the revision must be submitted.
- (6) The Service may obtain advice from relevant Crown agencies or approved experts if it considers this is necessary to assist it to revise the plan. If it does so, it must give a summary of the advice to the holder within 10 days of receiving it.

77. Form of proposed revision

A proposed revision under regulation 75(7)(c) or 76 must be in the form of a revised environmental management and monitoring plan or revised part of an environmental management and monitoring plan.

78. Criteria for and decision on acceptance of revised environmental management and monitoring plan

Regulations 73 and 74 apply to the proposed revision as if—

- (a) a reference in those regulations to the submission, acceptance, or nonacceptance of an environmental management and monitoring plan were a reference to the submission, acceptance, or nonacceptance of the proposed revision; and
- (b) any other reference in those regulations to the environmental management and monitoring plan were a reference to the plan as revised by the proposed revision.

Subpart 6—Annual compliance report

79. Annual compliance report

- (1) Within 90 days after the end of a calendar year, a holder must submit an annual compliance report to the Service to report on the holder's compliance with the conditions of their project permit and environmental management and monitoring plan.
- (2) The report must be prepared in the approved format as required by any applicable standards and applicable guidelines.
- (3) The Service must review the statements made in the report in order to be satisfied that—
 - (a) the impacts of any instances of non-compliance connected to environmental performance outcomes or environmental performance standards have been appropriately addressed; and
 - (b) the cause or suspected cause of the non-compliance has been identified; and
 - (c) the actions taken to mitigate any adverse effects and prevent recurrence of the non-compliance are reasonable and appropriate in the circumstances.
- (4) If the Service is not satisfied with any statements made in the report relating to the matters contemplated by subclause (3), the Service must request further information from the holder or require the holder to submit an amended report.
- (5) A request under subclause (4) must be in writing and must set out the permitting authority's reasons for its request.
- (6) The holder must provide the information or submit an amended report within 10 days of receipt of the request or a later date agreed by the Service.
- (7) The Service must make a copy of the annual compliance report available on an Internet site maintained by or on behalf of the Service.

Subpart 7—Withdrawal of acceptance of environmental management and monitoring plan

80. Withdrawal of acceptance of environmental management and monitoring plan

- (1) The permitting authority may, by written notice given to the holder, based on the recommendations of the Service, withdraw the acceptance of an environmental management and monitoring plan for an activity on any of the following grounds:
 - (a) that the holder has not complied with—
 - (i) a provision of the Act relating to environmental requirements; or
 - (ii) a direction under section 112 of the Seabed Minerals Act 2019:
 - (b) that the holder has not complied with regulation 75(7), 76, 79(1), 82, 83, 85 or 86:
 - (c) that the holder has not complied with a condition imposed under regulation 74(7)(b):
 - (d) that the permitting authority has refused to accept a proposed revision of the environmental management and monitoring plan.
- (2) A notice under subclause (1) must set out the reasons for the decision.
- (3) The Service must publish a copy of any notice on an Internet site maintained by or on behalf of it.

81. Steps to be taken before withdrawal of acceptance

- (1) The permitting authority must comply with subclauses (2), (3), (5), and (6) before withdrawing the approval of an environmental management and monitoring plan for an activity.
- (2) The permitting authority must give the holder at least 30 days written notice of the permitting authority's intention to withdraw acceptance of the plan.
- (3) The notice must set out the grounds for withdrawal of the acceptance.
- (4) The Service must give a copy of the notice to relevant government departments and agencies, including the Authority.
- (5) The permitting authority must specify in the notice a day (the **specified day**) on or before which the holder (or any person to whom a copy of the notice has been given) may submit to the Service, in writing, any matters for the permitting authority to take into account.
- (6) The permitting authority must take into account—
 - (a) any action taken by the holder to remove the ground for withdrawal of acceptance or to prevent the recurrence of that ground; and
 - (b) any matter submitted by the holder to the Service before the specified day; and
 - (c) any advice or information from the Service.

Subpart 8—Reportable events

82. Notifying reportable events

- (1) The holder must notify a reportable event in accordance with the environmental management and monitoring plan and this regulation.
- (2) The notification—

- (a) must be given to the Service as soon as practicable, and in any case within 24 hours after—
 - (i) the first occurrence of the reportable event; or
 - (ii) if the reportable event is not detected by the holder at the time of the first occurrence, the time the holder becomes aware of the reportable event; and
 - (b) may be oral or in writing; and
 - (c) must specify—
 - (i) all material facts and circumstances concerning the reportable event; and
 - (ii) any action taken to avoid or mitigate any adverse effects of the reportable event.
- (3) A holder commits an offence if it does not give the Service notice of a reportable event in accordance with this regulation.
- (4) A holder that commits an offence under subclause (3) is liable on conviction to a fine not exceeding \$50,000.

83. Written report of reportable events

- (1) The holder must submit a written report of a reportable event in accordance with this regulation.
- (2) The report—
- (a) must be submitted to the Service as soon as practicable, and in any case within 7 days after the first occurrence of the reportable event; and
 - (b) must specify—
 - (i) all material facts and circumstances concerning the reportable event; and
 - (ii) any action taken to avoid or mitigate any adverse effects of the reportable event; and
 - (iii) any action taken, or proposed to be taken, to prevent a similar reportable event.
- (3) The Service must publish a copy of the written report on an Internet site maintained by or on behalf of the Service.
- (4) A holder commits an offence if the holder does not give the Service a written report about a reportable event in accordance with this regulation.
- (5) A holder that commits an offence under subclause (4) is liable on conviction to a fine not exceeding \$50,000.

Subpart 9—Offences under Part 6

84. Accepted environmental management and monitoring plan required for tier 3 activity

- (1) A holder commits an offence if—
- (a) the holder carries out a tier 3 activity; and
 - (b) there is no accepted environmental management and monitoring plan for that activity.
- (2) A holder that commits an offence under subclause (1) is liable on conviction to a fine not exceeding \$50,000.

- 85. Activity must comply with accepted environmental management and monitoring plan**
- (1) A holder commits an offence if, without reasonable excuse, it carries out an activity in a way that is contrary to—
 - (a) the accepted environmental management and monitoring plan; or
 - (b) any limitation or condition applying to the activity under the plan or project permit.
 - (2) A holder that commits an offence under subclause (1) is liable on conviction to a fine not exceeding \$50,000.
- 86. Activity must not continue if significant new or increased environmental impact or environmental risk identified**
- (1) A holder commits an offence if, without reasonable excuse,—
 - (a) it carries out an activity after the occurrence of—
 - (i) any significant new environmental impact or environmental risk arising from the activity; or
 - (ii) a significant increase in any existing environmental impact or environmental risk arising from the activity; and
 - (b) the new impact or risk, or increase in the impact or risk, is not provided for in the environmental management and monitoring plan for the activity.
 - (2) A holder that commits an offence under subclause (1) is liable on conviction to a fine not exceeding \$50,000.
 - (3) Subclause (1) does not apply in relation to an activity if the holder submits a proposed revision of the environmental management and monitoring plan in force for the activity and the permitting authority has not refused to accept the revision.

Part 7

Closure plans

Subpart 1—Principles for closure and content of closure plan

- 87. Principles for mine closure**
- (1) A closure plan sets out the responsibilities and actions of a holder for the decommissioning and closure of activities (including the temporary suspension of activities) in the project area, including rehabilitation (to the extent feasible) and the monitoring and management of residual significant effects.
 - (2) In accordance with the requirements of a closure plan, a holder must ensure that—
 - (a) the closure of the mining operation incorporates a process that starts at the commencement of the project and continues throughout the life cycle of the operation in accordance with good industry practice, best environmental practice, and best available technology and techniques and is based on best available scientific evidence; and
 - (b) the risks relating to the effects are quantified and managed, including the gathering of information relevant to closure throughout the life cycle of the mining operation; and
 - (c) residual negative significant risks are identified and quantified; and

- (d) rehabilitation commitments (where feasible) are fulfilled in accordance with predetermined criteria or standards; and
 - (e) at the date when mining activities cease or are suspended, an environmental management programme is in place for the period specified in the closure plan; and
 - (f) the mining operation is closed efficiently and cost-effectively; and
 - (g) appropriate stakeholder consultation has been undertaken in the development of the closure plan.
- (3) A holder must maintain the currency and adequacy of a closure plan.
- (4) A closure plan must—
- (a) be reviewed annually by the holder; and
 - (b) be updated each time there is a material change in the relevant work plan; and
 - (c) be made available to the Service; and
 - (d) be finalised in accordance with regulation 89.

88. Content of closure plan

- (1) A closure plan must—
- (a) be prepared in accordance with any applicable standards and applicable guidelines and in the approved form; and
 - (b) be prepared by competent persons; and
 - (c) include the information set out in Schedule 9.
- (2) The level of detail and extent of content in a closure plan should reflect the nature, extent, and duration of activities associated with the level of closure, as well as the maturity of the project at the point of its preparation or revision.

Subpart 2—Final closure plan and post-closure management

89. Final closure: cessation of activities

- (1) A holder must, at least 12 months before the planned end of commercial production under a work plan, or as soon as is reasonably practicable in the case of any other cessation of activities, submit a final closure plan to the Service for acceptance by the permitting authority.
- (2) The permitting authority may obtain advice or information from the Service (which may engage approved experts if it considers it necessary), or information or advice from relevant Crown agencies, or advice from an approved expert (through the Service), to assist with the permitting authority's assessment of the final closure plan.
- (3) If the permitting authority obtains any advice or information under subclause (2) it must provide a summary to the applicant (through the Service) within 10 days after receiving it.
- (4) If the permitting authority determines that the final closure plan meets the requirements of regulations 87 and 88, it may accept the final closure plan.
- (5) If the permitting authority determines that the final closure plan does not meet the requirements of regulations 87 and 88, the permitting authority must request the holder to make the necessary amendments to the final closure plan. The permitting authority may do so more than once until it is satisfied that the plan meets the requirements of regulations 87 and 88.

- (6) The permitting authority must give the holder written notice of its decision under subclause (5) and provide the holder with the opportunity to make representations or to submit a revised final closure plan for the authority's consideration within 30 days of the date of the request.
- (7) The permitting authority must consider any such representations made and the revised final closure plan submitted by the holder, together with any advice or information from the Service about those representations or that plan.
- (8) At the same time, the permitting authority must review the amount of the environmental bond provided or to be retained by the Service under regulation 48.
- (9) A final closure plan may be submitted to the Service only after the holder has carried out appropriate stakeholder consultation in relation to the final closure plan.

90. Post-closure monitoring and management of residual significant effects

- (1) A holder must implement the final closure plan in accordance with the conditions of its implementation and must report to the Service on the progress of the implementation, including the results of monitoring under subclause (2), as set out in the final closure plan.
- (2) The holder must continue to monitor after the cessation of activities for the period specified in the final closure plan.
- (3) The holder must conduct a final performance assessment and submit a final performance assessment report in accordance with any applicable standards and applicable guidelines to the Service for review to ensure the following:
 - (a) the closure objectives described in the final closure plan have been met;
 - (b) all residual significant adverse effects resulting from the activities have been identified and quantified;
 - (c) arrangements are in place for the post-closure monitoring and management of the marine environment and reporting about that monitoring and management, as set out in the final closure plan;
 - (d) any rehabilitation commitments have been fulfilled in accordance with predetermined criteria or standards;
 - (e) any environmental bond has been reviewed, updated and is in a form acceptable to the permitting authority.
- (4) To avoid doubt, the obligation to monitor and manage the residual significant effects of the activities for the period specified in the final closure plan survives the expiry, lapsing, or cancellation of a licence or project permit.

Part 8

Duty to co-operate

91. Duty to co-operate and disseminate environmental information

- (1) Holders must co-operate with the Service, the Authority, and, where applicable, other holders—
 - (a) to establish and implement programmes to observe, measure, evaluate, and analyse the impacts and effects of activities on the marine environment and the environmental factors; and
 - (b) to share the findings and results of the programmes with the Service and the Authority for wider dissemination; and

- (c) to contribute to the progressive development of best environmental practice and best available technology and techniques in connection with the activities (including technology for the monitoring of benthic habitats and the water column); and
 - (d) to support the development of industry codes of practice in relation to pollution prevention or that specify procedures, practices, or discharge limits for environmental control relating to the activity.
- (2) The Service, the Authority, and holders must co-operate with each other, as well as with national and international scientific research and technology development agencies and relevant international organisations, with a view to—
- (a) sharing, exchanging, and assessing environmental information for the exclusive economic zone; and
 - (b) identifying gaps in scientific knowledge and developing targeted and focused research programmes to address such gaps; and
 - (c) collaborating with the scientific community to identify and develop best environmental practice and improve existing standards and protocols with regard to the collection, sampling, standardisation, assessment, and management of data and information; and
 - (d) undertaking educational awareness programmes for the Cook Islands community relating to activities in the exclusive economic zone; and
 - (e) promoting the advancement of marine scientific research in the marae moana for the benefit of current and future generations of Cook Islanders; and
 - (f) developing incentive structures, including market-based instruments, to support and enhance the environmental performance of holders beyond the legal requirements including through technology development and innovation; and
 - (g) promoting the transfer of technology and capacity enhancement of Cook Islanders including environmental assessment techniques.

Part 9

Applicable standards and applicable guidelines

92. Applicable standards

- (1) The Minister may, based on the recommendations of the Service, approve applicable standards relating to the environmental assessment, and management and monitoring of activities, including standards relating to—
- (a) the collection of baseline data; and
 - (b) environmental performance outcomes and standards; and
 - (c) monitoring.
- (2) Applicable standards may include—
- (a) environmental standards specifying recommendations in quantitative or qualitative terms to support and maintain particular uses of the marine environment; and
 - (b) environmental quality standards for the activities, including limits or thresholds expressed as concentrations or quantities; and
 - (c) requirements in relation to methods, processes, or technology to implement standards; and

- (d) other technical standards.
- (3) When recommending or approving applicable standards the Service or the Minister must take into account prevailing international standards and recommended practices for the same or similar activity.
- (4) The Service must publish copies of approved applicable standards and applicable guidelines (issued under regulation 93) on an Internet site maintained by or on behalf of the Service.

93. Applicable guidelines

The Service may, from time to time, issue applicable guidelines of a technical or administrative nature to help support the implementation of the Act, regulations, applicable standards, and requirements under a licence.

94. Process for developing or amending applicable standards and applicable guidelines

Before making any recommendations to the Minister under regulation 92 for approval of applicable standards, or issuing applicable guidelines under regulation 93, the Service must—

- (a) consult with approved experts in the field on the content of the proposed standard or guideline; and
- (b) consult with persons who are likely to be directly affected by the standard or guideline; and
- (c) consider the relevant guidelines or recommendations issued by the International Seabed Authority as representing internationally agreed standards and recommended practices and procedures; and
- (d) publish a copy of the draft standard or guideline on an Internet site maintained by or on behalf of the Service.

95. Compliance with applicable guidelines

- (1) If a holder uses an applicable guideline (without any variation), they can rely on having done so as complying with a relevant requirement under these regulations but only to the extent the guideline applies to the requirement.
- (2) If a holder uses a solution other than as recommended in an applicable guideline, the holder must, if required, document how the chosen solution is at least at an equivalent level of effectiveness to the relevant guideline and how it fulfils the regulatory requirements.
- (3) Existing documentation, including certificates issued by independent verification agencies, may be used as a basis to document compliance with requirements in, or made under, these regulations.

96. Incorporation of standards and guidelines by reference

Standards or guidelines may be incorporated by reference into these regulations or the conditions of a consent or project permit and may include—

- (a) standards or guidance documents of international, regional, or national organisations, including the International Seabed Authority, with or without modification; and
- (b) standards or guidance documents of any State or regional jurisdiction, with or without modification; and
- (c) applicable standards and applicable guidelines.

Part 10

Method for determining prescribed fees

97. Application of this Part to determining fees

This Part applies if the Service determines fees under the Act or these regulations.

98. Method for determining fees

- (1) The Service must, when determining fees, take all reasonable steps to recover from an applicant or holder, for relevant expenses, the actual and reasonable costs incurred by the Service or permitting authority in relation to the processing of an application for a consent or project permit, as well as the administration and supervision of a consent granted or project permit issued.
- (2) If the Service considers that it is appropriate to do so, it may—
 - (a) require the applicant to make a reasonable advance payment against the relevant expenses assessed under this regulation; and
 - (b) determine the balance of the amount payable after carrying out the work necessary to process an application or provide assistance in accordance with the regulations; and
 - (c) require the applicant to pay the balance before the notification of the decision of an application.
- (3) Any fees or other amounts prescribed under these regulations or as a condition of a consent or project permit are non-refundable.
- (4) In subclause (1), **relevant expenses** means administrative and other expenses that the Service and permitting authority reasonably incur under these regulations relating to the following functions and services:
 - (a) providing assistance to an applicant in the preparation of an application for a consent or project permit, or any renewal of these; and
 - (b) receiving, processing, or deciding an application; and
 - (c) administering or supervising a consent or project permit; and
 - (d) gathering and processing information required under these regulations or the conditions of a consent or project permit; and
 - (e) reviewing the conditions of a consent or project permit; and
 - (f) contracting approved experts; and
 - (g) any independent examinations and tests that may be carried out by the Service relating to any of the matters in paragraphs (a) to (f).

Part 11

Monitoring, compliance, and enforcement

99. Service to monitor activities

- (1) The Service must monitor activities to determine whether the activities are being undertaken in accordance with the obligations imposed by the Act, these regulations and the conditions of a consent or project permit.
- (2) The Service may commission an independent review by an approved expert of the results and interpretation of a holder's monitoring programme.
- (3) The Service must publish the results of any review conducted under subclause (2) or reports prepared by the Service in relation to the results of monitoring on an Internet site maintained by or on behalf of the Service.

100. Costs incurred in monitoring

The Service may impose a condition on a holder in respect of actual and reasonable costs incurred in—

- (a) monitoring the holder's implementation of the conditions of a consent or project permit; and
- (b) reviewing the information and results of the monitoring measures conducted under a consent or project permit.

101. Permitting authority's power to suspend or cancel project permits or consents

- (1) The permitting authority may cancel or suspend any consent or permit if the holder of the consent or permit—
 - (a) breaches any material condition of the consent or permit; or
 - (b) has failed to submit required information or a report, or has submitted information in connection with any matter required to be submitted under the Act or these regulations that is inaccurate, incorrect, misleading, or false in a material particular or fails to disclose any material particular.
- (2) The permitting authority must obtain the advice of or information from the Service (which may engage approved experts if it considers it necessary), and may obtain information or advice from relevant Crown agencies or advice from an approved expert (through the Service), relating to the grounds for any cancellation or suspension under subclause (1).
- (3) Subject to subclause (2), before acting under subclause (1), the permitting authority must—
 - (a) give written notice to the holder indicating that it is considering suspending or cancelling the consent or permit; and
 - (b) set out the reasons why the permitting authority is considering suspending or cancelling the consent or permit; and
 - (c) give the holder a reasonable time, not exceeding 20 days, to show why the consent or permit should not be suspended or cancelled; and
 - (d) consult the Authority as to any administrative action that the Authority may consider taking against the licence holder under sections 116 or 117 of the Seabed Minerals Act 2019.
- (4) The permitting authority may—
 - (a) direct the holder to take specified measures to remedy any contravention, breach, or failure; or
 - (b) request the Authority to issue a direction under section 112 of the Seabed Minerals Act 2019, including that the holder must stop the activity and comply with the instructions of the Authority relating to stopping the activity.
- (5) The permitting authority may, by written notice to the holder, lift a suspension under subclause (1) if the holder—
 - (a) complies with a direction given under subclause (4) and the contravention, breach, or failure is remedied; or
 - (b) provides reasonable grounds for the lifting of the suspension.

Part 12 Administration

Subpart 1—List of approved experts

102. Service must keep list of approved experts

- (1) The Service must keep a list of approved experts whom the Service considers are qualified to provide expert advice under these regulations and may add or remove persons from the list at the Service’s absolute discretion.
- (2) The list—
 - (a) must be kept in an electronic format; and
 - (b) must be accessible by the public on an Internet site maintained by or on behalf of the Service.

Subpart 2—Public access to environmental information

103. Duty to make environmental information available

- (1) The Service, in conjunction with the Authority, must make environmental information available on an Internet site maintained by or on behalf of the Service.
- (2) Subclause (1) does not allow information to be made available that must not be publicly disclosed under regulation 104(1).

104. Protection of confidential information

- (1) The Service, in consultation with the Authority, must ensure in the course of any proceedings or consultations under these regulations that any confidential information (under section 18 of the Seabed Minerals Act 2019) is not publicly disclosed or published.
- (2) However, confidential information may be disclosed to the staff of the Service, members of the permitting authority, and other Crown agencies in the performance of their functions under the Act and these regulations provided that the person to whom the information is to be disclosed—
 - (a) requires the information to effectively perform their function; and
 - (b) takes necessary steps to protect the confidentiality of the information; and
 - (c) does not disclose or use any of the confidential information (even after the termination of their functions); and
 - (d) makes a written declaration witnessed by the Director to the effect that the person authorised to access the information—
 - (i) acknowledges their legal obligation under section 18 of the Seabed Minerals Act 2019 with respect to the non-disclosure of information; and
 - (ii) agrees to comply with the applicable procedures established to ensure the confidentiality of such information; and
 - (iii) will use the data for the purpose for which it was disclosed or, if no purpose was stated, for the effective administration of the Act.

Subpart 3—Reporting of environmental and safety concerns

- 105. Confidential reporting of environmental concerns**
- (1) A holder must communicate to the persons specified in subclause (2) the details of arrangements made by the Service or the Authority for—
- (a) the confidential reporting of environmental and safety concerns relating to the conduct of the activity; and
 - (b) the investigation of such concerns while maintaining the anonymity of individuals in connection with the confidential reporting of those concerns.
- (2) The persons are—
- (a) employees of the holder; and
 - (b) associates or affiliates of the holder; and
 - (c) employees of the persons referred to in paragraph (b).
- (3) A holder must provide information about the confidential reporting mentioned in subclause (1)(a) (including that concerns can be raised anonymously) in relevant training and notices for staff.

Subpart 4—Applicable documents

- 106. Documents to be in English language**
- Any document to be provided to the Service or permitting authority under the Act and these regulations must be provided in the English language or be accompanied by a certified English translation.
- 107. Approved manner of making an application under these regulations**
- Any application made under these regulations must be submitted—
- (a) to the address specified by the Service on an Internet site maintained by or on behalf of the Service; and
 - (b) as 1 hard copy original of the application, including the approved form, and of each annex, attachment, or other enclosure, verified and signed by an authorised officer of the applicant; and
 - (c) as 2 additional hard copies of the original of the application and each annex, attachment, or other enclosure; and
 - (d) as 1 electronic copy, if the application and all text enclosures are in a full text searchable format.

Subpart 5—Service of documents

- 108. Service of documents**
- (1) The Service may serve a notice or other document on a person for the purposes of the Act and these regulations—
- (a) by—
 - (i) sending it to the electronic address or addresses specified in the licence; or
 - (ii) delivering it to the business or registered office of the licence holder in the Cook Islands as specified in the licence; and
 - (b) requesting confirmation of receipt of the notice or other document.
- (2) A licence holder may serve or submit a notice or other document on or to the Service for the purposes of the Act and these regulations—
- (a) by—

- (i) sending it to the electronic address or addresses specified in the consent or permit; or
 - (ii) delivering it to the Service's principal place of business in the Cook Islands as specified in the licence; and
- (b) requesting confirmation of receipt of the notice or other document.
- (3) A notice or document is deemed to have been served or submitted at the point of delivery if delivered by hand and, if delivered to the correct electronic mail address, if no message of unsuccessful transmission is received within 3 hours of sending.

Subpart 6—Dealing with applications

109. Duty to deal with applications promptly

- (1) The Service and the permitting authority must deal with any application under the Act and these regulations as promptly as is reasonably practicable in the circumstances and within any prescribed periods under these regulations.
- (2) However, an application is not required to be dealt with within a prescribed period if exceptional circumstances exist because the nature, complexity, or volume of applications means a longer period for review or determination is reasonably needed to deal with the application.
- (3) If an application will not be dealt with within a prescribed period, the Service must inform the applicant that the time has been extended, give the reasons justifying that extension, and inform them of the date on which the relevant determination is expected.

Part 13 Objections

110. Right of objection to certain decisions

- (1) An applicant for a consent or project permit may object to a decision of—
 - (a) the Service under regulations 17 or 33 that an application is incomplete;
 - (b) the permitting authority refusing to grant a consent under regulation 21 or declining to issue a project permit under regulation 46;
 - (c) the permitting authority imposing conditions on a consent under regulation 22 or on a project permit under regulation 47.
- (2) A holder may object to any of the following:
 - (a) a decision to vary or not vary the conditions of a project permit (including adding new conditions) under regulation 55;
 - (b) a refusal to change or cancel a condition of a project permit under regulation 56;
 - (c) a refusal to renew a project permit under regulation 62;
 - (d) a refusal to accept an environmental management and monitoring plan under regulation 74 or a revised environmental management and monitoring plan under regulation 78.

111. Procedure for making or hearing an objection

- (1) An objection made under regulation 110 must be made in writing to the permitting authority not later than 15 days after the decision is notified to the applicant or holder.

- (2) The notice of objection must set out the reasons for the objection.
- (3) The permitting authority must consider and decide the objection within 20 days of receipt of the notice of objection.

112. Decision on objection

- (1) The permitting authority may—
 - (a) dismiss the objection; or
 - (b) uphold the objection in whole or in part.
- (2) Within 5 days after the permitting authority makes a decision on an objection, it must send a copy of the decision to—
 - (a) the person who made the objection; and
 - (b) any other person the permitting authority considers appropriate.
- (3) A decision must include reasons for the decision.

Part 14

Review of regulations

113. Review of regulations

- (1) The Service must, from time to time as it considers appropriate,—
 - (a) carry out a review of these regulations; and
 - (b) set out the conclusions of the review in a report for the attention of the Minister; and
 - (c) provide persons who are likely to be directly affected by proposed revisions adequate time and opportunity to comment on the subject matter of possible changes, including—
 - (i) the Authority; and
 - (ii) the permitting authority; and
 - (iii) the Marae Moana Technical Advisory Group; and
 - (iv) licence holders; and
 - (v) relevant Crown agencies; and
 - (vi) the Cook Islands public.
- (2) A report described in subclause (1)(b) must, in particular,—
 - (a) set out the objectives intended to be achieved by the regulatory system established by these regulations; and
 - (b) assess the extent to which those objectives are achieved; and
 - (c) assess whether those objectives remain appropriate; and
 - (d) review the adequacy of these regulations in the light of new knowledge arising from seabed mineral activities, technology and standards, and requirements or recommended practices of international and national organisations, bodies, and agencies in the field of seabed minerals activities.
- (3) The first report under this regulation must be published before the end of the period of 5 years beginning with the day on which these regulations come into force.
- (4) Subsequent reports under this regulation must be published at intervals at least every 5 years.

- (5) The Service must take into account any comments received from persons under subclause (1)(c) before making a recommendation in the report to the Minister to amend these regulations.
- (6) The Service is not required to comply with subclause (1)(c) if the recommended amendment has no more than a minor effect, corrects errors, makes minor technical changes, or fixes an inconsistency with the Act.

Schedule 1

General duties of licence holders

1. To the extent required in each case by the Service under regulation 7(4) and consistent with the Act, these regulations, and any applicable standards and applicable guidelines all licence holders must—
 - (a) establish environmental baseline information, in accordance with clause 2, against which to compare impacts on the marine environment likely to be caused by the activity; and
 - (b) conduct environmental risk assessment studies to show—
 - (i) that all significant risks have been identified and evaluated; and
 - (ii) the nature and likelihood of consequences on the marine environment have been assessed; and
 - (iii) suitable measures have, or will be, taken to control those risks; and
 - (c) determine the geographical limits of the project area or areas of the marine environment likely to be affected by the activity; and
 - (d) monitor, assess, and analyse the impact of its activities on the marine environment on a continuous basis, and must—
 - (i) adapt monitoring to existing environmental conditions; and
 - (ii) report to the Service on the results of monitoring programmes in accordance with these regulations, the conditions of the consent or project permit, and taking account of any applicable standards and applicable guidelines; and
 - (iii) if monitoring shows material deviations from the expected condition or development, take measures to determine the reason for the deviations; and
 - (iv) in consultation with the Service, make arrangements for the collection of data using international quality systems and standards, and analysis by certified laboratories and reputable international scientific research agencies and institutions; and
 - (v) comply with any applicable standards and applicable guidelines; and
 - (e) investigate options, including the best practicable environmental options, for practicable measures to mitigate any adverse effects on the marine environment or relevant environmental factors; and
 - (f) manage all environmental impacts—
 - (i) in accordance with the holder's approved environmental management programme or accepted environmental management and monitoring plan, as appropriate; and
 - (ii) by integrating the best available scientific evidence into decision-making processes; and
 - (iii) by applying the precautionary approach, best environmental practice, and the best available technology and techniques; and
 - (iv) by implementing all necessary and practicable measures to manage the adverse effects; and
 - (g) prepare, implement, and adhere to environmental management systems and waste management systems in accordance with internationally recognised standards; and

- (h) take all reasonably practicable measures to minimise the generation of waste or other matter arising from its activities; and
- (i) take necessary steps to prevent, reduce, and control pollution and other hazards to the marine environment arising from the regulated activity; and
- (j) establish impact reference zones and preservation reference zones for mining and trial mining; and
- (k) where feasible at the relevant time, rehabilitate the marine environment in the area affected by environmental damage, pollution, or ecological degradation as a result of its activity; and
- (l) maintain and update an environmental awareness plan describing the manner in which the holder must inform its employees, affiliates, and associates of the effects and risks that are likely to result from their work and the manner in which the risks must be dealt with in order to avoid pollution or the degradation of the marine environment; and
- (m) provide—
 - (i) training and supervision to all persons who are engaged in the activities by the holder in order to ensure compliance with the Act, these regulations, and the conditions of any consent or project permit; and
 - (ii) sufficient resources to the persons so engaged to ensure compliance with the Act, these regulations, and any consent or project permit, including establishing appropriate control measures; and
- (n) report the implementation and interpreted results of its monitoring programmes and compliance with the conditions of a consent as part of its annual report under the seabed minerals regulations, taking into account any guidelines issued by the Authority; and
- (o) compile and submit reports as required by the Service, including, if applicable, performance assessment reports to demonstrate compliance with an applicable environmental management and monitoring plan; and
- (p) provide the Authority with all relevant data, including raw and processed environmental data, in accordance with the seabed minerals regulations.

2. Holders must do the following things:

- (a) gather and map the environmental status and conditions of the project area against the environmental management programme, including as necessary thereafter, to show how the activities progress to—
 - (i) assess the effects of exploration; and
 - (ii) determine, as part of an environmental impact assessment, the necessary measures to manage the effects and risks for mining under a mining licence.
- (b) collect and analyse the results of baseline surveys in accordance with the the relevant baseline requirements and any applicable standards and applicable guidelines.

Schedule 2
Tier 1 activities: permitted activities

Activity
(a) Mapping, photography, and videography, including by— <ul style="list-style-type: none"> (i) autonomous underwater vehicle deployments: (ii) remote operating vehicle (ROV) deployments: (iii) deep-tow image frame system: (iv) multibeam bathymetry and multibeam backscatter surveys using vessel-based multibeam echo sounder: (v) moored time-lapse camera and baited time-lapse camera
(b) Gravity and magnetometric observations and measurements
(c) Towed sensor measurements (for example, conductivity-temperature-depth profilers (CTDs), chemical analysis, nephelometers, fluorometers, etc)
(d) Bottom and sub-bottom acoustic or electromagnetic profiling of resistivity, self-potential or induced polarization, or imaging or frequencies known to not significantly affect marine life
(e) Meteorological observations and measurements
(f) The setting of instruments (for example, acoustic doppler current profilers, CTDs, hydrophones, time-lapse sediment traps) using moorings and benthic landers
(g) Deployment of oceanographic moorings not exceeding 12 deployments in a calendar year <ul style="list-style-type: none"> i) Positioning systems, including bottom transponders and surface and subsurface buoys
(h) Water column sampling using carousels, rosettes, pumps, and other similar sampling techniques
(i) Sampling of fish and nekton using plankton nets <ul style="list-style-type: none"> ii) Taking in situ faunal metabolic measurements (for example, sediment community oxygen consumption)
(j) Low-impact sampling of the seabed (for example, box cores, grab or bucket samples, multi or mega cores, and similar) <ul style="list-style-type: none"> i) Sampling of small quantities of water, sediment, and biota from a ROV ii) Sampling with epibenthic sled, dredge or trawl, or similar technique, not exceeding 10,000 m² in any calendar year

Schedule 3
Tier 2 activities: consent of permitting authority required

Activity
(a) Sampling with epibenthic sled, dredge, or trawl, or similar technique exceeding 10,000 m ² in any calendar year
(b) Use of sediment disturbance systems or methods on the sea floor that create artificial disturbances and plumes
(c) Component testing
(d) Dye release or tracer studies
(e) Deployment of oceanographic moorings exceeding 12 deployments in any calendar year

Schedule 4**Tier 3 activities: project permit from permitting authority required**

Activity
(a) Trial mining
(b) Mining

Schedule 5 Form of consent

CONSENT
Consent number: <i>[Insert consent number]</i>
The National Environment Council under section 36AA(2) of the Environment Act 2003 (the Act) and the Environment (Seabed Minerals Activities) Regulations 2023 (the regulations) consents to the carrying out of the activity specified in this consent by the holder.
The general duties of licence holders set out in Schedule 1 of the regulations are incorporated by reference in this consent to the extent indicated in this consent. The consent holder must comply with the conditions of this consent. This consent and its conditions are issued under, and subject at all times to, the requirements of the Act and the regulations.
Consent holder <i>[Name of consent holder]</i> Address <i>[Registered address]</i>
Activity <i>[Specify in sufficient detail each activity consented to]</i>
Map <i>[Attach a map showing the areas of activity]</i>
Issue date <i>[Issue date]</i>
Date of commencement
<i>[Commencement date]</i>
Term of consent
<i>[Duration of consent]</i>
Consent number
<i>[Register number]</i>
Conditions
<i>[Detail conditions of consent, and short rationale for each condition]</i>
Signed: Date: <i>[Director's name]</i> Director, National Environment Service For and on behalf of the National Environment Council

Schedule 6 Form of project permit

PROJECT PERMIT
Project permit number: <i>[Insert consent number]</i>
This project permit is issued by the National Environment Council under section 36(5)(a) of the Environment Act 2003 (the Act) and the Environment (Seabed Minerals Activities) Regulations 2023 (the regulations) and authorises the holder to carry on the activity specified in this project permit.
The general duties of licence holders set out in Schedule 1 of the regulations are incorporated by reference in this permit to the extent indicated in this permit. The permit holder must comply with the conditions of this permit. This project permit and its conditions are issued under, and subject at all times to, the requirements of the Act and the regulations.
Permit holder <i>[Name of permit holder]</i> Address <i>[Registered address]</i>
Activity <i>[Specify in sufficient detail each activity authorised by the project permit]</i>
Map <i>[Attach a map showing the areas of activity and the project area]</i>
Issue date <i>[Issue date]</i>
Date of commencement
<i>[Commencement date]</i>
Term of permit
<i>[Duration of permit]</i>
Permit number
<i>[Register number]</i>
Conditions
<i>[Detail conditions of permit, and short rationale for each condition]</i>
Signed: Date: <i>[Director's name]</i> Director, National Environment Service For and on behalf of the National Environment Council

Schedule 7

Environmental impact statement

1. For the purposes of regulation 67(d), an environmental impact statement must—
 - (a) be prepared in accordance with any applicable standards and applicable guidelines, best available scientific evidence, best environmental practices, and best available technology and techniques; and
 - (b) take into account the results of any existing and relevant environmental information and environmental impact statements that are reasonably available to the applicant; and
 - (c) be prepared by competent persons; and
 - (d) be accompanied by a statement from the applicant outlining the relevant experience or qualifications of those competent persons; and
 - (e) include a draft environmental management and monitoring plan; and
 - (f) include a draft closure plan; and
 - (g) include the information set out in clause 3 below.
2. An environmental impact statement must contain such information in sufficient detail—
 - (a) to correspond to the scale and significance of the effects and risks that the activity may have on the environmental factors; and
 - (b) to demonstrate a robust and scientifically sound assessment of the effects on the environmental factors from the activity; and
 - (c) to enable the permitting authority to make a conclusion on the likely significant adverse effects of the activity on the environmental factors, the feasibility of proposed monitoring techniques, and the proposed measures to avoid or mitigate the identified adverse effects, taking into account current knowledge and methods of assessment.
3. An environmental impact statement must also contain the following information:
 - (a) a summary of the background to and rationale for the project; and
 - (b) an outline of the applicable legislative requirements and policy frameworks, including any applicable standards and applicable guidelines, and principles, and the conditions of the project permit, and how these requirements and frameworks will be met; and
 - (c) a description of the project and activity, including the following:
 - (i) the location or locations of the activity;
 - (ii) an outline of the technology to be used;
 - (d) a description of the operational details of the activity and proposed phasing and timing, including timing of—
 - (i) the construction, commissioning, operational (recovery and shipboard processing) phases; and
 - (ii) the decommissioning (closure) phases; and

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- (e) a description of the relevant aspects of the existing state, and natural variability, of the marine environment and relevant environmental factors that will be affected by the activity (the baseline study); and
- (f) details of studies undertaken, their methods, equipment used, duration results and conclusions, including models developed from the data collected and their interpretation reports and certified laboratory results
- (g) details of the quantifiable estimates of the activity's environmental footprint, including—
 - (i) an estimation of the volume of material to be removed from the seabed; and
 - (ii) an estimation of the areas of seabed likely to be affected (directly or indirectly) by each component of, or sample taken as part of, the activity (km²); and
- (h) details of all environmental effects and environmental risks of the activity arising or likely to arise directly or indirectly from—
 - (i) all aspects of the activity; and
 - (ii) potential emergency conditions, whether resulting from accident, incident or any other cause; and
- (i) an evaluation of those impacts and risks; and
- (j) a description of the environmental risk assessment process and standards used to evaluate the impacts and risks, including the terms used in that process to categorise the levels of significance of those impacts and risks; and
- (k) a description of the environmental factors likely to be significantly affected by the proposed activity, including human health, biodiversity, benthic habitats, marine water quality, and air quality; and
- (l) a description of the sources and nature of any pollution, including seabed disturbance plumes and discharge plumes, that are likely to result from the carrying out of the proposed activity; and
- (m) a description of the likely significant effects of the activity on the environmental factors resulting from, among other things,—
 - (i) discharges of pollutants and other emissions (noise, vibration, light, heat, and the disposal and recovery of waste or other matter); and
 - (ii) the technologies and the substances used; and
- (n) details of the modelling and testing of the discharge plume and seabed disturbance plume as well as details of plume density and extent and sedimentation rates; and
- (o) a description of the forecasting methods and assumptions or evidence used to identify and assess the likely significant effects on the environmental factors, including details of difficulties (for example, technical deficiencies or lack of knowledge) encountered compiling information or shortcomings in the information and the main uncertainties involved; and
- (p) the details of any proposed additional surveys or studies to address the shortcomings in information and uncertainties presented; and

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- (q) a statement as to how the applicant has and will continue to integrate the precautionary approach into its activities; and
- (r) a description of the proposed monitoring arrangements including the technology to be deployed for monitoring; and
- (s) a description of the protection and control measures proposed in order to avoid or mitigate the likely significant adverse effects on the environmental factors; and
- (t) a description of reasonable options (in terms of project design, technology, location, size, and scale) investigated by the applicant that are relevant to the activity and its specific characteristics, and an indication of the main reasons for the option chosen, including a comparison of the effects, taking into account the effects of the project on the marine environment and other marine users and the technical feasibility of any alternatives; and
- (u) a description of and location map for the proposed impact reference zones and preservation reference zones, and scientific rationale for their design; and
- (v) the details of the stakeholder consultation process followed during the conduct of the environmental impact assessment, including—
 - (i) a list of the stakeholders consulted; and
 - (ii) a summary of comments received from stakeholders; and
 - (iii) a summary of how comments received have been taken into account, including any changes made as a result of the stakeholder consultation process; and
- (w) an assessment of the positive and negative impacts of the activity on the existing economic activity of the Cook Islands and the social and community impacts of the activity on the well-being of individual communities and cultural practices of the Cook Islands; and
- (x) a non-technical summary of the information and conclusions presented in the statement.

Schedule 8

Environmental management and monitoring plan

1. For the purposes of regulation 72(d), an environmental management and monitoring plan must—
 - (a) be prepared in accordance with any applicable standards and applicable guidelines; and
 - (b) include the information set out in clause 2 below.
2. An environmental management and monitoring plan must contain the following information:
 - (a) the purpose and scope of the plan; and
 - (b) the environmental policy for the activity; and
 - (c) a description of the applicable legislative requirements and administrative frameworks, including any applicable standards and applicable guidelines, principles, and the conditions of the project permit, and how these requirements and frameworks will be met under the plan; and
 - (d) a description of the project, including maps of the project and activity areas, and schedules for the implementation stages of each activity that is part of the project; and
 - (e) a description of the existing marine environment and environmental factors of the project area and the activity area; and
 - (f) details of the project-specific environmental management objectives and environmental performance outcomes, including environmental quality standards for each environmental factor; and
 - (g) a description of the environmental performance standards for the control measures; and
 - (h) details of the measurement criteria for determining whether each environmental management objective, environmental performance outcome, and environmental performance standard is being met; and
 - (i) a description of the environmental management system, including specific measures to be used to ensure that, for the duration of the activity,—
 - (i) the effects and risks of the activity continue to be identified, monitored and reduced to a level that is as low as reasonably practicable; and
 - (ii) control measures are effective in reducing the effects and risks of the activity to as low a level as reasonably practicable; and
 - (iii) the activity under the plan will adhere to best environmental practice and use the best available technology and techniques; and
 - (iv) environmental management objectives and environmental performance outcomes and standards set out in the environment management and monitoring plan are being met; and
 - (j) details of the roles and responsibilities of personnel, including in relation to the implementation, management, review, and continual

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improvement of the environmental management and monitoring plan; and

- (k) details of the measures to be used to ensure that each employee or any other person working on, or in connection with, the activity is aware of their responsibilities in relation to the environmental management and monitoring plan and has the appropriate competencies and necessary training; and
- (l) details of the process for the monitoring of, audit of, management of non-compliance with, and review of environmental performance to ensure that the environmental performance outcomes and standards in the plan are being met; and
- (m) details of the independent verification scheme to ensure that the environmental management system remains adequate and that the equipment, including equipment for monitoring, remains in good repair and condition; and
- (n) details of the risk management framework adopted, including reference to relevant environmental performance standards; and
- (o) a description of the potential effects and risks that the activity may have on each environmental factor; and
- (p) a description of the significance of the potential effects on the environmental factors, proposed measures to manage the effects, and management control procedures and response actions; and
- (q) details of the planned monitoring programmes (including the methodology, frequency, duration of monitoring activities); and
- (r) a description of the monitoring technology and system to be deployed, including details of the types of data to be collected and monitored and use of remote monitoring technology to be deployed to assess the performance of measures to manage the effects and risks and compliance with the environmental performance outcomes; and
- (s) details of quality assurance and quality control processes; and
- (t) details of tests to be carried out to assess the performance and accuracy of the equipment used for the monitoring, and the intervals at which the tests are to be carried out; and
- (u) details of shipboard processing, treatment, and discharges, including a waste assessment and prevention audit; and
- (v) the location and planned monitoring and management of preservation reference zones and impact reference zones, and other spatial management planning tools; and
- (w) a description of the adaptive management techniques in relation to management and mitigation measures and monitoring (where required) to meet the environmental management objectives; and
- (x) a description of the planned procedures or process for, and review of the continual improvement of environmental performance; and
- (y) details of the process and measures to be taken in the case of non-compliance with the plan; and
- (z) a schedule of the frequency of performance assessments of the plan and reporting on those assessments; and

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- (aa) a report of stakeholder consultations undertaken during the preparation of the plan; and
- (bb) details of future stakeholder consultation to be carried out by the holder; and
- (cc) a list of all events that are classified as reportable events in relation to the activity and details of the reporting protocols to the Service; and
- (dd) details on the recording of incidents and severity levels; and
- (ee) a non-technical summary of the plan.

Schedule 9

Content of closure plan

For the purposes of regulation 88(1)(c), a closure plan must include—

- (a) a map with co-ordinates showing the area subject to the closure objectives; and
- (b) a description of the area subject to closure; and
- (c) a summary of the relevant regulatory requirements, including any applicable standards and applicable guidelines; and
- (d) a description of the closure objectives and principles and how these relate to the mining activity and its environmental and social-economic setting; and
- (e) the duration of the closure activity, by reference to—
 - (i) a specified period; or
 - (ii) a specified and measurable event; or
 - (iii) compliance with a specified condition in the closure plan; and
- (f) details of closure implementation, including descriptions of the closure activities to be carried out and the arrangements for the temporary suspension of mining activities or for permanent closure and decommissioning arrangements; and
- (g) information relating to baseline conditions for monitoring purposes; and
- (h) documentation relating to the environmental risk assessment undertaken to identify residual significant adverse risks; and
- (i) the management measures to be implemented for any potential significant adverse risks, including—
 - (i) a description of the management measures to be applied; and
 - (ii) the predicted long-term result of the applied management measures; and
 - (iii) the time frame and schedule for the implementation of the management measures; and
- (j) details of monitoring and studies to be undertaken during and after closure, the methods to be used, and the duration of the monitoring; and
- (k) details of any rehabilitation or restoration objectives, including a discussion of any practicable rehabilitation or restoration of the area subject to closure; and
- (l) information on the reporting (content and frequency) and management of data and information post-closure; and
- (m) details of the competent persons or entity that will carry out the monitoring and management measures under the closure plan, including their qualifications and experience, together with details of the budget, project management plan, and the protocols for reporting to the Service under the plan; and
- (n) an estimate of the cost of implementing the planned closure; and

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- (o) details of the amount of the environmental bond to be provided in accordance with these regulations for the duration of the monitoring programme and post-closure management; and
- (p) details of any compensatory or offset measures agreed with the Service or proposed by the holder to achieve the agreed closure objectives; and
- (q) a report of the stakeholder consultations undertaken and the results of these in respect of the development of the plan; and
- (r) details of stakeholder consultation proposed for the implementation of the plan; and
- (s) an undertaking by the holder regarding the execution of the closure plan.

Clerk of the Executive Council

These regulations are administered by the National Environment Service.
These regulations were made on the _____ day of _____ 2023.
