



TE RŪNANGA O TE RARAWA

EXTRACTIVE INDUSTRY DISCUSSION PAPER

Date: 7 October 2013
To: The Te Tai Tokerau Iwi Chairs Forum
From: Haami Piripi (Chairperson, Te Rūnanga o Te Rarawa)

MIHI

He kuaka marangaranga, kotahi te manu i rere, ka tau ki te tahuna, tau atu, tau atu, tau atu e.

Whakarongo ki te manu tioro e tangi nei, me te reo korihi e paoho ake nei, tūi, tūi, tutuia.

Tuia ki runga rā, ki raro, ki roto, ki waho. Tuia te rangi ki te whenua ka tātaihia ki te orokohanga o te Ao Māori hei whāriki whakamārama mo ngā aitanga e puawai mai ana ki te Ao Tūroa.

Mai i te kōpu, o Papatānuku ki ngā rangi tūhaha ka tae ai te tatai hono ko ngā mea katoa o te ao. Koia tonu te mana a ngā uri a Tane Nui a Rangī, hei poutokomanawa, hei kaitiaki hoki, mo te taiao. A, ka tātai iho nei ki o tātou tūpuna i tae mai ki uta o Aotearoa puta noa.

Ka heke tika ki ngā iwi o te whare o Ngāpuhi Nui Tonu; ki ngā pātu ā iwi e tū mai nā ki ngā whenua wawaa, ngā mumu tai o te rohe o Te Tai Tokerau, kia huihuitia, kia kotahi ai te whakaaro, he whakaaturanga ki te motu puta noa.

Na reira e mihi ake nei ki a tātou e ngā iwi i hono mai ki tēnei minenga me te whakaminenga o te Iwi Chairs Forum. E mihi tonu ana ki Te Rūnanga o Te Rarawa¹ i kohikohi ngā whakaaro, i titongia hoki ēnei kupu e hāpaingia ana ko tēnā, ko tēnā o tātou. Ahakoa iwi mai, ahakoa hapū mai, he mahi tautoko tonu.

Heoi anō rā, e kore e mutu ngā mihi ki a rātou rā, ā, ki te hunga okioki tae noa mai ki o tātou marae maha mō te hunga ora me ngā āhuatanga o te wā anei anō he mihi kau atu.

PURPOSE

¹ Acknowledgements: Drafting contributors to the report were Catherine Davis, Mike Smith and Dean Baigent-Mercer.

1. Earlier this year, the Te Tai Tokerau Iwi Chairs Forum (Iwi Chairs) directed that a Mineral Extraction Working Group (Working Group) be established. The purpose of the Working Group was to explore and report on the pros and cons of mineral extraction as an activity with implications for iwi roles and responsibilities. This paper responds to that directive.

EXECUTIVE SUMMARY

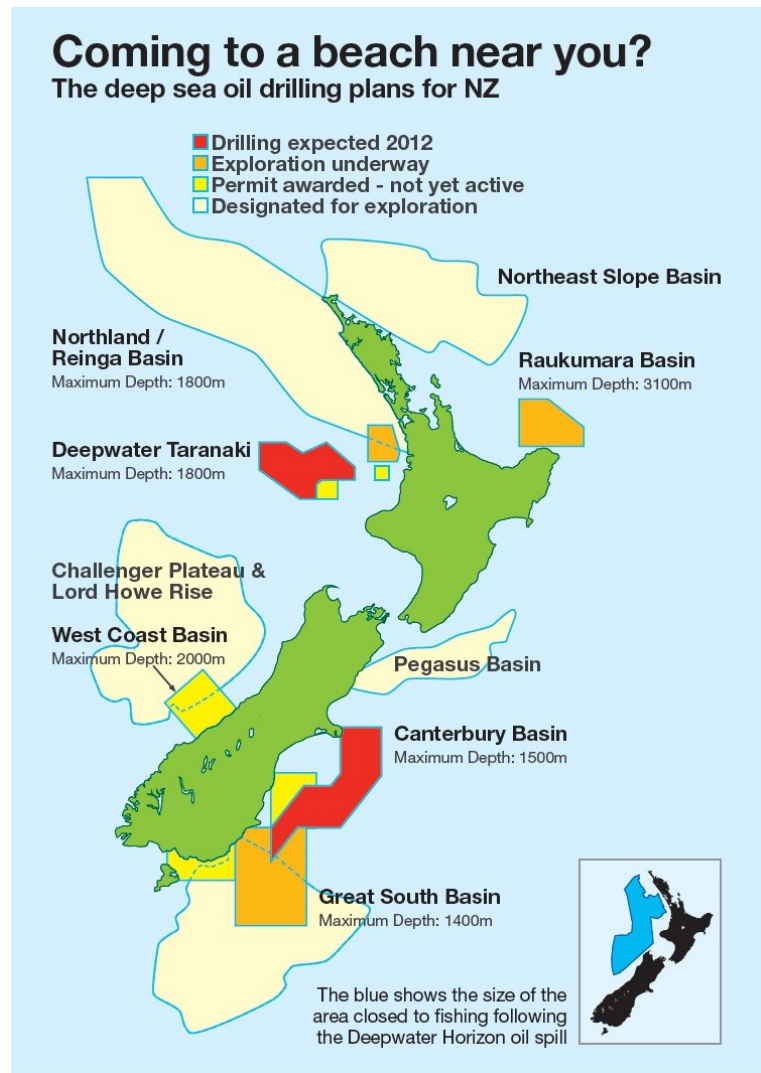
Introduction

1.1. Historically, there has always been a great deal of concern over minerals and petroleum extractive activity. The latest mineral exploration licences have triggered the current investigation.¹

1.2. We note the challenge facing the Iwi Chairs of maintaining consistency of principled decision-making across a range of diverse and often complex matters. The Working Group's focus throughout has been the protection and advancement of high level values that align with Māori identity and wellbeing. This will enable the report to be applied to all iwi and interpreted by them according to their unique iwi profile. For this reason the report can be taken to the National Iwi Chairs Forum by the Te Tai Tokerau iwi as a useful resource in iwi decision-making about their roles and responsibilities in the sector.

1.3. Hapū and whānau will also be informed by the report providing a synergy between the respective components of Māori social organisation. The weighting of values relative to one another depends on the spiritual, environmental, cultural, social, economic, political or other context, which in turn differs from hapū to hapū, and iwi to iwi.

1.4. Then there is the question of private property rights over which iwi, hapū and whānau have little legal influence (except where Māori are



the owners). Government and industry alike are bound to the legislation and conditions of their activities, and this makes any response to the issue complex and multilayered.

- 1.5. With so many variable factors to consider, producing a definitive report would be impossible. Rather, the intention of this report is to bring enlightenment and understanding, enabling iwi mandated organisations to make fully informed choices based on their own priorities.

Report Structure

1.6. Our report is structured as follows:

Part One:

- a. brief commentary on Māori historical experience relating to extractive industry;
- b. an overview of the legislative and regulatory framework; and
- c. a collection of more noteworthy national and international mining experiences, including a number of Te Tai Tokerau case studies.

Part Two:

- a. discussion of a range of high level values and Māori wellbeing priorities connected with extractive activity; and
- b. presentation of a systematic cost-benefit analysis tool to help determine whether any extractive activity should be entered into.

Part Three: other complimentary tactics and strategies to protect and advance Māori responsibilities, rights and interests concerning the extractive industry.

Part Four: Recommendations.

PART ONE: SETTING THE SCENE

MĀORI, AND THE HISTORY OF MINING

2. The mana whenua and mana moana of hapū and iwi, and the right of Māori to exercise our authority, over the islands, waters, and natural resources of Aotearoa has been well-established both morally and legally.
 - 2.1. Extractive activity dates back to pre-colonisation times with Māori securing rock and pounamu (for example) for use as tools, weapons and jewellery. Later, a body of domestic and international jurisprudence was developed on Indigenous Peoples and Māori rights. This includes He Whakaputanga (the 1835 Declaration of Independence), Te Tiriti o Waitangi 1840, and the United Nations Declaration on the Rights of Indigenous Peoples 2007 (UN DRIP)² which the New Zealand Government endorsed in 2010.
 - 2.2. However, since the mid 1800's, and contrary to Māori rights over our lands, territories and resources, successive Governments have claimed ownership of a variety of minerals, and implemented laws³, regulations and policies to enforce Crown control over them. Such assumption of ownership has been roundly and consistently rejected by Māori.⁴ However, Māori efforts to protect our customary rights to these resources, including claims made to the Waitangi Tribunal⁵, have been largely ignored, and the Māori experience has been very mixed. For example, Waitangi Tribunal reports record Māori concerns about harmful environmental effects resulting from Te Kokota sand mining in Pārengarenga harbour;⁶ and about the Crown Minerals Act

1991 providing for “a petroleum permitting and exploration regime that has...too little regard for Māori interests in sites of traditional importance and, more generally, in environmental protection”.⁷

THE EXTRACTIVE INDUSTRY - AN OVERVIEW

- 2.3. The extractive industry concerns the removal of [raw natural materials](#) from the earth (e.g. sand, stone, [metals](#), [minerals](#), coal, [aggregates](#), oil, gas) through processes such as dredging, quarrying, drilling, mining and hydraulic fracturing.
- 2.4. The [Crown Minerals Act 1991](#) (the 1991 Act) sets the broad legislative policy for prospecting, exploration and mining of Crown-owned minerals in New Zealand. Section 10 of the 1991 Act provides that “all petroleum, gold, silver, and uranium existing in its natural condition in land (whether or not the land has been alienated from the Crown) shall be the property of the Crown” (often referred to as the Crown Mineral Estate).
- 2.5. The Minister of Energy and Resources has responsibility for the 1991 Act and New Zealand Petroleum & Minerals⁸ (NZPM) manages the Crown minerals estate. According to NZPM:
- “The demand for, and exploration of, petroleum (oil and gas) has never been greater. Economically important to New Zealand and to New Zealanders⁹, oil and the products derived from it are a major export earner. Government revenue from related royalties and taxation fund important services such as our education and the health system.”¹⁰*
- “[Furthermore] New Zealand is prospective for a wide range of minerals, including coal, gold, silver, and ironsand, a wide range of other minerals are produced, contributing to several sectors of the economy such as construction, energy, transport, agriculture and manufacturing.”¹¹*
- 2.6. The 1991 Act is implemented through a variety of mechanisms, including Minerals Programmes, minerals regulations, permits, and a series of environmental protection legislation including the Resource Management Act 1991 (RMA).¹² The environmental impacts of mining, however, are monitored by Regional and District councils responsible for enforcing any RMA consents under which mining activities operate. Under the current regime, permits can last between 2 and 35 years with possibilities of renewal.
- 2.7. Despite its opportunities, extractive activity also can create many risks – perhaps the most widely known being harmful environmental effects (for more on the risks, see below). Whether domestically or internationally, there has undoubtedly been a mix of both positive and negative experiences. The trend, however, has been increased media attention on associated risks of extractive activity, and civil society calls for greater accountability from the industry, more particularly at the ‘high risk/ high impact’ end of the spectrum.

MINERALS EXTRACTION EXPERIENCES

Indigenous Peoples

“Indigenous peoples around the world have suffered negative, even devastating, consequences from extractive industries. Despite such negative experiences, looking toward the future it must not be assumed that extractive industries’ and indigenous peoples’ interests are entirely or always at odds with each other. However, models of resource extraction that are different from the heretofore prevailing model are required if resource extraction within indigenous peoples’ territories is to be carried out in a manner consistent with their rights.” [our emphasis].

(James Anaya,
United Nations Special Rapporteur
on the Rights of Indigenous Peoples¹³)

- 2.8. The experiences of iwi taketake (Indigenous Peoples) of other countries regarding mining activity provide insight into the predominant ‘culture’ of the extractive industry and Governments in relation to the treatment of the affected tangata whenua. In this sense, we may gain an appreciation of what to expect regarding the challenges and opportunities of any potential extractive activity in Aotearoa. Conversely, we ignore these international experiences at our peril.
- 2.9. Among the many high profile situations affecting Indigenous Peoples is the Tar Sands project in northern Alberta, Canada. This has been described as *“causing devastation on a scale that the planet has never seen before”*¹⁴. The Tar sands are of particular interest not only because of their environmental impact, but also in regards to their equally devastating effects on the Indigenous Dene, Cree, Métis and Athabasca Chipewyan peoples.¹⁵
- 2.10. Meanwhile, in Australia, more than 60 per cent of mining projects are in close proximity to indigenous communities. While there have been some beneficial impacts for tangata whenua such as economic development, capacity-building, employment opportunities, and improved infrastructure, there have also been adverse effects in terms of *“reduced cultural and community well-being, environmental damage, damage to sacred sites and increased cost of living, including reduced access by indigenous peoples to affordable housing and health services.”*¹⁶
- 2.11. Extractive industry can also create the potential for conflict when costs and benefits are inequitably distributed between the extraction company and the local community, or when the parties’ interests and values don’t sufficiently align.¹⁷ In his consolidated report on extractive industries and their impact on Indigenous Peoples, member of the United Nations Permanent Forum on Indigenous Issues, Saúl Vicente Vázquez, laments the all too common shared Indigenous Peoples experience largely unchanged since colonial times¹⁸: an experience of Governments which continue to violate Indigenous Peoples human rights, despite the fact that such rights

are recognized in international instruments and national legislation.¹⁹ These are but a few commentaries underscoring the profound importance of exercising extreme vigilance and care in protecting and advancing Indigenous Peoples human rights, particularly in an industry which historically has held little or no regard for them²⁰ (see below for more discussion on the nature and application of those rights).

- 2.12. The challenges of realising an equitable situation regarding extractive industry activity – let alone a situation which is acceptable on spiritual, environmental, cultural, social or economic grounds – remains a constant challenge for Indigenous Peoples, even in so-called developed states such as America, Canada, Australia, Russia and New Zealand.

The Māori Contemporary Experience

- 2.13. Hapū and iwi experiences around the country continue to be mixed. Kapuni, Taranaki²¹, is where New Zealand's oldest natural gas field is located. Local Ngā Hapū o Ngaruahine Iwi Incorporated chairwoman Daisy Noble has observed only a “slight change” over the past 50 years in how oil and gas companies have related to iwi.²² Neither did she see any economic benefits of petroleum exploration at Kapuni flow back to local iwi.
- 2.14. Some of the more well-known contemporary instances of Māori voicing concern about ‘high end’ extractive industry activity include Te Whānau-A-Apanui opposition to Petrobras oil drilling in the Raukumara Basin²³, and protests in Kaikoura (including Te Rūnanga o Kaikoura) against Anadarko petroleum exploration in the Pegasus Basin off the Marlborough and Wairarapa coastlines.²⁴ The latter example raises wider social concerns, as the Government subsequently introduced legislation²⁵ criminalising anti-mining protests out at sea – a move widely condemned as breaching civil rights to freedom of expression and peaceful assembly.²⁶
- 2.15. Other instances involve extractive activity inside the conservation estate, such as coal mining on the West Coast's Denniston Plateau²⁷ in the South Island. In a 2012 legal bid to appeal a resource consent application approving the opencast mine, several parties joined Forest and Bird on the biggest court case it had ever taken. It was interesting to note that those opposing the project included various groups such as the Ngāti Waewae hapū,²⁸ conservation groups, residents associations and historic trusts which sought to protect environmental, cultural and historic values. On the other hand, those supporting the project were energy companies, Westport Harbour, our Government's Crown Minerals department and others wanting to benefit economically from it. In the end, “money won the day”, despite admitted reservations by those determining the case regarding the impact of the activity on unique and threatened native flora and fauna in the area.²⁹

Te Tai Tokerau Today

- 2.16. To date, the Government has defined several areas potentially suitable for minerals and petroleum exploration, and publicly offered these for tender ('block offers').
- 2.17. In August 2013, the Minister of Energy and Resources met with iwi chairs and hapū members of Te Tai Tokerau.³⁰ The Minister referenced the tender process that had begun with the 2013 block offer potentially affecting Te Tai Tokerau interests. However, he added that it would be some time before any extractive activity could actually begin due to the fact that minerals worth mining need to be located, finance must be secured, stringent regulations must be complied with, and so on. This meant that, in his view, Māori and the Crown have a lot of time to talk about our respective needs and interests which may be affected by the block offer. None the less, hapū and manawhenua representatives in attendance at the Minister's hui overwhelmingly expressed caution and opposition to any mining in their respective rohe.
- 2.18. **Appendix One** provides a more in-depth look at two extraction situations currently impacting on Te Tai Tokerau, including data on block associated offers:
- a. Sand Mining - Parengarenga Harbour and West Coast;
 - b. Deep Sea Oil - Te Rerenga Wairua, Te Oneroa a Tohe ;
 - c. Swamp Kauri - Dargaville, Kaimaumau Swamp, Lake Ngatu, Pukepoto/ Kaitaia and other small dune lake wetland remnants, rivers and lake beds; and
 - d. Hard rock mining - Puketi, Puhipuhi, Whangaroa and others.

PART TWO: A FRAMEWORK FOR DECISION-MAKING

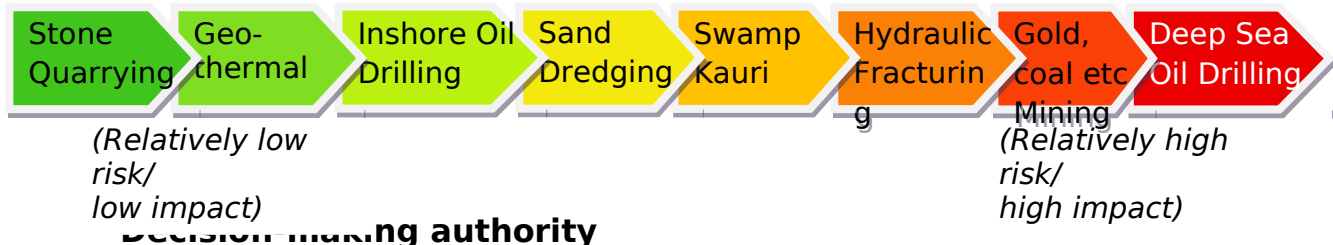
INITIAL CONSIDERATIONS

3. Taking the experiences above into account (including the Te Tai Tokerau case studies), a number of key considerations may be identified within which an analysis can be made regarding the potential costs and benefits about engaging in any extractive activity. We suggest beginning with the following two considerations: the overall nature of the activity, and who has decision-making authority.

General type/nature and location of activity

- 3.1. The first step is simply to identify the type and location of the extractive activity proposed. This is primarily to determine the overall nature, degree and technical complexity of considerations to be taken into account. In other words, certain activities (e.g. some stone quarrying or sand dredging) are relatively easy to manage and understand technologically, the size of the proposed operation is minimal, the geographical terrain poses few production challenges, it will use relatively few resources to extract the resource, and there is

a large degree of certainty overall about the process. A contrary situation may exist with other activities (e.g. hydraulic fracturing or deep sea oil drilling). One might similarly expect the complexity of the applicable legal and regulatory regimes to also reflect the nature, degree and complexity of those attributes. The diagram below demonstrates one of a *possible* spectrum of extractive activities based just on these preliminary considerations:



Iwi Roles and Responsibilities

- 3.2. The primary role of iwi is to focus upon the macro issues that affect its constituency. These issues generally have implications for a number of hapū and whānau and an overarching response is required. For example, harbour pollution would require a harbour-wide solution. In the case of mineral extraction, there are always a range of interests to be considered. The legislation further defines these interests and provides a framework for policy and market conditions.
- 3.3. The role of iwi sits within this complex set of arrangements. In some areas there will be a greater role than in others. For example, the right of the private land owner (whether Māori or Pākehā) to make decisions about their own land is sacrosanct. Perhaps the only interest that could be claimed by a hapū or iwi would be its historical/cultural value (maybe the presence of an old pā site or waahi tapu). Other than that, the land owner retains the greatest right and the appropriate role of an iwi is to respect and endorse that. It follows that it is also the role of an iwi to support the responsibilities of the tangata whenua throughout its iwi rohe and protect the wealth of provenance that is contained within the histories and ancestors behind every single place name.
- 3.4. Hapū, in the exercise of their respective kaitiaki areas have reo and tikanga to manage their interests and preserve the tapu and mana of important locations. In the instance of mineral extraction this will be interwoven with whaanu shareholder interests and opportunities. Thus it is important for all participants to understand a common view and work to a single strategic plan.
- 3.5. Aside from the question of privately owned land, there are also areas of potential mining interests that concern publicly owned lands like the Conservation Estate. In these instances, the Māori or iwi interest has become generic and require a generic response which iwi organisations have been mandated to speak to. However, while this

is a more significant iwi influence, it nevertheless remains within the decision-making domain of departmental and statutory responsibility. Where Te Tiriti o Waitangi negotiations have been completed, new arrangements provide greater iwi influence.

- 3.6. This is also true for the Takutaimoana where individual title does not exist and the Māori interest has been collectivised into an iwi interest as espoused by the Ohu Kaimoana recognition of Mandated Iwi Organisations. This is because the further out we go the less exclusive the interests become. Hapū and and even iwi interests overlap and merge at commonly held and managed fishing grounds. This phenomenon is reflected in the fisheries management regime which distinguishes between deep sea and inshore fisheries. This recognises the additional principle of access and use, and is a precedent for addressing any other offshore interests Māori or iwi have in the ocean and the ocean floor.
- 3.7. In summary, most decisions regarding industry involvement will be for private landowners, or the affected hapū to make (given that the extractive activity occurs within an area to which manawhenua may be claimed). However, in exceptional cases, such as proposed deep sea petroleum exploration, it may be more appropriate for decision-making to lie with an iwi authority or authorities. Therefore, once the type of activity (including physical location) is determined, the second consideration in any analysis ought to be where the decision-making authority appropriately resides so as to ensure that the free, prior and informed consent of that party can be obtained. And, as expressed by those attending the August Minister's meeting with Te Tai Tokerau Chairs, the manawhenua hapū currently have grave concerns about natural resource extraction in their rohe.

ENVIRONMENTAL CONSIDERATIONS

“...there are certainly cases in which resource extraction is simply incompatible with indigenous peoples’ own aspirations and priorities for development, or may impede their access to lands and natural resources critical to their physical well-being and the integrity of their cultures and livelihoods. ...”³¹

To be sure, even resource extraction by indigenous peoples’ own enterprises may pose certain risks to the enjoyment of human rights of the members of indigenous communities, particularly in relation to the natural environment.”³²

(James Anaya,
United Nations Special Rapporteur
on the *Rights of Indigenous Peoples*)

4. The following highlights a number of key environmental considerations which should be factored in when analysing the potential costs and benefits about engaging in any extractive activity.

Ecological Effects

- 4.1. One of the most important among our Māori values is our divine responsibility to fulfil our kaitiakitanga obligations of environmental protection. This responsibility is affirmed by the Crown guarantees to hapū under Te Tiriti to protect our tino rangatiratanga and our lands, resources and other taonga. There is a large body of domestic and international extractive industry experience which brings into sharp relief the real challenges in terms of exercising kaitiakitanga associated with certain extractive activities.³³
- 4.2. A prominent example is the 2010 Deepwater Horizon oil spill (more commonly known as the BP Gulf of Mexico oil disaster) which continues to cause extensive damage to marine and wildlife habitats, fishing and tourism industries, and [human health](#).³⁴ Experiences like these reinforce that the costs of a major disaster can easily run into the billions of dollars³⁵ (and that's just what is fiscally calculable).
- 4.3. Generally speaking, the Minister of Energy and Resources (backed up by at least one Energy Company we have sought information from – Todd Energy³⁶) has assured the public that New Zealand has the highest mining industry standards in the world.³⁷ However, standards mean little if they are not met or enforced. For example, New Zealand's largest coal mining company and [state-owned enterprise](#) Solid Energy achieved only 6 out of 12 of its environmental objectives in 2008.³⁸
- 4.4. Claims that “modern” mining methods equate to greater safety and reduced environmental impact are also questionable: *“Because most easily-mined minerals in New Zealand have already been taken, those which remain exist in very low concentrations and large amounts of rock must be mined to extract them. That means the impact of mining is much greater.”*³⁹
- 4.5. Furthermore, major uncertainty exists about the capacity of Government agencies to effectively respond to a mining ‘disaster situation’ to mitigate damaging effects. Public confidence in the New Zealand Government to competently handle a medium-sized oil spill disaster (let alone of one of the magnitude of the Gulf tragedy), for example, plummeted as a result of the obvious lack of preparedness, oil containment and ‘clean up’ capacity of responsible Government Agencies following the 2011 Rena shipwreck incident.

Water Security

- 4.6. The ICF Iwi Leaders Group on Freshwater reminds us that water security is a huge emerging issue not just for Māori, but for all New Zealanders, and the world. This is for two main reasons. First, while precipitation has increased in some parts of the world bringing more rain, others have experienced more intense and longer droughts.⁴⁰ Experts attribute this phenomenon to climate change which is largely caused by carbon emissions – and a significant contributor to those emissions is the consumption of fossil-based fuels (see more below).

- 4.7. The second reason is the decline in fresh water quality due to surface water and aquifer pollution, which extractive activity again contributes significantly to. The United Nations stated on 22 May 2013 that “*unless greater efforts are made to reverse current trends, the world will run out of freshwater*”.⁴¹ If we are to avoid terms like “water wars” and “peak fresh water” becoming common place in society, we must do all we can to protect our clean water supplies.
- 4.8. In the face of this reality, a number of mining practices continue to cause concern as conservation NGO Forest and Bird explains⁴²:
- “Coal mines expose sulphide in rocks to the air and water, which produces sulphuric acid and causes groundwater to become more acidic. Acidic water flows into streams and rivers, so has an impact far beyond the mine. The effects of acid mine drainage on freshwater systems can be severe, killing freshwater life such as fish and invertebrates. Contamination of waterways is also visually obvious – streams can flow black or brown due to contamination with coal sediment, which also smothers freshwater life. Gold mining can cause toxic substances and heavy metals such as cyanide, arsenic, cadmium, lead and zinc, to contaminate waterways, with devastating effects on freshwater habitats.”*
- 4.9. Hydraulic fracturing⁴³ is also fast becoming increasingly controversial, especially in regards to its effects on ground water quality. Fracking has been banned in a growing number of locations around the world, including New York State, USA. Locally, there is perhaps cause for confusion and uncertainty regarding the safety of hydraulic fracturing, as the Minister for the Environment is still developing hydraulic fracturing guidelines.⁴⁴
- 4.10. With the impending ‘Stage Two’ of the Waitangi Tribunal WAI 2358 Freshwater and Geothermal Resources Inquiry, it is important that the priorities of these Māori claimants for the protection of freshwater and associated rights and interests are consistent with the decisions of hapū and iwi in other areas of Māori life.

Fossil Fuels and Climate Change

- 4.11. The Iwi Chairs will be familiar with climate change issues as mentioned in the reports of the ICF Climate Change Iwi Leaders Group. Several resources produced from extractive activity are carbon-based - such as coal, natural gas and petroleum. Ultimately turned into fossil fuels, these contribute towards meeting the lion’s share of world’s primary energy demands.⁴⁵ However, as fossil fuels are used, they release their carbon back into the atmosphere as a form of Green House Gas (GHG), and atmospheric concentrations of GHGs are a key [driver of](#) the warming of the climate system.⁴⁶ Between 1970 and 2004, Global GHG emissions due to human activities increased 70 per cent, largely due to changes in [energy supply](#), [transportation](#), and [industry](#).⁴⁷

4.12. Note that the poorest communities will be the most vulnerable to the impacts of climate change,⁴⁸ and Indigenous Peoples tend to feature disproportionately in the poverty statistics. Certainly, this is true for Māori in Aotearoa. These impacts are forecast to include⁴⁹:

- a. Threats to biodiversity, including marine life, due to the inability of plants and animals to adapt and evolve at the pace at which the climate is changing⁵⁰;
- b. An increased frequency and intensity of severe weather events (floods, droughts, storms);
- c. Rising sea levels – and with it land erosion, and mass dislocation of populations;
- d. Increased health risks (e.g. infectious diseases which are more readily spread in warmer environments); and
- e. Increased inter-governmental and societal conflict (e.g. as competition for natural resources – land, water, food – increases as they become more scarce).

Even with some kind of intervention, these impacts are projected to increase over the course of the 21st century.

4.13. The link with fossil fuels is very clear, and so too is a rational response: [mitigation](#) (reducing GHG's through, for example a transition to renewable, clean, free energy production and infrastructure⁵¹) and [adaptation](#) (transition to new cultural and social ideologies and values that increase our resilience). This is expanded on further below.

4.14. Therefore, before choosing to engage in extractive activity, Māori need to be clear of our environmental 'bottom lines' and fully understand the complete range of potential implications of the activity.

ECONOMIC CONSIDERATIONS

Mining costs / benefits comparison

5. When considering pros and cons, much is made of the 'national interest' imperative to allow and support extractive industry in order that New Zealanders might continue to enjoy the economic benefits derived from annual Crown royalties.⁵² However, a deeper 'exploration' into the broader context reveals a more nuanced situation⁵³:

“Earnings from minerals make up just 3% of New Zealand’s wealth. In comparison, earnings from New Zealand’s conservation land make up 20% of our wealth.

...The total value of minerals mined in New Zealand is \$1.6 billion – compared to \$21 billion earned by tourism, which relies heavily of the preservation of conservation land. If more mining was allowed in conservation lands, it would

damage the unspoiled natural landscapes, habitats and wildlife that attract tourists from around the world. This damage to our clean, green image and “100% Pure New Zealand” brand could cost us billions.”

5.1. The other question is who really benefits, and who really pays? ⁵⁴:

“In 2006, the mining industry as a whole made a \$236 million loss before tax. That meant a tax write-off for many mining companies - paid for by ordinary New Zealanders.”

“Sometimes mining companies, having made their profits, go into liquidation, and abandon mines (known as ‘orphan mines’). Then the Government (and taxpayers) are left to deal with the environmental impact of the mines, which can be very expensive. For example, taxpayers are paying \$10 million to clean up the damage left behind at the Tui Mine in Te Aroha.

DOC is also paying to remedy the effects of abandoned mines on conservation land in many other areas, and local and regional councils (and their ratepayers) are also footing the bill.

New Zealand taxpayers will also face paying the costs of increasing carbon emissions as those who make the profits from mining coal are not being required to meet their fair share of the cost of its contribution to climate change.

While mining companies are sometimes prosecuted and fined for breach of their RMA consents, the profits made by mining outside the conditions of their consents usually far outweigh the penalties. There is not enough monitoring and enforcement of conditions to ensure they are effective.”

5.2. With few exceptions, activities such as mining, drilling and dredging creates and sustains relatively few direct employment opportunities. The structuring of company employment relations to the disadvantage of the employees is also a concern. Internationally, and due to the unrelenting pressure to increase ‘labour productivity’, the mining industry (like most others) are constantly on the look-out for to avoid health and safety issues. This direction would also reduce employment.

5.3. In industrial mining and drilling industries, the highest paying jobs are in engineering, the Board of Directors, lawyers. The lion’s share of economic benefits go to corporations. 95% of profits will leave this country under the Government’s current royalty regime.

5.4. This indicates that, when defining “costs” in more broad terms, the costs of extractive industry potentially (or in fact) outweigh the benefits.

Equitable Benefit Sharing?

5.5. Complimentary to Māori Te Tiriti rights, Article 32 of the UN DRIP states that:

1. *Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.*
2. *States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources [our emphasis].*

5.6. However, the UN Special Rapporteur has observed that:

“the prevailing model of resource extraction is one in which an outside company, with backing by the State, controls and profits from the extractive operation, with the affected indigenous peoples at best being offered benefits in the form of jobs or community development projects that typically pale in economic value in comparison to profits gained by the corporation.”⁵⁵

5.7. In August, the Minister of Energy and Resources commented that Māori, as a sector of the New Zealand public, could expect to benefit significantly from extractive industry through the creation of employment and the enjoyment of essential and social services paid for from mining royalties.⁵⁶ However, the Minister stayed silent on the possibilities of Māori negotiating equitable benefit sharing arrangements directly either with the Crown or the companies themselves.

5.8. It may be implied that, while the Crown does not prohibit or actively discourage benefit sharing between industry players and Māori, it doesn't actively encourage it either. This seems consistent with industry information we received:⁵⁷

“Todd operates within the legal framework of New Zealand and adheres to international best practice in its operations, including its community and iwi relations. It consults regularly with its stakeholders, as well as with local iwi and hapu.”

5.9. It would appear that despite New Zealand's obligations under Te Tiriti and this UN Declaration, Māori will have a demanding time ahead to test the limits of corporate and political willingness and good faith to ensure the achievement of equitable benefit sharing as of right.

HUMAN RIGHTS OBLIGATIONS

6. Environment and economics are but two of a number of areas in relation to which Māori have recognised rights. As signalled at para 2.1 above, there is a body of established and developing jurisprudence which obliges Governments (and now, even corporate entities⁵⁸) to actively protect and implement these rights.⁵⁹ These obligations relate to Indigenous Peoples self-determination; obtaining Indigenous Peoples free, prior and informed consent on matters which affect them⁶⁰; and their economic, social, cultural and other rights. In addition to Te Tiriti and the UN DRIP, such instruments include:
- a. Internationally legally binding Nagoya Protocol 2010⁶¹ (to which New Zealand is a signatory);
 - b. Universal Declaration on the Rights of Mother Earth 2010⁶²; and
 - c. Global Indigenous Peoples Outcome Document (for the UN World Conference on Indigenous Issues 2014) agreed to in Alta, Norway, June 2013.⁶³

Social and Cultural Values

- 6.2. From a Māori perspective, embedded in the abovementioned protected human rights values are a number of Tikanga Māori.⁶⁴ These continue to be key drivers in the design of Māori wellbeing initiatives and action,⁶⁵ and include :
- a. Wairuatanga (our essential spiritual nature)
 - b. Mauri (the cosmic life force that pervades everything)
 - c. Kaitiakitanga (divine obligation of guardianship, stewardship - including the protection of waahi tapu)
 - d. Tino Rangatiratanga (self determination)
 - e. Mana motuhake (recognising and respecting each other's inherent and independent authority)
 - f. Tika (fairness)
 - g. Pono (integrity)
 - h. Aroha (compassion)
 - i. Whakapapa (Genealogy)
 - j. Whanaungatanga (acknowledging our connectivity through our kinship ties)
 - k. Tapu (sacred)
 - l. Whakatau Tika (accountability)
 - m. Whakatōpūtanga (working collaboratively)
 - n. Whakapuakitanga (sharing information)
- 6.3. Our Māori and iwi world view is predicated upon an explanation of the Universe that has existed for millennia here in the Pacific. This world view permeates the far reaches of Polynesian communities where the sea defines the land. The pantheon of deities that have been understood by those communities continue to exist today. In Aotearoa, we have Ranginui and Papatuanuku, the heaven and the earth which when locked in their embrace produced the elements, the deities and their descendants. Thus everything between the

earth and the sky are the product of the initial union of Rangi and Papa. This of course includes every element on the planet and is the essence of the relationship between these elements and ourselves as human who have also descended from the deities themselves. Our principal deities and the genealogical relationships that form from them provide a woven Universe of nomenclature and the theological and philosophical notions that support them. This pantheist world view provides an elegant explanation of the Universe and is as equally valid as a paradigm in scientific vernacular.

- 6.4. Thus from a Māori point of view, any action demands a reaction, and any intrusion upon other elements on the planet has great significance. In years gone by, Māori would attach very great importance to the ritual and karakia when taking from the realms of the deities like Tane and Tangaroa. While the practice may not be as prevalent today, the obligation remains and is the platform of our Kaitiaki responsibilities. This then introduces the practical manifestation of a philosophical notion and in a personal relationship is generated within the practices and tikanga of the tangata whenua.
- 6.5. The fish of Maui and the life and times of Maui feature in the history of the people of the North. All Māori can trace our ancestry to mauri, and this interconnectedness provides the form of a myriad of reciprocal relationships that have given rise to the elements of Māori social organisation.
- 6.6. A pertinent issue is therefore the nature and degree to which any extractive activity would be consistent with these human rights standards, thereby making participation by Māori a more attractive and worthwhile proposition. The level of willingness of the Government to effectively implement indigenous human rights will also obviously have a significant bearing in this regard. This is the subject of discussion in the following section.

POLITICAL LANDSCAPE

“We have to find a way to make sure that Indigenous voices are heard...We, as a society, are in a disaster management stage, and the wisest people are the ones being overlooked because of people’s stereotypes of what a leader is supposed to look or sound like.”

(Darcie Houck, Mohawk and Ottawa attorney specializing in environment, water resources, energy development and Native American land use⁶⁶)

7. The discussion so far in this paper provides a glimpse into the range of imperatives and values Māori potentially have to consider when faced with decision-making concerning any extractive industry activity. The nature and degree to which all parties operate in a principled manner in relation to each of those values will have a critical bearing on Māori’s ultimate choice in any such situation.

Obviously, the greater the integrity of the parties involved and the more they perform in a principled way, the greater the belief that a beneficial outcome for Māori is achievable.

- 7.1. The three main parties Māori can expect to engage with when exploring the pros and cons of engaging in extractive opportunities are the Government, corporate entities and financial partners. In terms of the Government, Māori will need to consider whether the legal, regulatory, policy and bureaucratic frameworks of the day are sufficiently acceptable and fair when measured against our spiritual, environmental, cultural, social and economic values, Te Tiriti and Indigenous Peoples' rights. Similarly prospective corporate entities (and to a lesser degree, prospective financial partners) will be affected by the Government's legal, regulatory, policy and bureaucratic frameworks. If found wanting, Māori should then consider whether there is sufficient political will to improve those frameworks to an acceptable standard within a timeframe that works for Māori. The time, financial investment, human resources and other costs required in bringing sufficient integrity to any system must be factored into the overall cost/benefit analysis.
- 7.2. It is always preferable that a Government or business partner's 'acting in good faith' towards Māori is natural, voluntary and sincere. Likewise, we prefer to think of harmonious, constructive and mutually-beneficial business relationships. However, it is simply good sense to ensure one has the security of an effective and enforceable legal, regulatory, policy and bureaucratic framework to lean on should it be needed. Conversely, to the extent that an equitable 'point of departure' between the parties and sense of security for Māori is missing, it makes Māori involvement in extractive activity a less attractive proposition. Currently, it could be argued that the level of trust between Māori and the Crown with regard to extractive industry activity is at an all time low.⁶⁷

SUMMARY OF CONSIDERATIONS - A DECISION-MAKING FRAMEWORK

8. The above discussion proposes that there is a dynamic and varied matrix of factors to be considered in any analysis of an opportunity to participate in extractive activity. This matrix can be represented in a number of ways. We provide one possible representation, for discussion purposes only, in **Appendix Three** (we reiterate this is only one tool to help organise the data which will vary from situation to situation according to the values of the whānau, hapū and iwi). Summarised another way the questions to ask may be as follows:
 - 8.1. *What* is the nature of the extractive activity? (e.g. Sand dredging, stone quarrying, coal mining, hydraulic fracturing, geothermal development, inshore drilling, offshore drilling...).

- 8.2. *Who* has the authority to decide in this matter? (e.g. with the whānau or hapū manawhenua; with the iwi; with private landowners; or a mix?).
- 8.3. *What* is the value of Māori participating in relation to the risks/opportunities associated with each of the four following priorities:
- Environmental protection/ Kaitiakitanga implementation:** this reflects the primary relationship our decisions will affect - i.e. our relationship with Papatuanuku;
 - Securing sufficient economic benefit:** this relates to achieving an equitable distribution of wealth, e.g. that there are meaningful financial or other value-based outcomes for the affected hapū or iwi, including the agreement and enforcement of benefit sharing arrangements with the extractive industry company;
 - Implementation of other Human Rights:** i.e. social security, cultural protection, employment and other substantive outcomes for our people and communities, as well as equity in the decision-making process for Māori; and
 - Maximising political willingness to engage on equitable terms:** ensuring an acceptable and enforceable legal, regulatory, policy and bureaucratic framework is in place (or is able to be sufficiently improved) in so far as engagement in extractive activity is concerned.
- 8.4. *What* is the best decision to make, recognising the overall accumulated net value regarding all considerations in 8.3. above?

PART THREE: MACRO ISSUES AND AN OVERALL STRATEGY

"A great revolution is waiting for us. ...The [financial] crisis doesn't only make us free to imagine other models, another future, another world. It obliges us to do so."

(Former French President Nicolas Sarkozy⁶⁸)

"There is an international 'green race' being run. Every country in the world is taking part. It is as inevitable as it is unstoppable. ...What we do next will dictate whether we continue to be on the pace – or be left behind."

(Pure Advantage Campaign⁶⁹)

- 11.** Iwi regionally and nationally have been obliged to speak on behalf of their rohe in relation to the extraction of minerals or oil. Mandated Iwi opinions around the country are diverse and reflect the unique characteristics and circumstances of their ongoing presence in the demographic landscape. The greater challenge is to achieve a unified position and perspective nationally within such a diverse arena.

11.1. It becomes obvious that the ability for iwi to truly influence the legislative and policy framework is limited. Influence can only be gained by the agreement and participation of the players. What will be needed to convince them to participate will be to establish a business case for an improved process which produces better outcomes. Therefore, iwi assertions or objections will inevitably require trade-offs and compromises to gain a foothold in the industry or government oversight of the sector. The greatest potential iwi have to exert influence in relation to this issue is at a national level where there is a direct dialogue with the Government. This is possible with a common single voice advocating agreed bottom lines.

11.2. The sheer breadth and variety of 'macro' considerations relating to the extractive industry means that only a relatively cursory comment on the subject can be made within the constraints of this report. We raise below only two macro priorities which we consider to be of importance.

The Need to Mitigate and Adapt

11.3. In the post-industrial era, the capitalist economy has become the predominant mechanism that drives human civilisation and shapes our world. This dynamic and very entrenched system, however, presents a profound dilemma: based on the value of infinite growth on a finite planet, it can hardly be called 'economic' at all. Rather, it contains within it "the seeds of its own destruction"⁷⁰. Hence the emergence of concepts such as 'peak oil', 'peak water', 'peak minerals', 'peak soil' and so on. A radical departure from 'business as usual' and industrial status quo is therefore required to realise the equally radical shift to a 'true' economy based on sustainable values.

11.4. Part of the solution will be for as many organisations and individuals to immediately begin making principled investment decisions and 'right' consumer choices based in sustainable values. This will help bring more integrity to the current capitalist economy over time. However, relying on market place supply and demand mechanisms and working 'within' the present economic culture alone will not be sufficient to create much needed change. And despite the fact that there must also be urgent Government intervention with the implementation of strong, practical and sustained policies, history has also taught us that we cannot count on Governments to lead radical change either. Māori must realise that transformation will only come from bold, passionate, determined, innovative and revolutionary leadership.

Achieving True Energy Security - Appreciating the Economic Opportunities

11.5. It is somewhat true that, in this 'tail end' of era, there is still money to be made in the extraction of natural resources.⁷¹ However, that claim needs greater scrutiny and to be placed in its proper context.

Accurately forecasting the nature and timing of economic shifts and trends where natural resources are ‘peaking’ is notoriously difficult due to the complicated and dynamic interplay of a variety of factors and systems in the marketplace. Obviously, with oil being used in the production and distribution of goods (e.g. food) and services (e.g. electricity), one may expect a rise in oil prices to be followed by a rise in the price of other commodities. Beyond that however, predictions become less clear, although the trigger of an economic recession and/ or depression is a definite possibility. And such events, as we know, affect lower income whānau first. Therefore, the claim that there is, on balance, an abundance of wealth to be made could be misleading.⁷²

11.6. Conversely, building local and national economic security (including by transitioning to renewable energy technologies and the use of renewable materials for production) holds the potential for more sustainable wealth-generating opportunities.⁷³ Ironically, Government has already admitted that this transition is in play, for example when it stated that “New Zealand has a target of 90 per cent of electricity generation to be from renewable sources by 2025”.⁷⁴ However, the production of that technology in the early days will continue to rely in part on fossil fuels while we’re in transition, hence the urgent need to begin today to design such a transition strategy.

11.7. We can no longer justify continuing in a ‘business-as-usual’ fashion. The opportunity is there for those among us who are visionary and innovative to lead the way to a thriving future for our tamariki mokopuna, whānau, hapū, iwi and nation; to see beyond ‘what is’ and believe in what could be; to create a true economy that is an expression of Māori values and imperatives for the good of all – spiritually, environmentally, socially, culturally and economically.

PART FOUR: RECOMMENDATIONS

12. That the Iwi Chairs:

- a. Note the high level Māori wellbeing values and priorities discussed in this report, and the situational context within which those values and priorities exist;
- b. Consider the practical decision-making framework tool offered in this report to stimulate discussion and aid in making fully informed choices concerning extractive activities;
- c. Support affected Te Tai Tokerau iwi and hapū to hold workshops if needed on the use of the decision-making framework;_
- d. Note the preliminary commentary on strategies and tactics in this report to protect and advance high level Māori wellbeing values and priorities;
- e. Note that a Te Tai Tokerau hapū road show on extractive industry issues is going to be organised for early 2014, and the organisers will

be contacting Iwi Chairs in the coming months about how they can support that hapū engagement;

- f. *Direct* this Working Group to edit this report into a suitable form to be submitted to the National Iwi Chairs Forum; and
- g. *Submit* the report in f. above to be included in the National Iwi Chairs Forum 28-29 November 2013.

Nāku,

Haami Piripi
Minerals Extraction Working Group

¹ The map on this page may be found at <http://www.greenpeace.org/new-zealand/en/campaigns/climate-change/Oil-drilling-not-a-solution/>. The map was produced December 2012, but there have been several updates since then, some of which are referenced in this paper.

² See http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf.

³ Crown efforts to enforce its claims to Māori resources include its Foreshore and Seabed Act 2004, and its successor the Marine and Coastal Area (Takutai Moana) Act 2011. Both Acts assume Crown title to the seabed and have been internationally criticised as being discriminatory against Māori.

⁴ See for example “The Petroleum report – WAI 796” (Waitangi Tribunal, 2003) at <http://www.waitangitribunal.govt.nz/reports/viewchapter.asp?reportID=a181419d-48ad-4ecf-98bc-439454654765&chapter=2#H796.1.1>. Te Hiku Deeds of settlement also explicitly record iwi rejection of the Crown’s ownership assumption.

⁵ See “The Petroleum report – WAI 796”, at note 4 above.

⁶ “[S]and mining at Te Kokota was stopping pingao from growing by removing the sand in which the pingao grows”: “Ko Aotearoa Tēnei – WAI 262, Volume 1”, (Waitangi Tribunal, 2011), p245-246. Volume 1 is downloadable from <http://www.waitangitribunal.govt.nz/scripts/reports/reports/262/F0461D82-FC25-42BA-BEB4-0DC9857FA909.pdf>.

⁷ Chap 1.4 “The Issues”, Summary of “The Petroleum report – WAI 796” (Waitangi Tribunal, 2003), at note 4 above.

⁸ A department of the Ministry of Economic Development.

⁹ In 2009 there were 6,800 people employed directly in mining: http://en.wikipedia.org/wiki/Mining_in_New_Zealand.

¹⁰ Ref <http://www.nzpam.govt.nz/cms/petroleum/overview>.

¹¹ Ref <http://www.nzpam.govt.nz/cms/minerals/overview>. Lignite is also New Zealand’s largest fossil fuel energy resource: ref <http://www.nzpam.govt.nz/cms/coal/overview>.

¹² For more detailed information, see the New Zealand Petroleum & Minerals page at <http://www.nzpam.govt.nz/cms/minerals/legislation#acts>.

¹³ See “Extractive industries and indigenous peoples” (Report of the Special Rapporteur on the Rights of Indigenous Peoples to the United Nations Human Rights Council Twenty-fourth Session, 1 July 2013), p3, at <http://conference.bioneers.org/an-indigenous-perspective-on-energy-development-q-a-with-darcie->
http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session24/A-HRC-24-41_en.pdf.

¹⁴ Garth Lenz, “The true cost of oil”, Tedx Victoria, at 4.10mins: see http://www.youtube.com/watch?v=84zlj_EdQdM. He refers to Tar sands as the most dirtiest oil in the world (at 4.45 mins).

¹⁵ Indigenous Environmental Network, “Information sheet no. 1: Tar sands: Indigenous Peoples and the GIGA project” at http://www.dirtyoilsands.org/files/IEN_CITSC_Tar_Sands_Info_Sheet.pdf. See also Polaris Institute, “Extreme Energy development is a risk for investment and the planet, Indigenous delegates tell Royal Dutch Shell shareholders” (21 May 2013) at http://polarisinstitute.org/extreme_energy_development_is_a_risk_for_investment_and_the_planet_indigenous_delegates_tell_royal_dutch_shell_shareholders.

¹⁶ Ref Megan Davis, “Study on the impact of the mining boom on indigenous communities in Australia: Report to the United Nations Permanent Forum on Indigenous Issues” (20-31 May 2013), p2: ref http://papersmart.unmeetings.org/media/1147234/E20_E_C.19_2013.pdf.

¹⁷ Rachel Davis and Daniel M. Franks, “Chapter 6, The costs of conflict with local communities in the extractive industry” (SR Mining 2011, First International Seminar on Social Responsibility in Mining, Santiago, Chile, 19-21 October 2011), at https://www.csr.uq.edu.au/Portals/0/11srm_cap06_p88.pdf.

¹⁸ See Saúl Vicente Vázquez, “Consolidated report on extractive industries and their impact on Indigenous Peoples: Report to the United Nations Permanent Forum on Indigenous Issues” (20-31 May 2013), p3, at http://papersmart.unmeetings.org/media/1174728/E16_E_C.19_2013.pdf.

¹⁹ See Vázquez, at note 18 above, p2.

²⁰ “[The] philosophy of life, which is essential to indigenous peoples, has never held any importance for corporations, Governments or multilateral financing institutions; this is evident from the fast-paced

consumption of natural resources and the impacts of globalization that we see today.” Ref Vázquez, at note 18 above, p2.

²¹ This area has been dubbed “the oil and gas province”. The National Business Review reports that resistance to the industry has been increasing in response to intensified onshore activity and plans for deep-sea offshore drilling: see “Controversy likely over onshore oil exploration acreage in new block offer” (29 April 2013) at <http://www.nbr.co.nz/article/taranaki-maori-knock-back-onshore-oil-exploration-acreage-new-block-offer-bd-139363>.

²² “Iwi welcome study into oil, gas impact” (12 July 2013), at <http://www.stuff.co.nz/taranaki-daily-news/news/8909136/iwi-welcome-study-into-oil-gas-impact>.

²³ For example, see <http://www.greenpeace.org/new-zealand/en/press/Rainbow-Warrior-crew-celebrate-Petrobras-exit-with-Te-Whanau-a-Apanui/>.

²⁴ For example, see <http://www.stuff.co.nz/marlborough-express/news/8692829/Hundreds-protest-deep-sea-drilling>.

²⁵ The EEZ and Continental Shelf Act 2012 was passed under urgency.

²⁶ See “Anti-mining protests spread throughout New Zealand” (9 April, 2013), at <http://www.mining.com/anti-mining-protests-in-new-zealand-spread-87201/>. Opponents of this move included former Prime Minister Geoffrey Palmer and New Zealander of the Year Anne Salmond.

²⁷ See “Protest as court considers West Coast mine decision” (October 29, 2012), at <http://tvnz.co.nz/national-news/protest-court-considers-west-coast-mine-decision-5169238>. The proposed mining site is located in the Mount Rochfort Conservation Area, and would be New Zealand's second largest coal mine.

²⁸ See <http://www.converge.org.nz/watchdog/12/06.htm>.

²⁹ Aside from the obvious environmental alarm bells, and in a democracy such as New Zealand's, this begs an important constitutional question: as an extension of the Government's administration, is it appropriate in such circumstances that corporate and business interests should have more control over decision-making than the citizens themselves whom the Government is meant to be serving?

³⁰ 13 August 2013, offices of Te Rūnanga o Ngāpuhi, Kaikohe.

³¹ See “Extractive industries and indigenous peoples”, at note 13 above, p3.

³² See “Extractive industries and indigenous peoples”, at note 13 above, p5.

³³ “*The loss of biodiversity and ecosystem services is, alongside climate change, one of the biggest environmental issues of our time...The extractive industry, whilst providing essential goods and services to our society, can both impact on and is dependent on biodiversity and ecosystem services...Companies that are not [proactively managing and reducing their impact on biodiversity] can cause significant damage.*”: see the Natural Value Initiative, “Tread lightly: Biodiversity and ecosystem services risk and opportunity management within the extractive industry” (October 2011), p3, at

<http://www.naturalvalueinitiative.org/download/documents/Publications/NVI%20Extractive%20Report%20Executive%20Summary.pdf>.

³⁴ See http://en.wikipedia.org/wiki/Deepwater_Horizon_oil_spill. See also the image on page 1 above which shows the area of the spill relative to New Zealand.

³⁵ For example, in 2012 an Ecuadoran court ordered Chevron to pay \$19 billion dollars for polluting the rain forest: see “Ecuador President Rafael Correa: Chevron Is 'Enemy Of Our Country'” at http://www.huffingtonpost.com/2013/08/17/ecuador-president-rafael-correa_n_3773558.html?utm_hp_ref=green.

³⁶ Ref correspondence dated 12 August 2013.

³⁷ Minister Simon Bridges speaking before the Te Tai Tokerau Iwi Chairs Forum meeting: see note 30 above.

³⁸ Forest and Bird website, “Mining Q&A”, <http://www.forestandbird.org.nz/saving-our-environment/mining-q>.

³⁹ Forest and Bird website, “Mining Q&A”, ref note above 38.

⁴⁰ Ref “Climate change at a glance”, at “Gateway to the United Nations Systems Work on Climate Change”, <http://www.un.org/wcm/content/site/climatechange/pages/gateway/the-science/at-a-glance>.

⁴¹ Ref “UN urges collective efforts to achieve ‘water secure world’ on Day for Biological Diversity”,

<http://www.un.org/apps/news/story.asp?>

[NewsID=44967&Cr=water&Cr1=biodiversity&Kw1=extinction&Kw2=&Kw3=#.Ude71G0XG6s](http://www.un.org/apps/news/story.asp?NewsID=44967&Cr=water&Cr1=biodiversity&Kw1=extinction&Kw2=&Kw3=#.Ude71G0XG6s).

⁴² Forest and Bird website, "Mining Q&A", ref note above 38.

⁴³ "Hydraulic fracturing...impacts water amazingly—millions and millions of gallons of fresh water being used and absolutely contaminated beyond any point of redemption. And so, it's an attack. It's an attack on the future lives of our children and everybody else's children, as well, and life, in general." (Onondaga spiritual leader Oren Lyons, panel interview with "Democracy Now", 9 August 2013, at http://www.democracynow.org/2013/8/9/onondaga_leader_oren_lyons_pete_seeger, at 47:12 mins.

⁴⁴ See report of the Oil and Minerals Technical Team to the Iwi Chairs Forum, 8-9 August 2013.

⁴⁵ Fossil fuels amounted to 80% of the world's energy supply in 2004: ref Intergovernmental Panel on Climate Change, "Chapter 4.3.1. Fossil Fuels", in "Climate Change 2007: Working Group III: Mitigation of Climate Change", at http://www.ipcc.ch/publications_and_data/ar4/wg3/en/ch4s4-3-1.html.

⁴⁶ According to the leading international body for the assessment of climate change, the [Intergovernmental Panel on Climate Change, climate change is unequivocal](http://www.un.org/wcm/content/site/climatechange/pages/gateway/the-science). This is evident from observations of increases in global average air and [ocean](#) temperatures, widespread melting of snow and ice and rising global average sea levels: See "Scientific evidence of climate change", at "Gateway to the United Nations Systems Work on Climate Change", <http://www.un.org/wcm/content/site/climatechange/pages/gateway/the-science>; ref also Radio New Zealand, "Science - World Weather" (4 July 2013), at:

<http://www.radionz.co.nz/national/programmes/nights/audio/2560999/science-world-weather>

⁴⁷ See "Scientific evidence of climate change", at note 46 above.

⁴⁸ See "Consequences of climate change", at "Gateway to the United Nations Systems Work on Climate Change", <http://www.un.org/wcm/content/site/climatechange/pages/gateway/the-science/consequences-for-the-future>.

⁴⁹ See "Consequences of climate change", see note above 48.

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Many experts believe we are at the beginning or in the midst of the 6th planetary mass extinction right now, caused by human activity: See for example, BBC 'Future': "A looming mass extinction caused by humans", <http://www.bbc.com/future/story/20121101-a-looming-mass-extinction>.

⁵¹ For more on renewable energy, see for example Ref Intergovernmental Panel on Climate Change, "Chapter 4.3.3. Renewable Energy", in "Climate Change 2007: Working Group III: Mitigation of Climate Change", at http://www.ipcc.ch/publications_and_data/ar4/wg3/en/ch4s4-3-3.html.

⁵² The Minister of Energy and Resources advised that the current royalties value was \$800m per annum: re note 30 above.

⁵³ Forest and Bird website, "Mining Q&A", note 38 above.

⁵⁴ Forest and Bird website, "Mining Q&A", note 38 above.

⁵⁵ See "Extractive industries and indigenous peoples", note 13 above, at p3.

⁵⁶ The Minister mentioned recent figures of 15,000 jobs created nationally, and used Taranaki as an example of increased Māori employment. However, observations to the contrary regarding Taranaki's situation were subsequently made by a number of the Te Tai Tokerau Iwi Chairs: re note 30 above.

⁵⁷ Response from J Carson, Manager Communications, Todd Energy, dated 12 April 2013.

⁵⁸ "[C]ompanies have the obligation to respect international human rights standards within the framework of their "due diligence". See Vázquez, note 18 above, p10.

http://papersmart.unmeetings.org/media/1174728/E16_E_C.19_2013.pdf

⁵⁹ See "Extractive industries and indigenous peoples", note 13 above, paras 9-17.

⁶⁰ This is especially so for areas of cultural significance to them or in which they traditionally have access to resources that are important to their physical well-being or cultural practices. See "Extractive industries and indigenous peoples", note 13 above, para 27.

⁶¹ Adopted by the Convention on Biological Diversity's 10th Conference of the Parties, in Nagoya. See International Institute for Environment and Development, "Nagoya Protocol on Access to Genetic Resources and Benefit-Sharing", at <http://biocultural.iied.org/policy/nagoya-protocol-access-genetic-resources-and-benefit-sharing>. For the full copy of the Protocol, see

<http://www.cbd.int/abs/doc/protocol/nagoya-protocol-en.pdf>.

⁶² See <http://www.ecowalkthetalk.com/blog/2010/04/28/bolivia-climate-change-conference-and-the-rights-of-mother-earth/>.

⁶³ Full copy at http://www.un.org/ga/search/view_doc.asp?symbol=A%2F67%2F994&Submit=Search&Lang=E.

⁶⁴ List generated from the Te Hiku o Te Ika Iwi Forum's Manawhenua process 2010, and other sources.

⁶⁵ See for example the Wellbeing Outcomes in the "Te Hiku o Te Ika - Crown Social Development and Wellbeing Accord" contained in the document schedule to the Deed of Settlement between Te Rarawa and the Crown (28 October 2012). See Appendix Two.

⁶⁶ See "An Indigenous Perspective on Energy Development: Q & A with Darcie Houck" (6 August 2013) at http://conference.bioneers.org/an-indigenous-perspective-on-energy-development-q-a-with-darcie-houck/?utm_source=Bioneers+Newsletter&utm_campaign=ed699d2ba5-Conference_Bi_weekly_blast_8_6_138_5_2013&utm_medium=email&utm_term=0_fe599ca8fb-ed699d2ba5-5166377.

⁶⁷ For example, in June 2013 documents released to the Labour Party revealed that Minister Simon Bridges had met with oil giant Shell to discuss the criminalisation of open sea protests against mining: see RNZ news item "Billboard challenges minister over anti-mining law" at <http://www.radionz.co.nz/news/political/214734/billboard-challenges-minister-over-anti-mining-law>; and Blogpost by Nathan Argent (7 June 2013), "Oil slick politics", <http://www.greenpeace.org/new-zealand/en/blog/oil-slick-politics/blog/45476/>.

⁶⁸ "Nicolas Sarkozy wants to measure economic success in 'happiness'" (14 September 2009), at <http://www.telegraph.co.uk/news/worldnews/europe/france/6189530/Nicolas-Sarkozy-wants-to-measure-economic-success-in-happiness.html>.

⁶⁹ For a more in-depth coverage of the issues, we recommend reports such as Pure Advantage's "Green growth: opportunities for New Zealand" (November 2012): pdf download available from their website at <http://www.pureadvantage.org/>. Pure Advantage, who's Trustees include Ngāi Tahu's Mark Solomon, made a presentation to the National Iwi Chairs Forum on 7 December 2012 based on this report. Considerable attention is given to fossil fuels in the report.

⁷⁰ Tim Jackson, "Prosperity without growth", at <http://www.youtube.com/watch?v=dZ3Rnfg8oUE> At 7:30mins.

⁷¹ Todd Energy comments that it "supports the move to renewable energy sources as they become more reliable and affordable". However, it also recognised that the need for fossil fuel generation will remain a part of the energy mix for some years to come. Ref note 57 above.

⁷² See "Wayne Cartwright: Energy exploration debate missing the point" (NZH), http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=10905614.

⁷³ Renewable, clean and/or ambient (free) energy systems can provide energy security solutions and protect the environment: Ref Intergovernmental Panel on Climate Change, "Chapter 4.3.3. Renewable Energy", in "Climate Change 2007: Working Group III: Mitigation of Climate Change", at http://www.ipcc.ch/publications_and_data/ar4/wg3/en/ch4s4-3-3.html.

⁷⁴ See statement by the Acting Minister, Energy Efficiency and Conservation Authority, in "New Zealand Energy Strategy" (30 August 2011): <http://www.med.govt.nz/sectors-industries/energy/pdf-docs-library/energy-strategies/media-release-energy-strategy-aug-30-final.pdf>.