

## Submission to Land Information New Zealand on

### **“A 10-20 YEAR STRATEGY FOR DEVELOPING THE CADASTRE: KNOWING THE EXTENT OF LAND-RELATED RIGHTS” (NOV 2012)**

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#### **INTRODUCTION**

1. Straterra<sup>1</sup> welcomes the opportunity to submit on Land Information New Zealand’s proposal to develop a strategy for the cadastral system. We note the emphasis LINZ places on “knowing the extent of land-related rights”, which includes rights to minerals.
2. Straterra Inc represents more than 90% by value of New Zealand minerals production, exploration, scientific research, engineering and geo-technical services, and legal, consulting and other ancillary services to the industry. Current membership stands at 57<sup>2</sup>.
3. Straterra’s key functions include advocating for improvements to New Zealand’s attractiveness for investment in minerals prospecting, exploration and development. Determinant factors include: minerals prospectivity, certainty and predictability in legislation and regulation, and access to land.
4. On the last, access to land is enabled greatly if public information on land title and related rights is centrally held, and easy to access. This is often not the case at present, in particular, in relation to notation of minerals ownership on privately-owned land.
5. Straterra wishes LINZ well in its initiative to improve New Zealand’s generally very satisfactory cadastral system, and would welcome engagement with officials on the issues, if that would be useful.

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<sup>1</sup> <http://www.straterra.co.nz/About+Straterra>

<sup>2</sup> View list of Straterra members

[http://www.straterra.co.nz/uploads/files/straterra\\_members\\_list\\_1\\_december\\_2012.pdf](http://www.straterra.co.nz/uploads/files/straterra_members_list_1_december_2012.pdf)

## EXECUTIVE SUMMARY

- 6 The key cadastral issue for the minerals sector is that minerals ownership can be affected by many different statutes, and information on it is not held in one system or is easily accessible, and should be. The Ministry of Business, Innovation and Employment has submitted to LINZ on the matter. Straterra supports the MBIE submission.
- 7 Gold, silver, uranium, and petroleum are owned by the Crown wherever they exist and are called the statutory minerals. These minerals are not an issue for the minerals sector under the cadastral system.
- 8 On the other hand, non-statutory minerals under privately-owned land may be owned by the Crown<sup>3</sup>, the owner of the land, or some other person, and only an exhaustive title search<sup>4</sup> will reveal the answer, often at great cost<sup>5</sup>. This is a very important issue<sup>6</sup> for minerals explorers, relating to public information that is the Government's responsibility to administer.
- 9 The priority for LINZ will be to identify where private minerals ownership occurs and improving access to that information in the cadastral system, to enable the efficient management of New Zealand's mineral resources. Many landowners are unaware of who owns the minerals under their land. Sub-surface rights need to be clearly defined and readily available. This task is best handled as a specific project, with dedicated resources to be applied over a specified time frame, with staged targets to be met.
- 10 We recognise that the above will be a far from straightforward task, and offer to engage with LINZ, and MBIE, as part of finding a way forward.

## RECOMMENDATIONS

- a) Note that Straterra represents more than 90% of the value of New Zealand minerals production and exploration, including all major producers of gold+silver, coal, and aggregates (through the Association of Quarries and Aggregates);

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<sup>3</sup> MBIE has identified 17 statutes under which the Crown has reserved the rights to minerals when Crown land is alienated into private ownership, noting there may well be others

<sup>4</sup> DOSLI News/Views (date unknown) – “Non-statute minerals ownership”, by Graham Cullen, DOSLI, Hamilton

<sup>5</sup> NZP&M <http://www.nzpam.govt.nz/cms/petroleum/permits-content/crown-owned-minerals>

<sup>6</sup> The Government's policies for economic growth and prosperity include encouraging and enabling the minerals sector

- b) Note Straterra’s support for the development of a strategy for the cadastral system, on the basis that improved access to information leads to reduced costs, benefiting businesses and society;
- c) Note that the key issue for the New Zealand minerals sector is “land-related property rights”, and relevant spatial information;
- d) Note Straterra’s support for the consultation document, where it notes a “strong thrust towards increased collaboration between government agencies and interoperability of databases”;
- e) Note Straterra’s support of Goal 2 – “the rights, restrictions and responsibilities are spatially depicted”, including for minerals;
- f) Agree to bring data from existing Land Mineral Status (LMS) reports on past permits for Crown-owned minerals into the LINZ cadastral system;
- g) Agree that all current and past LMS status reports for permits should be obtained from MBIE, and used as a guideline for Crown mineral ownership notations;
- h) Agree to ensure all Crown-owned land is recorded with that land status, including marginal strips, esplanade reserves, State coal reserves, paper roads, and similar;
- i) Agree to record all private land alienated from the Crown, where the Crown has reserved ownership of minerals (under many statutes over time), noting that resources may need to be allocated to carry out this task as a project;
- j) Agree to initiate a programme of mineral ownership notation;
- k) Agree that all newly-created titles should have Crown-owned mineral ownership noted on the title;
- l) Agree that, where minerals are not owned by the Crown, the land title should indicate: either by a notation that the mineral ownership is not excluded from the land; or where it is excluded, it should note that minerals are excluded from the land by means of conveyance or transfer with a document reference; and
- m) Agree to engage with industry and other relevant stakeholders, e.g., MBIE, to discuss how these recommendations might be implemented.

## DISCUSSION OF STRATERRA'S APPROACH

11. Straterra has discussed the consultation document with MBIE, and supports its submission. The key issue for the New Zealand minerals sector is “land-related property rights” (page 4 of the consultation document).
12. Mention is made in several places in the consultation document of minerals, in particular, Crown-owned minerals<sup>7</sup> (pages 5-10, 16), in connection with the above categorisation of rights.
13. We agree with the policy driver (page 11): the “strong thrust towards increased collaboration between government agencies and interoperability of databases”. That is a key area where improvements for users of data in the minerals sector could be made.
14. We note that minerals ownership records are public information, and that it is the Government’s responsibility to administer efficiently and effectively this information. The current cadastral system provides an excellent basis for making further improvements.
15. Goal 2 – “the rights, restrictions and responsibilities are spatially depicted” – is, therefore, relevant, to capture all forms of “tenure” (page 16), including minerals.
16. We agree that data from existing and previous Land Mineral Status (LMS) reports on permits to Crown-owned minerals, made available by MBIE (New Zealand Petroleum & Minerals), should be incorporated into the LINZ cadastral system following careful review.
17. There is also a clear case for recording relevant mineral and land status on current land titles. However, to be effective, and to avoid the costs and obstacles that impede minerals exploration, the cadastral database needs to include details on private mineral owners, in particular whether or not the owner of the land is also the owner of the non-statutory minerals, and, if not, who the owner is.
18. It is noted that all pounamu (greenstone) within the Ngai Tahu takiwa is owned by that iwi (section 11 (1A) of the Crown Minerals Act, which defers to the Ngai Tahu (Pounamu Vesting) Act 1997).

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<sup>7</sup> Crown-owned minerals are defined in sections 10 and 11 of the Crown Minerals Act 1991.