

# Select Committee Inquiry into seabed mining in New Zealand

Climate Justice Taranaki submission, 23rd June 2023

## Introduction

1. Climate Justice Taranaki (CJT)<sup>1</sup> is a community group dedicated to environmental sustainability and social justice. This includes issues of inter-generational equity, notably in relation to climate change, which will increasingly impact present and future generations' inalienable rights to safe water, food and shelter, crucial to sustaining livelihoods and quality of life. Composed of a broad range of people with varied expertise and life experiences, CJT has engaged respectfully with government on numerous occasions. We welcome the opportunity to take part in the Parliamentary Inquiry into seabed mining in New Zealand<sup>2</sup>.

## Terms of Reference

2. This submission addresses the following points from the Terms of reference for the select committee inquiry:
  - the costs and risks of seabed mining in New Zealand, including environmental impacts.
  - comparison to other methods for obtaining minerals (eg land-based)
  - how seabed mining is managed internationally and in New Zealand
  - how domestic regulatory settings are performing, including under the Crown Minerals Act 1991, Resource Management Act 1991, and Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012
  - whether any change to domestic regulatory settings should apply to the coastal marine area, the EEZ and extended continental shelf, or both
  - the prospect of any change to domestic regulatory settings being supportive of Pacific countries in considering their own positions on seabed mining
  - recommendations for maintaining or updating New Zealand's domestic regulatory settings
  - a Te Ao Māori perspective on these issues.

## Costs and Risks

3. Each form of proposed seabed mining has a unique combination of costs and risks. Many are interconnected, and can be categorized as:
  - locational – topographic, oceanographic, climatic, biological-ecological
  - capital outlay
  - regulatory – under national jurisdiction or on the High Seas
  - markets
  - ecological, including cumulative effects and the Precautionary Principle

### Locational

4. Costs and risks are largely self-evident, from the perspective of the proponent's logistics, the topographic, oceanographic and climatological challenges, and those to the benthic and pelagic biota present. On logistics, financial outlays are significant, resulting in risks of failed ventures, as was likely a contributing factor to a project failure in Papua New Guinea<sup>3</sup>.
5. On biological-ecological risks, some mining sites and/or adjacent habitat are biodiversity hotspots, hosting species that remain either unknown to science or recently described, many potentially endemic, or with source populations crucial in replenishment. For example, a 2021 NIWA survey of Patea Bank reefs<sup>4</sup>, offshore Taranaki, in the general vicinity of a proposed Trans Tasman Resources

Limited (TTRL) seabed mine site, found that a deeper reef held high densities of juvenile blue cod, consistent with it providing important nursery habitat for this species. Several other smaller nursery habitat areas were discovered on the edges of some reefs. The latter has potential for cross-sectoral conflicts and alliances, as for example between Mana whenua, fishers and miners, as has arisen in respect of TTRL.

6. Another example of the richness of biodiversity in proposed mining regions, specifically the highly-sought Clarion-Clipperton Zone of the central-eastern Pacific, was provided by a recent census by Rabone et al. (2023)<sup>5</sup>:

*“The global surge in demand for metals such as cobalt and nickel has created unprecedented interest in deep-sea habitats with mineral resources. The largest area of activity is a 6 million km<sup>2</sup> region known as the Clarion-Clipperton Zone (CCZ) in the central and eastern Pacific, regulated by the International Seabed Authority (ISA). Baseline biodiversity knowledge of the region is crucial to effective management of environmental impact from potential deep-sea mining activities, but until recently this has been almost completely lacking. The rapid growth in taxonomic outputs and data availability for the region over the last decade has allowed us to conduct the first comprehensive synthesis of CCZ benthic metazoan biodiversity for all faunal size classes. Here we present the CCZ Checklist, a biodiversity inventory of benthic metazoa vital to future assessments of environmental impacts. An estimated 92% of species identified from the CCZ are new to science (436 named species from a total of 5,578 recorded). ...”*

7. Even on continental shelves, a dearth of information still exists in many locations. The TTRL assessment process is a classic case in point. Initial surveys by NIWA<sup>6</sup> in South Taranaki Bight reported new species of bryozoans, sponges, annelids, and algae, as well as new records for many groups for the region. Subsequent NIWA surveys in 2021 focused on Patea Bank<sup>7</sup>, near the TTRL proposal. The study, commissioned by Taranaki Regional Council, “... demonstrates that subtidal reefs are in fact common on Patea Bank, with many more awaiting discovery by multibeam sonar mapping. Associated with these reefs are extensive areas of biogenic habitat, dominated by macroalgae (notably Ecklonia forests, Caulerpa meadows, mixed macroalgal meadows, and soft bryozoan fields), as well as areas of sponge garden (areas of higher sponge cover more than 5 metres in width). The associated fish assemblages are abundant, dominated by blue cod, scarlet wrasse, butterfly perch, leatherjackets and tarakihi, with other fisheries species likely to be common (e.g., snapper, trevally, kingfish, and kahawai). The unusual distance of these reef systems from shore, occurring on a wide shallow continental shelf, makes them relatively unique in the New Zealand context, and may have protected them (in part) from land-based impacts seen elsewhere around New Zealand. They are worthy of careful management by the TRC, and other governance entities.”

### **Capital outlay and regulation**

8. As introduced above, a salutary lesson can be taken from the recent experience of Papua New Guinea with Canadian-based company Nautilus Minerals Limited. As reported by the Guardian Newspaper (16/9/2019)<sup>8</sup>:

*“The Solwara 1 project ... planned to mine mineral-rich hydrothermal vents, formed by plumes of hot, acidic, mineral-rich water on the floor of the Bismarck Sea. But the project has met with fierce community resistance, legal challenges, and continued funding difficulties. The PNG government sunk more than 375m Kina (AUD\$157m) into the project, money it is attempting, but appears unlikely, to recoup.*

*The project has been “a total failure” prime minister James Marape said. ... Sir Arnold Amet, former chief justice of PNG, was Governor of Madang province and an MP when Solwara 1 was approved.*

*He said he regrets that the then government didn't adequately scrutinise the proposal. "Let's recognise this failed investment in the upcoming budget and ensure we don't enter into seabed mining joint ventures in the future or issue any more seabed exploration or mining licences. We now know how deep sea mining companies attempt to manipulate governments according to their own narrow profit motives without any conscience. We look to PM Marape to stand up for Papua New Guineans against the pressure exerted by these corporations."*

9. The costs borne by the PNG government bear some similarities with the financial loss to NZ taxpayers from the abandoned Tui oilfield, offshore Taranaki. Other similarities include 'fierce public opposition'<sup>9</sup>. In Taranaki and Aotearoa more generally, significant public opposition, including dedicated court challenges, have already arisen in respect to the TTRL mining proposal for iron sand and other minerals, offshore Taranaki. Despite the court challenges from a broad range of civil society groups being successful, TTRL has again recently submitted a revised proposal to the Environmental Protection Authority (EPA) for another Hearing under the EEZ-CS Act, and presumably another go-round in the courts.
10. Hence regulatory costs and risks include the significant expense borne by proponents initially in preparing proposals that include environmental and other impact assessments, any subsequent legal challenges (on both sides), and any fines that may be levied by regulators for operational poor performance or failures. Costs to government include those associated with initial assessments, the ongoing regulatory process and decommissioning – clean-up.
11. Costs to proponents of initial assessments are typically 'weighed' against the necessity for gaining favourable 'expert opinion' from the hired consultants, to present at the requisite Hearings. This has spawned its own industry of 'Environmental Engineering' firms and individuals who typically conduct the assessments on behalf of proponents. In CJT's experience, those reports invariably favour, or are sufficiently ambiguous, that proponents can proceed. It is self-evident that companies will not want to pay for studies that are damaging to their proposal. This is a serious flaw in the current EIA process. Yet it is not difficult to address. In all cases, EIAs should be conducted by independent entities paid by the regulator from funds secured from the proponent, providing the independence necessary for more objective assessments.
12. On the High Seas, seabed mining is regulated by the International Seabed Authority (ISA) under UNCLOS. Although likely beyond the scope of this Inquiry, it is worth noting that ISA has a pro-mining stance, having issued more than 30 exploration permits, with mining at some sites likely to proceed in the very near future. At the same time, recent and continuing international negotiations, in which NZ has participated, were aimed at developing a treaty for the High Seas for Biodiversity Beyond National Jurisdictions, the so-called '30 x 30 call' for 30 percent of the High Seas to be protected by 2030. The interaction of these continuing negotiations with those of the ISA remains complex.

### **Marketing**

13. Several major companies reliant on minerals have already announced their opposition, based on the perceived environmental and socio-cultural impacts. As of May 2021, companies including BMW Group, Samsung SDI, Google and Volvo Group, joined the call for a global moratorium on deep seabed mining, and for alternatives. The companies each pledged not to source deep sea minerals, to ensure such minerals are excluded from supply chains and to not finance deep sea mining<sup>10</sup>. The companies, along with NGOs, civil society and the science community, are legitimately concerned about environmental impacts. Suffice to say that significant gaps in knowledge remain, and a precautionary approach, consistent with NZ's national and international obligations, should be adopted.

## Ecological

14. Aotearoa hosts a globally significant marine fauna and flora already under significant, and rapidly expanding, cumulative impact (see Section 5 below). CJT does not support adding further impacts to our territorial sea or EEZ.

15. Professor Barry Barton, Te Piringa Faculty of Law, University of Waikato, stated<sup>11</sup>:

*“On land we can manage most of the environmental effects quite well, but at sea our ability to do so is limited; our baseline knowledge is lower, we can’t recontour mined areas or revegetate them, and it’s hard to monitor during and after operations. Dredging causes turbidity that can be harmful to sea life. Large areas of seabed may be affected, compared to onshore mining projects which dig deep and are more intensive. There is a lot we don’t know about marine ecosystems, especially in deep water, so a cautious approach to the environmental regime is well warranted.”*

16. As Dr Hugh Govan, Adjunct Senior Fellow, School of Law and Social Sciences (SoLaSS), University of the South Pacific (USP), stated recently<sup>11</sup>:

*“There is extremely low scientific knowledge of the Pacific Ocean and the connections between its different systems. The impacts of current human activities on this vast ocean, sometimes many thousands of miles away, are only just beginning to be identified and it is hardly the time to be imposing new threats to what may already be ecosystems at risk. The Pacific Ocean provides many benefits to the planet already, including its role as a carbon sink to mitigate the impacts of human emissions that cause climate change. Sustainable fisheries for globally important tuna stocks that migrate across the high seas as well as the national jurisdictions of island countries are a renewable resource that not only feed the world but also are far larger source of recurring revenue to the region than deep sea mining is ever likely to be.”*

## Comparison of Methods

17. Obvious differences between terrestrial and seabed mining include the capacity and costs of monitoring and managing effects. For seabed mining, logistics are more challenging and financial costs are far greater. Despite some differences in the regulatory regime, pertinent examples can be taken from offshore mining activities in Taranaki, in terms of monitoring and management challenges. One such case concerns the Kupe gas platform (also see paragraphs 29 and 30 below). Two years ago, it came to CJT’s attention that an investigation has been ongoing since 2018 at the Kupe gas platform. It was not till earlier this year that the EPA revealed the fact that one of the suspended wells had been leaking since 2018. Even then it appeared that EPA had little understanding of the actual situation on-site, relying on the veracity of operator reports. This is just one example of the many challenges posed by the ‘out of sight, out of mind’ nature of seabed operations. The Kupe operation has had several owners since its inception, complicating attribution for the leak. It is currently operated by a joint-venture.

18. Taranaki has experienced other leaks and spills, including fouling of shorelines<sup>12, 13</sup>, although none anywhere near the scale of the Deep-Water Horizon well blow-out in the Gulf of Mexico in 2010, which resulted from the failure of adequate monitoring and regulatory oversight. However, CJT by no means advocates for land-based mining over seabed mining. Aotearoa has already lost the vast majority of its natural areas and biodiversity to agriculture and development, and many of our waterways and wetlands, even aquifers, are heavily degraded. Any new or significant expansion of existing mining on land will further threaten the remnant natural areas and clean waterways, with potential harm on human health.

19. Our civilization has been profligate in the extraction, use and disposal of mined, as indeed other, resources. Our profligacy in large part has been driven by the obsession with endless growth and consumption, aligned with an increasingly widespread and undeserved sense of entitlement, of human superiority over nature. Brit Ben Elton (1993)<sup>14</sup> made dark, satirical comedy of this in his novel *'This Other Eden'*, in a section titled 'Dying of consumption':

*"...The one single and abiding criterion by which the success of countries is judged is in terms of their 'growth'. Each year the great nations agonize over how much they have 'grown'. How much more they have made, how much more they have consumed. Consumer confidence is actually considered a measure of a country's relative economic strength. ... Consumption is synonymous with 'growth' and growth is good. It is always good, whenever and wherever. Hence, clearly consumption is good, all consumption, anywhere, anytime. Judged by the logic of world economics, the death of the planet will be the zenith of human achievement, because if consumption is always good, then to consume a whole planet must be the best thing of all."*

20. Various indicators, from the Planetary Boundaries framework (Rockström et al. 2009)<sup>15</sup> to the Earth Overshoot and Ecological Footprint approaches (Wackernagel and Beyers 2019)<sup>16</sup>, show that, collectively, many in the 'developed world' are living well beyond our means. We are borrowing (perhaps stealing is a more appropriate word) from current and future generations; with insufficient effort, to date, to stabilize or reduce consumption, or even pay fairly for the privilege (also see Concluding Remarks below).

21. Contrary to this prevailing paradigm, various economic approaches, from steady-state to circular and doughnut economics, provide alternatives. One pertinent example is the recent initiative in mining e-waste. This will help to supply a range of materials needed in the transition facing humanity.

22. For example, Prof Tom Welton, president of the Royal Society of Chemistry (RSC), noted<sup>17</sup>:

*"Our tech consumption habits remain highly unsustainable and have left us at risk of exhausting the raw elements we need ... and were continuing to exacerbate environmental damage ... We need governments to overhaul recycling infrastructure and tech businesses to invest in more sustainable manufacturing".* The world's discarded electronics, in 2021 alone, weighed an estimated 57 million tonnes, and is growing by about two million tonnes every year. Less than 20% is collected and recycled.

23. The RSC endorsed a global effort to mine that waste, rather than mining the Earth, above or below the sea. This will help address a rising demand from consumers for more sustainable technology. For example, in an online survey of 10,000 people across 10 countries, 60 percent said they would be more likely to switch to a rival of their preferred tech brand if they knew the product was made in a sustainable way (see **Marketing** above). CJT urges the government to explore and potentially incentivise urban mining of electronic waste<sup>18</sup>, rather than virgin mining<sup>19</sup>.

## Performance of Domestic Regulatory Settings

24. New Zealand's current regulatory settings continue to enable mining in the territorial sea and EEZ. This mining, for oil and gas has generated income in the form of Royalties, created employment opportunities and contributed to GDP in supplying feedstock for manufacturing. It has also made some individuals and companies, mainly foreign-owned, significant amounts of money, while costing the taxpayer in clean-up and remediation. It has also generated significant pollution, from flaring, venting and other fugitive emissions, along with dumping / waste disposal issues<sup>20</sup>.

25. Offshore mining gained traction here in the early 1970s, following the 1969 discovery of the large gas-condensate reserves at the Maui field, offshore Taranaki. Subsequent discoveries in the region, led to the present situation of multiple firms operating a monopoly-style system of buys-and-sells. Bigger firms exploit a resource to the point of maturity where it is deemed financially wiser to sell the asset than continue, passing it on, typically, to smaller firms, specializing in 'late field-life' operations. The regulatory settings failed to address the risks associated with this form of monopoly, despite warnings from CJT as early as 2015<sup>21</sup> of the need for decommissioning legislation, bonds and/or insurance.
26. One example of this form of 'pass the parcel' was the sales by Shell of its various NZ holdings<sup>22</sup>. In a 2015 EPA Hearing under the EEZ-CS Act, Dr Wratt (a member of the EPA Decision Making Committee) asked Mr Rob Jager, a senior executive of Shell at the time: *"What can we take to be assured that in 35 years Shell is still going to be there, is still going to be a responsible company? We can't impose a bond so do you have any comment on that 35-year timeframe in that context...?"* (EPA Hearing transcript Day 01, 2015).
- Mr Jager replied: *"...I don't think Shell will walk away from its obligations, either in 5 years or in 35 years."*
27. Within a few months after Mr Jager's reply, in December 2015, Shell announced that it planned to review its NZ assets. By April 2017, Shell has begun sales, initially relinquishing its half stake in the onshore Kapuni field to Todd Energy and acquiring all of the Maui asset, thereby *"simplifying the structure for any possible changes to the remaining (production) assets"* (Energy Stream, April 2017). The Maui stake was subsequently sold to OMV who are now aiming to sell it on to the next company, likely a smaller 'late-life' specialist.
28. This process has serious inherent risks that have been largely outside the regulatory regime to date, albeit with the recent 'wake-up' call delivered by Tamarind Offshore in their bankrupt abandonment of the Tui field. Significant costs to the taxpayer have accrued, as for example with the Tui debacle<sup>23</sup>. The abandonment of the site has resulted in an estimated bill of some NZ\$300 million. The Crown Minerals Act has been amended subsequently, with inclusion of trailing liability<sup>24</sup>, but risks remain. This example highlights the likelihood that unforeseen, or downplayed, issues can have serious subsequent consequences, and all too often is the result of poorly-regulated mining.
29. NZ has been fortunate, as much through luck as management, to have avoided a major spill or marine mining incident, to date. Our response infrastructure for a major incident is woefully inadequate, taking an estimated two weeks for the required repair equipment to arrive from overseas. There have, nevertheless, been incidents, of which an unknown number were not revealed to the public. As introduced in paragraph 17 above, a recent pertinent example involves the multiple OIA requests since 2021 by CJT to EPA for information regarding an ongoing investigation at the Kupe Field. It was not until after a complaint to the Ombudsman and EPA granting new marine consents to Beach Energy that we were able to secure any information from EPA on the investigation. The information revealed a well leaking since at least 2018 and seven non-conformities reported by Maritime NZ. Based on information from the latest OIA response, the well is still leaking and attempts to monitor the leakage have largely failed<sup>25</sup>.
30. Additionally, current settings continue to enable mining on conservation land, mainly onshore but also including the North Island West Coast Marine Mammal Sanctuary, along with the continued exploration and mining of fossil fuels. Both these issues were meant to be addressed in legislative changes of the Labour-led government (2017-2023). Of the first, mining on conservation land, no legislative amendments have been forthcoming. Of the second, the 2018 'ban' on new offshore exploration was successfully challenged by Greymouth Petroleum<sup>26</sup>, while established mining

operations have continued to expand, as evidenced by the recent successful permit application under the EEZ-CS Act by Beach Energy for development drilling and discharge at the Kupe field, offshore Taranaki<sup>27</sup>.

31. Another legacy is the contamination left with abandonment<sup>28</sup>, the costs of clean-up falling on the taxpayer. It is CJT's long-held view that our regulatory regime has failed to properly manage the industry, a point made by former Parliamentary Commissioner for the Environment Dr. Jan Wright in her 2014 report<sup>29</sup>. Our view is that the regime has been manipulated by the mining industry to the detriment of our environment and future generations, a classic case of predatory delay<sup>30</sup>, of 'the tail wagging the dog'. In particular, the regime has failed, consistently, to adequately assess cumulative effects on the environment from adding more industrial activities on ecosystems already under significant and growing stress. A holistic view of our present circumstances and trajectory, and responsibilities under international treaties (eg. UNCBD, UNFCCC) would create a far more restrictive, and better managed, regime. After all Aotearoa hosts an incredibly diverse seabird, shorebird, marine mammal, fish and invertebrate fauna and algal flora. Many are now threatened with extinction.
32. This highlights another glaring failing of the present regime, its inability to properly assess cumulative effects, despite these being clearly stated in the relevant EEZ-CS legislation. CJT has made this case at various EPA Hearings. Assessments for notified (and non-notified) applications under the EEZ-CS Act should focus on the overall impact, including synergisms, of adding that application to those already occurring, and predicted to occur in coming decades. This is consistent with Sections 6, 28, 33 and 59 of the EEZ-CS Act, which provide broad discretion, and also consistent with the Precautionary Principle. Instead, reductionist, 'siloed' approaches have been adopted. However, the Act clearly states (CJT bolding):

#### **Section 6 Meaning of effect**

(1) In this Act, unless the context otherwise requires, *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; and
- (e) any potential effect of high probability; and
- (f) any potential effect of low probability that has a **high potential** impact.

(2) Subsection (1)(a) to (d) apply regardless of the scale, intensity, duration, or frequency of the effect.

#### **33 Matters to be considered ...**

(3) The Minister must take into account—

- (a) any effects on the environment or existing interests of allowing an activity with or without a marine consent, including—
  - (i) **cumulative effects**; and ...

**the effects of activities that are not regulated under this Act; and**

...

(d) the importance of **protecting the biological diversity and integrity of marine species, ecosystems, and processes**;

(e) the importance of **protecting rare and vulnerable ecosystems and the habitats of threatened species**; and

(f) **New Zealand's international obligations**; and

(i) the nature and effect of other marine management regimes; ...

33. Furthermore, Article 8 of the UN Convention on Biological Diversity requires the following of Parties, including New Zealand (which signed and ratified the Convention in 1992 and 1993): Article 8(d) Promote the protection of ecosystems, natural habitats and the **maintenance of viable populations of species in natural surroundings**; Article 8(f) Rehabilitate and restore degraded ecosystems and **promote the recovery of threatened species**,...
34. It is CJT's view that NZ has consistently failed to honour these obligations under the EEZ-CS Act.

## Changes to Domestic Regulatory Settings and Recommendations

35. Given the significant uncertainties and risks of the practice, and with cognisance to the Precautionary Principle, socio-cultural and environmental concerns and future generations, CJT was supportive of Te Pāti Maori's Private Member's Bill<sup>31</sup> to ban seabed mining in Aotearoa New Zealand. It is a real shame that the Bill got voted down in Parliament.
36. To reiterate, the current legislation is not fit-for-purpose. It severely limits scrutiny and participation by the public and civil society groups in some key aspects of offshore mining<sup>32</sup>. Notably the **Exclusive Economic Zone and Continental Shelf (Environmental Effects—Discharge and Dumping) Regulations 2015** classifies nearly all discharges from iron sand, phosphate nodule and seafloor massive sulphide prospecting and exploration a permitted and/or non-notified activity <https://www.legislation.govt.nz/regulation/public/2015/0228/11.0/whole.html#DLM6594464>:

The **Exclusive Economic Zone and Continental Shelf (Environmental Effects—Non-notified Activities) Regulations 2014** classifies all activities described in section 20(2) or (4) of the Act that are involved in exploration drilling for petroleum in the exclusive economic zone or in or on continental shelf as non-notified activities.

<https://www.legislation.govt.nz/regulation/public/2014/0043/latest/whole.html#DLM5935407>

37. Given the dire state of our marine environment and ecosystems and keen public interest and concern over these practices, these amendments regulations should be rescinded and much strengthened to ensure environmental protection and transparent processes. Recent changes to the CMA re decommissioning and trailing liability are welcome, if long overdue.

## Prospects for support to Pacific countries

38. At time of writing Pacific nations are deeply divided on their approach to seabed mining. Four countries, Nauru, Tonga, Kiribati and Cook Islands are supportive. Other countries are not. In 2022, Palau, Fiji, and Samoa announced their opposition to deep-sea mining, calling for a moratorium on the emerging industry, a call also joined by the Federated States of Micronesia. The call for a Moratorium was supported by the NZ government, as noted by Hon Nanaia Mahuta, Minister of Foreign Affairs (Minita Take Aorere) 27 October 2022.

“PĀNUI PĀPĀHO MEDIA STATEMENT

NZ backs conditional moratorium on seabed mining in international waters.

The Government has announced Aotearoa New Zealand will back a conditional moratorium on deep sea mining in areas beyond national jurisdiction, until strong environmental rules can be agreed and backed up by robust science.



The decision follows a review of progress on regulations for deep sea mining in the area managed by the International Seabed Authority (ISA), which is the seabed beyond exclusive economic zones and extended continental shelves. The ISA has a July 2023 deadline to complete the regulations, or Mining Code, before mining applications can be submitted.

“This area contains some of the least understood eco-systems on the planet, and our scientific knowledge of it remains extremely limited,” Nanaia Mahuta says.

“Deep sea mining could cause irreversible changes to this environment and have a significant impact on its biodiversity. To understand this impact will require far more scientific knowledge about the deep seabed than we currently have.

“Progress on the Mining Code to date has been slow. We are not confident that a robust regulatory framework for deep sea mining beyond national jurisdiction, which ensures the effective protection of the marine environment, can be agreed by the required deadline.

“This is why we are now calling for a conditional moratorium on deep sea mining in areas beyond national jurisdiction, until a Mining Code can be agreed that ensures the effective protection of the marine environment. This requires adequate knowledge about the deep seabed, and the impacts of deep sea mining.

“Aotearoa New Zealand remains committed to upholding the United Nations Convention on the Law of the Sea (UNCLOS), which sets out the framework under which all activities in the ocean must be carried out, including deep sea mining.

“UNCLOS requires ISA members to ensure the effective protection of the marine environment from any activities in the deep seabed beyond national jurisdiction. What we are calling for is nothing less than what this important legal obligation demands of us.

“We respect the sovereign rights of other countries. Our call for a conditional moratorium does not include areas within national jurisdictions. Within those jurisdictions, we respect the mana of each country to manage its own kaitiakitanga responsibilities to protect the ocean, consistent with international legal obligations to protect and preserve the marine environment.

“Aotearoa New Zealand will continue to actively participate in negotiations at the ISA to advocate for high environmental standards in the Mining Code.

“We remain committed to engaging in that process, in order to ensure the regulations embed the effective protection of the marine environment and the precautionary approach, as required by international law,” Nanaia Mahuta said.

39. CJT concurs with Minister Mahuta on this issue.

## Te Ao Māori perspective

40. A Te Ao Māori perspective is always a difficult question to answer. In this context though, as with most others, what is needed is the opinion of affected mana whenua, mana moana. The affected iwi, hapū and whanau of Taranaki, including members of CJT, have made their opinions very clear. Over the past many years that seabed mining has been proposed for our rohe, we have consistently said that no, we don't want it. Since 2011, Ngāti Ruanui and Taranaki iwi have led the fight against the practice<sup>33, 34</sup>.

41. Ever since colonization, we have had extractive industries that stole our land and resources for industrial farming and forestry to feed parts of Europe and the colonial settlers. Later came the oil and gas industry and then the accumulated effects of the pollution, deforestation, soil erosion and

increased access to waterways and the coast that has now had major effects on our fisheries and kaimoana.

42. These latest proposals for seabed mining are just a continuation of the reckless extractive activities that have caused our people and taiao so much harm. It is an attack on our whakapapa. As we sit in the midst of the planet's worst mass extinction and face the collapse of our global climatic systems, we cannot possibly support an industry that would severely damage the seabed in our rohe and cause multiple as yet unknown effects on sealife and the communities' ability to feed itself from our fisheries.
43. Under Te Tiriti o Waitangi seabed mining does not comply. We do not acknowledge the Treaty of Waitangi or its principles, which have no legal standing.

## Concluding remarks

44. It remains our view that the risks far outweigh the potential benefits. Seabed mining is just another form of frontier extractivism, the latest in a long and sorry history of environmental degradation. It is not for want of warnings, from across the geo-political spectrum.
45. Karl Marx (1857-61) had this to say: *"For the first time, nature becomes purely an object for humankind, purely a matter of utility; ceases to be recognized as a power for itself; and the theoretical discovery of its autonomous laws appears merely as a ruse to subjugate it under human needs, whether as an object of consumption or as a means of production."*
46. Another, more recent warning, albeit more than 60 years ago, from a very different part of the political spectrum, from former United States President Dwight Eisenhower (1961) in his farewell address:  
  
*"As we peer into society's future, we – you and I, and our government – must avoid the impulse to live only for today, plundering for our own ease and convenience the precious resources of tomorrow. We cannot mortgage the material assets of our grandchildren without risking the loss also of their political and spiritual heritage."*
47. Yet this is exactly what we continue to do, 'on steroids'. At this point in human history, with multiple planetary boundaries already breached and others on or nearing the brink, we need to rapidly rethink our collective role and responsibilities here on Earth. Industrial-scale mining of the seabed is not consistent with those aspirations.

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<sup>1</sup> <https://climatejusticetaranaki.wordpress.com/>

<sup>2</sup> <https://www.parliament.nz/en/pb/sc/committees-press-releases/have-your-say-on-the-inquiry-into-seabed-mining-in-new-zealand/>

<sup>3</sup> <https://www.theguardian.com/world/2019/sep/16/collapse-of-png-deep-sea-mining-venture-sparks-calls-for-moratorium;>

<sup>4</sup> <https://www.trc.govt.nz/assets/2238-TRC002-FINAL-Offshore-subtidal-rocky-reef-habitats-on-Patea-Bank-South-Taranaki-2.pdf>

<sup>5</sup> [https://www.cell.com/current-biology/pdfExtended/S0960-9822\(23\)00534-1](https://www.cell.com/current-biology/pdfExtended/S0960-9822(23)00534-1)

<sup>6</sup> [https://dc.niwa.co.nz/niwa\\_dc/srv/api/records/efa4d0c1-ffe5-3540-36ca-e8085a768fdf](https://dc.niwa.co.nz/niwa_dc/srv/api/records/efa4d0c1-ffe5-3540-36ca-e8085a768fdf)

<sup>7</sup> <https://www.trc.govt.nz/assets/2238-TRC002-FINAL-Offshore-subtidal-rocky-reef-habitats-on-Patea-Bank-South-Taranaki-2.pdf>

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