

Minerals West Coast submission to the Environment Committee on the Fast-track Approvals Bill

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Minerals West Coast wishes to be heard in person by the Environment Committee on this submission.

Introduction: About Minerals West Coast

[1] Minerals West Coast is an industry organisation representing the shared and collective interests of people and businesses operating in the minerals sector of the West Coast region and elsewhere in New Zealand.

[2] Our membership is diverse, spanning individuals engaged in part-time or full-time mining operations and associated services, through to small and medium-sized, family-owned enterprises, all the way through to large companies with international shareholdings.

[3] Miners on the West Coast and throughout New Zealand produce [a variety of minerals via](#) a range of [methods](#). This includes gold from alluvial and hard rock deposits, sub-bituminous coal as a source of energy for food production and space heating, bituminous coal for steelmaking, aggregates and gravels for roading and construction, limestone for fertiliser, pounamu (often as a by-product of gold mining), and mineral sands producing industrial minerals and rare earth elements.

[4] In 2023 the GDP of the West Coast region was about \$2.6 billion NZD. When breaking this down by sector (using the [ANZSIC](#) system) mining was the third largest source of GDP in the region (see Appendix 1), accounting for \$217,900,000, or 8.4% of the total.

[5] Mining is among the highest-paid sectors in the New Zealand economy. In most of the past 15 years it has ranked highest paying sector in the country. In 2023 the annualised average earnings for the sector were **\$94,276**, third after finance and insurance services (**\$117,260** per annum) and information, media, and telecommunications (**\$100,204** per annum). See Appendix 2 for further information.

[6] In 2023 Māori working in mining earned higher incomes than Māori working in any other sector in New Zealand, with annualised average earnings of **\$102,856** (see Appendix 3). This was one of several sectors in which average Māori earnings were higher than the workforce in the sector overall. Of all sectors in New Zealand, the workforce in mining has the highest proportion of people identifying as Māori (see Appendix 4), recorded at 32% in 2023.

Outline of Minerals West Coast’s submission on the [Fast-track Approvals Bill](#)

[7] Minerals West Coast strongly supports more efficient regulation of minerals activities, while ensuring the exploration for and mining of minerals takes place within reasonable social and environmental parameters.

This submission is structured as follows:

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EXECUTIVE SUMMARY

[8] The Fast-track Approvals Bill is a good starting point for developing fast-track consenting legislation for nationally and regionally significant projects.

[9] Minerals West Coast makes recommendations for improvement, and highlights the need to adequately resource fast-tracking processes, so that they are indeed fast.

[10] It will be important to have advice from relevant government agencies provided individually to the Environmental Protection Authority for the efficient provision and use of agency advice.

[11] It is beneficial but not sufficient to simply bring regulatory processes under several laws within a single process. Minerals West Coast questions the fitness for purpose of several existing statutes, namely:

- The Wildlife Act 1953, which has proven to be all but unworkable. It is archaic and is superseded by other environmental legislation
- Concessions under the Conservation Act 1987 and Reserves Act 1977, which do not need to apply to any minerals-related activities, because the access arrangement provisions of the Crown Minerals Act 1991 already apply
- The decision-making criteria for access arrangements to conservation land read awkwardly in view of the purpose of the Conservation Act 1987 – the Bill is an opportunity to change these criteria.

[12] Addressing the above would benefit the wider minerals sector in New Zealand, not simply companies developing projects which may meet the regionally and nationally significant threshold.

RECOMMENDATIONS

[13] Minerals West Coast asks that the Environment Committee:

1. Note Minerals West Coast's support for fast-tracking permissions for regionally and nationally significant mineral projects.
2. Note that there are many small to medium-scale mining and quarrying operators who are unlikely to individually satisfy a regionally significant test, who collectively make a substantial contribution to the regional economy.
3. Note Minerals West Coast's view that this Bill contains sufficient safeguards to ensure appropriate scrutiny of project applications.
4. Note our view that Opposition threats of repealing fast-track legislation creates sovereign risk for New Zealand as an investment destination.
5. Note that many countries around the world have minerals strategies, and policies to enable critical minerals development, and New Zealand should follow suit.
6. Clarify provisions of the Bill to ensure that eligible applicants needing to renew resource consents are also able to access the fast-track legislation
7. Align content on appeal rights in the **Explanatory Note** with **clause 26**.
8. Insert all definitions of minerals activities in section 2 of the Crown Minerals Act 1991 into **clause 4** of the Bill to eliminate any need for minerals explorers, miner or quarry operators having to apply for a concession, on the basis that these matters are already covered under access arrangements under the Crown Minerals Act 1991.
9. In reply to any concern that the legal tests for concessions and access arrangements are different, apply a strategic view – identifying the effects on the environment, and managing those effects to meet society's standards.
10. Include in this Bill, along with other permissions eligible for fast-tracking, that of allocation of prospecting, exploration, and mining permits under the Crown Minerals Act 1991.
11. Repeal the Wildlife Act 1953 because it is archaic and superseded by subsequent environmental legislation, and move any useful provisions into the Conservation Act, to avoid unnecessary regulatory duplication.
12. Strengthen text in the Bill to ensure adherence to statutory time frames, and where applicable the setting of appropriate statutory time frames.
13. Reproduce text in **clause 21** on no rights of waiver of certain process time frames elsewhere in the Bill for clarity and effectiveness.

14. Where statutory time frames of 5 working days are provided, extend these to 10 working days (eg **clause 13, clause 25**).
15. Strengthen resourcing of the Environmental Protection Authority to ensure that the Bill when enacted does deliver fast-tracking of consent applications.
16. Transfer all regulatory functions from DOC to the EPA to improve efficiency of regulation.
17. Expand the criteria for appointing expert panel members to ensure availability of qualified people to join expert panels (**schedule 3, clause 3**).
18. Insert text into the Bill to prevent officials from different agencies having to provide joint briefings to the EPA, to avoid regulatory complexity, and adding to timelines.
19. Repeal the National Policy Statement for Indigenous Biodiversity, and start again, using the existing NPS as a base document (**clause 14** refers).
20. Repeal the 2020 and 2023 amendments to the NPS for Freshwater Management, because they are largely unworkable for most land uses, and repeal the national environmental standard for freshwater, to return New Zealand to the 2014 NPS-FM and NES-F.
21. Clarify that the purpose and provisions of this Bill override all other mentioned legislation, to avoid regulatory complexity in decision making.
22. Define “engagement” (**clause 16**) to include genuine attempts by the applicant to engage with, e.g. iwi and hapū, in the event of the latter refusing to engage, or being unable to engage.
23. Amend clause 21 (2) (c) to say, “significant **net** adverse effects”, for this provision (and related provisions) to make sense, and add provisions to provide for biodiversity offsetting and compensation, on and off public conservation land, for clarity, and for workability of the Bill.
24. Amend the conservation land exchange provisions (**schedule 5, clause 18**) for workability, in light of the 2017 Supreme Court Ruataniwha dam decision.
25. Amend the decision-making criteria for access arrangements to Crown land, (**schedule 10, clause 4**), in particular the “purpose for which the land is held by the Crown” for better workability.
26. Clarify the meaning of “any other matters” in the above context, e.g. to provide for applicants to offer compensation to manage adverse effects on the environment (refer to section 76 of the CMA).

SUPPORT IN PRINCIPLE FOR THE BILL

[14] Regionally and nationally significant infrastructure and other projects, e.g. minerals exploration and mining and quarrying, all need a clearer and more straightforward pathway than currently exists in New Zealand’s overly complex regulatory environment. This Bill goes a long way towards its purpose of

streamlining consenting, standing in for the regulatory processes of the Resource Management Act 1991, and several other statutes.

West Coast smaller miners and quarry operators

[15] Alluvial gold miners, small coal miners, and many quarry operators on the West Coast would fail, individually to meet a test of regionally significant; however, collectively, have a significant positive impact on the regional economy.

[16] For example, New Zealand's largest individual gold mines are Macraes (Otago) and Waihi (Coromandel). In 2022 Macraes (Otago) produced about 143,672 troy ounces troy (\$412,346,542), and Waihi 39,109 troy ounces (\$110,910,386).

[17] Production of alluvial gold on the West Coast is much more diffuse, with many separate mines operating at a smaller scale. Nonetheless the combined output from these mines in 2022 was about 29,076 troy ounces (\$80,127,516).

[18] Minerals West Coast recognises that fast-tracking will not apply to these projects and operations. Nonetheless, our proposals for eliminating some statutes from consideration to promote fast-tracking should apply more broadly on the principle that these pieces of law largely duplicate the RMA and are unnecessary.

[19] Refer below to our proposals to remove the Wildlife Act 1953, and the Conservation Act 1987 from consideration of minerals projects.

ALLAYING THE CONCERNS OF THOSE OPPOSING THE BILL

[20] Opponents' concerns may be summarised as:

- Ministers have too much power
- Few checks and balances in decision making
- Risk of accelerated extinction of endangered species
- Risk of other environmental harm
- Appeal rights are strongly curtailed

[21] Minerals West Coast makes the following comments on the above concerns.

Ministers have too much power

[22] Maintaining the status quo would mean keeping decision-making powers vested in the courts which have shown to be expensive and time-consuming processes, costing millions of dollars and taking years to gain approvals, or be declined. New Zealand cannot afford to continue along that path.

Safeguards on new decision making powers

[23] An analysis of the proposed safeguards is listed below:

- An expert panel must include an iwi / hapū representative, and a local government representative
- It considers the applicant's proposed conditions, and can seek further expert advice from other sources
- The EP must consult with, and seek comment from certain other persons

- The EP can modify an applicant’s proposed conditions
- Decision-makers (Ministers) can seek further information and comment before making a decision
- Decision-making must occur against the legal tests of the RMA, and certain other legislation
- There is an automatic right of appeal against a decision on points of law to the High Court, and a potential further appeal right to the Court of Appeal
- Judicial review of decisions is available

[24] The fact is this bill provides many safeguard measures, especially for a bill that aims to provide a fast-track process.

Risk of accelerated extinction of endangered species

[25] Minerals West Coast estimates since 1987 (the year in which the Department of Conservation was established), the area of the conservation estate for which exploration and mining access arrangements have been granted is 3,512 hectares of the entirety of the 8,838,470 hectares of public conservation land in New Zealand.

[26] To put this in context, this is 0.04% (four hectares for every 10,000) of the entire conservation estate, meaning in more than 35 years, about 99.96% (9,996 hectares per 10,000) of public conservation land has been unimpacted by mining.

[27] Of the 3,512 hectares for which access arrangements have been granted, 1,099 hectares (31.2%) have been for “high impact” activities, 1,379 hectares (39.2%) have been for “medium impact” activities, and 1,033 hectares (29.4%) have been for “low impact” activities.

[28] Regionally, the highest percentage of access arrangements for mining on public conservation land has been on the West Coast. A regional break down is given below:

Mining access arrangements on New Zealand public conservation land by region

Region	Hectares of disturbance since 1987	Percentage of total (rounded)
West Coast	2,993.19	85%
Southland and Otago	476.02	14%
Coromandel	18.36	1%
Northland	11.6	0%
Northern South Island	8.11	0%
Taranaki	5	0%
Total	3,512.28	100%

[29] Notwithstanding the overall small footprint of mining, operations do need to be managed and regulated to ensure any environmental impacts are managed appropriately.

[30] New Zealand now has more than 30 years of experience of managing the effects of mining under the RMA, and other legislation.

[31] New Zealand abounds with examples of good mining practice, e.g. OceanaGold's Waihi operations, the closed Globe Progress mine near Reefton, and the Macraes mine in East Otago.

[32] Also relevant are present-day environmental management at the Stockton mine, where Bathurst Resources is the operator, and Federation Mining's Snowy River mine, near Reefton.

[33] Where compensation for effects on biodiversity applies, mining companies already pay compensation to the Crown, e.g. to the Department of Conservation for animal pest and weed control programmes. This is a benefit to biodiversity conservation, at a time when DOC can afford to actively manage only 7.5% of the conservation estate (refer to the [Director-General's appearance earlier this year before a Parliamentary select committee](#)). A relevant point of reference for this concept can be found in the Parliamentary Commissioner for the Environment's 2010 report [Making difficult decisions: Mining the conservation estate](#).

Risk of other environmental harm

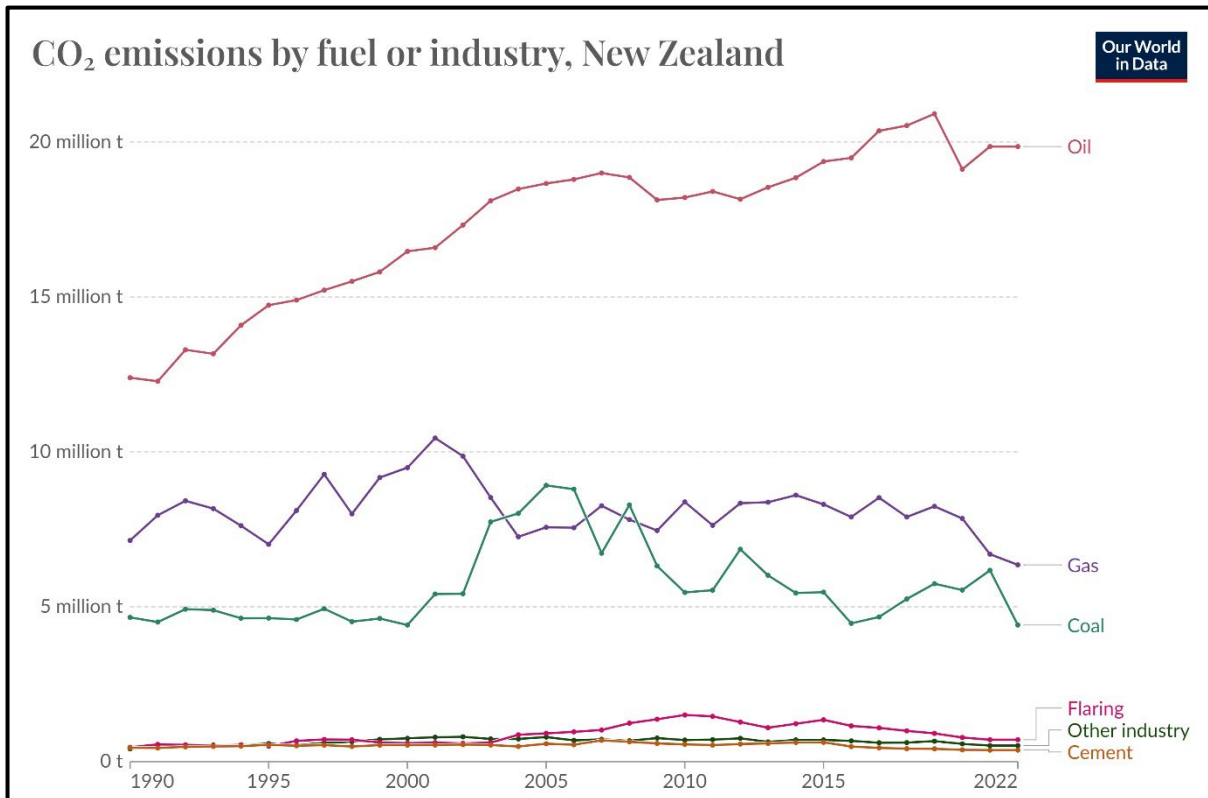
[34] Besides biodiversity, mining can have impacts on water quality (e.g. acid mine drainage), and on amenity, e.g. noise, airborne dust, ground vibration, visual impacts, light impacts at night, and traffic. All of the foregoing are already the subject of good management practice under resource consents, and the same can continue under a fast-tracking process.

[35] One advantage of fast-tracking is that it avoids project proponents and those with interests in, and concerns about projects reinventing the wheel each time a project is proposed and considered.

[36] Environmental experts know what the effects of mining are, and know how to manage them to meet standards acceptable to society.

[37] The research institute formerly known as CRL (now the Verum Group), and Landcare Research have previously published research into the prediction of environmental impacts of mining, and methods for managing those impacts to meet high environmental standards (access the following link [Minimising environmental impacts of mining » Manaaki Whenua \(landcareresearch.co.nz\)](#)).

[38] In terms of greenhouse gas emissions, carbon dioxide emissions from the use of fossil fuels (whether produced domestically or imported into New Zealand) are priced under New Zealand’s Emissions Trading Scheme. Incidentally, despite much anguish about the emissions related to coal mining in New Zealand, coal is not a major source of carbon dioxide emissions in New Zealand (see below a graph from [Our World in Data](#)) when compared with other fuels.



Appeal rights are strongly curtailed

[39] Certainly, there is no recourse to the Environment Court to appeal a decision on the facts. That is necessary for the regulatory process to be a fast-tracking process, instead of a multi-million dollar process that can take 10 years to resolve through the courts. This all too common result is unacceptable.

[40] Note there are potentially two successive rights of appeal available: to the High Court in the first instance, and the Court of Appeal, on points of law. Grounds for appeal would include concern over whether decisionmakers have correctly applied legal tests in governing legislation, e.g. the RMA and the Crown Minerals Act 1991. That provides a check on whether consent conditions are appropriate.

RECOMMENDATIONS TO IMPROVE THIS BILL

[41] As written, the bill will fail to achieve its purpose, unless improvements are made. Some suggestions follow, with references made to relevant clauses of the Bill.

Clarify text

[42] Rewrite content on appeal rights in the **Explanatory Note** to align with **clause 26**.

Avoid unnecessary regulatory duplication

[43] Eliminate any need for concessions for minerals activities under the Conservation Act 1987 or the Reserves Act 1977 (schedule 5) for, e.g. helicopter movements, access to a marginal strip, ancillary infrastructure such as an access road, because this is already provided for under other approvals, e.g. access arrangements under the Crown Minerals Act 1991 (refer to **clause 10**).

[44] Achieve the above by inserting the definitions of minerals activities provided in section 2 of the CMA into the Conservation Act, to eliminate any need for explorers, miners and quarry operators to apply for concessions.

[45] Repeal the Wildlife Act 1953 (refer to **schedule 6**), because it is archaic and has been superseded by subsequent environmental legislation. Move any useful provisions into the Conservation Act, as happened earlier with the fish & game provisions. The reasoning is that capturing and moving wildlife etc can be dealt with by way of conditions of resource consents.

[46] The Government may counter any arguments that the legal tests for different legislation are different by asking the big-picture questions: what are the adverse effects on the environment, and what conditions should be placed on the developer to manage those effects to a standard that society would accept.

[47] The above should include the ability to offset and compensate for adverse effects on biodiversity, on and off public conservation land. These management options should be made explicitly available in the Bill.

Statutory time frames

[48] Strengthen text in the Bill to ensure adherence to statutory time frames, and where applicable the setting of appropriate statutory time frames.

[49] Text in the Bill explaining there are no rights of waiver of certain process time frames (e.g. **clause 21**) should be reproduced elsewhere in the Bill for clarity and effectiveness.

[50] Some of the statutory time frames look to be too short to be practicable, e.g. 5 working days (e.g. **clause 13, clause 25**); extend this to 10 working days. As a general point, we suggest Bill drafters review statutory time frames for processes under the fast-track legislation to ensure they are workable.

[51] In some parts of the Bill, statutory time frames have not been set – perhaps, they should be, to avoid pressure being placed on EPs or Ministers on their exercising of discretion when setting time frames for, e.g. receiving comments from others (e.g. **clause 20**).

Capability and capacity

[52] Strengthen resourcing of the Environmental Protection Authority and remove regulatory process functions from e.g. DOC because this agency by virtue of its conservation purpose is ill suited to be a regulator of business activities, and is in any case under-resourced. The EPA would still obtain all relevant advice from DOC. While the legislation does not cover this point, it is nonetheless important for the operability of the fast-track legislation.

[53] The qualifications of expert panel members (**schedule 3, clause 3**) may be too restrictive to ensure an adequate supply of suitable qualified people. We suggest expanding the criteria for appointing EP members.

Avoid unnecessary bureaucracy

[54] Ensure the Bill avoids officials from different agencies providing conflicting advice on the same matters, or having to provide joint briefings, to avoid regulatory complexity, and adding to timelines. A solution would be to have relevant agencies providing relevant advice individually to a central point, i.e. the EPA, within statutory timeframes.

Repeal unworkable national direction under the RMA

[55] Repeal the National Policy Statement for Indigenous Biodiversity, and start again, using the existing NPS as a base document (**clause 14** refers).

[56] The current wording in the NPS-IB characterises significant biodiversity in such a way as to place almost all of New Zealand outside of urban boundaries off-limits for most land uses. The consenting pathway for minerals extraction in areas of significant biodiversity demonstrates poor understanding of the mineral sector and must be removed from any future NPS.

[56] In explanation, to limit access to a consenting pathway for any project “that provides significant national public benefit that could not otherwise be achieved using resources within New Zealand” creates an impossibly high bar for all but a very few mining or quarrying projects.

[57] The NPS-IB could require trucking of aggregate for a nationally significant infrastructure project hundreds of kilometres, creating its own set of environmental impacts. Even if it were nationally significant, any gold project seeking access to the consenting pathway could be disqualified because almost all gold mined in New Zealand is exported.

[58] Repeal the 2020 and 2023 amendments to the NPS for Freshwater Management, because they are unworkable for mining and most other land uses, and this applies also to the related national environmental standard. This move would return New Zealand to the 2014 NPS-FM and NES-F of that time. In due course the Government can amend these instruments for better workability.

Ensure the Bill overrides all other legislation to avoid legislative complexity

[59] Clarify that the purpose and provisions of this Bill override all other mentioned legislation, to avoid regulatory complexity in decision making. The weighting provisions are helpful (e.g. **schedule 3, clause 1**); the question is whether this provides clear enough direction for applicants, and for decisionmakers on applications.

Improve the definition of engagement

[60] Define “engagement” (**clause 16**) to include genuine attempts by the applicant to engage with, e.g. iwi and hapū, in the event of the latter refusing to engage, or being unable to engage.

Managing significant adverse effects

[61] The fact that a project has “significant adverse effects” (**clause 21**) cannot be a reason to decline a project, because that would disqualify most big infrastructure and mining projects. What matters is how effects are managed – clarify this point to provide a consenting pathway for big projects. As stated elsewhere, explicit provision should be made for biodiversity offsets and compensation as management measures, on and off public conservation land.

Land exchanges involving conservation land

[62] The conservation land exchange provisions (**schedule 5, clause 18**) need to be assessed in light of the 2017 case law from the Supreme Court on the Ruataniwha dam proposal. This is to ensure these provisions are operable. At issue is that the court found that land exchanges can only take place if the conservation values in the conservation land are negligible or non-existent. This judicial opinion is so narrow as to be inapplicable for almost all practical purposes. It could not have been Parliament’s intent when the land exchange provision was introduced into the Conservation Act, if any commonsense was to prevail.

Amend decision making criteria for access arrangements to Crown land

[63] Rewrite some of the decision-making criteria for access arrangements to Crown land,, e.g. conservation land, to improve implementation (**schedule 10, clause 4**).

[64] For example, the “purpose for which the land is held by the Crown” in relation to conservation land must mean conservation, and not mining – this has always been an awkward provision in the CMA.

[65] The Bill should also clarify the meaning of “any other matters” in the above context, e.g. to provide for applicants to offer compensation to manage adverse effects on the environment (refer to section 76 of the CMA).

-ENDS-

For any further information on this submission or other questions arising from its contents please contact Minerals West Coast by either emailing patrick@mineralswestcoast.org.nz or phoning Patrick Phelps (manager of Minerals West Coast) on 021 238 6846.

Appendix 1: West Coast GDP by sector 2023

Industry	Level	Share of total
Electricity, Gas, Water and Waste Services	\$364m	14.00%
Agriculture, Forestry and Fishing	\$358.3m	13.80%
Mining	\$217.9m	8.40%
Construction	\$188.8m	7.30%
Manufacturing	\$158.5m	6.10%
Health Care and Social Assistance	\$155.3m	6.00%
Accommodation and Food Services	\$105.3m	4.10%
Retail Trade	\$104.4m	4.00%
Transport, Postal and Warehousing	\$85.2m	3.30%
Rental, Hiring and Real Estate Services	\$79.3m	3.10%
Professional, Scientific and Technical Services	\$68.2m	2.60%
Public Administration and Safety	\$62.1m	2.40%
Education and Training	\$48.6m	1.90%
Arts and Recreation Services	\$45.6m	1.80%
Wholesale Trade	\$41.8m	1.60%
Administrative and Support Services	\$40.6m	1.60%
Other Services	\$29.3m	1.10%
Financial and Insurance Services	\$28.4m	1.10%
Information Media and Telecommunications	\$24.1m	0.90%
Owner-Occupied Property Operation	\$190.2m	7.30%
Unallocated	\$198.3m	7.60%
Total	\$2,594.10m	100%

Appendix 2: Annualised mean earnings by sector (New Zealand) in 2023

Sector	Mean earnings per annum 2023 in NZD
Financial and Insurance Services	\$117,260.00
Information, Media and Telecommunications	\$100,204.00
Mining	\$94,276.00
Electricity, Gas, Water and Waste Services	\$91,988.00
Professional and Administrative Services	\$89,908.00
Public Administration and Safety	\$89,908.00
Wholesale Trade	\$83,980.00
Rental, Hiring and Real Estate Services	\$83,044.00
Transport, Postal and Warehousing	\$79,300.00
Construction	\$76,180.00
Manufacturing	\$75,660.00
Total All Industry Groups	\$74,204.00
Health	\$68,380.00
Not Specified	\$66,040.00
Education and Training	\$65,104.00
Art, Recreation and Other Services	\$65,000.00
Agriculture, Forestry and Fishing	\$64,116.00
Retail Trade and Accommodation	\$46,436.00

Appendix 3: Annualised mean Māori earnings by sector (New Zealand) in 2023

Sector	Mean earnings per annum 2023 in NZD
Mining	\$102,856.00
Financial and Insurance Services	\$97,344.00
Public Administration and Safety	\$89,596.00
Rental, Hiring and Real Estate Services	\$86,320.00
Professional and Administrative Services	\$77,532.00
Electricity, Gas, Water and Waste Services	\$76,024.00
Wholesale Trade	\$76,024.00
Information, Media and Telecommunications	\$73,996.00
Not Specified	\$73,008.00
Construction	\$72,852.00
Transport, Postal and Warehousing	\$70,304.00
Manufacturing	\$69,940.00
Total All Industry Groups	\$67,496.00
Education and Training	\$64,168.00
Health	\$64,168.00
Art, Recreation and Other Services	\$59,956.00
Agriculture, Forestry and Fishing	\$56,628.00
Retail Trade and Accommodation	\$39,884.00

Appendix 4: Percentage of workforce identifying as Māori by sector 2023

Sector	Percentage of workforce identifying as Māori 2023
Mining	32%
Electricity, Gas, Water and Waste Services	21%
Agriculture, Forestry and Fishing	20%
Construction	19%
Manufacturing	18%
Public Administration and Safety	17%
Transport, Postal and Warehousing	17%
Not Specified	17%
Art, Recreation and Other Services	16%
Retail Trade and Accommodation	15%
Health	15%
Education and Training	15%
Total All Industry Groups	15%
Wholesale Trade	11%
Rental, Hiring and Real Estate Services	11%
Information, Media and Telecommunications	11%
Professional and Administrative Services	10%
Financial and Insurance Services	10%