



Environmental approval for seabed minerals activities in the Cook Islands

This factsheet explains the background to the requirement for and the issue of an environmental approval for seabed mineral activities. This factsheet has been prepared together with the National Environment Service.

What is an environmental approval?

An exploration or mining licence granted under the Seabed Minerals Act 2019 gives a licence holder rights to explore for or extract seabed minerals (the nodules). However, the holder cannot carry out those activities unless it has the necessary environmental approval under the Environment Act 2003 (**Act**) and related environment regulations (**regulations**).



There are two main types of approval: a **consent** or a **project permit**. The difference between them is explained below.

Who issues an environmental approval?

An environmental approval is issued by the permitting authority. In the case of seabed minerals activities, the National Environment Council (**Council**) acts as the permitting authority. The Council is not a permanent body and will meet when it needs to consider applications for environmental consents and project permits.

There may be up to 11 individual members of the Council including the Director of the National Environment Service, up to 5 members appointed by the Minister representing the interests of the Cook Islands community, and up to 6 members with relevant knowledge and expertise (these members will include international experts in the field of deep-sea science).

A licence holder must apply to the Council for environmental approval.

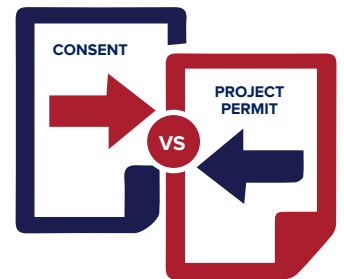
The application process for an environmental approval will be administered and managed by the National Environment Service (**Service**) under the Act and the regulations. The Service will check applications for completeness before referring to the Council for its review and assessment.



The Service will also provide technical advice or commission experts to provide such advice to the Service and the Council where necessary.

What is the difference between a consent and a project permit?

Certain activities under the Act are known as “tier 2” activities that will have some but not significant impacts on the environment. These activities can be carried out with the consent of the Council. Most exploration activities and research technology used have a relatively low impact on the marine environment, but will still require a consent.



Other activities, known as “tier 3” activities, have the potential to cause significant environmental impact, and require a project permit to be issued by the Council. Extracting nodules from the seabed will be a tier 3 activity. During the later stages of exploration, a project permit is required for specific activities where they may be larger-scale disturbances of the seafloor, for example, where an operator tests equipment for the future extraction of the nodules.

An application for a project permit requires an environmental impact assessment report to be submitted. The Act also requires that this report and the application is made available to the public for review and comment.

As part of the application, an applicant for an environmental approval will have to show:

- how they will monitor any effects of their operations on the marine environment, and
- the measures they will take to protect the marine environment.

Where the Council issues a consent or project permit it may be subject to certain conditions.

The Council can refuse or decline to issue an approval, provided there are reasonable grounds for it to do so.



What are “conditions”?

Conditions are requirements on the holder of the approval to do certain things. An approval will contain standard conditions and specific conditions, such as

- placing an independent observer on board a vessel
- carrying out specific monitoring of the marine environment
- providing specific information and reporting to the Service, and
- providing an environmental bond (a deposit of money to make sure requirements are met).



What happens after an environmental approval is issued?

Once an approval is issued the holder can start the activities set out in its consent or permit, and must comply with the Act, the regulations and the conditions of the approval.

Holders will also be required to monitor and manage the effects of the activities on the marine environment in accordance with their environmental management programme or envi-

ronmental management plan. These are detailed documents setting out what, when and how a holder will undertake the monitoring and management of the effects of the activities. Importantly, holders have to apply the principles of ecologically sustainable use to the conduct of their activities, including the application of the precautionary approach and key environmental concepts best environmental practice and best available technology and techniques.

In the case of extraction, holders will need to prepare a closure plan. This plan will set out the requirements to be met where a holder closes their operations including post closure monitoring and restoration of the marine environment where this is possible.

The Service will monitor the holders’ activities against the plans and approval conditions. This will be done through reporting and observer mechanisms, as well as performance assessments and reviews, and compliance audits. The Service will consult and cooperate with other agencies such as the Seabed Minerals Authority (**Authority**) by sharing information and making sure that the terms of a licence and conditions of an environmental approval are being met.

If those terms and conditions are not being met, this could result in the suspension or cancellation of a licence by the Authority or approval by Council

A simplified flowchart of the application process is shown below.

