

The Treasury

Release of Submissions: Mixed Ownership Model Consultation with Māori

Release Document

March 2012

www.treasury.govt.nz/publications/reviews-consultation/mixed-ownership/submissions

Key to sections of the Official Information Act 1982 under which information has been withheld.

Certain information in this document has been withheld under the following section of the Official Information Act, as applicable:

[1] 9(2)(a) - to protect the privacy of natural persons, including deceased people.

Where information has been withheld, a numbered reference to the applicable section of the Official Information Act has been made, as listed above. For example, an [1] appearing where information has been withheld in a release document refers to section 9(2)(a).

In preparing this Information Release, the Treasury has considered the public interest considerations in section 9(1) of the Official Information Act.

Mixed Ownership Model Submission Form

The Government welcomes your feedback on this consultation document, particularly the questions set out below.

You can make a submission by using this form, which is also available electronically at www.treasury.govt.nz/mixed-ownership-consultation

1 Contact Details

I am responding (please complete one):

As an individual

Your name	Melissa Cheryl Panapa-Fraser
Your iwi affiliation	Ngati Kahungunu ki Heretaunga
Address	[1]
Email address	

On behalf of an organisation

Your name	
Organisation you represent	
Address	
Email address	

2 Submission

Question 1: What rights and interests, if any, do Māori have in the Mixed Ownership Model Companies that are not protected by the section 27A-D memorials regime, or by other legislation?

Section 27 A-D memorials regime does not fully protect the rights and interests of Māori. Section 27 A-D only provides the ability for the Crown or the Governor-General to resume land if the Waitangi Tribunal makes a recommendation for its return. Section 27 A-D does not exclusively uphold nor does it “adequately protect” the rights and interests of Māori which were endorsed by the Labour Government in 1989. Regardless of which legislation Genesis Power, Meridian Energy, Mighty Power, Solid Energy or any other Crown Owned State Assets are placed under, whether it be the Public Finance Amendment Act 2004 or the Crown Entities Act 2004, the rights and interests of Māori must be adhered to by ensuring the Principles of the Treaty and the Treaty of Waitangi are written into all legislation.

Question 2: How would any rights and interests identified in question 1 be protected by continued application of section 9 of the State-Owned Enterprises Act 1986?

The Crown has a contractual obligation to ensure the rights and interests of Māori under the Mixed Ownership Model are paramount by ensuring the Principles of the Treaty of Waitangi and the mana of the Treaty of Waitangi are maintained by ensuring that “nothing in this Act shall permit the Crown to act in a manner that is inconsistent with the Principles of the Treaty of Waitangi.” This can only be done with the continuance application of Section 9 and Section 27 A-D, which effectively and adequately protect the rights and interests of Māori.

Question 3: Could any rights and interests identified in question 1 be protected by an alternative, more specific, formulation of the Crown’s obligations under the Treaty?

There is no alternative or more specific formulation of Section 27 A-D or Section 9. Section 9 and Section 27 A-D provide full protection to the rights and interests of Māori by ensuring the Crown cannot “act in a manner that is inconsistent with the Principles of Treaty of Waitangi”. Section 9 safeguards the rights and interests of Māori, the Principles of the Treaty of Waitangi and the Treaty of Waitangi. Section 9 must not be altered in any way nor should it be “watered down” by formulating a more specific and clearer definition. The Principles of the Treaty of Waitangi have already been defined when the Government published “Principles for Crown Action on the Treaty of Waitangi” in 1989, which most Government agencies adhere to when referring to the Treaty of Waitangi responsibilities as a Government agency, for example, the Department of Conservation. It is imperative to the rights and interests of Māori that Section 9 must stay in its original form as stated in the State Owned Enterprises Act 1986.

Additional comments: Please insert any other comments you wish to make on this consultation document.

I want to make it clear that, whether it be the Public Finance Amendment Act 2004, the Crown Entities Act 2004 or any legislation that any Crown Owned Assets are placed under, Section 9 and Section 27 A-D, must be copied in its entirety, into those legislations to ensure the rights and interests of Māori are effectively and fully protected by the Principles of the Treaty of Waitangi and the Treaty of Waitangi.

All submissions will be publicly available

The Government will publicly release your submission, a summary of submissions and a list of the names of submitters, on The Treasury’s website: www.treasury.govt.nz/mixed-ownership-consultation.

Your name will be made publicly available as part of your submission when it is released

Your contact details will be removed from your submission before it is posted on the website, recorded in the summary of submissions or released under the Official Information Act 1982 (OIA).

If you do not wish your name in your submission to be released, please clearly state this in your submission or tick the option below:

I request that my name be removed from my submission before it is released and that it is recorded as 'anonymous' in the summary of submissions.

If there is particular information in your submission that you wish to remain confidential, please clearly indicate this and explain your reasons for wanting the information kept confidential.

The Treasury is subject to the OIA and copies of submissions sent to The Treasury will normally be released in response to an OIA request from a member of the public. If your submission is subject to an OIA request, The Treasury will consider your confidentiality request in accordance with the grounds for withholding information outlined in the OIA. You can view a copy of the OIA on the New Zealand Legislation website: www.legislation.govt.nz.

The Privacy Act 1993 governs how The Treasury collects, holds, uses and discloses personal information about you which is contained in your submission. You have the right to access and correct this personal information.

Submissions can be sent by email to mixed-ownership-consultation@treasury.govt.nz or by post to:

FreePost Authority No.126395
Mixed Ownership Model: Consultation with Māori
Commercial Transactions Group
The Treasury
PO Box 3724
Wellington 6140

The deadline for receipt of submissions is **5pm on Wednesday 22 February 2012**. Late submissions will not be considered.