The Treasury

Mixed Ownership Model for Crown Commercial Entities: Treasury Advice Information Release

4 September 2012

Release Document

www.comu.govt.nz/publications/information-releases/mixed-ownership-model

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

Certain information in this document has been withheld under one or more of the following sections of the Official Information Act, as applicable:

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

[2] 9(2)(b)(ii) - to protect the commercial position of the person who supplied the information, or who is the subject of the information

[3] 9(2)(f)(iv) - to maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials

[4] 9(2)(g)(i) - to maintain the effective conduct of public affairs through the free and frank expression of opinions

[5] 9(2)(h) - to maintain professional legal privilege

[6] 9(2)(i) - to enable the Crown to carry out commercial activities without disadvantage or prejudice, or

[7] Information is out of scope or not relevant.

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, a [3] appearing where information has been withheld in a release document refers to section 9(2)(f)(iv).

In preparing this Information Release, the Treasury has considered the public interest considerations in section 9(1) of the Official Information Act.
Treasury Report: Annotated Agenda for Discussions with PM on Mixed Ownership Model and related Crown/Maori issues

Date: 17 February 2012  Report No: T2012/254

Action Sought

<table>
<thead>
<tr>
<th>Name</th>
<th>Position</th>
<th>Action Sought</th>
<th>Deadline</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minister of Finance (Hon Bill English)</td>
<td></td>
<td>Refer this proposed agenda to the Prime Minister</td>
<td>Sunday 19 February 2012</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Note Chris White or Ivan Kwok are available for a phone conversation over the weekend if you require</td>
<td></td>
</tr>
<tr>
<td>Associate Minister of Finance</td>
<td></td>
<td>Read this proposed agenda</td>
<td>Sunday 19 February 2012</td>
</tr>
<tr>
<td>(Hon Steven Joyce)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minister for State Owned Enterprises (Hon Tony Ryall)</td>
<td></td>
<td>Read this proposed agenda</td>
<td>Sunday 19 February 2012</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Contact for Telephone Discussion (if required)

<table>
<thead>
<tr>
<th>Name</th>
<th>Position</th>
<th>Telephone</th>
<th>1st Contact</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chris White</td>
<td>Manager</td>
<td>[1]</td>
<td></td>
</tr>
<tr>
<td>Ivan Kwok</td>
<td>Principal Advisor</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Minister of Finance’s Office Actions (if required)

Refer report to Prime Minister if Minister agrees

Enclosure: Yes (attached)
Treasury Report: Annotated Agenda for Discussions with PM on Mixed Ownership Model and related Crown/Maori issues

Purpose of Report

1. You are scheduled to have a teleconference with the Prime Minister at 8.30pm on Sunday 19 February to discuss the mixed ownership consultation, and also to meet with the Prime Minister at 2pm on Monday on a wider set of mixed ownership and related Crown-Maori issues (Cabinet finish time permitting, and presuming that you don’t cover everything on Sunday).

2. This report proposes an agenda of interrelated issues which we suggest you cover over the two discussions.

Analysis

3. The discussions are an opportunity to consider:
   a. a range of interrelated issues impacting on mixed ownership and the Crown Maori relationship together, and to find ways to positively progress each, within a very tight timeframe, and
   b. timetabling risks to the MOM work programme in general.

4. The nexus of MOM and Maori issues includes:
   a. The Maori response to the consultation on how the mixed ownership legislation will affect their rights and interests in the companies
   b. The claims to the Waitangi Tribunal by the New Zealand Maori Council (NZMC) and others on the sale of shares in electricity generating SOEs (Wai 2657) and in water and geothermal resources (Wai 2658)
   c. The letter from Tumu Te Heuheu to the Prime Minister, dated 9 February, setting out a number of concerns about the MOM process and Tuwharetoa rights and interests in natural resources, and
   d. Processes to resolve Maori rights and interests in water, including the Iwi Leaders water summit at Hopuhopu on 23 and 24 February 2012.

6. An annotated agenda and a timeline of key dates is attached. A number of other papers are also provided to help with thinking about the issues.
a. Aide memoire: initial summary of feedback from consultation with Māori on the mixed ownership model

b. Aide memoire: options for Treaty clause in the Mixed Ownership Model bill

c. Treasury report: Crown’s response to application for urgent hearing on Waitangi claim on sale of power generating SOEs. Attached to the report is a draft of a proposed letter to the Tribunal setting out the Government’s view that the mixed ownership model will not prejudice Māori rights and interests in water, and

d. The draft reply to Tumu Te Heuheu from the Prime Minister.

Recommendations

We recommend that you refer the proposed agenda to the Prime Minister.

Agree/disagree.

Chris White
Manager, Commercial Transactions Group

Hon Bill English
Minister of Finance
### Proposed agenda for discussions with PM on mixed ownership model and related Crown/Māori issues

**8.30pm Sunday 19, and 2.00pm Monday 20, February 2012**

<table>
<thead>
<tr>
<th>Agenda item</th>
<th>Issue</th>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Maori Consultation on MOM</td>
<td>Crown’s response to consultation feedback – particularly on s9 and on water.</td>
<td>Reflect on key high level themes from the consultation to inform agenda items 2-4.</td>
</tr>
</tbody>
</table>
| 2. Treaty clause in the MOM part of the PFA | Treatment of s9 or s9-like provision in the MOM part of the PFA, including:  
  • How much direction can be signalled to iwi leaders and the Tribunal this coming week (ahead of close of consultation and Cabinet decision)  
  • How to build consensus with Māori ahead of announcements. | Discuss options in aide memoire. No decision should be made until consultation has closed. |
| 3. MOM Claim (Wai 2357) | Waitangi Tribunal has directed Crown to respond to an application for urgent hearing by 24 February. Opportunities to mitigate Māori concerns about s.9; and to separate water from MOM. | Agree to approach proposed in Treasury report  
Agree to Crown Counsel's draft submission |
| 4. Reply to Tumu Te Heuheu letter | [6] | Agree to reply being provided in time for Iwi Leaders Water Summit |
| 5. Overall MOM timetable | [6] | Discuss |