

The Treasury

Overseas Investment Act 2005 – Phase One Review Policy Advice (2017/18) Information Release

March 2019

This document has been proactively released by the Treasury on the Treasury website at <https://treasury.govt.nz/publications/information-release/overseas-investment-act-review-phase-one>

Information withheld

Some parts of this information release would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act).

Where this is the case, the relevant sections of the Act that would apply have been identified.

Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Key to sections of the Act under which information has been withheld:

- [1] 6(a) - to avoid prejudice to the security or defence of New Zealand or the international relations of the government
- [2] 9(2)(a) - to protect the privacy of natural persons, including deceased people
- [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 legal professional privilege
- [6] 9(2)(k) - to prevent the disclosure of official information for improper gain or improper advantage

Where information has been withheld, a numbered reference to the applicable section of the Act has been made, as listed above. For example, a [1] appearing where information has been withheld in a release document refers to section 6(a).

Copyright and licensing

Cabinet material and advice to Ministers from the Treasury and other public service departments are © **Crown copyright** but are licensed for re-use under **Creative Commons Attribution 4.0 International (CC BY 4.0)** [<https://creativecommons.org/licenses/by/4.0/>].

For material created by other parties, copyright is held by them and they must be consulted on the licensing terms that they apply to their material.

Reference: T2018/88

IM-5-1-2

Date: 18 January 2018



To: Minister of Finance (Hon Grant Robertson)
Associate Minister of Finance (Hon David Parker)

Deadline: Ahead of meeting at 9.00am on 19 January 2018

Aide Memoire: Update on Iwi-Māori Consultation - Overseas Investment in Forestry Rights

Purpose:

This note provides an update on the targeted iwi-Māori consultation to date regarding the proposal to include forestry cutting rights in the Overseas Investment Act screening regime. The key message is that iwi-Māori have raised serious concerns regarding both the proposed policy and the consultation process and this view is likely to strengthen throughout the consultation next week.

Consultation feedback to date:

The Treasury have commenced targeted consultation with iwi-Māori groups with forestry interests. To date, officials from the Treasury and the Overseas Investment Office have facilitated hui in Gisborne and Rotorua on the proposal. Hui are organised in Whangarei, Christchurch and Wellington for next week. Information on attendance and scheduled meetings is detailed in the Appendix.

The proposals raised strong feelings amongst participants. Responses were often passionate and at times heated. Concerns have been raised by iwi-Māori about the proposed policy and the consultation process. These concerns, at a high level, include;

Policy

- *No clear driver for policy change:* a number of comments were raised that it is not clear why this proposal is being pursued, particularly at such pace. Iwi-Māori want to see evidence of unsuitable overseas investors that would need regulation, or where this has been an issue in the past.
- *Encroachment on commercial sovereignty:* a point forcefully made was that Māori land owners are increasingly commercially sophisticated and can negotiate contracts to protect their forestry interests. Some groups were particularly concerned that their commercial sovereignty over land that forms part of Treaty Settlements will be reduced.

- *Unclear alignment with the Billion Trees Policy:* it was raised on a number of occasions that the forestry rights proposal appeared to conflict with other Government priorities around Billion Trees and job creation. Despite officials briefing about the proposal including a streamlined and simple criteria for consent, iwi-Māori remain concerned about driving away overseas investors that could support the planting of a billion trees.

Process

- *Short timeframe for consultation:* iwi-Māori were advised of the targeted consultation around 11 January and written submissions close on 26 January. It was noted by many that this was not 'meaningful consultation' as per the principles of the Treaty of Waitangi, given the short lead time to digest information, facilitate transport to a hui, or prepare a written submission.
- *Continual engagement is sought:* iwi-Māori expressed a need to be consulted again as this policy progresses. A suggestion was to facilitate a national hui with Ministers on the issue. This will be difficult given time constraints.

Treasury comments:

Whilst there were a few comments in support of the proposal on the regulatory coherence ground, the views to date appear strongly against the proposal. We have been informed by participants that this resistance is likely to build as consultation progresses in Whangarei next week and the trajectory is towards a high level of opposition to the proposal.

The timeframes are driven by the need to make any changes to domestic law before the CPTPP comes into effect early this year. If this proposal progresses, it would be through a Supplementary Order Paper to the Overseas Investment Act Amendment Bill, with no Select Committee time. You may wish to consider whether this opposition impacts on the progression of the wider amendments.

Iwi-Māori advised that they are intending to prepare written submissions against the policy by next Friday. Participants signalled that their submissions will oppose the proposal because the consultation process did not allow sufficient time to consider the implications of the policy.

Next steps:

We are available to discuss further if you wish. We will provide further reporting once consultation concludes after 26 January. You may wish to refer a copy of this note to the Minister of Forestry.

[4] Analyst, Overseas Investment, [6]
Thomas Parry, Team Leader, Overseas Investment, [6]

Appendix One: Targeted iwi-Māori Consultation Details

16 January 2018: Gisborne

[6]	Organisation
	New Zealand Māori Council
	New Zealand Māori Council
	Tamanuhiri TuTu Poroporo Trust
	Tamanuhiri TuTu Poroporo Trust
	CE of Te Runanganui o Ngati Porou / Chair Ngati Porou Forest

17 January 2018: Rotorua

[6]	Organisation
	CNI Iwi Land Management Ltd - General Manager
	Hiruharama Ponui Incorporation
	Trustee of the Peka Trust
	Paehinahina Mourea,. Chairman
	Te Paiaka Lands Trust (Te Arawa Primary Sector, Inc)
	Chairman of CNI Iwi Holdings Limited
	Ruahine Kuharua Inc.
	Tokerau A14A2 Trust
	Tumunui Lands Trust
	Toitu Te Waonui Limited
	Waiteti 2 1B 2C
	Te Manawa o Tuhoe
	Toitu Te Waonui Limited
	Te Runanga o Ngati Whare
	Rotoiti 15 Trust / ONUKU
	Federation of Māori Authorities (FoMA)
	Land Trustee
	Te Tumu Paeroa / Rotoma No. 1
	Pukahukiwi Kaokaoroa, (Director, FOMA Rotorua)
	Maraeroa ANB, Te Uranga B2
	Chairman of Te Rūnanga o Ngāti Manawa
	Te Whaiti-Nui-A-Toi Trust
	New Zealand Māori Council
	Rotorua Inc

Planned consultations

Note that RSVP's to date have not been indicative of attendance.

19 January 2018: Wellington

RSVPs	Organisation
[6]	Federation of Māori Authorities / the Maori Research Institute
	Federation of Māori Authorities / the Maori Research Institute

23 January 2018: Whangarei

RSVPs	Organisation
[6]	Wright Partners
	Ngā Tapuwae Incorporation
	Tūhoronuku Independent Authority Trustee - Te Pewhairangi Hapū Representative
	Trustee, Ngati Hine Forestry Trust

24 January 2018: Wellington

RSVPs	Organisation
[6]	Tamanuhiri TuTu Poroporo Trust
	Federation of Maori Authorities

25 January 2018: Christchurch

RSVPs	Organisation
[6]	Ngai Tahu

Written submission are due by 26 January.