

The Treasury

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

March 2019

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Treasury Report: Further consultation with Māori/iwi on forestry changes

Date:	Tuesday 10 April 2018	Report No:	T2018/984
		File Number:	IM-5-8-1

Action Sought

	Action Sought	Deadline
Minister of Finance (Hon Grant Robertson)	Note the contents of this report	Prior to 7.30pm, Wednesday 11 April 2018
Associate Minister of Finance (Hon David Parker)	<p>Note the attached materials that are intended to support the consultation process commencing tomorrow night</p> <p>Note the emerging issue around Treaty settlements and that further advice will be provided later this week</p>	Prior to 7.30pm, Wednesday 11 April 2018

Contact for Telephone Discussion (if required)

Name	Position	Telephone		1st Contact
Emily O'Connell	Senior Analyst, Overseas Investment	[6]	[6]	✓
Dasha Leonova	Manager, Financial Markets and International	[6]	[6]	

Actions for the Minister's Office Staff

Return the signed report to Treasury.

Note any feedback on the quality of the report

Enclosure: Yes (attached)

Treasury Report: Further consultation with Māori/iwi on forestry changes

Materials to support the upcoming consultation process

1. Commencing tomorrow night, you will be conducting a consultation process with iwi and Māori groups on proposals contained in a Supplementary Order Paper (SOP) to the Overseas Investment Amendment Bill to include forestry rights as an interest in 'sensitive land' under the Overseas Investment Act 2005. These proposals also include a more permissive screening regime for forestry rights and forestry land, and bring non-forestry profits-a-prendre into the screening regime.
2. This process was prompted by discussion at Cabinet on 12 March 2018 about the potential impacts of the proposals on Māori economic interests [CAB-18-MIN-0084 refers].
3. Attached for your information for this consultation process are:
 - the **schedule of consultation meetings**
 - proposed **talking points**, and
 - an **agenda** for the meeting on Wednesday 11 April in your Office (the agendas for the other meetings will be similar).
4. A list of the stakeholders that will be attending the meetings will be provided to your Office in advance of each meeting.
5. The **aims** we have identified for this consultation are to:
 - ensure that iwi and Māori groups with interests in forestry understand the proposed changes and what they mean for them
 - ensure that the Government understands the impact of the changes on iwi and Māori groups, recognising that there will be a range of differing circumstances and implications
 - understand the extent to which the changes that have been made address the concerns raised in the January consultation, and
 - understand any remaining concerns and any proposals on how they might be addressed.
6. We have worked closely with the Crown/Māori roopu at the Ministry of Justice and Te Puni Kōkiri in planning this consultation to ensure that all interested Māori stakeholders have the opportunity to participate in the process and that the process allows for meaningful engagement.
7. This consultation process is occurring alongside consideration by the Finance and Expenditure Select Committee of the SOP. Any changes that may be desired as a result of this consultation could be included as officials' advice in the Departmental Report to the Select Committee in May or in a further SOP at the Committee of the Whole House stage.

Treaty settlement issues (subject to legal professional privilege)

8. We have become aware of a new issue around Treaty settlements that we thought you should be aware of in advance of the consultation starting. We have been aware from the outset of this project that Māori/iwi have strong cultural and legal ties to forest land in New Zealand. During the consultation hui in January, strong sentiments were raised by Māori

and iwi groups that the proposal to include forestry rights of more than 50 hectares in the overseas investment screening regime would add a layer of regulatory control over land returned in Treaty settlements. Some consulted iwi and Māori groups have also made the point that subjecting forestry rights to screening by the Overseas Investment Office will deter overseas investors, reduce divestment options and in turn have a reduction on the value of forestry rights and the underlying land.

9. These issues were raised by the recently settled group of iwi known as 'Te Hiku' in oral and written submissions to the Finance and Expenditure Select Committee on 4 April 2018. A copy of that submission and the associated media coverage have been provided to your Office. We have recently become aware of at least one further type of issue related to Treaty settlements. We understand that when iwi enter into a Deed of Settlement that involves Crown forest licensed land, the Deed typically sets out the purchase price that the iwi will pay to purchase that land, using the financial redress in their settlement. The actual purchase of that land often occurs after the settlement legislation has passed, which can be one or more years later. If the proposed OIA changes have a negative impact on forestry land prices, it is possible in some circumstances that the Crown end up charging iwi a price for land that may have been devalued as a result of legislative action.
10. The Treasury is working with the Office of Treaty Settlements, Ministry of Justice, Te Puni Kōkiri and Crown Law to understand this issue better and will provide advice later this week.
11. [5]

Recommended Action

We recommend that you:

- a **Note** the attached materials that are intended to support the consultation process commencing tomorrow night, and
- b **Note** the emerging issue around Treaty settlements and that further advice will be provided later this week.

Dasha Leonova
Manager, Financial Markets and International

Hon Grant Roberston
Minister of Finance

Hon David Parker
Associate Minister of Finance

Annex A Schedule of meetings

Location	Date/time	Expected Crown attendees
Wellington Venue: Your office	Weds 11 April 7.30-9.30pm	Hon David Parker Bryan Chapple (Deputy Secretary, The Treasury) Trevor Moeke (Principal Advisor, The Treasury) Ivan Kwok (Consultant) Steve Cantwell (Principal Advisor, The Treasury) Emily O'Connell (Senior Analyst, The Treasury) Nicky Willis, Te Puni Kōkiri Antonia Reid, Ministry for Primary Industries
Whangarei Venue to be confirmed	Mon 16 April 12.15-2.15pm	Hon David Parker James Beard (Director, The Treasury) Trevor Moeke Ivan Kwok Steve Cantwell Emily O'Connell Te Puni Kōkiri – attendee to be confirmed Ministry for Primary Industries – attendee to be confirmed
Whanganui Venue to be confirmed	Weds 18 April 11.30am- 1.30pm	Bryan Chapple Trevor Moeke Ivan Kwok Steve Cantwell Emily O'Connell Te Puni Kōkiri – attendee to be confirmed Ministry for Primary Industries – attendee to be confirmed
Gisborne Venue to be confirmed	Thurs 19 April 9.30-11.30am	Hon David Parker James Beard Trevor Moeke Ivan Kwok Steve Cantwell Emily O'Connell Te Puni Kōkiri – attendee to be confirmed Ministry for Primary Industries – attendee to be confirmed
Rotorua Venue to be confirmed	Mon 23 April 2-4pm	Hon David Parker Bryan Chapple Trevor Moeke Ivan Kwok Steve Cantwell Emily O'Connell Te Puni Kōkiri – attendee to be confirmed Ministry for Primary Industries – attendee to be confirmed
Nelson – awaiting confirmation from your Office whether a meeting should be held at this location.		

Crown attendees

The following officials will attend the meeting

The Treasury: Bryan Chapple (senior Treasury representative), Trevor Moeke (facilitator) Steve Cantwell (policy advisor), Emily O'Connell (consultation organiser), Ivan Kwok (Crown-Maori advisor)

Other agencies: Nicky Willis (Manager, Te Puni Kōkiri), Antonia Reid (Manager, Ministry for Primary Industries), Overseas Investment Office representation is to be confirmed.

Agenda

- **Karakia** (Trevor Moeke)

- **Welcome and introduction of the Minister** (Trevor Moeke)

- **Remarks from the Minister** (Hon David Parker)

- **Outline of proposals** (Steve Cantwell, The Treasury)

- **Discussion** (Facilitated by Trevor Moeke)

- **Karakia whakamutunga** (Trevor Moeke)

Annex C Talking points

- As you will be aware, the Government is proposing to make changes to the treatment of overseas investments in forestry rights that will see them brought into the Overseas Investment Act screening regime.
- This will mean that if forest owners want to sell forestry, or cutting rights to an overseas investor, the investor will need to seek approval from the Overseas Investment Office before purchasing those rights.
- We are proposing these changes because we are trying to better align how similar types of assets are treated under the Overseas Investment Act, alongside the changes to how residential housing is treated.
- We have a limited time window for making these changes, as once the Comprehensive and Progressive Trans-Pacific Partnership is ratified making such changes becomes more difficult.
- As you know, Treasury officials conducted some consultation earlier this year with hui over the Christmas/New Year period. We acknowledge the pace and timing of consultation was undesirable, but was driven by the need for these proposed changes to be passed into law prior to CPTPP coming into force.
- In the consultation, we heard feedback that the current forestry screening regime is not fit for purpose, due to lengthy delays and expense, high application fees, and the substantial legal costs that are involved.
- As a result of that feedback, we are now proposing to provide a new pathway for screening for overseas investment in forestry to streamline the process and create more certainty for investors.
- The aim of this hui is to hear about how these forestry changes will impact on you and any concerns you may have. We would also like to hear about the extent to which the new streamlined process will address concerns that were raised earlier.
- I also understand that iwi and Māori groups have raised concerns about the impact of the proposals on the value of forestry assets. I am currently seeking advice from officials on this. Further engagement will need to be conducted on this issue once we have received this advice.
- This consultation is running alongside Select Committee consideration of the draft Supplementary Order Paper that would give effect to the changes.
- While the policy process is well progressed, I am still here with an open mind. If issues are raised that we consider can be effectively addressed through changes to the draft SOP, there are avenues to do this, for example, through Select Committee consideration next month.

You may then wish to ask if there are any questions, before the Treasury official outlines some of the details of the changes.