

The Treasury

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

March 2019

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Treasury Report: Treasury Report: Overseas Investment in Forestry - Further Design Details following Select Committee Public Submissions

Date:	Monday 23 April	Report No:	T2018/987
		File Number:	IM-5-8-2

Action Sought

	Action Sought	Deadline
Minister of Finance (Hon Grant Robertson)	Note the contents of this report.	None.
Associate Minister of Finance (Hon David Parker)	Agree to the proposed recommendations on the design details for the forestry screening regime. Refer a copy of this report to the group of Ministers with Power to Act.	Tuesday 24 April to enable drafting of Cabinet Paper.

Contact for Telephone Discussion (if required)

Name	Position	Telephone		1st Contact
Carrie Cooke	Overseas Investment	[6]	n/a	✓
Dasha Leonova	Manager, Financial Markets and International	[6]	[6]	

Actions for the Minister's Office Staff

Return the signed report to Treasury.

Refer a copy of this report to the Deputy Prime Minister, the Minister for Crown/Māori Relations, the Minister for Māori Development, the Minister of Forestry, the Minister for Climate Change and the Minister for Land Information.

Note any feedback on the quality of the report

Enclosure: No

Treasury Report: Treasury Report: Overseas Investment in Forestry - Further Design Details following Select Committee Public Submissions

Executive Summary

This report provides an update on the Finance and Expenditure Committee's (FEC) consideration of Supplementary Order Paper No.19 to the Overseas Investment Amendment Bill (the SOP). It seeks preliminary decisions from you on ways to address significant issues with the SOP, raised by submitters and identified by officials, which require Cabinet approval. Based on your feedback on this report, we will begin drafting a Cabinet paper.

As you are aware, we have recently undergone a second round of consultation hui with iwi/Māori across New Zealand. The last hui is on Monday 23 April, and participants were invited to provide further written feedback by Friday 27 April. It is necessary for us to send you this report now to allow us to begin preparing cabinet advice, but we recognise that, given the timing of this report, we have not addressed all the feedback provided at the hui. We will provide a separate briefing on feedback received, before the Cabinet paper is finalised and lodged.

We will also provide separate reporting on technical amendments not requiring Cabinet approval that we are still working through.

Stakeholder agencies have been consulted on this report, however due to time constraints we have not had the time and capacity to do a full economic analysis. The report therefore contains our best advice given the constraints under which it is written.

Submissions on the Bill and Proposed Changes

There have been 25 written submissions on the SOP and based on these, and further analysis undertaken by officials, we recommend making a number of changes to the SOP. These changes cover the below matters:

- A. Modified Benefits Test and Special Benefits Test – potential refinements to the regime to improve coherency.
- B. Standing Consents – potential refinements to the regime concerning the use of standing consents alongside the modified benefits test, which may not be appropriate in all circumstances.
- C. Crown/Māori Issues - relating to the inclusion of forestry rights and other profits à prendre in the screening regime.
- D. Restricting New Pathways to Forestry and Allowing Change of use of Forestry Land – concerning conditions relating to investors who hold a forestry consent (under the new pathways) and wish to change the land use.
- E. Hectare Threshold Applicable to Forestry Rights Screening - concerning the level at which you wish to set the threshold.
- F. Sub-dividing Existing Forestry Rights – including an exemption for existing consent holders who sub-divide the land (on the same terms as the original consent), under certain conditions.

- G. Extending the Term of Forestry Rights - including an exemption such that consent holders who wish to vary the term for three years or less are able to do so.
- H. Easements - noting the risk that investors may use easements in some cases instead of forestry rights to avoid the screening process.

There are also a number of issues raised by submitters that we do not recommend addressing through amendments to the SOP:

- A. Inclusion of Crown Forestry Licences in the OIA;
- B. Alienation of Forestry Land;
- C. Profit à Prendre over Grapes (including alienation of horticultural land);
- D. Domestic Processing; and
- E. Walking Access and Other Public Goods.

Next Steps

It is proposed that your decisions on this report will be used to draft a Cabinet Paper, to take directly to Cabinet on Monday 21 May. This will allow officials to prepare a Departmental Report for FEC's consideration on Wednesday 23 May. The report back deadline for the Amendment Bill is 21 June 2018.

Recommended Action

We recommend that you:

- a **note** this report provides you with options on the substantive issues raised by submitters, and that further TR's on technical issues, and issues raised at the second round of hui with iwi/Māori will be provided to you in due course;
- b **note** there are a number of issues identified in submissions, for which officials do not recommend any changes to the Bill;
- c **agree/note** the following recommendations based on substantive issues raised by submitters, and further analysis by officials.

Modified Benefits Test and Special Benefits Test – Part A

- d **agree** to maintain the status quo;
Agree / Disagree
OR
- e **agree** to allow the modified benefits test to be used for forestry rights.
Agree / Disagree

Modified Benefits Test and Special Benefits Test – Part B

- f **agree** to maintain the status quo;

Agree / Disagree

OR

- g **agree** to allow the use of the special benefits test for freehold and leasehold land being converted to forestry (TPK supported);

Agree / Disagree

OR

- h **agree** to require forestry rights for land being converted into forestry to use the existing or modified benefits test (i.e. not the special benefits test) (Tsy, OIO and DOC supported).

Agree / Disagree

- i **note** while Treasury has a preference for option ii above, it considers the rationale behind the two options to be finely balanced, and which option you prefer depends on the weighting you give to the factors involved.

Noted

Standing Consents

- j **agree** to maintain the status quo;

Agree / Disagree

OR

- k **agree** to allow standing orders only alongside the special benefits test (OIO recommended, Tsy first preference);

Agree / Disagree

OR

- l **agree** to refine the current proposal so that standing consents made under the modified benefits test apply to a specific and homogenous area and with specific conditions. (TPK supported, Tsy and OIO second preference above status quo).

Agree / Disagree

Crown/Māori Issues

- m **note** that The Treasury, Te Puni Kōkiri, Ministry of Justice, Office of Treaty Settlements and Land Information New Zealand with advice from Crown Law are undertaking further work to assess concerns raised by submitters and possible responses.

Restricting New Pathways to Forestry and Allowing Change of use of Forestry Land

- n **agree** to include planting and re-planting mandatory conditions into the new forestry consent pathways (modified benefits test and special benefits test).

Agree / Disagree

- o **agree** to include the planting and re-planting mandatory condition in the Act (not regulations).

Agree / Disagree

- p **agree** to allow flexibility for minor adjustment to the area of land that is planted in trees, for example to adopt best practice planting distances from rivers.

Agree / Disagree

- q **agree** to allow overseas persons with consent under the new forestry pathways to remove the mandatory condition to re-plant trees if they can gain a new consent under the existing benefits test.

Agree / Disagree

Hectare Threshold Applicable to Forestry Rights Screening

- r **note** some submitters raised concerns over the 1,000 hectare screening threshold for forestry rights, although officials are comfortable with the level.

- s **confirm** if you wish to revisit the 1,000 hectare screening threshold for forestry rights in the Cabinet Paper.

Agree / Disagree

Sub-dividing Existing Forestry Rights

- t **agree** that where forestry rights have been granted to overseas persons prior to the commencement of the legislation, changes to the terms of forestry rights (excluding changes to increase land area and extend duration) are exempt from screening under the Act.

Agree / Disagree

Extending the Term of Forestry Rights

- u **agree** that extending the duration of forestry rights by three years or less (compared with the original duration of a right granted pre-commencement, or the duration of a right when it received consent) is not subject to screening under the Act.

Agree / Disagree

Easements

- v **note** officials are considering the risk further and will provide an update in due course.

- w **refer** a copy of this report to the Deputy Prime Minister, the Minister for Crown/Māori Relations, the Minister for Māori Development, the Minister of Forestry, the Minister for Climate Change and the Minister for Land Information.

Refer / Not referred

Dasha Leonova

Manager, Financial Markets, International and Overseas Investment

Hon Grant Robertson

Minister of Finance

Hon David Parker

Associate Minister of Finance

Treasury Report: Treasury Report: Overseas Investment in Forestry - Further Design Details following Select Committee Public Submissions

Purpose of Report

1. This report provides an update on the Finance and Expenditure Committee's (FEC) consideration of Supplementary Order Paper No.19 to the Overseas Investment Amendment Bill (the SOP). It seeks preliminary decisions from you on ways to address significant issues with the SOP, as raised by submitters and identified by officials, which require Cabinet approval. We will provide separate reporting on technical amendments not requiring Cabinet approval in due course.
2. As you are aware, we have recently undergone a second round of consultation hui with iwi/Māori across New Zealand. The last hui is on Monday 23 April, and participants were invited to provide further written feedback by Friday 27 April. It is necessary for us to send you this report now to allow us to begin preparing cabinet advice, but we recognise that, given the timing of this report, we have not addressed all the feedback provided at the hui. We will provide a separate briefing on feedback received, before the Cabinet paper is finalised and lodged.
3. Stakeholder agencies have been consulted on this report, however due to time constraints we have not had the time and capacity to do a full economic analysis. The report therefore contains our best advice given the constraints under which it is written.

Background

4. A Supplementary Order Paper has been introduced to the Overseas Investment Amendment Bill, which was originally introduced to Parliament on 14 December 2017. The amendment brings overseas investment in sensitive land that involves forestry rights or certain other profits à prendre within the scope of the Overseas Investment Act (OIA).

Structure of this report

5. We have structured this report into the following sections:
 - Submissions on the Bill;
 - Issues raised that require Ministerial decisions; and
 - Issues raised that not do not require Ministerial decisions.
6. There are also other issues raised by submitters and/or identified by officials that we have not attempted to address in this paper as these issues are largely technical, for example operational details relating to the SOP. We will provide further reporting on these issues as we work through them. We do not anticipate requiring Cabinet approval (due to their technical nature).

Submissions on the Bill

7. There have been 25 written submissions on the SOP. The following aspects of the SOP received the greatest weight of submissions:
- Modified benefits test and special benefits test;
 - Standing consents;
 - Crown/Māori issues;
 - Proposed hectare thresholds;
 - Crown Forestry Licences;
 - Increased risk of alienation of land;
 - Inclusion of profit à prendre in the screening regime;
 - Impact on domestic wood processors; and
 - Walking access.

Issues requiring Ministerial Decisions

8. In this section of the report we outline issues that require Ministerial decisions before officials can draft a Cabinet Paper, and develop a departmental report for FEC. The issues discussed are:
- A. Modified Benefits Test and Special Benefits Test;
 - B. Standing Consents;
 - C. Crown/Māori Issues;
 - D. Restricting New Pathways to Forestry and Allowing Change of Use of Forestry Land;
 - E. Hectare Threshold Applicable to Forestry Rights Screening;
 - F. Sub-dividing Existing Forestry Rights;
 - G. Extending the Term of Forestry Rights; and
 - H. Easements.
9. When addressing the above issues in this paper, we have undertaken to use three criteria for assessing the effectiveness of different options. These three criteria were originally used in the main design report which underpinned much of the new screening regime [T2018/31 refers]. The criteria are:
- **Policy effectiveness:** is aligned with other forestry policy, as well as broader economic, social and environmental goals, while maintaining consistency with overall purpose of the OIA that investing in New Zealand is a privilege, and minimises any unintended consequences.

- **Compliance with New Zealand’s international obligations:** the revised screening regime comply with obligations in existing trade and investment agreements ^[1,5]
- **Minimising compliance and administration costs:** there is more certainty for applicants about what tests they need to meet, the regime is easier for the Overseas Investment Office (OIO) to operationalise and there is reduction in the time taken to make decisions.

A Modified Benefits Test and Special Benefits Test

Submitter

10. Wood Processors and Manufacturers Association (WPMA), New Forests, New Zealand Carbon Farming Group, Fitzgerald Strategic Ltd, PSP, Duncan Cotterill, DLA Piper New Zealand.

Submission

11. Overall submitters supported the introduction of the modified benefits test and special benefits test as they are simpler options within the regime. However, there was concern over the inconsistencies in the current SOP. These inconsistencies included:
 - a. Where the modified benefits test cannot be used for forestry rights but the special benefits test can; and
 - b. Where the special benefits test cannot be used for land conversions where they are leasehold or freehold, but it can be used for land conversions where they are forestry rights.
12. Some submitters suggested the modified benefits test should also be available for forestry rights for consistency. Others suggested the modified benefits test (or the existing benefits test) should be required for all land conversions regardless of whether they are freehold/leasehold or forestry rights.
13. Some submitters noted it may be difficult for investors to meet the special benefits test if they are acquiring new land to convert to forestry (as much of it is predicated on maintaining existing parameters) and that in those cases the modified benefits test may be more appropriate.
14. It was also noted that the special benefits test will need a strong level of clarity to provide investors with certainty about how it is being applied (particularly around areas that could be subjective, such as “strong track record”), and it was suggested the test could recognise new benefits as well as maintaining existing ones.

Analysis

15. The current SOP includes the following:

Type of Land and Interest	Existing Benefits Test	Modified Benefits Test – different counter-factual analysis	Special Benefits Test – requirements-based test with no counter-factual analysis
Freehold estate or lease - existing forestry land	✓	✓	✓
Freehold estate or lease - land to be converted to forestry	✓	✓	✗
Forestry rights (whether over existing forestry land or for first plantings)	✓	✗	✓

16. Officials agree with submitters that the current design has coherence issues. Ministers have already discussed options for the regime, however should you wish to address these concerns, there are two areas to consider:

Part A: Whether the modified benefits test should be able to be used by investors purchasing forestry rights (i.e. the cross in the bottom row); and

Part B: Whether the special benefits test should apply to conversions of land to forestry, and if so, in what circumstances (it currently applies when forestry rights are purchased, but not freehold or leasehold) (i.e. the cross in the right hand column).

Part A: Whether the modified benefits test should be able to be used by investors purchasing forestry rights

17. We have identified two potential options (including maintaining the status quo) to address this area:

1. Maintain the current proposals; OR
2. Allow the modified benefits test to be used for forestry rights.

Option 1. Maintain the current proposals

18. This option does not address inconsistencies in the current proposal. It does provide some benefits for investors (in specific scenarios) compared with current legislation by providing the new modified benefits test and special benefits test.

Option 2. Allow the modified benefits test to be used for forestry rights (recommended option)

19. We believe consistency would be increased if the modified benefits test were allowed to be used by investors purchasing forestry rights. These investors will already have access to both the existing benefits test and the special benefits test under current proposals and so there is no clear policy rationale for excluding them from using the modified benefits test.
20. In addition, allowing investors purchasing forestry rights to use the modified benefits test responds to stakeholder feedback that the special benefits test may not be appropriate where they are intending to purchase forestry rights for land to convert to forestry. The OIO agrees with this feedback as the special benefits test requires the maintenance of existing commitments, and in some cases these may not exist, or may not be appropriate for land being converted to forestry. In addition, the special benefits test does not allow for the relaxing of some commitments at the same time as introducing new or more stringent commitments. In both these situations the application of the current or modified benefits test would be more appropriate.
21. If the modified benefits test were allowed for investors in forestry rights, the regime would change to look like the below:

Type of Land and Interest	Existing Benefits Test	Modified Benefits Test – different counter-factual analysis	Special Benefits Test – requirements-based test with no counter-factual analysis
Freehold estate or lease - existing forestry land	✓	✓	✓
Freehold estate or lease - land to be converted to forestry	✓	✓	✗
Forestry rights (whether over existing forestry land or for first plantings)	✓	✓	✓

Recommendations

22. We recommend Ministers move to make the regime more coherent by allowing the modified benefits test to be used for forestry rights.

Recommendation:

Agree to allow the modified benefits test to be used for forestry rights (recommended).

Part B: Whether the special benefits test should apply to conversions of land to forestry, and if so, in what circumstances

23. We have identified three potential options (including maintaining the status quo) to address this area:
1. Maintain the current proposals; OR
 2. Allow the special benefits test to be used for freehold and leasehold land being converted into forestry; OR
 3. Require forestry rights on land being converted into forestry to use the existing or modified benefits test (but not the special benefits test).

Option 1: Maintain the current proposal

24. Maintaining the current proposal may be a compromise between competing policy drivers, specifically the need to consider the economic and ecological impact of land conversions, and the desire to provide a light-touch regime that minimises the regime's impact on New Zealand land-owners' ability to sell forestry rights. However, it does not address submitters' concerns regarding the coherence of the regime.
25. It also presumes a difference between purchasing freehold and leasehold, and purchasing forestry rights. In practice, due to the length and nature of forestry rights, the impact on New Zealand in the short to medium term is likely to be the same, regardless of the type of purchase.
26. Maintaining the current proposal means that investors purchasing forestry rights for land to convert into forestry may use the special benefits test. This test was originally conceived to apply to land currently in forestry and as such is a simple test that does not distinguish between beneficial or detrimental investment (it requires only the maintenance of the status quo). A conversion of land to forestry could result in a significant change to land-use and the associated benefits derived from the land.
27. Where the existing land is not currently developed and does not have native bush, a conversion to forestry is likely to be beneficial (as a more productive use of the land). However if that land is already in productive use, for example for dairy, meat or agriculture, or has native bush, the economic and environmental case of conversion may not be as clear cut. In these cases a number of factors would need to be considered. In the language of the Living Standards Framework, these might include:
- A. Human Capital – for example the impact on local employment;
 - B. Social Capital – for example the impact on local communities, and public benefits such as protection of historic heritage, walking access, etc.;
 - C. Natural Capital – for example the impact on the environment; and
 - D. Physical/financial Capital – for example the impact on the region's economy and industries within it.
28. Consequently officials, in particular the OIO and Department of Conservation (DOC), believe that potential investment in land to be converted to forestry should be subject to the existing or modified benefits tests (that assess the benefits of the investment against a counterfactual).
29. In addition, officials note the current proposal in the SOP has the potential to steer the market towards purchasing forestry rights, rather than a freehold or leasehold, where investors intend to convert land to forestry, as they will be able to use the special benefits test for this.

30. However, investors may already have a preference towards forestry rights, as the nature of the rights provides investors with certain privileges that freehold and leasehold do not, for example the right to build access roads into the forestry area without needed additional approval through the Resource Management Act (RMA). Enabling investors in forestry rights to use the special benefits test, where investors in leasehold and freehold cannot, is likely to exacerbate this preference.
31. The current proposal also creates a loophole for investors who do wish to purchase freehold or leasehold to convert to forestry but still use the special benefits test. This could be achieved through a two stage process: The first stage would be to purchase forestry rights for the land through the special benefits test, and then once the land is converted to forestry, the investor could purchase the freehold or leasehold, again using the special benefits test. The OIO is able to look at associated arrangements in its screening, and so would potentially be able to address this loophole, however we consider it sub-optimal to introduce it when we can create a more coherent regime that avoids it.
32. Regardless of these factors, the current proposal does provide a light-touch option for investors purchasing forestry rights, which may in particular support Māori land-owners who are more likely to utilise forestry rights than freehold or leasehold due to a desire to retain control of the underlying whenua asset.

Option 2: Allow the special benefits test to be used for freehold and leasehold land being converted into forestry (TPK supported)

33. This option is the most liberal option, providing all investors with the ability to use whichever pathway they wish (i.e. existing, modified or special benefits tests). It can be summarised as:

Type of Land and Interest	Existing Benefits Test	Modified Benefits Test – different counter-factual analysis	Special Benefits Test – requirements-based test with no counter-factual analysis
Freehold estate or lease - existing forestry land	✓	✓	✓
Freehold estate or lease - land to be converted to forestry	✓	✓	✓
Forestry rights (whether over existing forestry land or for first plantings)	✓	✓	✓

34. Te Puni Kōkiri (TPK) supports this option as the one that will provide Māori/iwi with the greatest opportunity to utilise Māori freehold land or land provided through Treaty redress for forestry, where appropriate (as potential investors will have the least burdensome option available to them through the special benefits test).
35. However, we and the OIO and DOC have reservations about this option. As noted above, if the land to be converted is already in productive use, or has native bush, the economic and environmental case for conversion may not be clear cut. In this situation, the special benefits test will not consider the benefits and costs of the conversion, nor any broader impacts.

36. The existing or modified benefits tests will consider the relative benefits of the investor's plans for the land, compared with a current use. They provide Ministers with discretion to make trade-off decisions about the future use of the land in these situations.
37. Consequently, we, OIO and DOC prefer option 3 detailed below. The OIO also believes the current SOP is preferable to this option.

Option 3: Require forestry rights on land being converted into forestry to use the existing or modified benefits test (but not the special benefits test) (Tsy, OIO, DoC supported)

38. Option 3 maintains the option of the existing and modified benefits tests for all investors, but it limits the use of the special benefits test to land already in use as forestry (i.e. it cannot be used for conversions). It can be summarised as:

Type of Land and Interest	Existing Benefits Test	Modified Benefits Test – different counter-factual analysis	Special Benefits Test – requirements-based test with no counter-factual analysis
Freehold estate or lease - existing forestry land	✓	✓	✓
Freehold estate or lease - land to be converted to forestry	✓	✓	✗
Forestry rights - existing forestry land	✓	✓	✓
Forestry rights - land to be converted to forestry	✓	✓	✗

39. This addresses the concerns that the special benefits test may not consider all the relevant factors to fully assess the economic and environmental case for conversion. It maintains discretion for Ministers to consider the trade-offs that are faced when converting land from one use to another, while delivering a coherent regime.
40. Some of the relevant factors may be considered by local government requirements, where investors (domestic or international) must go through the RMA process for certain matters. However, as noted above, forestry rights enable an investor to do certain things without requiring RMA approval. In addition, any RMA assessment will be done from a local government perspective, rather than a national one. The RMA process is therefore not a substitute for the modified benefits test, should Ministers wish to ensure land conversions are considered with regard to the benefits they deliver.

Recommendations

41. Ministers have already considered the regime, however should you be open to re-considering these elements in light of feedback from submitters, we recommend Ministers move to make the regime more coherent by aligning the screening treatment of freehold and leasehold land, and forestry rights for land being converted to forestry.
42. Whether to align the standard of screening land to be converted to forestry on the special benefits test (option 2), or modified benefits test (option 3), depends on how Ministers balance the various concerns raised.
43. Option 2 will provide the lightest-touch approach to forestry rights screening, while ensuring the regime is coherent. Should Ministers place more emphasis on ensuring thorough screening of the benefits of converting land to forestry, option 3 will achieve this.
44. On balance, officials prefer option 3, however we note the rationale behind options 2 and 3 is finely balanced, and which option you prefer depends on the weighting you give to the factors involved.

Recommendations:

Either:

Agree to maintain the status quo.

OR

Agree to allow the use of the special benefits test for freehold and leasehold land being converted to forestry (TPK supported).

OR

Agree to require forestry rights for land being converted into forestry to use the existing or modified benefits test (i.e. not the special benefits test) (Tsy, OIO and DOC supported).

45. We do not recommend taking action to address the remaining suggestions by submitters related to the modified and special benefits tests, for the reasons shown below:

Suggestion by submitter	Reason no action needed
The language in the Bill (specifically the term “likely to be used for forestry”) will make it easier for investors to purchase farmland.	This language will not make it easier for investors to purchase farmland. It is included in the Bill to ensure the legislation covers land that is already forestry and also land that is being purchased to convert to forestry.
The modified benefits test should be available for all sensitive land (especially if it is being converted to more productive use).	This is out of scope of this work.
The modified benefits test should be extended to cover all acquisitions.	This is out of scope of this work.
The SOP should be phrased to allow the OIO not to use a counterfactual at all if they deemed it appropriate.	The special benefits test is being introduced without a counterfactual for situations where this is appropriate.
The special benefits test should not require replanting if the land owner does not want it.	Maintaining the existing planting is a key integrity requirement of the application of the special benefits test to freehold and leasehold land transactions. For forestry rights, replanting obligations will depend on the contractual terms. Should investors not wish to replant, and change the use of the land, the modified and existing benefits tests can be used.

B Standing Consents

Submitters

46. Wood Processors and Manufacturers Association (WPMA), New Forests, Pan Pac Forest Products Limited (Pan Pac), Juken New Zealand Limited, New Zealand Carbon Farming Group, Public Sector Pension Investment Board, Duncan Cotterill, DLA Piper New Zealand.

Submission

47. Under the current proposals standing consents can be issued through the modified benefits test and the special benefits test. Submitters welcomed standing consents but raised significant concerns over how standing consents would work with the modified benefits test.
48. Submitters noted that the level of uncertainty investors will face when using standing consent under the modified benefits test is significant. Using standing consents relies on investors being able to apply the modified and special benefits tests as the OIO or Minister would, and submitters saw this as significantly more risky for investors when considering the modified benefits test, than the special benefits test. One submitter highlighted the scale of this challenge by noting that in the past Ministers have, on occasion, exercised their Ministerial discretion and taken a different view to the OIO recommendation to approve a transaction.
49. Submitters suggested investors would not invest if they risk a disposal order should the assessment by the OIO not be aligned with their own, and they suggested this may reduce investment through this pathway.

50. Submitters did believe a standing consent option would be practical under the special benefits test, so long as the criteria for the special benefits test are extremely clear. Submitters suggested the special benefits test needs to be prescriptive, and clearly explain terms such as “strong record”. One also suggested standard conditions to be placed on these consents should be included in regulations.

Analysis

51. Treasury, the OIO, and TPK agree with submitters that the application of standing consents alongside the modified benefits test is likely to prove difficult to administer, and may disincentivise investment through this pathway.
52. Standing consents are intended to be administered by considering confidence in the investor, rather than a pre-assessment of each potential piece of land the investor may wish to purchase. This places the risk on the investor, should they chose to use the standing consent, as they will need to undertake their own assessment through the modified or special benefits test to determine if they believe their investment will pass. Once their investment is made, they will notify the OIO who will confirm whether their assessment is correct. If it is not, the investor will be issued with a disposal order for that piece of land.
53. The Ministry for Primary Industries (MPI) notes that the use of this pathway is a choice for investors and any who are uncertain will not chose to use it. MPI therefore does not consider the current proposal to create any material or realistic disincentive to forestry investors.
54. However, the OIO notes that standing consents are still required to meet the benefits test and is therefore concerned about the administrative burden this will create should standing consents be implemented alongside the modified benefits test.
55. Should you wish to further consider the application of standing consents alongside the modified benefits test, we have identified three possible options (including maintaining the status quo):
1. Maintain the current proposal, where standing consents are available under the modified benefits test and the special benefits test; OR
 2. Make standing consents available only under the special benefits test; OR
 3. Maintain standing consents under the modified and special benefits tests, but require that standing consents made under the modified benefits test apply to a specific and homogenous area(s), with conditions (to reduce uncertainty).

Option 1. Maintain the current proposal

56. As noted above, maintaining the current proposal risks creating a regime that adds uncertainty to the sector and disincentivises investors. Submitters have suggested investors are unlikely to use standing consents if there is a risk they will receive a disposal order. The OIO considers few investors are likely to have the ability or incentive to undertake an impartial assessment of whether the “substantial and identifiable” test is met, against the vendor’s use of the land, and note that this ability is not a trait normally required of investors (even those of the highest quality).
57. The OIO also notes that, because application of the modified benefits test requires knowledge of the specific land, and what is likely to occur on that land without the overseas investment, standing consents for the modified benefits test are likely to be possible only where specific land is being considered. Even where specific land is being considered, the OIO notes that each property and each potential vendor will be different, which will make the application process very complex. In practice it may result in a process that looks very similar to the current application process.

58. Treasury and the OIO agree that this option will be very difficult to implement, and recommend option 2 or option 3 be progressed.

Option 2. Make standing consents available only under the special benefits test (OIO recommended, Tsy first preference)

59. Only allowing standing consents under the special benefits test reduces uncertainty significantly, responding to the concerns raised by submitters.
60. It addresses the difficulties with administering the regime noted in paragraph 55, and therefore will reduce the addition workload placed on the OIO at a time when the workload will be increasing significantly.
61. The OIO strongly supports this option.

Option 3. Maintain standing consents under the modified and special benefits tests, but require that standing consents made under the modified benefits test apply to a specific and homogenous area with conditions (TPK supported, Tsy and OIO second preference above status quo)

62. Should you wish to maintain standing consents alongside the modified benefits test, officials recommend a refined option, where they are limited to a specified and homogenous area or areas.
63. This goes someway to addressing the operational concerns of the OIO, although the OIO notes this will still be complex to administer for the reasons noted in paragraph 55.
64. TPK notes the importance of standing consents for Māori/iwi as land parcel sizes tend to be smaller so it is likely that an investor may need to group a number of parcels together in order to achieve a forestry block of sufficient scale. Given this, TPK supports this option.

Recommendation:

65. Officials recommend a change to the current proposal, either by making standing consents available only under the special benefits test, or by refining the use of standing consents alongside the modified benefits test to apply to a specific and homogenous area(s), with conditions.
66. On balance, officials prefer option 2, however should you wish to maintain standing consents alongside the modified benefits test, option 3 could be delivered.

Either:

Agree to allow standing orders only alongside the special benefits test (OIO recommended, Tsy first preference).

OR:

Agree to refine the current proposal so that standing consents made under the modified benefits test apply to specific and homogenous area(s) and with specific conditions (TPK supported, Tsy and OIO second preference above status quo).

Other suggestions made by submitters:

67. We do not recommend taking action to address the remaining suggestions by submitters, relating to standing consents, for the reasons shown below:

Suggestion by submitter	Reason no action needed
Timing needs to be quicker on assessing standing consents (post purchase), or the requirement for investors to take no action on their land until a decision is made should be removed. This would reduce the potential issue for investors purchasing land they then cannot manage until a decision is made. (This is especially difficult if the land is an existing forest that would need maintenance.)	It is appropriate that an investor does not make significant changes to the land until the OIO has confirmed their investment meets the conditions of their standing consent.
Notification from investors of purchases could be made annually, rather than after each transaction.	We consider immediate confirmation that the purchase is consistent with the conditions of the standing consent to be important.
Clarity is needed on farming advertising requirements.	This is out of scope for this work.
Standing consents could be made available to investments covered by the significant investment test, and to other sensitive land (especially when this is being converted to more productive land uses).	This is out of scope for this work.

C Crown Māori Issues

Submitters

68. Te Hiku Iwi, Waikato Tainui, CNI Holdings.

Submission

69. All three submitters opposed the inclusion of forestry rights (and profits à prendre) in the OIA screening regime as it is an additional layer of regulatory control over land that has been returned in Treaty settlements. Their two principal concerns were:
- The changes are inconsistent with the Treaty principles and encroach on post-settlement commercial freedom; and
 - The changes will adversely impact the tribes' economic returns through burdening investors with higher transaction costs, resulting in a reduced number of quality investors.
70. In addition, Te Hiku Iwi noted that it only settled with the Crown in 2015 and the value ascribed to its land formed a material contribution to its overall settlement proceeds. They believe that the Crown, through making changes now, is acting in bad faith by not first negotiating their implementation with the iwi (and others in a similar position).

71. Representatives from Te Hiku recently attended the consultation hui in Whangarei and did not raise the concerns expressed in their written submission. Officials from the Treasury spoke with the representatives who stated they did not re-raise their concerns as they considered their position was clearly communicated in the written submission and did not see reason to repeat it at this forum.
72. These submissions are broadly consistent with the iwi-Māori consultation feedback we received whilst conducting hui in January (Aide Memoire T2018/88 refers).

Analysis:

73. Officials are currently developing advice on Crown Māori issues relating to the proposed changes. Based on our initial analysis of the issues raised by submitters, at this stage we do not believe changes to the SOP will be required. However, there are issues that will require further attention of Ministers.

Recommendation

Note that The Treasury, Te Puni Kōkiri, Ministry of Justice, Office of Treaty Settlements and Land Information New Zealand with advice from Crown Law are undertaking further work to assess the concerns raised by submitters and possible responses.

D Restricting New Pathways to Forestry and Allowing Change of Use of Forestry Land

Submitter

74. Issue raised at consultation hui, identified by officials.

Submission

75. An issue has been identified regarding the change of use of forestry land in the future, after consent had been obtained under the new forestry consent pathways. Overseas persons may use the new consent pathways to acquire forestry land (freehold or leasehold) and we expect the consent would include a condition that the land is re-planted, i.e. kept as a forest. Those overseas owners/lessees may in future want to change the land use, for example, by obtaining a new consent under the existing benefits test (just as they could have obtained consent under the existing benefits test when they first acquired the land). However, under the current proposed legislative drafting, they could not get a new consent unless there was a new transaction (i.e. transfer of freehold or leasehold).

Analysis

76. The new consent pathways for forestry are designed to encourage forestry investment in New Zealand, so should only be available where the land use is forestry. Sufficient safeguards should be built into the changes to ensure that investors are not using the new pathways with an intention to invest in farm land, for example.
77. The draft Regulations to the SOP require that if trees are felled on the relevant land during the investment period, new trees will be planted before the end of the investment period to replace those felled. To better ensure the new pathways can only be used for forestry, we recommend that the OIO also be required to impose a mandatory condition requiring re-planting, and that this be included in the Act (rather than the Regulations).
78. A consequence of this is the potential to capture smaller changes to forestry land that are not an explicit attempt to circumvent the forest consent pathways. People in the forestry industry have voiced concern at the consultation hui that the precise areas that are re-planted on forestry land change over time as practises mature. For example, it is now practice to plant at

least 50 metres away from a river. The proposed mandatory condition to replant would need to be sufficiently flexible to ensure that these smaller movements are permitted.

79. A separate issue is if the overseas person later wanted to change the land use. They should be able to seek a new consent under the existing benefits test without having to create a new transaction. That is, the overseas person could apply to remove the mandatory condition to re-plant trees by going through the existing benefits test. This is an example of a technical matter that officials need to work through, but one that we do not anticipate requires Cabinet approval.

Recommendations

Agree to include the planting and re-planting mandatory condition into the new forestry consent pathways (modified benefits test and special benefits test).

Agree to include the planting and re-planting mandatory condition in the Act (not regulations).

Agree to allow flexibility for minor adjustment to the area of land that is planted in trees.

Agree to allow overseas persons with consent under the new forestry pathway to remove the mandatory condition to re-plant trees if they can gain a new consent under the existing benefits test.

E Hectare Threshold Applicable to Forestry Right Screening

Submitters

80. Wood Processors and Manufacturers Association (WPMA), NZ Timber Industry Federation Ltd., Juken New Zealand Limited, Pan Pac Forest Products Limited, New Forests and Te Tumu Paeroa.

Submission

81. All submitters, except Te Tumu Paeroa and New Forests, believe the 1,000 hectare threshold for screening forestry rights is too high. Supporters of lowering the threshold noted the volume of rights and land that would not be captured by the regime if this threshold is implemented. Two submitters proposed specific lower thresholds of 100 hectares and 250 hectares. In contrast, Te Tumu Paeroa was pleased that that the threshold was 1,000 hectares, as much of the Māori land administered by the Māori Trustee comprised small parcels (and hence the forestry plantations also tended to be smaller). New Forests also supported the 1,000 hectare threshold.

Analysis

82. You have previously indicated comfort with a 1,000 hectare threshold for screening forestry rights per annum.
83. The MPI notes that a lower threshold would increase transaction costs for smaller land-blocks and would impact on the One Billion Trees programme. Furthermore they do not

consider that lowering the threshold would increase the security of log supply (discussed further in the Domestic Processing section of this report).

84. The below table shows the number of forestry rights at various sizes. Should you wish to adopt a lower threshold, you may wish to consider 100 hectares or 250 hectares (in line with submissions), which would capture significantly more of the rights acquired. We do not believe there is a strong policy rationale to amend this figure as it is necessary to balance the coverage of land caught by the regime with the increase in transaction costs which may deter investors (and impact the Government's other priorities like the One Billion Trees programme). Furthermore, lowering the threshold may have a greater negative impact on Māori land administered by the Māori Trustee, given Te Tumu Paeroa has informed us that much of it comprises small parcels.

Forestry right size	Number of forestry rights registered	Matching Potential Threshold	Percentage of Rights Captured at this Threshold	Percentage of Area Covered at this Size threshold
Less than 50 ha	2428	zero (5 ha)	100.0%	100.0%
50 - 100 ha	872	50 ha	57.8%	97.9%
100 - 250 ha	1116	100 ha	42.6%	95.1%
250 - 500 ha	606	250 ha	23.2%	86.9%
500 - 750 ha	192	500 ha	12.7%	77.4%
750 - 1000 ha	100	750 ha	9.3%	72.1%
Over 1000 ha	303	1000 ha	7.6%	68.3%
No Area / Shared Area with another Title	134			

Source: Land Information New Zealand

Recommendation

Note officials remain comfortable with the 1,000 hectare screening threshold in the Cabinet Paper.

Confirm if you wish to revisit the 1,000 hectare screening threshold in the Cabinet Paper.

F Sub-Dividing Existing Forestry Rights

Submitter

85. DLA Piper New Zealand.

Submission

86. The submitter suggests that an exemption should exist for holders of existing forestry rights where the land underlying that right is sub-divided and transferred to two or more landowners. This results in the existing forestry right expiring and a new forestry right being granted on essentially identical terms. They believe it would be unreasonable to require the holder of the new right to then be obliged to apply for consent under the OIA.
87. It was noted that the above situation often occurs in order to facilitate the implementation of Treaty settlements and can involve sub-dividing the land underlying Crown Forestry Licences.

Analysis

88. It is not intended that the proposed changes impact existing forestry rights that were established pre-commencement of the legislation. We therefore agree that under certain circumstances an exemption should apply.
89. We propose that the exemption covers changes to the terms of pre-existing forestry rights, excluding changes to increase land area and extend duration. Examples of changes that would be exempt include pricing terms, protection requirements etc.

Recommendation

Agree that where forestry rights have been granted to overseas persons prior to the commencement of the legislation, changes to the terms of forestry rights, excluding changes to increase land area and extend duration, are exempt from screening under the Act.

G Extending the Term of Forestry Rights

Submitter

90. DLA Piper New Zealand.

Submission

91. The submitter suggests that an exemption should exist for holders of existing forestry rights who want to extend the duration of the right.

Analysis

92. As forestry is a long-term investment, we believe it is likely that situations will occur when trees have not been harvested in the timeframe anticipated in the right, and therefore parties may wish to extend its duration. In these situations, we agree that an exemption should apply and the holder of the right should not be required to regain (or gain) consent.
93. We recommend this exemption applies to extending the duration of both pre-existing forestry rights and forestry rights established post-commencement of the legislation. It is not intended that the legislation be retrospectively applied, and therefore existing forestry rights should be exempt. For forestry rights established post-commencement of the legislation, these rights will already have been screened by the OIA (if required by the Act) and therefore should not require further consent.
94. We recommend the timeframe of an extension not requiring OIA screening be set at three years or less. We have selected three years or less as this is consistent with the treatment of leases within the proposed changes thereby aiding the regime's effectiveness.

Recommendation

Agree that extending the duration of forestry rights by three years or less (compared with the original duration of a right granted pre-commencement, or the duration of a right when it received consent) is not subject to screening under the Act.

H Easements

95. Currently the SOP includes "forestry rights", defined as rights created in accordance with the Forestry Rights Registration Act 1983 or any other profit à prendre that relates to trees in a

forest. It does not include easements. Officials are aware that investors may look to structure their forestry investments as easements so as to avoid the screening regime.

96. Officials are working to consider how significant this risk may be, and any potential responses to it. MFAT advise that any response would need to be considered in light of consistency with our trade obligations, ^[1,5]

Recommendation:

Note officials are considering this further and will provide an update to you in due course.

Issues raised by Submitters to note

97. The following are issues commonly raised by submitters for which we do not recommend any change:
- A. Inclusion of Crown Forestry Licences in the OIA;
 - B. Alienation of Forestry Land;
 - C. Profit à Prendre over Grapes (including alienation of horticultural land);
 - D. Domestic Processing; and
 - E. Walking Access and Other Public Goods.
98. These issues and the analysis underpinning our recommendation is detailed below.

A Inclusion of Crown Forestry Licences in the OIA

Submitters

99. Pan Pac Products Limited, Wood Processers and Manufacturers Association of New Zealand (WPMA), Juken New Zealand Limited.

Submission

100. All submitters suggested that Crown Forestry Licences (CFLs) should also be included in the OIA as they are a similar interest to a forestry right.

Analysis

101. (legally privileged) ^[1,5]
102. CFLs are perpetual when the underlying land is held by the Crown. When the land is transferred to iwi/ hapu the CFL term is generally 35 years or to the harvest of the associated trees, whichever happens first.

Recommendation: Note the submission.

B Alienation of Forestry Land

Submitters

103. Te Hiku Iwi Collective, Simpson Grierson, Fitzgerald Strategic Legal, Constellation Brands New Zealand Limited, New Forests.

Submission

104. Given that there is no screening of forestry rights at the moment, submitters suggest that overseas investors who would otherwise invest in forestry rights will now look to purchase freehold land outright. The consequence of this would be less land with freehold title retained in New Zealand ownership.

Analysis

105. At a high level, the regulatory changes introduce screening of forestry rights and relax the existing screening of other forestry interests in land. Therefore the regulatory changes, considered by themselves, will shift the interest of buyers who were attracted to forestry rights by the absence of OIA screening to now also consider buying forestry freehold land. This is a natural consequence of closing the gap regarding the treatment of profit à prendre in the current screening regime.
106. The magnitude of this effect is difficult to quantify. From the demand side, purchasing forestry land would require significant upfront capital investment. The ability to access to financial assistance can be a barrier for purchasing freehold land. Investment flexibility and risks are also factors for investors to consider, relative to investing in forestry rights only. However, large forestry management companies or overseas pension funds with strong cash flow may be in a position to purchase freehold forestry land.
107. With respect to the threshold for screening, the SOP proposes that sensitive land freehold and leasehold land is screened if it is over five hectares, while only larger forestry right transactions, that is, minimum 1,000 hectares per calendar year, will be subject to screening. (For non-forestry profits à prendre the threshold is five hectares.)
108. From the supply side, some land owners, such as Māori/iwi, may have no intention to sell the underlying land. Māori/iwi own at least 30 per cent of the land under New Zealand's plantation forests. Some other land owners would prefer a steady stream of income rather than an immediate capital return.

Recommendation: Note the submission.

C Profit à prendre over Grapes

Issue (1) alienation of horticultural land

Submitters

109. Simpson Grierson, Fitzgerald Strategic Legal, Constellation Brands New Zealand Limited, Riverlands Viticulture Limited.

Submission

110. If profits à prendre for winegrowers are subject to the OIA, it will create barriers for investment in the wine industry and incentivise the freehold purchase of land. The consequence of this would be less land with freehold title retained in New Zealand ownership.

Analysis

111. ^[1]

Overseas investors are able to gain control over sensitive land through profits à prendre without having to satisfy the investor and benefits tests that leasehold and freehold arrangements would be subject to. To exclude these rights from the OIA as proposed by submitters would go against the policy intent of the SOP.

112. The screening of profits à prendre may impact incentives for investment in the wine industry, although the extent of these impacts is not clear. ^[1]
113. It is unclear to what extent including profits à prendre for winegrowers in the OIA screening process will incentivise more applicants to apply for freehold title rather than a profits à prendre. Freehold title is more valuable than a profit à prendre and could likely command higher prices in the market. Purchasing freehold title is therefore likely to require more upfront capital investment when compared to a profit à prendre. Potential investors that are capital constrained will still have the ability to invest through a profit à prendre but will require consent from the OIO.
114. (legally privileged) ^[5]

Recommendation: note the submission.

Issue (2) regulatory coherence between profit à prendre and forestry rights

Submitters

115. Fitzgerald Strategic Legal, Constellation Brands New Zealand Limited.

Submission

116. If all regulated profits à prendre are to be subject to the OIO screening process, they should be subject to the same treatment as forestry rights.

Analysis

117. The new consent pathways for forestry are designed to encourage forestry investment in New Zealand. Consequently, non-forestry profits à prendre are subject to more onerous requirements for overseas investment. Forestry rights holders are subject to a more light touch approach, including a modified benefits test and a checklist special benefits test. Acquisitions of forestry rights of less than 1,000 hectares in a year are exempt (subject to your decisions on this TR). In addition, the Government has recognised the importance of the forestry industry and elevated the importance of the sector as a factor of high relative importance for overseas investments.
118. The elevation of forestry reflects Government policy on the strategic importance of forestry to the New Zealand economy and other strategic policy including the billion trees initiative. The Government recognises the high proportion of forestry assets held off shore and intends to minimise disruption to the current investment model and profile for forestry assets.

Recommendation: note the submission.

Issue (3) concern that changes will have strong negative impacts on the wine industry

Submitter

119. Constellation Brands New Zealand Limited.

Submission

120. The submitter notes the growing demand for New Zealand wine and the need to increase capacity to meet this demand. They currently purchase or lease less land than they have historically and have been increasingly using profits à prendre to acquire rights to grow and harvest grapes. This change in approach has been largely due to the OIO consent process making negotiations unviable from a commercial perspective due to the timing, high costs and uncertainty. The submitter states that if the profits à prendre they had recently acquired had been subject to the OIA it is likely that:
- A. The number of hectares planted would have been fewer as landowners would not have wished to deal with the delays and uncertainty around the consent process; and
 - B. Investments would have been delayed by 6-12 months.

Analysis

121. Demand for New Zealand wine is growing and the wine industry has expanded as a consequence. A 2017 Deloitte report based on an annual bench-marking survey of the wine industry notes that wine sales have more than doubled in the last ten years to over 300 million litres in 2017. The increased demand is driven by offshore markets with Australia, USA and the United Kingdom being key export markets. Apart from expanding to meet increased international demand, the report also suggests expansion may also be necessary to increase profitability. For instance, smaller wineries (less than \$1.5 million in annual revenue) reported an average loss for 2017 whereas larger wineries (over \$10 million in annual revenue) reported substantial profits. The report finds that as winery size increases, so do net returns, as cost controls likely associated with economies of scale have greatest impact on bottom lines.
122. We do not know what percentage of the wine industry is held through profits à prendre although submissions indicate that these rights are commonly used. It is unclear whether including profits à prendre for winegrowers in the OIA screening process will negatively impact the ability of the wine industry to expand. ^[1]

[1]

123. (legally privileged) ^[5]

Recommendation: Note the submission.

D Domestic Processing

Submitters

124. RedStag Timber, Wood Processors and Manufacturers Association (WPMA), NZ Timber Industry Federation Ltd., Pan Pac Forest Products Limited.

Submission

125. The submitters presented differing views on the SOP, however all noted the importance of strategically supporting the domestic industry.
126. There were contradictory views on the current domestic wood supply, with one submitter stating they have no short to medium term difficulty sourcing logs, while another stated that domestic producers are struggling to secure wood supply. Consequently, there were differing views on the level of regulation proposed by the SOP, with some suppliers supporting light touch regulation, while others proposed the regulation go further, for example by giving “credit” to those investors offering logs to domestic suppliers first, or by including all arrangements and agreements relating to forest sales in the regime.
127. Two submitters expressed concern that the requirement in the special benefits test to maintain existing commitments to domestic processors would not meet its objective as few of these types of commitments exist (feedback from iwi consultation suggests these contracts are usually of short duration, typically up to 3 months).
128. Other suggestions made by submitters included:
- The regime should include consideration of, or requires investors to comply with, the Forest Stewardship Council (FSC) and Endorsement of Forest Certification (PEFC) standards; and
 - The regime should include a greater role for “interested parties” in the OIO’s consideration of applications.

Analysis

129. You have already received advice on the potential for regulations to go further to support the domestic processing sector. Our advice remains that improvements in this area are best sought through alternative work programmes, led by the MPI. A Cabinet paper on this is due in the coming months.
130. MPI is comfortable that the current proposals in the regulation will protect existing supply commitments.
131. (legally privileged) ^[1,5]

132. (legally privileged) ^[1,5]

133. Regarding other suggestions made by submitters, we do not propose progressing those at this stage as they are likely to increase the complexity and cost of application processing.

Recommendation: Note the submissions.

E Walking Access and Other Public Goods

Submitters

134. Federated Mountain Clubs of New Zealand, New Zealand Fish and Game Council, Melanie Scott and DLA Piper New Zealand.

Submission

135. Include the enhancement of public access and other public good values in the special benefits test for forestry rights.

136. Some submitters requested that the Minister's discretion to weigh the importance of factors in assessing the benefit of overseas investments in sensitive land be removed and for the New Zealand Walking Access Commission to be provided with a legislative advisory role on public access.

Analysis

137. Enhancement of public value goods is included as a factor in the existing benefits tests under section 16 of the OIA and the proposed modified benefits test applying to forestry investments.

138. The proposed special benefits test applicable to forestry investments requires that existing arrangements for public access and other public goods are maintained. Enhancements to these arrangements are not referred to.

139. For investments utilising the special benefits test, if a proposed investment enhances existing public access (and any other factors in the regulations are satisfied), then the requirement to maintain would be satisfied. The additional enhancement to public access arrangements would not be relevant in a determination of whether the requirement is satisfied. This is consistent with the policy intent of the special benefits test, which is intended to provide a more objective requirements checklist to provide increased certainty to forestry investors and reflects the fact that there is little scope for forestry investors to significantly vary how they conduct their activity from other potential investors.

140. Enhancement of public access and other public goods are retained in the existing benefits test and the modified benefits test. This is consistent with the operation of these tests, which involve more value judgment and weighting of the relevant factors. Applications that enhance public goods could be given more credit when compared with applications that do not when applying these tests.

141. We do not recommend removing the Minister's discretion to weight factors in assessing the benefit of overseas investment. This discretion allows the Minister to provide direction to the OIO on matters of Government policy, as recently demonstrated for forestry investment.

142. The role of the New Zealand Walking Access Commission and advice on public avenues should be progressed through other policy channels.

Recommendation: Note the submissions.