

The Treasury

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

March 2019

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Treasury Report: Overseas investment in forestry: Membership of the Reference Group

Date:	17 August 2018	Report No:	T2018/2009
		File Number:	IM-5-8-1

Action Sought

	Action Sought	Deadline
Minister of Finance (Hon Grant Robertson)	Note the contents of this report.	None.
Minister for Crown/Māori Relations (Hon Kelvin Davis)	Confirm recommendations for membership of the Reference Group.	Friday 24 August 2018 to enable the Treasury to engage with potential members of the Reference Group.
Associate Minister of Finance (Hon David Parker)		
Minister for Māori Development (Hon Nanaia Mahuta)		
Minister of Forestry (Hon Shane Jones)		
Associate Minister for Crown/Māori Relations (Hon Meka Whaitiri)		
Minister for Land Information (Hon Eugenie Sage)		

Contact for Telephone Discussion (if required)

Name	Position	Telephone	1st Contact
[4]	Analyst, International	[6]	N/A (mob)
Thomas Parry	Team Leader, International	[6]	✓

Actions for the Minister's Office Staff (if required)

Return the signed report to Treasury.

Note any feedback on the quality of the report

Enclosure: No

Treasury Report: Overseas investment in forestry: Membership of the Reference Group

Executive Summary

Background to the establishment of the Reference Group

The Overseas Investment Amendment Bill (the Bill) included overseas investment in forestry rights and certain other profits à prendre as interests in sensitive land under the Overseas Investment Act (the Act) (which means that, under certain circumstances, investment approval is required by the Overseas Investment Office). It also introduces new more streamlined pathways for overseas investors in forests to seek approval from the Overseas Investment Office.

Forestry is an important component of the Māori economic base and therefore Māori may be disproportionately impacted by the changes. In recognition of this, the Treasury has undertaken three rounds of consultation hui with iwi and Māori on these changes over the six months from January 2018 to July 2018. The Associate Minister of Finance (Hon David Parker) attended seven of these hui.

Cabinet made further changes to the Bill following Select Committee submissions and the first two rounds of consultation hui. Cabinet also noted that a Reference Group with representatives of iwi and Māori forestry interests would be established [CAB-18-MIN-0228 refers]. The Group will provide advice to the Treasury on the impact of the forestry changes and provide input into the implementation process. This will allow for any further reforms to the Act that warrant change.

Minister Parker recently agreed that the joint Ministers addressed in this report will confirm the selection of members to the Reference Group [T2018/1714 refers]. Therefore, this report seeks approval from joint Ministers for officials to invite the candidates to join the Group. It was also agreed that members of the group would not be remunerated for their time, but costs associated with attending meetings would be covered by the Treasury.

Objectives for membership to the Reference Group

It was agreed that the Group's membership should focus on individuals that can represent iwi and Māori views (as opposed to broader industry groups) and who have forestry interests and/or expertise [T2018/1714 refers]. The following objectives were set to guide the selection of members:

- the individual can represent a broad range of views of iwi and Māori interests;
- the individual has expertise or experience in managing forestry assets, including Crown Forestry Licences and/or forestry assets returned through Treaty settlement; and
- collectively the individuals have good geographic spread to ensure representation across different rohe (tribal areas).

Officials recommend selecting eight individuals for the Group and consider that the individuals collectively satisfy these objectives. Further information about each of the individuals and his/her experience is discussed in the body of this report (pp7-8).

We have received requests about this Group from interested stakeholders and therefore this report also seeks agreement to share the objectives for membership and the terms of reference in response to requests.

Consultation

The following agencies have been consulted on this report: Te Puni Kōkiri, Ministry of Justice, Ministry of Primary Industries and the Overseas Investment Office.

Recommended Action

We recommend that you:

Minister of Finance

a **note** the contents of this report;

Minister for Crown/Māori Relations, Associate Minister of Finance, Minister for Māori Development, Minister of Forestry, Associate Minister for Crown/Māori Relations, Minister for Land Information

b **confirm** that the following members be invited to join the Reference Group:

	Minister for Crown/Māori Relations	Associate Minister of Finance	Minister for Māori Development	Minister of Forestry	Associate Minister for Crown/Māori Relations	Minister for Land Information
i. [3]	Agree/ disagree	Agree/ disagree	Agree/ disagree	Agree/ disagree	Agree/ disagree	Agree/ disagree
ii. [3]	Agree/ disagree	Agree/ disagree	Agree/ disagree	Agree/ disagree	Agree/ disagree	Agree/ disagree
iii. [3]	Agree/ disagree	Agree/ disagree	Agree/ disagree	Agree/ disagree	Agree/ disagree	Agree/ disagree
iv. [3]	Agree/ disagree	Agree/ disagree	Agree/ disagree	Agree/ disagree	Agree/ disagree	Agree/ disagree
v. [3]	Agree/ disagree	Agree/ disagree	Agree/ disagree	Agree/ disagree	Agree/ disagree	Agree/ disagree
vi. [3]	Agree/ disagree	Agree/ disagree	Agree/ disagree	Agree/ disagree	Agree/ disagree	Agree/ disagree
vii. [3]	Agree/ disagree	Agree/ disagree	Agree/ disagree	Agree/ disagree	Agree/ disagree	Agree/ disagree
viii. [3]	Agree/ disagree	Agree/ disagree	Agree/ disagree	Agree/ disagree	Agree/ disagree	Agree/ disagree

c **note** that, subject to decisions taken above, officials will contact individuals inviting them to participate in the Reference Group;

d **note** that officials will report back to joint Ministers on the final composition of the Reference Group; and

- e **agree** that officials may share the objectives for membership and terms of reference in response to requests from interested stakeholders.

<i>Agree/ disagree</i>	<i>Agree/ disagree</i>	<i>Agree/ disagree</i>	<i>Agree/ disagree</i>	<i>Agree/ disagree</i>	<i>Agree/ disagree</i>
Minister for Crown/Māori Relations	Associate Minister of Finance	Minister for Māori Development	Minister of Forestry	Associate Minister for Crown/Maori Relations	Minister for Land Information

Thomas Parry
Team Leader, International

Hon Grant Robertson
Minister of Finance

Hon Kelvin Davis
Minister for Crown/Māori Relations

Hon David Parker
Associate Minister of Finance

Hon Nanaia Mahuta
Minister for Māori Development

Hon Shane Jones
Minister of Forestry

Hon Eugenie Sage
Minister for Land Information

Hon Meka Whaitiri
**Associate Minister for Crown/Māori
Relations**

Treasury Report: Overseas investment in forestry: Membership of the Reference Group

Purpose of Report

1. This report seeks agreement by joint Ministers to appoint members to the Reference Group (or the Group) noted by Cabinet to assist on the implementation of the changes to overseas investment in forestry [CAB-18-MIN-0228 refers].

Background on the establishment of the Reference Group

2. The Overseas Investment Amendment Bill (the Bill) includes overseas investment in forestry rights and certain other profits à prendre as interests in sensitive land under the Overseas Investment Act 2005 (which means that, under certain circumstances, investment approval is required by the Overseas Investment Office). It also introduces new more streamlined pathways for overseas investors in forests to seek approval from the Overseas Investment Office.
3. The Treasury has undertaken three rounds of consultation hui with iwi and Māori on these changes over the six months from January 2018 to July 2018. This consultation recognises that forestry is an important component of the Māori economic base and therefore Māori may have a strong interest in the changes. The Associate Minister of Finance (Hon David Parker) attended seven of these hui.
4. Cabinet made further changes to the Bill following Select Committee submissions and the first two rounds of consultation hui. Cabinet also noted that a Reference Group would be established with representatives of iwi and Māori forestry interests. The Group will provide advice on the impact of the changes, once they are in place, to feed into the Phase Two review of the Act [CAB-18-MIN-0228 refers].
5. This decision was to address the residual concerns about the impact of the changes (this residual concern also led to the third round of hui). The establishment of the Group was socialised at this third round and was well received.
6. The Cabinet Minute that authorised the establishment of the Group did not provide for a group of Ministers with Power to Act.
7. Minister Parker subsequently made a number of initial decisions on the establishment of the Reference Group [T2018/1714 refers – *see appendix*], including:
 - a the Reference Group will report to the Treasury, working closely with the Overseas Investment Office;
 - b setting clear objectives for selecting members to the Group (*discussed below*);
 - c officials, where appropriate, would liaise with Ministerial offices to identify possible candidates;
 - d joint Ministers (addressed in this report) will confirm the selection of members to the Reference Group ahead of officials engaging with the candidates;
 - e members of the group would not be remunerated for time, but costs associated with attending meetings would be covered by the Treasury.

Purpose of the Reference Group

8. The establishment of the Reference Group will allow for continued dialogue with Māori with forestry interests about the impact of the changes. The purpose of the Group is to:
 - provide input into the implementation process of the changes to overseas investment in forestry to ensure guidance materials are fit for purpose for Māori land owners and their advisors to understand the changes and what they mean for them; and
 - provide the Government with real time feedback on the impact of the changes to overseas investment in forestry, to enable mitigation where necessary of any unintended consequences.
9. The Group will report to the Treasury, and work closely with the Overseas Investment Office. The feedback from the Group will be provided to relevant Ministers.

Recommended members for the Reference Group

Objectives for selecting members to the Group

10. It was agreed that the Group's membership should focus on individuals that can represent iwi and Māori views (as opposed to broader industry groups) and who have forestry interests and/or expertise. Clear objectives were set to guide the selection of members.
11. This report provides a list of individuals who officials recommend Ministers agree to appoint as members to the Group. We believe the individuals collectively satisfy these objectives (refer to the table below for analysis).

Objective	Comment/Assessment
The individual can represent a broad range of views of iwi and Māori interests.	We think the individuals have networks and / or whakapapa links to be effective in this forum.
The individual has expertise or experience in managing forestry assets, including Crown Forestry Licences and/or forestry assets returned through Treaty settlement.	The individuals have a range of experience in the management of different types of forestry assets (including in a post Treaty settlement capacity), as well as leadership and investment experience. This experience also includes managing Crown Forestry Licences.
Collectively the individuals have good geographic spread to ensure representation across different rohe (tribal areas).	Overall we consider there is good geographic coverage across the individuals. We do note however that it is not possible to represent all rohe in a group of eight, but we consider this objective satisfied, whilst balancing the need to satisfy the other two objectives as well.

12. These individuals have been identified either by the Minister for Māori Development, by officials through the consultation process, or have put themselves forward as possible candidates. The individuals have **not** been contacted with regards to joining the Group (the proposed process for doing so is discussed in the 'Next Steps' section of this report).

Recommended members

13. In our previous report we signalled that there may be advantages to cross-membership between the Ministerial Forestry Advisory Group and this Reference Group. Given that it was agreed that the membership of this Reference Group should focus on representing Māori and iwi interests, we believe ^[3] from the Ministerial Forestry Advisory Group could be a suitable member to also sit on this Group.
14. The following table outlines the recommended members for the Group and their relevant experience.

Member	Relevant experience
[3]	

Chair of the group

15. At this stage, we do not recommend appointing a chair to the group as it may be taken as a sign that one member (and his/her representatives) have more seniority or importance than others. This is something that could be reviewed after the group meets, if it is determined that a chair would be beneficial.

Next Steps

16. If joint Ministers confirm the selection of candidates in this report, officials will draft letters inviting them to participate in the Group. Letters will be followed up with phone calls to provide more specific details about the requirements of the Group.
17. A separate briefing will be provided once members have agreed / declined invitations to confirm the Group's final composition.

Draft timeline

18. Below is the draft timeline for the establishment of the Group. We will still aim for an initial meeting in September, but this will depend on the time taken to confirm members.

Timeframe	Action	Notes
Early September	Membership finalised and plans for first meeting underway.	Membership will be finalised through a Joint Report to relevant Ministers.
Late September	First meeting of the Group to assist OIO on implementation and guidance materials.	The Group will be able to engage with the Treasury and Overseas Investment Office outside of formal meetings.
Late October	Changes to the Act take effect.	
December	Second Meeting of the Group to provide feedback on how changes have impacted.	
2019	Two further hui.	

19. The consultation hui will be considered as an input into the further reforms to the Act that are due to be initiated by Cabinet shortly.
20. At this stage, there is no set end-date for this group, however the ongoing value will be assessed as part of the next phase of work.

Interest from stakeholders

21. There has been some interest from certain stakeholders around the Group, particularly regarding membership. Therefore, we are seeking your agreement to share the objectives for membership and the terms of reference in response to such requests.

Consultation

22. The following agencies have been consulted on this report: Te Puni Kōkiri, Ministry of Justice, Ministry of Primary Industries, and the Overseas Investment Office.

Appendix: Recap of decisions made to date on the Reference Group

The Associate Minister of Finance recently made a number of initial decisions about the Reference Group in T2018/1714. These decisions are re-capped below.

Who the Group reports to

It was agreed that the Group will report to the Treasury, working closely with the Overseas Investment Office.

Objectives for selecting members

It was agreed that the Group's membership should focus on individuals that can represent iwi and Māori views and who have forestry interests and/or expertise (as opposed to broader industry groups), and that the objectives for selecting members to the Group were:

- the individual can represent a broad range of views of iwi and Māori interests.
- the individual has expertise or experience in managing forestry assets, including Crown Forestry Licences and/or forestry assets returned through Treaty settlement.
- collectively the individuals have good geographic spread to ensure representation across different rohe (tribal areas).

Group's terms of reference

The following terms of reference were endorsed:

"Forestry is a significant component of the Māori economic base and, given this, they may be disproportionately impacted by changes to the way overseas investments in forestry are screened. Treasury has engaged with Māori on these changes and feedback has helped inform the development of the policy. Given the extensive nature of the interests and some remaining uncertainty about how the changes will impact Māori, the Government has established a Reference Group to continue dialogue with Māori with forestry interests.

The Group will:

- provide input into the implementation process of the changes to overseas investment in forestry to ensure guidance materials are fit for purpose for Māori land owners and their advisors to understand the changes and what they mean for them; and
- provide the Government with real time feedback on the impact of the changes to overseas investment in forestry, to enable mitigation where necessary of any unintended consequences.

The Group should report to the Treasury, and work closely with the Overseas Investment Office. The feedback from the Group will be provided to relevant Ministers."

Remuneration

It was agreed that members of the group would not be remunerated for time, but costs associated with attending meetings would be covered (funded from the Treasury's baselines).