

The Treasury

Overseas Investment in Forestry Information Release

September 2019

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Treasury Report: Draft LEG Paper Proposing Supplementary Order Paper on Inclusion of Forestry Rights in Overseas Investment Screening Regime

Date:	9 March 2018	Report No:	T2018/549
		File Number:	IM-5-1-2

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)	Provide the Treasury with feedback on the Draft Cabinet Paper, SOP and Regulations. Refer draft Cabinet paper for consultation.	Provide feedback on the contents of this report by Tuesday 13 March to enable officials to finalise materials (or COP Wednesday if doing a late lodgement on Friday for Cabinet)

Contact for Telephone Discussion (if required)

Name	Position	Telephone	1st Contact	
Steve Cantwell	Principal Advisor, Overseas Investment	[1]	N/A	✓
Thomas Parry	Team Leader, Overseas Investment	[1]	[1]	

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

Return the signed report to Treasury.
Refer for Ministerial consultation as appropriate.

Note any feedback on the quality of the report

Enclosure: Yes

Treasury Report: Draft LEG Paper Proposing Supplementary Order Paper on Inclusion of Forestry Rights in Overseas Investment Screening Regime

Executive Summary

This report seeks your feedback on the attached Cabinet paper (the LEG paper), accompanying Supplementary Order Paper to the Overseas Investment Amendment Bill, and Regulations. These products are in draft form to enable you to consult with your Ministerial colleagues, and allow officials to continue to work on technical elements.

Your feedback is sought by close of play on Tuesday 13 March to enable any changes to be reflected and recirculated ahead of lodgement with the Cabinet Office by 10:00am on Thursday 15 March. If you are seeking to lodge the paper late on Friday, feedback can be provided by close of play Wednesday 14 March.

You will be receiving additional Treasury reports relating to overseas investment in forestry in the coming days. These include:

- a Advice on implications for domestic processing and Māori economic interests to ahead of discussion of an oral item at Cabinet on Monday 12 March (provided 9 March, T2018/560)
- b A paper seeking agreement on three policy design features. This will also be sent to the Ministers with Power to Act on this project for their agreement (expected 12 March)
- c A copy of the Departmental Disclosure Statement (expected 12 March)
- d A final version of the Cabinet Paper, Supplementary Order Paper, Regulations and Departmental Disclosure Statement once you have provided feedback on the draft products (expected 14 March)

This report has been prepared under tight timeframes.

Recommended Action

We recommend that you:

- a **note** that your feedback is sought on these products by **close of play Tuesday 13 March** to enable officials to finalise these ahead of Cabinet lodgement by 10:00am on Thursday 15 March (or feedback by COP Wednesday 14 March if you are seeking to lodge the paper late on Friday)
- b **note** that discussion at Cabinet on Monday 12 March on an associated Oral Item may have implications for the Supplementary Order Paper.
- c **note** that further reporting is being provided seeking agreement to three policy design issues.
- d **refer** this report, and related attachments, for Ministerial consultation as appropriate.

Refer/not referred.

Thomas Parry
Team Leader, Overseas Investment

Hon David Parker
Associate Minister of Finance

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Purpose of Report

1. This report seeks your feedback on the attached Cabinet paper (the LEG paper), accompanying Supplementary Order Paper to the Overseas Investment Amendment Bill, and Regulations. These products are in draft form to enable you to consult with your Ministerial colleagues, and allow officials to continue to work on technical elements.

Analysis

Background

2. On 5 March 2018 the Cabinet agreed to a set of criteria being developed to provide overseas forestry investors an alternative path to meeting the current benefits test under the Overseas Investment Act 2005. Cabinet agreed that those criteria be specified in regulations, and that the OIA include legislative guidance to guide the nature and scope of those regulations.
3. It was also agreed that Statutory Forestry Rights and forestry-related profit à prendre that exist outside the Forestry Rights Registration Act 1993, be subject to OIA screening if the investor and the investor's associates are acquiring 1,000 hectares or more of forestry rights per calendar year (in one or more transaction).
4. It was agreed that a Supplementary Order Paper (SOP) be introduced to the Overseas Investment Amendment Bill to give effect to the proposals.

Policy design features needing agreement

5. There are three outstanding policy design features that require agreement from Ministers with Power to Act on this project. These features include:
 - a *Definition of non-forestry profits à prendre*
 - b *Uniform 5 hectare threshold for non-forestry profits à prendre*
 - c *Conversion of land into a forest*
6. The draft Cabinet Paper and SOP proposes an approach to these issues but can be amended if required.
7. The report seeking agreement on these design features will be circulated on Monday 12 March to delegated Ministers.¹
8. The Parliamentary Counsel Office and officials will continue to work on the SOP. There are complex technical issues in the drafting that will take longer to resolve.

¹ Deputy Minister, the Minister for Crown/Maori Relations, the Minister for Maori Development, the Minister for Forestry, the Minister for Climate Change and the Minister for Land Information.
T2018/549: Draft LEG Paper Proposing Supplementary Order Paper on Inclusion of Forestry Rights in Overseas Investment Screening Regime

Risks

9. At the 5 March Cabinet meeting, concerns were raised regarding the implications of the changes on domestic process and Māori economic interests. These issues will be discussed further at Cabinet on 12 March and may have implications for the drafting of the SOP. A separate Treasury report has been provided to you on these issues [T2018/560 refers, dated 9 March].
10. There is scope to reflect these changes in the SOP ahead of Cabinet on 19 March should that be required.

Next Steps

11. Following your feedback on the Draft Cabinet Paper, SOP and Regulations, we will provide you with another Treasury Report seeking your signature and lodgement for the final products.
12. PCO will continue to work on the SOP and the version that PCO submits to Cabinet Office will reflect the further work, and any changes made for technical and quality assurance purposes.