



Cabinet Economic Growth and Infrastructure Committee

EGI Min (10) 23/1

Copy No:

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Completion of the Overseas Investment Act Review

Portfolio: Finance

On 22 September 2010, the Cabinet Economic Growth and Infrastructure Committee, having been authorised by Cabinet to have Power to Act [CAB Min (10) 34/26]:

Background

- 1 **noted** that in February 2009, Cabinet agreed that the regulatory review programme include a major review relating to the Overseas Investment Act 2005 and its Regulations [CAB Min (09) 6/5A];

Changes to the benefit test for investments in sensitive land

Economic interests factor

- 2 **agreed** that a new “economic interests” factor be added to the benefit test used to assess investments in sensitive land, with the objective of:
 - 2.1 allowing Ministers to consider a wider range of economic issues in their assessment of a particular investment, in particular whether New Zealand’s economic interests are adequately promoted;
 - 2.2 providing Ministerial flexibility to respond to both current concerns about foreign investment and concerns that may arise in future;
- 3 *[withheld - maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials]*
- 4 **agreed** that the term “economic interests” should be defined at a high level in the Overseas Investment Regulations;
- 5 *[withheld - maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials]*

Mitigating factor

6 **agreed** that a new “mitigating factor” be added to the benefit test that enables Ministers to consider whether the investment provides opportunities for New Zealand regulatory oversight or involvement in the investment;

7 *[withheld - maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials]:*

8 *[withheld - maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials]*

Strategic infrastructure assets factor

9 **agreed** to retain the “strategic infrastructure assets” factor (regulation 28(h));

Application

10 **agreed** that the two new factors above be introduced by way of amendments to the Overseas Investment Regulations 2005;

11 **noted** that the new factors will only apply to foreign investments in sensitive land, and not to investments in significant business assets and fishing quota;

12 **agreed** that the new factors will only apply to investment applications that are made after any regulation changes to implement the new factors come into force;

Government policy statement

- 13 **agreed** that the Directive Letter to the Overseas Investment Office be amended to outline government policy on:
- 13.1 the government's general attitude towards foreign investment in sensitive assets;
 - 13.2 advice to the Overseas Investment Office about which factors in the benefit test are likely to be more or less important for particular types of investments;

Other matters

- 14 **agreed** to conclude the review of the Overseas Investment Act;
- 15 **noted** that the Minister of Finance intends to make public announcements on the conclusion of the review and changes to the screening regime as soon as practicable;
- 16 **noted** that the Minister of Finance intends to publicly release the paper under EGI (10) 220, together with its associated Regulatory Impact Statement, subject to any appropriate withholdings that may be required in terms of the Official Information Act 1982;
- 17 *[withheld - maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials]*
- 18 *[withheld - maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials];*
- 19 **invited** the Minister of Finance to issue drafting instructions to the Parliamentary Counsel Office to give effect to the proposed changes.