

The Treasury

Mixed Ownership Model for Crown Commercial Entities: Treasury Advice and Cabinet Material relating to Consultation with Māori Information Release

Release Document

5 April 2012

www.treasury.govt.nz/publications/reviews-consultation/mixed-ownership/advice

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- [1] 9(2)(a) - to protect the privacy of natural persons, including deceased people
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- [3] 9(2)(g)(i) - to maintain the effective conduct of public affairs through the free and frank expression of opinions
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Date: 20 December 2011



To: Minister of Finance
Minister for State Owned Enterprises

Aide Memoire: Mixed Ownership Model – Consultation with Māori

Purpose

This note outlines our current thinking on consulting with Māori on the mixed ownership model. The proposed programme of consultation will be further refined early in January in discussion with Wira Gardiner (who has agreed to act as the Crown facilitator), the MOM companies, and departments (TPK, OTS, CLO, MfE and DPMC). We will provide you with analysis of issues we anticipate may arise from consultation and seek decisions on programme design in the latter part of January.

Why are we consulting?

In a formal sense, the need for consultation derives from the Crown's obligation to act reasonably and in good faith under the Treaty which in turn requires it to make informed decisions. In some cases (judged to include this one), formal consultation with Māori is required.

The consultation is designed to allow the Crown to explain the mixed ownership policy and its implications for Māori and allow Māori to express any views. This should provide an indication of issues that may gather a head of steam and better position the Crown to respond to these, including by making any changes to the MOM legislation before it is introduced.

By undertaking consultation the Crown may also reduce the risk of legal challenge to the MOM process or, failing that, improve the Crown's defence of such a challenge.

What are we consulting on?

Consultation will be on the policy proposition of the mixed ownership model with particular focus on issues that we think may be of interest to Māori. The consultation is not intended to present specific investment opportunities or seek investment – this will take place during the marketing of each IPO. We are not consulting on possible policy issues that Māori may consider intersect with the mixed ownership programme, for example water or RMA reform. Consultation is not part of a Treaty settlement process and does not alter the Government's commitment to Treaty settlements.

A brief consultation document will outline the policy. Feedback will be taken directly from the hui, from conversations around the hui, and may also be submitted in writing.

In respect of Māori interests in the mixed ownership programme, the working assumption is that Māori will be able to participate on a commercial basis on an equal footing to other New Zealanders, both as individuals and as 'institutions'. Some early signals from iwi leaders indicate that this accords with their thinking. However, Māori will likely hold a wide range of views and cannot be treated as a single, unified group. We will work up some analysis of issues that we think Māori could raise early in January. An early scan suggests these could include s9 (Treaty clause), access to shares for iwi yet to settle, iwi appointments to boards, shares as part of Treaty settlements, share price discounts.

Who are we consulting?

We are not attempting to consult with the whole of Māoridom. Rather, we propose targeted consultation with two groups:

- The Iwi Leaders Group (ILG). Consulting with the ILG will provide some assurances that the views of a group with a broad, if incomplete, mandate are understood and provide some opportunity for the Crown to influence those views.
- Iwi that have a strong connection with the SOEs in the mixed ownership programme, by virtue of geographical location or existing business relationships.

When and where are we consulting?

We are proposing a short series of hui which will be co-chaired by the Crown facilitator on behalf of the Crown and a regional co-chair on behalf of Māori. The Crown team will be led by a Minister. The following indicative schedule and team is proposed, though no iwi have yet been contacted.

Location	Date	Location	Date
Waitangi (ILG)	Sun, 5 Feb	Wanganui	Tue, 14 Feb
Auckland	Tue, 7 Feb	Wellington	Tue, 14 Feb
Hamilton	Tue, 7 Feb	Christchurch	Wed, 15 Feb
Rotorua	Wed, 8 Feb	Dunedin	Wed, 15 Feb
Taupo	Wed, 8 Feb	Greymouth	Thu, 16 Feb

Function	Person	Comments
Minister	TBC	Presents the policy, takes questions.
Crown facilitator	Wira Gardiner	Programme design. Iwi and co-chair selection. Co-chairs the hui.
Treasury	Chris White	Programme design and policy support.
Logistics	Seconded TPK official (tbc)	Programme logistics and administration.

What is the output?

Once consultation is complete, Treasury will report to Ministers on the issues raised. This may lead to changes to legislation before it is submitted to Cabinet for approval. There may be merit in releasing the covering cabinet paper as a way of communicating the Crown's response to consultation. Should consultation throw up other issues that are not directly related to the legislation, Ministers will need to consider these separately.

Chris White, Manager, Commercial Transactions Group, [1]