

The Treasury

Release of Submissions: Mixed Ownership Model Consultation with Māori

Release Document

March 2012

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Key to sections of the Official Information Act 1982 under which information has been withheld.

Certain information in this document has been withheld under the following section of the Official Information Act, as applicable:

[1] 9(2)(a) - to protect the privacy of natural persons, including deceased people.

Where information has been withheld, a numbered reference to the applicable section of the Official Information Act has been made, as listed above. For example, an [1] appearing where information has been withheld in a release document refers to section 9(2)(a).

In preparing this Information Release, the Treasury has considered the public interest considerations in section 9(1) of the Official Information Act.

Mixed Ownership Model Submission Form

The Government welcomes your feedback on this consultation document, particularly the questions set out below.

You can make a submission by using this form, which is also available electronically at www.treasury.govt.nz/mixed-ownership-consultation

1 Contact Details

I am responding (please complete one):

As an individual

Your name	Mary Eileen Skerrett
Your iwi affiliation	Ngai Tahu, Ngati Mahuta, Ngati Maniapoto, Ngati Pikiao, Ngati Pukeko
Address	[1]
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On behalf of an organisation

Your name	
Organisation you represent	
Address	
Email address	

2 Submission

Question 1: What rights and interests, if any, do Māori have in the Mixed Ownership Model Companies that are not protected by the section 27A-D memorials regime, or by other legislation?

Māori have absolute right (and interests) under Te Tiriti o Waitangi in everything and all issues that impact on this land and its inhabitants - especially in the mixed ownership model companies. The Government recognises the historic significance of section 9 of the SOE Act and the role it has played in the development of the place of the Treaty in modern New Zealand and the relationship between the Crown and Māori. Litigation brought under section 9 in the Lands case brought by the New Zealand Māori Council in 1987 led to the articulation of Treaty principles by the Court of Appeal (Cooke, J). The same case led to the section 27A-D memorials regime that protects specific Māori interests in land transferred by the Crown to SOEs. These provisions require the Crown to resume ownership (to prevent privatisation) of the land where the Waitangi Tribunal has recommended its return to Māori ownership. Māori have rights to this land. They also enable the Governor-General, by order in council, to require the Crown to resume ownership of land that is wāhi tapu.

Question 2: How would any rights and interests identified in question 1 be protected by continued application of section 9 of the State-Owned Enterprises Act 1986?

S. 9 is the overriding provision - that enables Māori to have an active involvement as equal partners - it states "Nothing in this Act shall permit the Crown to act in a manner that is inconsistent with the principles of the Treaty of Waitangi"

The principles have begun to be clarified in legislation - one really important one is the acknowledgement that Te Tiriti o Waitangi and The Treaty of Waitangi are actually different documents - they are not translations of each other. Another is the issue of partnership - a fiduciary duty to act in utmost good faith and trust towards each other - that is the Crown and Māori. The partnership is one-sided as the Crown continues to find ways to bypass Māori interests which is illegal. Therefore I ask, are the current actions of the Crown through its administration, the government, in good faith? - No. The government has gone rogue - and should not even contemplate such a provision UNLESS it intends to replace it with another that ENTRENCHES Te Tiriti o Waitangi and acknowledges that Aotearoa is Māori land - that Māori have a right and duty to exercise tino rangatiratanga over all activities around Maori land held in Trust by the Crown.

Question 3: Could any rights and interests identified in question 1 be protected by an alternative, more specific, formulation of the Crown's obligations under the Treaty?

Yes - probably first of all by contextualising and referring to Te Tiriti o Waitangi- which is the document which was actually signed at Waitangi. The Treaty of Waitangi was never signed at Waitangi - only by mistake somewhere else. Ani Mikaere's 2011 book "Colonising Myths, Maori Realities" gives a great overview of all of this. Te Tiriti o Waitangi is the founding document of this country. It should underpin, be at the heart of, and override all legislation that concerns Māori rights and interests identified in question 1 and which protects Maori interests in Aotearoa. Not one more acre must disappear down the coffers of a system which has been corrupted, and which, due to its corruption, calls into question its legality.

Additional comments: Please insert any other comments you wish to make on this consultation document.

I am not sure about the structure of this submission in that it asks very difficult questions of iwi Māori who may not have access to the relevant documentation. It is not an open-ended approach to seeking the views of the people. It is therefore problematic structurally, culturally, spiritually. Properly funded consultation methods which allow for much more face to face dialogue and discussion and, more importantly, time, would have been my preferred option. I am feeling a little uneasy about this process and hope I have done justice to my ancestral spirit.

No reira, i roto i nga kupu o Aperama Taonui - 1840 - "kaua i uhia te Tiriti i te kahu o Ingarangi, engari mau ano ki tou kahu, te kahukiwi o Aotearoa"

All submissions will be publicly available

The Government will publicly release your submission, a summary of submissions and a list of the names of submitters, on The Treasury's website: www.treasury.govt.nz/mixed-ownership-consultation.

Your name will be made publicly available as part of your submission when it is released

Your contact details will be removed from your submission before it is posted on the website, recorded in the summary of submissions or released under the Official Information Act 1982 (OIA).

If you do not wish your name in your submission to be released, please clearly state this in your submission or tick the option below:

I request that my name be removed from my submission before it is released and that it is recorded as 'anonymous' in the summary of submissions.

If there is particular information in your submission that you wish to remain confidential, please clearly indicate this and explain your reasons for wanting the information kept confidential.

The Treasury is subject to the OIA and copies of submissions sent to The Treasury will normally be released in response to an OIA request from a member of the public. If your submission is subject to an OIA request, The Treasury will consider your confidentiality request in accordance with the grounds for withholding information outlined in the OIA. You can view a copy of the OIA on the New Zealand Legislation website: www.legislation.govt.nz.

The Privacy Act 1993 governs how The Treasury collects, holds, uses and discloses personal information about you which is contained in your submission. You have the right to access and correct this personal information.

Submissions can be sent by email to mixed-ownership-consultation@treasury.govt.nz or by post to:

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The deadline for receipt of submissions is **5pm on Wednesday 22 February 2012**. Late submissions will not be considered.