

The Treasury

Release of Submissions: Mixed Ownership Model Consultation with Māori

Release Document

March 2012

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

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	
Your iwi affiliation	
Address	
Email address	

On behalf of an Iwi

Your name	Hope Nga Taare Tupara (Chair)
Iwi you represent	Tāmanuhiri Tutu Poroporo Trust
Address	[1]
Email address	trust@tamanuhiri.iwi.nz

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?

We reserve the right as a Treaty partner to monitor the actions of the Crown and hold the government to account where its actions are contrary to our Treaty partnership. Mixed Ownership Model Companies are not default mechanisms for automatic access to water and natural resources, and nor can activities of such companies be considered in isolation of the Treaty and foreshore and seabed discourse about ownership of water.

The Crown has a fiduciary duty to protect our rights as a Treaty partner, to participate in natural resource decisions and activities relevant to our rohe, where any activity could prejudicially affect our ability to carry out our Kaitiaki role. We view any commercial transaction by the government, where such commercial activity is reliant on access to and utilisation of water (or other natural resources), without first engaging in transparent negotiations with tangata whenua, as a breach of Treaty principles.

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?

s9 should be retained and enhanced to provide further protection under the *Tiriti o Waitangi* to not only the Crown's share of 51% but also to include the 49% private shareholdings. (see Question 3)

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?

If the Crown is to make any alterations then current legislation regarding SOEs should be utilised to strengthen the position of the *Tiriti o Waitangi* within the *Act*. Specifically in relation to s9 – the inclusion of a clause that states the *Tiriti* obligations will apply to the Crown and all shareholders, would be of value. This clause would also be extended to each SOE so that operationally they are to adhere to the *Tiriti* obligations.

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

Ngai Tamanuhiri believes:

- The Crown should demonstrate its commitment to the *Tiriti* partner by offering a preferential investor clause for Ngai Tamanuhiri to co-own/manage the 51% with the Government.
- The consultation period was ridiculously short and inadequate considering the far reaching implications of the *Act* involved (particularly s9) and the highly politicised nature of sales of public assets.
- Water should be part of the scope of this consultation. While the Crown has publicly stated that 'no one owns water or the air', it has taken the step of consulting on water-powered generation without a clear guiding legal opinion on the proprietary rights in relation to water.

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.