

The Treasury

Phase two Overseas Investment Act reform (April - September) Information Release

November 2021

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- [25] 9(2)(b)(ii) - to protect the commercial position of the person who supplied the information or who is the subject of the information
- [34] 9(2)(g)(i) - to maintain the effective conduct of public affairs through the free and frank expression of opinions
- [35] 9(2)(g)(ii) - to maintain the effective conduct of public affairs through protecting ministers, members of government organisations, officers and employees from improper pressure or harassment;
- [36] 9(2)(h) - to maintain legal professional privilege
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Treasury Report: Overseas Investment Act: Recommended statutory timeframes

Date:	8 September 2021	Report No:	T2021/1907
		File Number:	IM-5-3-8

Action sought

	Action sought	Deadline
Minister of Finance (Hon Grant Robertson)	Note the report.	N/A
Associate Minister of Finance (Hon David Parker)	Agree the recommended statutory timeframes and modifications to associated design features, which will apply to consent applications made under the Overseas Investment Act 2005. Refer this report to the Minister for Land Information and Associate Minister of Finance (Hon Woods) as decision-making Ministers under the Overseas Investment Act.	13 September 2021

Contact for telephone discussion (if required)

Name	Position	Telephone	1st Contact
Sarah Key	Senior Analyst, International	[39]	[35] ✓
Thomas Parry	Manager, International		

Minister's Office actions (if required)

Return the signed report to Treasury.

Refer the report to the Minister for Land Information and Associate Minister of Finance (Hon Woods).

Note any feedback on the quality of the report

Enclosure: No

Treasury Report: Overseas Investment Act: Recommended statutory timeframes

Executive Summary

This report seeks your (Minister Parker's) agreement to:

- final statutory timeframes under the Overseas Investment Act (the Act), which will commence on 24 November 2021, and
- further clarification of design features for the statutory timeframes.

Statutory timeframes are due to enter into force under the Overseas Investment Act on 24 November 2021, six months after the Overseas Investment Amendment Act (No 3) received Royal Assent.

Recommended timeframes

Consistent with your decisions in March 2021, the Overseas Investment Office (OIO) has been working to finalise applications for consent to acquire sensitive assets within provisional statutory timeframes (T2021/238 refers). Data for applications processed under the provisional timeframes is limited due to the four-month duration of the trial period.

We recommend carrying over the provisional timeframes for all application types, except for significant business asset (SBA) applications. We consider that the provisional timeframes continue to best balance the need to be realistic yet ambitious. This aligns with the OIO's preferred approach to timeframes.

In recommending these timeframes, we note:

- For application types where no data is available, the provisional timeframes continue to represent a best estimate of appropriate timeframes for the OIO to work towards.
- For most of the application types where some data is available, the OIO appears to be tracking reasonably well against the provisional timeframes and that these continue to best balance the need to be realistic yet ambitious.
- The provisional 30-working-day timeframe for SBA applications is unlikely to be realistic for the OIO for applicants in most cases. This is primarily due to the time it takes applicants to respond to requests for information from the OIO, along with the time it takes OIO assess entities' often-complex ownership and control structures. We propose the timeframe should instead be set at 35 working days.

Supporting the OIO to meet the statutory timeframes

The recommended timeframes are, consistent with the broader objectives of the Phase 2 reform of the Act, ambitious and will be challenging for the OIO to meet. They are a powerful tool to further facilitate the cultural change that has been underway within the organisation for several years, with the goal of focussing the OIO's resources on higher-risk transactions, with lower risk transactions subject to comparatively lower scrutiny.

The Government could further support the OIO to achieve ambitious timeframes by clearly articulating what it sees as the higher and lower risk areas. We recommend that the upcoming updated Ministerial Directive Letter outline in general terms that the Government presumes that without extraordinary evidence to the contrary, all transactions other than those involving farmland, strategically important businesses or investment by non-New Zealand government investors are lower risk and should not have excessive resources dedicated to processing them.

Even with a clearer articulation of the Government's risk tolerance, we consider that it may be difficult for the OIO to consistently meet these timeframes during the transitional bedding-in period of 12 months. This is due to the OIO operationalising significant changes to the Act at the same time as timeframes commence, ^[34]
[34]

We recommend you publicly communicate these barriers to consistently meeting these timeframes during the 12-month bedding-in period through the Ministerial Directive Letter, as well as your expectation that, beyond that time, performance will improve.

[34]

Modifications to the design features for statutory timeframes

The OIO has proposed, and we recommend, that some of the design features for statutory timeframes be modified to ensure the timeframes work efficiently, primarily those that are aimed at managing applicant delays and exceptional circumstances.

This includes the ability for the OIO to stop the clock multiple times within the 15-working-day quality assurance (QA) period for information the OIO reasonably requires to complete its assessment, without reference to the requirements for a 'complete' application. This proposal is not materially different to, and potentially represents an improvement over, what was originally proposed, which was that an application would be rejected if not complete and the clock would start again when it was resubmitted.

Recommended Action

We recommend that you:

Background

- a **Note** that consistent with your decisions in March 2021, the Overseas Investment Office (OIO) has been working to finalise applications for consent to acquire sensitive assets within provisional statutory timeframes (T2021/238 refers).
- b **Note** that Cabinet has authorised you (Minister Parker) to make decisions on any additional policy issues that arise during the drafting of the Overseas Investment Regulations 2005 (the Regulations) (DEV-20-MIN-0066).

Recommended timeframes

- c **Agree**, on the basis of performance against these provisional timeframes, the following timeframes against which OIO and Ministers will be statutorily obliged to make decisions on applications for consent with effect from 24 November 2021:

Total working days	Type of application	Agree/Disagree
200 days (including 15-day QA period)	<ul style="list-style-type: none"> Fishing quota 	
100 days (including 15-day QA period)	<ul style="list-style-type: none"> Benefit to NZ: modified test for farm land Standing consents for residential and forestry land 	
70 days (including 15-day QA period)	<ul style="list-style-type: none"> Benefit to NZ: benefits only Variations of consent conditions (excluding variations seeking an extension of time to fulfil one or more of the conditions of consent) 	
55 days (including 15-day QA period)	<ul style="list-style-type: none"> Residential land development One-off consent under the special forestry test National interest test, where the overall statutory timeframe is shorter (than working 55 days) Exemptions (except farmland advertising) Non-residential land – intention to reside 	
35 days (including 15-day QA period)	<ul style="list-style-type: none"> Significant business assets 	
30 days (including 15-day QA period)	<ul style="list-style-type: none"> Farmland advertising exemption Residential and otherwise sensitive land – one home to live in Variations of consent conditions - extension of time to fulfil one or more of the conditions of consent 	
10 days	<ul style="list-style-type: none"> One home to live in 	

- d **Agree**, in order to support the OIO in meeting these timeframes, to include guidance on the Government's risk tolerance for overseas investment transactions in the upcoming November 2021 Ministerial Directive Letter.

Agree/disagree.

- e **Agree** that the Ministerial Directive Letter would outline, in general terms, that the Government presumes that without extraordinary evidence to the contrary, all transactions other than those involving farmland, strategically important businesses or investment by non-New Zealand government investors are low risk and should not have excessive resources dedicated to processing them.

Agree/disagree.

- f **Agree** that the Ministerial Directive Letter publicly communicate barriers to the OIO consistently meeting these timeframes over the transitional bedding-in period of 12 months, as well as your expectation that, beyond that time, performance will improve.

Agree/disagree.

g **Note** that the Treasury will continue to engage with the OIO on its performance against these timeframes over the first 18 months, and will provide advice to Ministers on any changes that may be required at this time.

h [34]

i

j **Note** that these ambitious timeframes will impact the costs of processing OIO applications, but it is difficult to extricate the impact of statutory timeframes (such as the impact of efficiency savings from a more proportionate level of analysis, as well as any additional resources needs to manage peak workloads) from the impact of broader Phase 2 changes.

k **Note** that in 2022/23, there will be a further review of the costs of administering the overseas investment regime, once the OIO has embedded the Phase 2 changes in operational practice.

Modifications to the design features for statutory timeframes

l **Note** that as part of operationalising the timeframes, officials have recommended modifications to the design features for statutory timeframes to ensure the timeframes work efficiently.

m **Agree** that the ability to 'stop the clock' will apply to any requests during the 15-working-day QA period for information the OIO reasonably requires to complete its assessment.

Agree/disagree.

n **Agree** that the clock may be stopped multiple times within the 15-working-day QA period.

Agree/disagree.

o **Agree** that the automatic extension should apply wherever action is required by the applicant and a reasonable deadline set by the OIO is not met.

Agree/disagree.

Information required for a complete application

p **Note** the elements of the information for a complete application that OIO has proposed be prescribed in the regulations.

Next steps

- q **Refer** this report to the Minister for Land Information and Associate Minister of Finance (Hon Woods) as decision-making Ministers under the Overseas Investment Act.

Referred/not referred.

- r **Note** that, on the basis of your decisions on this report, the Treasury will work with the Parliamentary Counsel Office to include these statutory timeframes in Regulations to take effect on 24 November 2021 (that is, the timeframes will apply to transactions entered into or where consent is applied for after that date).
- s **Note** that the Treasury will provide you with draft Regulations and a covering Cabinet paper in late-September 2021.

Thomas Parry
Manager, International

Hon Grant Robertson
Minister of Finance

Hon David Parker
Associate Minister of Finance

Treasury Report: Overseas Investment Act: Recommended statutory timeframes

Purpose of Report

1. This report seeks your (Minister Parker's) agreement to the final statutory timeframes to apply to all decisions made under the Overseas Investment Act 2005 (the Act), whether by the Overseas Investment Office (OIO, the Act's regulator) or Ministers. It also seeks your agreement to modifications to the design features for statutory timeframes to ensure the timeframes work efficiently.
2. Note that Cabinet has authorised you (Minister Parker) to make decisions on any additional policy issues that arise during the drafting of the Overseas Investment Regulations 2005 (the Regulations) (DEV-20-MIN-0066).

Background

3. In November 2019, Cabinet agreed to introduce timeframes for decisions made under the Act (DEV-19-MIN-0306) and set the framework for statutory timeframes. An overview of the agreed framework, as well as design features and objectives for setting statutory timeframes that you subsequently agreed to, is provided in Annex B.
4. To help officials formulate the final recommendations for statutory timeframes, you agreed that the OIO would work to meet a set of provisional timeframes over the four months between these being set and this advice being sent.

Recommended timeframes

5. We recommend carrying over the provisional timeframes for all application types, except for significant business asset (SBA) applications (see Table 1 for recommended timeframes). These continue to best balance the need to be realistic yet ambitious. This aligns with the OIO's preferred approach to timeframes.

Overall performance against provisional timeframes

6. The provisional timeframes were intended to set ambitious targets for the OIO, when compared to average processing times for each type of application over the prior two years.¹ They reflected the anticipated efficiencies resulting from the reforms and a 'right-sizing' of the OIO's analysis to ensure that it is proportionate to the actual risks to be managed. The provisional timeframes would represent a significant improvement for applicants.
7. Data for applications processed under the provisional timeframes is limited due to the short duration of the trial period (see **Annex A** for data from the OIO on processing times for overseas investment applications).

¹ Where relevant, the timeframes also built-in a 20-working-day period for the OIO to provide a report to the Minister and for the Minister to make a decision.

8. For many application types (7 out of 16 categories), there were no applications both accepted and decided during the trial period. The provisional timeframes continue to represent a best estimate of appropriate timeframes for these application types for the OIO to work towards.
9. For most of the application types where some data is available (seven out of nine categories), the OIO appears to be tracking reasonably well against the provisional timeframes and these continue to represent a best estimate of appropriate timeframes.

Special forestry test applications

10. Special forestry test applications are currently taking longer to process, but improvements are expected. Four out of five applications within the trial period met the provisional timeframe, however, this does not capture applications with longer processing timeframes. Special forestry test applications currently being processed have taken an average of 86 working days to date.
11. However, the OIO has recommended, and the Treasury agrees, that the provisional 55-working-day timeframe is appropriate. The OIO is optimistic it will be able to improve on those times and believes a 55-working-day statutory timeframe will provide the impetus for it to do so.

Significant business asset applications

12. The provisional 30-working-day timeframe for SBA applications is unlikely to be realistic for the OIO or for applicants in most cases. Two of the key drivers of SBA processing timeframes, which are unlikely to be reduced through the reforms, are the time it takes applicants to respond to requests for information from the OIO, as well as the time it takes OIO to assess entities' often-complex ownership and control structures.
13. The OIO has recommended, and we recommend that you agree, that the SBA timeframe should instead be set at 35 working days. This proposed timeframe would be achievable in more cases from day one², providing a greater degree of certainty for applicants, while still representing a meaningful improvement over existing processing times.

Table 1: Recommended timeframes

Total working days	Type of application
200 days (including 15-day QA period)	<ul style="list-style-type: none"> • Fishing quota
100 days (including 15-day QA period)	<ul style="list-style-type: none"> • Benefit to NZ: modified test for farm land • Standing consents for residential and forestry land
70 days (including 15-day QA period)	<ul style="list-style-type: none"> • Benefit to NZ: benefits only • Variations of consent conditions (excluding variations seeking an extension of time to fulfil one or more of the conditions of consent)

² We have recommended that there is a transitional bedding-in period of 12 months. See paras 18-19 for further discussion.

Total working days	Type of application
55 days (including 15-day QA period)	<ul style="list-style-type: none"> Residential land development One-off consent under the special forestry test National interest test, where the overall statutory timeframe is shorter (than 55 working days) Exemptions (except farmland advertising) Non-residential land – intention to reside
35 days (including 15-day QA period)	<ul style="list-style-type: none"> Significant business assets <p><i>The provisional timeframe for these applications was 30 working days.</i></p>
30 days (including 15-day QA period)	<ul style="list-style-type: none"> Farmland advertising exemption Residential and otherwise sensitive land – one home to live in Variations of consent conditions - extension of time to fulfil one or more of the conditions of consent
10 days	<ul style="list-style-type: none"> One home to live in

Financial implications

14. These ambitious timeframes will impact the costs of processing OIO applications. However, it is difficult to extricate the overall impact of statutory timeframes (such as the impact of efficiency savings from a more proportionate level of analysis, as well as any additional resources needs to manage peak workloads) from the impact of broader Phase 2 changes. In 2022/23, there will be a further review of the costs of administering the overseas investment regime, once the OIO has embedded the Phase 2 changes in operational practice.

Supporting the OIO to meet statutory timeframes

15. The recommended timeframes are, consistent with the broader objectives of the Phase 2 reform of the Act, ambitious and will be challenging for the OIO to meet. They are a powerful tool to further facilitate the cultural change that has been underway within the organisation for several years, with the goal of focussing the OIO's resources on higher-risk transactions, with lower risk transactions subject to comparatively lower scrutiny.
16. While the timeframes themselves largely imply this framework (for example, national interest transactions have a longer timeframe than significant business asset transactions), the Government could further support the OIO through the introduction of statutory timeframes by clearly articulating its risk appetite in an updated Ministerial directive letter. This would grant the OIO the 'permission space' to continue this necessary work.
17. Consequently, we recommend that the Ministerial Directive Letter, being prepared to accompany the commencement of the final stage of the Phase 2 reforms (in November 2021), outline in general terms that the Government presumes that without extraordinary evidence to the contrary, all transactions other than those involving farmland, 'Strategically Important Businesses' or investment by non-New Zealand government investors are low risk and should not have excessive resources dedicated to processing them.

Delivering on timeframes during transitional period

18. [34]

This reflects that:

a statutory timeframes will come into effect while the OIO, in parallel, is operationalising the final features of the Phase 2 reform (including the 'benefit to New Zealand' test, one of the most significant legislative changes), and

b [34]

19. Failure to initially meet these timeframes for every application should not, therefore, be seen as a failure. However, there will be a need to communicate this to investors and their representatives over this transitional period to ensure that they do not doubt the Government's commitment to its reform objectives. We consequently recommend that the updated Ministerial Directive Letter also outline the Minister's strong commitment to meeting statutory timeframes in the medium term, while recognising particular challenges that may make this difficult immediately.

Decision-making Ministers

20. [34]

The OIO is required to provide information on performance against timeframes in Land Information New Zealand's annual report, noting that there will be a transitional bedding-in period of 12 months.⁴

21. [34]

Modifications to the design features for statutory timeframes

22. This section seeks your decisions on modifications to the design features for statutory timeframes. As part of operationalising the timeframes, officials have uncovered some design decisions that would benefit from modifications to ensure the statutory timeframes work efficiently. Accordingly, the OIO has proposed that the regulations clarify a number of aspects of the design decisions, primarily those that are aimed at managing applicant delays and exceptional circumstances.

[34]

⁴ Under section 37B of the Overseas Investment Act 2005.
T2021/1907 Overseas Investment Act: Recommended statutory timeframes

Impact of additional information sought during quality assurance period

23. The new timeframes introduce a 15-working-day QA period where, if the OIO seeks further information during this period to ensure an application is 'complete', the clock 'stops' until the applicant responds with the required information. The clock does not stop after the QA period has passed.
24. The OIO has proposed, and we recommend you agree:
 - a this ability to stop the clock will apply to any requests during the 15-working-day QA period for information the OIO reasonably requires to complete its assessment (without reference to the requirements for a 'complete' application).
 - b the clock may be stopped multiple times within the 15-working-day QA period. This may be necessary if, for example, an applicant's response to a request for further information raises additional questions.
25. This proposal is not materially different to, and potentially represents an improvement over, what was originally proposed, which was that an application would be rejected if not complete and the clock would start again when it was resubmitted.

Automatic extension

26. The OIO often needs to collect additional information before consent can be granted and it is important that the OIO is not unfairly penalised for any undue delays on behalf of the applicant. You had previously agreed that the overall timeframe is automatically extended by any additional time taken by the applicant to respond to the OIO's request for further necessary information, beyond a reasonable deadline.
27. The OIO proposes, and we recommend you agree, that this automatic extension should apply wherever action is required by the applicant and a reasonable deadline set by the OIO is not met. This would include actions such as providing a statutory declaration or responding to draft conditions of consent, in addition to providing further information (as you had previously agreed). We will engage with the OIO to confirm they monitor how often this is occurring, both to ensure that the OIO is not setting unreasonable timeframes for applicants to respond within and to better understand applicants' engagement with the regime.

Information required for a complete application

28. Under section 23(1)(c) of the Overseas Investment Act, an application for consent must contain the information set out in regulations. **Annex C** provides an overview of the elements of the information for a complete application that OIO has proposed be prescribed in the regulations. There may be further minor adjustments to these in the final regulations to be considered by the Cabinet Legislation Committee (LEG).

Next steps

29. If you agree to these recommendations, the Treasury will work with the Parliamentary Counsel Office to include regulations to give effect to these timeframes. They will sit alongside broader regulations setting out how statutory timeframes will be set (for example, the use of extension periods and obligations on investors to provide information) and facilitating the Crown's acquisition of Fresh and Seawater Areas (formerly known as special land, which includes lake bed, river bed and sea bed). The timetable for the finalisation of these regulations is included in the table below.

Activity	Due date
Provide final Regulations and draft LEG paper	Late-September 2021
Ministerial consultation on Regulations and draft LEG paper.	Late-September – mid-October 2021
LEG meeting to approve Regulations	21 October 2021
Cabinet meeting to approve Regulations	26 October 2021
Commencement of Regulations (following 28-day gazettal period)	24 November 2021

30. The Treasury will separately work with the OIO to prepare a draft Ministerial Directive Letter for your approval. We expect to provide a draft of this letter to you in late October 2021, ahead of it taking effect on 24 November 2021.
31. As we have previously signalled, it may be appropriate for you to review the statutory timeframes, after a reasonable period of time, if it becomes apparent that they are not achievable or that they are not creating the right incentives for improvements from the regulator, investors or their representatives.

Annex A: Data on processing times for overseas investment applications

1. The table below, prepared by the OIO, shows the average number of working days for an application to be decided, by application type, across the following sample periods:
 - The trial period (applications accepted and decided between 1 April – 5 August 2021, after the provisional timeframes were introduced).
 - Applications still in progress (accepted at any time and not yet decided as at 5 August 2021).
 - The pre-trial period (applications accepted any time before 1 April 2021 and decided between 1 December 2020 – 5 August 2021). This covers applications that were decided after the original sample period but accepted before the trial period, so were not included in the data for either of those periods.
 - The original sample period used to inform the decisions on provisional timeframes (applications accepted and decided between 1 Oct 2018 – 30 November 2020).⁵

Table 1: Average processing times for all application types (from receipt to decision)

Type of application	Provisional timeframe (working days)	Applications during trial period		Applications still in progress		Applications during pre-trial period		Applications during original sample period	
		Number of applications (compliance rate)	Average working days	Number of applications (status)	Average working days to date	Number of applications	Average working days	Number of applications	Average working days
Fishing quota	200	0	N/A	0	N/A	2	779	1	158
Benefit to NZ: modified test for farmland ⁶	100	0	N/A	14 (9/14 have exceeded timeframe)	103	19 Note: 1 app took 363 days	151	62	124

⁵ Note the data shown from the original sample period varies slightly from the data provided in the OIO's earlier paper on provisional timeframes. This is because the total processing times referred to in the earlier paper did not include the initial 15-day lodgement period, as the original Cabinet decision in DEV-19-MIN-0306 (at [50.2]) was that the statutory timeframes would not start until the lodgement period was complete. All data in this table includes the total number of days from receipt of the application through to issuing of a decision, including the lodgement period, for consistency with the proposed statutory timeframes (which we understand are to include the lodgement period).

⁶ The data in this row relates to applications decided under the "substantial and identifiable" benefit to New Zealand test (s 16A(1)(b) of the Overseas Investment Act 2005). This test will be removed under the Overseas Investment Amendment Act 2021, but the new modified benefit test for farmland will continue to require a "substantial benefit" to New Zealand.

Type of application	Provisional timeframe (working days)	Applications during trial period		Applications still in progress		Applications during pre-trial period		Applications during original sample period	
		Number of applications (compliance rate)	Average working days	Number of applications (status)	Average working days to date	Number of applications	Average working days	Number of applications	Average working days
Standing consents for residential land	100	0	N/A	0	N/A	1	32	11	141
Standing consents for forestry land	100	0	N/A	0	N/A	2	423	4 <i>Note: 1 app took 334 days</i>	217
Benefit to NZ: benefits only	70	0	N/A	3 <i>(2/3 have exceeded timeframe)</i>	93	9	123	45	89
Variations (excluding variations seeking an extension of time to fulfil one or more of the conditions of consent)	70	1	31	3 <i>(0/3 have exceeded timeframe)</i>	21	21	74	17	78
Residential land development	55	1	51	8 <i>(2/8 have exceeded timeframe)</i>	37	6	57	18	70
One-off consent under the special forestry test	55	5 <i>(4/5 met timeframe)</i>	48	8 <i>(6/8 have exceeded timeframe)</i>	86	22	84	58	71
National interest test, where the overall timeframe is shorter than 55 days	55	5 <i>(2/5 met timeframe)</i>	51	4 <i>(1/4 has exceeded timeframe)</i>	56	10	67	2	74
Exemptions (except farmland advertising)	55	10 <i>(9/10 met timeframe)</i>	17	10 <i>(1/10 has exceeded timeframe)</i>	28	14	31	142	43

Type of application	Provisional timeframe (working days)	Applications during trial period		Applications still in progress		Applications during pre-trial period		Applications during original sample period	
		Number of applications (compliance rate)	Average working days	Number of applications (status)	Average working days to date	Number of applications	Average working days	Number of applications	Average working days
Non-residential land – intention to reside	55	0	N/A	0	N/A	1	34	4 <i>Note: 1 took 121 days</i>	74
Significant business assets ⁷	30	5 <i>(1/5 met timeframe)</i>	49	7 <i>(3/7 have exceeded timeframe)</i>	31	6	53	50	62
Farmland advertising exemption	30	0	N/A	0	N/A	1	80	2 <i>Note: 1 app took 256 days, the other only 18</i>	137
Residential plus otherwise sensitive land – one home to live in	30	2 <i>(2/2 met timeframe)</i>	18	0	N/A	2	30	7	16
Variation of consent conditions – extension of time to fulfil one or more conditions of consent	30	3 <i>(2/3 met timeframe)</i>	29	2 <i>(0/2 have exceeded timeframe)</i>	16	13	82	16	88
One home to live in	10	54 <i>(49/54 met timeframe)</i>	6	1	10	40	4	542	4

⁷ Excludes SBA applications that also require a national interest assessment (which fall under the 55-day provisional timeframe for “national interest test, where the overall timeframe is shorter than 55 days”).

Annex B: Framework and design features for statutory timeframes

1. In November 2019, Cabinet agreed to introduce timeframes for decisions made under the Act (DEV-19-MIN-0306) and set the framework for statutory timeframes, including:
 - a enabling specific timeframes to be set via regulation
 - b providing for the regulator to have an initial period to quality assure (QA) (that is assess an application for completeness) an application before statutory timeframes formally commence, and enabling the regulator to charge a fee for this
 - c enabling the decision-maker to unilaterally extend the statutory timeframe by up to a period prescribed in regulations, or a different period with the applicants' agreement
 - d ensuring that a breach of a timeframe will not render a decision on an application unlawful and the Crown will not be liable for any loss suffered by the applicants, and
 - e requiring the regulator to report on compliance with statutory timeframes.
2. In T2020/228 and T2021/238, you (Minister Parker) agreed some additional design features for statutory timeframes, as well as the objectives for setting timeframes which include that:
 - a timeframes provide a meaningful improvement over existing processing times, with the goal of improving New Zealand's attractiveness to high quality foreign investment, taking into account international best practice
 - b timeframes should be reasonable and achievable for investors and their advisors, the OIO and decision-makers alike and presented as a single headline figure for all parts of the assessment process, including time with Ministers
 - c the OIO would have a 15-day 'quality assurance' period, within which it will be empowered to reject applications that are not full and complete
 - d the OIO would have the ability to unilaterally extend timeframes by up to 30 days, with the OIO also having the ability to agree a further extension with the applicant in certain situations (for example where the OIO discovers during the initial extension that significant third-party consultation is required)
 - e timeframes would automatically extend where applicants miss *reasonable* deadlines for providing the regulator *necessary* additional information or paying their application fees, and
 - f the timeframe for transactions involving the national interest test would be the long of either the statutory timeframe that applies to the consent application, or 55 working days.
3. Finally, to help officials formulate the final recommendations for statutory timeframes, you agreed that the OIO would work to meet a set of provisional timeframes over the four months between these being set and this advice being sent.

Annex C: Information required for a complete application

1. Under section 23(1)(c) of the Overseas Investment Act, an application for consent must contain the information set out in regulations.
2. The OIO has proposed that the following elements of the information for a complete application be prescribed in the regulations. There may be further minor adjustments to these in the final regulations to be considered by LEG.

(1) Unless waived, the following information, if required by the pathway, must be provided in the form and manner prescribed by the Regulator—

(a) Details of the investor:

- (i) full ownership details, including information relating to all direct and indirect beneficial owners;*
- (ii) full control details, including decision-making delegations and formal or informal management arrangements.*

(b) Details of the investment:

- (i) full details of the transaction or transactions for which consent is sought;*
- (i) advice commissioned by the applicant and prepared by third parties relating to the proposed application;*
- (ii) vendor information including the current operations and state of the investment.*

(c) Details of the land (if relevant):

- (ii) information relating to any fresh or seawater areas present on or adjacent to the relevant land;*
- (iii) a description of the relevant sensitivities of the land;*
- (iv) legal description of the relevant land.*

(d) Submissions addressing all of the relevant criteria of consent.

(e) The tax information prescribed in reg 69D.