

The Treasury

Official information regarding the Crown's support for Air New Zealand as a result of the COVID-19 pandemic

December 2022

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<https://www.treasury.govt.nz/publications/information-release/official-information-crown-support-air-new-zealand-result-covid-19-pandemic>

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Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Key to sections of the Act under which information has been withheld:

- [1] 6(a) - to avoid prejudice to the security or defence of New Zealand or the international relations of the government
- [23] 9(2)(a) - to protect the privacy of natural persons, including deceased people
- [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
- [37] 9(2)(i) - to enable the Crown to carry out commercial activities without disadvantage or prejudice
- [38] 9(2)(j) - to enable the Crown to negotiate without disadvantage or prejudice
- [39] 9(2)(k) - to prevent the disclosure of official information for improper gain or improper advantage

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Treasury Report: Project 20: update for the week of 26 April 2022

Date:	28 April 2022	Report No:	T2022/936
		File Number:	SE-1-3-21

Action sought

	Action sought	Deadline
Minister of Finance (Hon Grant Robertson)	Agree to the recommendations	2 May 2022
Associate Minister of Finance (Hon David Parker)	Note the contents of this briefing	None

Contact for telephone discussion (if required)

Name	Position	Telephone	1st Contact
Daniel Madley	Senior Analyst, Commercial Performance	[35]	✓
Juston Anderson	Principal Advisor, Commercial Performance		

Minister's Office actions

Return the signed report and annexes to the Treasury.
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Note any feedback on the quality of the report

Enclosure: [Annex One: Release Deed and IDERA removal forms \(Treasury:4643428v1\)](#)

Treasury Report: Project 20: update for the week of 26 April 2022

Purpose

1. This report:
 - a asks the Minister of Finance to sign documents relinquishing the Crown's security under the existing Crown standby loan facility (CSF-1) to Air New Zealand (Air NZ), for release to the company once CSF-1 is fully repaid;
 - b provides you with an update on a potential positive impact on the Crown from one aspect of Air NZ's rights issue; and
 - c advises you of a routine administrative disclosure that the Treasury intends to make on behalf of the Crown.

Background and analysis

Deed of Release and IDERA forms

2. Once Air NZ completes its rights issue, it will repay the \$850m it has borrowed from the Crown under CSF-1 and cancel the facility. At this point, the Crown will need to relinquish the security it had under CSF-1 over certain Air NZ assets, including some of its aircraft.
3. The Deed of Release and IDERA forms provided as Annex One do this. We recommend that the Minister of Finance signs these documents (but does not date them), and authorises the Treasury, working with the Crown's legal advisors Chapman Tripp, to date and release them to Air NZ once the Treasury is satisfied that the relevant conditions have been met, chiefly that CSF-1 has been fully repaid and the facility cancelled.
4. With respect to Annex One, the signature of the Minister of Finance is requested on pages 5, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26 and 28.

Potential additional proceeds for the Crown

5. As part of its equity raise, Air NZ will sell any new shares in its rights issue that are not taken up, via a shortfall bookbuild process on 4 May 2022.
6. If the price Air NZ sets for these shares in the bookbuild is greater than \$0.53 per share (the price at which Air NZ is issuing new shares in the rights issue) then any proceeds above this amount are distributed to existing shareholders who did not fully take up their rights, in proportion to the number of rights that the shareholders did not take up.
7. In order to achieve a 51.0% shareholding in Air NZ following the rights issue, the Crown is taking up 97.4% of its rights, which amounts to 1,135,062,208 new shares in Air NZ. The Crown is therefore not taking up rights that amount to 30,646,978 new shares in Air NZ.
8. This means that for every one cent that the price is above \$0.53 per share, the Crown would receive proceeds of \$0.306m. However, it is possible that the price will be \$0.53 and therefore there will be no excess proceeds. The price cannot be below \$0.53.

Substantial product holder notice

9. As a substantial shareholder (>5%) of Air NZ the Crown, like all other substantial shareholders in NZX listed companies, is required by the Financial Markets Conduct Act 2013 to disclose any changes in its shareholding of 1% or more, or when there is a change in the nature of the Crown's shareholding. The disclosure is made by releasing a "substantial product holder notice" to the NZX, which then makes it publicly available.
10. Any shares in Air NZ held by the New Zealand Super Fund (NZSF) need to be included as part of the Crown's disclosure, as under section 40 of the New Zealand Superannuation and Retirement Income Act 2001 "the Fund is the property of the Crown" and under section 38(2) of the same Act "the Fund is not an entity separate from the Crown". Shares held by ACC or the other Crown Financial Institutions are the property of those entities, which are legally separate from the Crown, and so do not need to be included in the Crown's disclosure.
11. Such disclosures happen rarely, as the Crown's percentage shareholding in Air NZ or the three electricity companies very rarely changes, and while changes in the NZSF's holding happen more often, the cumulative change is rarely material enough to trigger the 1% threshold for disclosure. The last such notices were given in July 2015, as a result of a change in the nature of the NZSF's holdings in Air NZ and the three listed electricity companies.
12. At that time, the Crown directly owned 51.96% of Air NZ and the NZSF owned 0.54%. Therefore, the disclosure at that time was that the Crown (including the NZSF) owned 52.49% of Air NZ.
13. The NZSF has sold all of its shares in Air NZ, following the significant reduction in Air NZ's share price as a result of the impact of COVID-19. This means the Crown's shareholding, for the purposes of these disclosure requirements, is currently just the direct Crown shareholding of 51.91%¹. As the change in the Crown (including NZSF's) shareholding has been less than 1% no disclosure has been required since July 2015.
14. On completion of Air NZ's rights issue, the Crown will directly own 51.0% of Air NZ. This is 1.49% less than the 52.49% shareholding reported in July 2015.
15. The NZSF may choose to participate in the rights issue – this is the NZSF's decision. If the NZSF purchased at least 0.50% of Air NZ shares, the Crown's shareholding would not change by 1% or more relative to July 2015 and no disclosure would be required.
16. We are operating on the basis that the NZSF will not purchase 0.50% or more of Air NZ in the shortfall bookbuild process, that the Crown's shareholding will change by more than 1% relative to the July 2015 disclosure, and that a disclosure would be required. NZSF will advise us if this assumption turns out to be incorrect and therefore if no disclosure is required.
17. We are currently working with the NZSF to prepare such a disclosure (as is standard practice) and intend to issue it on either Thursday 5 May 2022, when the results of the rights offer are announced by Air NZ, or Monday 9 May 2022, when settlement of the new shares issued by Air NZ occurs.

¹ The slight reduction from 51.96% in 2015 is because Air NZ issued a small number of shares to its executives in 2015 and 2016 as part of their remuneration. The company has since changed its policy to purchase shares on-market for this purpose, rather than issuing new shares. This means that, while this policy remains, there will be no future dilution to the Crown's shareholding percentage. [34]

18. Despite happening rarely, these notices are routine administrative matters that are unlikely to attract any media attention. This particular notice will disclose a fact that is already known – that the Crown will hold 51.0% of Air NZ on completion of the rights offer.
19. Please advise if you would like us to send a draft of the disclosure to your Offices before it is released to the NZX.

Recommended action

We recommend that the Minister of Finance:

- a **sign, but not date**, the documents provided as Annex One

Agree/disagree.
Minister of Finance

- b **authorise** the Treasury, working with the Crown's legal advisors Chapman Tripp, to date the signed documents provided as Annex One and release them to Air New Zealand once the Treasury is satisfied that the relevant conditions have been met, chiefly that the Crown standby loan facility has been repaid in full and cancelled

Agree/disagree.
Minister of Finance

Juston Anderson
Principal Advisor

Hon Grant Robertson
Minister of Finance

Hon David Parker
Associate Minister of Finance

Date: / / 2022