

The Treasury

Release of ENV-22-SUB-0001 - Overseas Investment Act Forestry Review: Removing Forestry Conversions from the Special Forestry Test

April 2022

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Cabinet Document Details

Title: **Cabinet Minute: ENV-22-MIN-0001: Overseas Investment Act Forestry Review: Removing Forestry Conversions from the Special Forestry Test**

Date: **17 February 2022**

Creator: Cabinet Office

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Cabinet Environment, Energy and Climate Committee

Minute of Decision

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Overseas Investment Act Forestry Review: Removing Forestry Conversions from the Special Forestry Test

Portfolio Associate Finance (Hon David Parker)

On 17 February 2022, the Cabinet Environment, Energy and Climate Committee:

- 1 **noted** that on 24 March 2021, the Cabinet Economic Development Committee approved the terms of reference for a review of the forestry-related amendments made to the Overseas Investment Act 2005 (the Act) [DEV-21-MIN-0044];
- 2 **noted** that the overseas investment screening regime recognises that it is a privilege for overseas persons to own sensitive New Zealand asset;
- 3 **noted** that due to significant changes in the operating context for production forestry since the 2018 reform of the Act and the introduction of the special forestry test, there has been a significant increase in the number of forestry conversions taking place, including the afforestation of pastoral land (or land that is important to local economies and communities);
- 4 **noted** that the overseas investment screening regime is not well-placed to manage the wellbeing impacts and risks posed by some forestry conversions by overseas investors;
- 5 **noted** that in January 2022, two hui were conducted with Māori forestry leaders, to inform them that the government is considering removing forestry conversions from the special forestry test, and to seek initial feedback on this proposal;
- 6 **noted** that hui participants expressed their in-principle support for the direction of the policy proposals, their sensitivity about regulations that limit the options for iwi/Māori on what they can do with their land, and their reservations about the proposals' impact on Māori economic interests;

Proposed amendments

- 7 **agreed** to remove forestry conversions from the special forestry test (and specify that forestry conversions instead go through the revised Benefit to New Zealand Test), and commence legislative change in the first half of 2022 to give effect to this decision;
- 8 **noted** that during previous targeted consultation in 2021, stakeholders raised several minor and technical issues with the forestry provisions in the Act, and that it is proposed to address five of these issues via the same legislative vehicle as forestry conversions;

- 9 **agreed** to the following minor and technical amendments to the Act via the same legislative change process as forestry conversions:

Matter	Proposed legislative change
Dwellings / residential purposes	Amend the non-occupation condition to allow certain persons to occupy existing dwellings (investors and associates still prohibited).
Appropriateness of the modified benefits test	Repeal the modified benefits test for forestry activities to improve coherence of screening regime
Crop of trees	Amend the Act to confirm that for the special forestry test to apply, the forestry activities must be for the purpose of harvesting wood, regardless of the species of tree.
Forestry (cutting) rights: Exemptions – 1,000 hectares	Clarify that ‘consented forestry rights’ are not to be included in the 1,000 hectares calculation each calendar year
Technical issue: Relevant land with less than freehold interest	Amend the Act to reflect that activities unconnected to the interest being acquired are excluded.

- 10 **noted** that the proposed legislative change to the test for forestry conversions is currently out of scope of the previously agreed Forestry Review Terms of Reference [DEV-21-MIN-0044];
- 11 **agreed** to amend the Overseas Investment Act 2005 Forestry Review Terms of Reference (the amended Terms of Reference, attached to the paper under ENV-22-SUB-0001) to include within scope forestry conversions, and other minor and technical legislative changes, after which officials would consider any further operational changes that may be required that are not resolved by the legislative changes;
- 12 **noted** that officials will engage with a wider group of industry stakeholders to enable Māori and other industry stakeholders to advise on the potential impacts of the changes;
- 13 [33]
- 14 **invited** the Associate Minister of Finance to issue drafting instructions to the Parliamentary Counsel Office to give effect to the above paragraphs by amendments to the Act, and any other legislation requiring consequential amendment as a result of the proposed changes;
- 15 **authorised** the Minister of Finance, Associate Minister of Finance (Hon David Parker), Minister for Land information and Minister of Forestry to take further policy decisions consistent with the approved policy on any minor or technical changes that are aligned with the Terms of Reference for the Forestry Review, which improve the operation and effectiveness of the 2018 changes,
- 16 **invited** the Associate Minister of Finance (Hon David Parker) to submit a draft Overseas Investment Amendment Bill to the Cabinet Legislation Committee;

- 17 **noted** that, following the conclusion of the legislative process, officials will consider operational changes to address any issues raised in early engagement that will not be addressed through legislative or regulatory change;

Financial implications

- 18 **approved** the following change to baselines to give effect to the policy decision in paragraph 7 above, with a corresponding impact on the operating balance and net core Crown debt:

Vote Finance Minister of Finance	\$m – increase/(decrease)	
	2021/22 to 2023/24	2024/25 & Outyears
Multi-Year Multi-Category Appropriations:		-
Policy Advice and Financial Services	0.650	
Departmental Output Expense: Policy Advice (funded by revenue Crown)		

- 19 **noted** that the indicative funding profile for the increase in the multi-year category appropriation described in recommendation 17 above is as follows:

Indicative annual spending profile	\$m – increase/(decrease)				
	2021/22	2022/23	2023/24	2024/25	2025/26 & Outyears
	0.200	0.400	0.050	-	-

- 20 **agreed** that the changes to appropriations above be included in the 2021/22 Supplementary Estimates and that, in the interim, the increases be met from Imprest Supply;
- 21 **agreed** that the expenses incurred under paragraph 18 above be charged against the between-Budget contingency established as part of Budget 2021;
- 22 **agreed** that Toitū Te Whenua Land Information New Zealand reprioritise time-limited funding received for the continued administration of the Emergency Notification Regime to meet the implementation costs associated with the above paragraphs.

Vivien Meek
Committee Secretary

Attendance (see over)

Present:

Hon Grant Robertson
Hon Kelvin Davis
Hon Dr Megan Woods
Hon David Parker (Chair)
Hon Damien O'Connor
Hon Stuart Nash
Hon Willie Jackson
Hon Michael Wood
Hon Kiri Allan
Hon Phil Twyford
Rino Tirikatene, MP
Hon James Shaw

Officials present from:

Office of the Prime Minister
Officials Committee for ENV