

The Treasury

Overseas Investment Act Forestry Review Information Release

June 2022

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- [1] 6(a) - to avoid prejudice to the security or defence of New Zealand or the international relations of the government
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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
- [33] 9(2)(f)(iv) - to maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials
- [34] 9(2)(g)(i) - to maintain the effective conduct of public affairs through the free and frank expression of opinions
- [36] 9(2)(h) - to maintain legal professional privilege
- [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: Overseas Investment Act Forestry Review: Update on targeted stakeholder engagement and next steps

Date:	2 September 2021	Report No:	T2021/1911
		File Number:	IM-5-8-4-1

Action sought

	Action sought	Deadline
Minister of Finance (Hon Grant Robertson)	Note the contents of this report.	N/A
Associate Minister of Finance (Hon David Parker)	Agree to the revised timeline for the Forestry Review. Indicate if you wish to discuss this further with officials Refer this report to the Minister for Land Information and Minister of Forestry	9 September 2021

Contact for telephone discussion (if required)

Name	Position	Telephone	1st Contact
Sarah Key	Senior Analyst, International [39]	N/A (mob)	✓
Thomas Parry	Manager, International	[35]	

Minister's Office actions (if required)

Refer this report to the Minister for Land Information and Minister of Forestry
Return the signed report to the Treasury.

Note any feedback on the quality of the report

Enclosure: Yes: Key feedback raised through targeted stakeholder engagement; Targeted stakeholder engagement undertaken; Interconnection with other government work programmes (all annexed)

Treasury Report: Overseas Investment Act Forestry Review: Update on targeted stakeholder engagement and next steps

Executive Summary

This report:

- provides an update on the outcome of the initial targeted stakeholder engagement for the Overseas Investment Act Forestry Review (Forestry Review), which is reviewing the operation and effectiveness of the 2018 changes to screening of overseas investments in forestry.
- seeks your (Hon Parker's) agreement to updated Forestry Review timelines, including the timing of Cabinet's consideration of the discussion document and subsequent public consultation.
- provides an overview of the broader stakeholder engagement plan for consultation, particularly Māori engagement, that will commence at the end of 2021.

Outcome of targeted stakeholder engagement

Officials have completed the initial targeted stakeholder consultation for the Forestry Review. The targeted consultation has successfully drawn out some of the key issues that will inform the options that we draft for the discussion document. However, it does not provide a comprehensive view of all the issues because we only spoke to a limited number of 'frequent users' of the system.

The key themes are as follows:

- The 2018 changes are achieving their primary policy intent - facilitating overseas investment in forestry.¹ The key message we heard from stakeholders was that the changes have improved investor confidence in forestry, by providing investors with greater certainty and improved timeframes than would have occurred if investors were only able to access the Benefit to New Zealand pathway.
- Stakeholders noted positively the way the Overseas Investment Office has engaged with applicants and the wider industry, but also identified some technical issues and suggestions to improve the operation of the regime. Some of these issues may be able to be addressed or mitigated through operational change or guidance, while others would likely require regulatory change. In each case, we will consider the extent of the issue and whether/what the appropriate changes might be.
- Stakeholders commented that some of the requirements for investors may not be as effectively facilitating overseas investment in forestry as they could be, or may be having unintended consequences. Many of these comments relate to key design features of the 2018 changes that were put in place to address wider issues, such as trade obligations and to avoid creating loopholes for the residential land rules.

Through the upcoming public consultation, we will test these issues and invite feedback on any issues not captured, as well as potential options for change.

¹ The 2018 changes also intended to improve the coherence of the screening regime.

Farmland to forestry conversions

While the use of the special forestry test for farmland to forestry conversions is outside of the scope of this Review, stakeholders did proactively raise this issue.² Industry noted that it has been helpful for increasing investment in forestry. Other stakeholders noted that this is a 'hot button' topic and one that is better addressed holistically as a land management issue.

Forestry Review timelines

Following delays caused by the current COVID-19 resurgence and to ensure meaningful stakeholder engagement, we have slightly revised the timeline and propose to seek Cabinet approval of the discussion document in November 2021, and public consultation over December 2021-February 2022.

Stakeholder engagement plan

The Treasury, joined by the OIO and Te Uru Rākau, will undertake public consultation from December 2021-February 2022. This will include public meetings and separate hui in four or five regions most affected by the 2018 changes, as well as focused meetings for certain stakeholders that can provide a unique technical view or perspective (e.g., lawyers).

There are several other work programmes underway across government that are relevant to the Forestry Review, including the Forestry & Wood Processing Industry Transformation Plan (F&WP ITP) and the Emissions Reductions Plan. We are considering opportunities to coordinate with the F&WP ITP and other engagement processes to manage limited capacity for engagement amongst stakeholders.

Next steps

We will provide material to support you (Hon Parker) at your 13 September meeting with the Minister for Land Information and Minister of Forestry to discuss the special forestry test for investment in forestry.

2 Under the Terms of Reference, the Forestry Review will not inquire into the appropriateness of applications to convert farmland to forestry using that test, beyond reporting on the frequency with which those applications use the special forestry test consent pathway. Conversions of farmland to forestry are better considered as part of the work on addressing afforestation concerns, which looks at conversions more broadly, rather than being confined to conversions by overseas persons.

Recommended Action

We recommend that you:

- a **Note** that officials have completed the initial targeted stakeholder engagement for the Overseas Investment Act Forestry Review (Forestry Review) and are now preparing a discussion document.
- b **Note** that the targeted engagement has successfully drawn out some of the key issues that will inform the options in the discussion document, however, it does not provide a comprehensive view of the issues because we only spoke to a limited number of stakeholders.
- c **Agree** to the updated Forestry Review timeline, which proposes to seek Cabinet approval of the discussion document in November 2021, and public consultation over December 2021-February 2022.

Agree/disagree.

- d **Note** that we may need to re-evaluate this timeline should the current COVID-19 resurgence exacerbate capacity pressures in the International team and wider Treasury.
- e **Note** that we will provide material to support you (Hon Parker) at your 13 September meeting with the Minister for Land Information and Minister of Forestry to discuss the special forestry test.
- f **Indicate** if you wish to discuss this with officials ahead of that meeting.

Yes/No

- g **Refer** this report to the Minister for Land Information and the Minister of Forestry.

Refer/not referred.

Thomas Parry
Manager, International

Hon Grant Robertson
Minister of Finance

Hon David Parker
Associate Minister of Finance

Treasury Report: Overseas Investment Act Forestry Review: Update on targeted stakeholder engagement and next steps

Purpose of Report

1. This report provides an update on the outcome of the initial targeted stakeholder engagement for the Overseas Investment Act Forestry Review (Forestry Review). It also seeks your (Hon Parker's) agreement to updated Forestry Review timelines, including the timing of Cabinet's consideration of the discussion document and subsequent public consultation.
2. Finally, this report provides an overview of the stakeholder engagement plan for consultation, particularly Māori engagement.

Background

3. In 2018, the Government changed how overseas investments in forestry are screened under the Overseas Investment Act 2005 (the Act). The changes brought forestry cutting rights into the screening regime and established streamlined consent pathways for forestry investments (including the 'special forestry test'³).
4. The original policy intent of the changes was to increase overseas investment in forestry and improve the coherence of the screening regime. This recognised the importance of inward investment to forestry and supported the Government's broader forestry priorities (e.g. the One Billion Trees Programme).
5. As these changes were developed at pace to align with the passage of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership, the Act provided for a review of their operation and effectiveness to begin within two years of commencement (by 22 October 2020).⁴

Scope of the Forestry Review

6. In March 2021, Cabinet agreed to conduct a tightly-focused review (the Forestry Review) focusing on the operation and effectiveness of the forestry changes (CAB-21-MIN-0084 and DEV-21-MIN-0044 refer).
7. Analysis of the original policy rationale and intent underpinning the changes is out of scope of the Forestry Review.⁵ In addition, the review will not consider:
 - whether carbon farming (permanent forestry) should be able to begin to use the special forestry test
 - the appropriateness of applications to convert farmland to forestry using that test, beyond reporting on the frequency with which those applications use the special forestry test consent pathway

3 The special test relating to forestry activities under the Act is commonly known as the special forestry test.

4 The Forestry Review is mandated by clause 10, schedule 1AA of the Act. You (Minister Parker) were satisfied that the work commenced by officials in early 2020 to develop a terms of reference for the review satisfied this obligation.

5 The Terms of Reference of the Forestry Review is available at:
<https://www.treasury.govt.nz/publications/resource/overseas-investment-act-2005-forestry-review-terms-reference>

- non-forestry related substantive issues that arose with the passing of the Overseas Investment Amendment Act 2018, for example requiring purchases of residential land to be screened, or
 - the addition of new categories of sensitive assets to the Act.
8. The Forestry Review is led by the Treasury, with input and support from Land Information New Zealand (LINZ), the Overseas Investment Office (OIO) and Te Uru Rākau – New Zealand Forest Service (TUR). We will continue to work collaboratively with other agencies, as appropriate.

Outcome of targeted engagement

9. During May-August 2021, officials undertook targeted engagement with a group of stakeholders that frequently engage with the screening regime to inform the development of the upcoming discussion document. The second tranche of upcoming consultation, discussed further below, will involve broader consultation on the proposed policy options with stakeholders and the public.
10. Officials met with lawyers, iwi groups, investors, and environmental and recreation interest groups that have had the most experience with the changes, to understand how they are functioning (see **Annex B** for a list of stakeholders with whom we met). We also met with the Forestry Ministerial Advisory Group (FMAG)⁶ and invited former iwi Forestry Reference Group members to provide feedback on the direction that the review should take.
11. Feedback received through the targeted engagement will inform the options that we draft for the discussion document. However, it does not provide a comprehensive view of the issues because we only spoke to a limited number of stakeholders. Through the upcoming public consultation, we will test these issues and invite feedback on any issues not captured, as well as potential options for change.
12. An overview of the key feedback raised through the targeted stakeholder engagement is included in **Annex A**, but a summary is below:

The 2018 changes are facilitating more overseas investment in forestry

13. The targeted engagement indicates that the 2018 changes are achieving their primary policy intent - facilitating overseas investment in forestry.⁷ The key message we heard from stakeholders was that the changes have improved investor confidence in forestry, by providing investors with greater certainty and improved timeframes than would have occurred if investors were only able to access the Benefit to New Zealand pathway.⁸ We note that the Overseas Investment Amendment Act 2021 (the Amendment Act 2021) made changes that addressed each of those issues.

6 Set up by the Government in May 2018, the Forestry Ministerial Advisory Group considers and provides advice on a range of forestry topics to the Minister of Forestry and Te Uru Rākau – New Zealand Forest Service.

7 Few stakeholders commented on the extent to which the changes are achieving the other original policy intent of improving the coherence of the overseas investment screening regime.

8 At the time that Cabinet considered the 2018 forestry changes, the main issues with the then-regime were the benefit test and the counterfactual analysis used to assess the benefits. The benefit test could be difficult to meet for mature, well-managed forests as forestry investors struggled to show a 'point of difference' from the current owner or a hypothetical New Zealand investor.

Stakeholders were positive about OIO interactions but concerned about some aspects of the operation of the regime that may create uncertainty and discourage investment

14. Stakeholders noted positively the way the OIO has engaged with applicants and the wider industry. They also, however, identified a range of technical issues and suggestions to improve the operation of the regime, including the operation of requirements to maintain 'existing arrangements' and the scope of standing consent conditions. These issues primarily relate to a lack of clarity around some requirements, and processes that may be unnecessarily burdensome or drawn out, which may create uncertainty and discourage investment.
15. Some of these issues may be able to be addressed or mitigated through operational change or guidance, while others would likely require regulatory change. In each case, we will consider the extent of the issue and whether/what the appropriate changes might be.

... And some of the requirements for investors may detract from the overall effectiveness of the changes or may have unintended consequences.

16. In addition to the feedback on improved investor confidence, stakeholders raised issues relating to the effectiveness of the 2018 changes, such as the restriction on dwellings for residential purposes within forestry blocks, and the impact and lack of clarity of the 'exclusively or nearly exclusively used for forestry' requirement. Many of these comments relate to key design features of the 2018 changes that were put in place to address wider issues, such as trade obligations and to avoid loopholes.

Farmland to forestry conversions

17. While the use of the special forestry test for farmland to forestry conversions is outside of the scope of this Review, stakeholders did proactively raise this issue.⁹ Industry noted that it has been helpful for increasing investment in forestry. Other stakeholders noted that this is a 'hot button' issue and one that is better addressed holistically as a land management issue. As this review is coming out before some of the wider work, it will however still be a focal point for the farmland conversions issue.
18. Stakeholders also commented that the 'exclusively or nearly exclusively used for forestry' requirement may lead to afforestation of productive arable land. We note that under the special forestry test, land can be subdivided and sold (e.g. rather than using some farmland for forestry).

Updated Forestry Review timeline

19. In February 2020, we provided you with a timeline for the Forestry Review (T2020/13 refers). Following delays caused by the current COVID-19 resurgence and to ensure meaningful stakeholder engagement (that is not unduly impacted by the Christmas 2021 break), we have revised the timeline and propose to delay the Cabinet consideration, and consequent deliverables, by one month. We now seek your agreement to the following timeline:

⁹ Under the Terms of Reference, the Forestry Review will not inquire into the appropriateness of applications to convert farmland to forestry using that test, beyond reporting on the frequency with which those applications use the special forestry test consent pathway. Conversions of farmland to forestry are better considered as part of the work on addressing afforestation concerns, which looks at conversions more broadly, rather than being confined to conversions by overseas persons.

Action	Date
Targeted engagement to inform discussion document and preparation of discussion document	May – October 2021
Draft discussion document and Cabinet paper to Minister Parker	Late October 2021
Cabinet consideration and approval of discussion document <ul style="list-style-type: none"> • <i>Cabinet Economic Development Committee (DEV)</i> • <i>Cabinet</i> 	November 2021 17 November 2021 24 November 2021
Release of discussion document (December 2021) and public consultation	December 2021 – February 2022
Submissions analysis and policy development	January 2022 – May 2022
Cabinet agreement to reform package	June 2022
Depending on Cabinet decisions: <ul style="list-style-type: none"> • embedding operational changes • developing and passing new regulations • developing and introducing new legislation 	July 2022 onwards

20. This timeline will ensure that stakeholders have the opportunity to meaningfully engage in the consultation period because the key fora (discussed further below) will take place in February 2022. We had considered a shorter consultation window and undertaking stakeholder engagement either pre-Christmas 2021 or post-Christmas 2021, however we consider that this approach would risk giving stakeholders insufficient time to engage on the issues.
21. Under the timeline above, there is a risk that the consultation loses momentum over the Christmas break but we will work to mitigate this, including through advance scheduling of stakeholder meetings, and by working with your office on media releases and potentially letters to individual stakeholders.
22. We may need to re-evaluate this timeline should the current COVID-19 resurgence exacerbate capacity pressures in the International team and wider Treasury.

Stakeholder engagement plan, including for engagement with Māori

23. After the release of the discussion document, currently scheduled for early December 2021, the Forestry Review will undertake public consultation from December 2021-February 2022.
24. Stakeholder engagement will be a blend of face-to-face and virtual meetings. We will ensure that stakeholders that are particularly impacted are given the opportunity to provide their views on our options and fill any gaps in the issues analysis. We will support stakeholders to engage by giving stakeholders a chance to meet with officials in a public meeting or hui format. We will also organise focused meetings for certain stakeholders that can provide a unique technical view or perspective (e.g., lawyers).

25. Engagement will be fronted jointly by representatives of the Treasury, the OIO and TUR, which ensures these officials can speak to other ongoing government work programmes that stakeholders may have queries about (for example, afforestation). We will also look for opportunities to combine engagement where appropriate to simplify the process for stakeholders.

Public meetings

26. We plan to hold four or five public meetings in regions most affected by the 2018 changes, including regions with large areas of forestry land and large numbers of wood processors.
27. We will send out invitations to ensure particularly impacted groups have the opportunity to attend. The target audience is groups that will have been impacted by the 2018 changes and will have experiences relevant to the scope of the review, such as forest owners, investors, wood processors, environmental and recreation interest groups, and local government. This will include stakeholders with whom we engaged through the targeted engagement.

Crown engagement with Māori

28. We aim to engage with Māori consistently with the Treaty of Waitangi principles of Partnership, Participation and Protection. The 2018 changes had a disproportionate impact on Māori as large-scale forest owners who regularly contract to provide cutting rights to overseas persons.
29. We plan to conduct hui in similar locations to the public meetings, because these are also the locations where the particularly-impacted iwi and hapū whakapapa from, or where Ahu Whenua trust-land¹⁰ used for forestry is located. At this stage, we are intending to conduct hui in Whangarei, Rotorua, Wairoa, Wairarapa, and Nelson.
30. We have developed a Crown engagement with Māori strategy, which the OIO and Māori engagement advisors (from the Treasury, TUR, Te Puni Kōkiri and Te Arawhiti) have been consulted on.

Other engagement

31. Other key stakeholder engagement that we intend to undertake includes:
 - a. **Forestry Ministerial Advisory Group (FMAG):** FMAG provides the Minister of Forestry with industry perspective and independent advice on the forestry system and how the forestry sector can better contribute to the Government's policy objectives and the New Zealand economy. We met with FMAG in August 2021, as part of our targeted stakeholder engagement, and will meet the group again in early 2022 to hear the group's views on the proposals.
 - b. **Industry groups:** We will reach out to industry groups whose members would be interested in the Forestry Review to provide an overview of the Forestry Review and its scope, and to invite submissions. These groups include DairyNZ, Beef + Lamb New Zealand, Federated Farmers and Local Government New Zealand (LGNZ).

¹⁰ Established under Te Ture Whenua Māori Act 1993, Ahu whenua trusts are land administration trusts designed to manage whole blocks of Māori freehold land.

- c. **Legal Reference Group:** If we propose regulatory changes or Ministerial directives, we will set up a legal reference group (or use the OIO's legal reference group) that draws on previous members and includes the legal representatives of investors who frequently engage with the screening regime. This has been an effective way of testing how lawyers would adapt their processes to meet any changes in legal requirements or expectations.

Ministerial involvement in the stakeholder engagement

32. Closer to the time, we will engage with your office and seek your (Minister Parker's) direction on the level of engagement you wish to take in this tranche of consultation, noting that this is an operational review rather than revisiting the core policy rationale. This could include you:
- attending one or more of the hui or public meetings (or recording a video to play for attendees, as you had for the 2018 changes)
 - writing to key stakeholders about the Forestry Review and the public meetings, and inviting submissions.
33. We will seek your feedback on the discussion document and we anticipate that this will include a Ministerial forward from you, which we will draft with engagement with your office.

Interconnection with other government work programmes

34. There are several other work programmes underway across government that are relevant to the Forestry Review. The key overlapping areas are the Forestry & Wood Processing Industry Transformation Plan (F&WP ITP) and the Emissions Reductions Plan.
35. Public consultation on a draft of the F&WP ITP is planned for early 2022 and we are considering opportunities to coordinate with this and other engagement processes, with a view to either sequencing or combining (where appropriate) engagement to manage limited capacity for engagement amongst stakeholders. **Annex C** provides indicative timelines for the Emissions Reductions Plan and the F&WP ITP, alongside the proposed Forestry Review timeline.

Next Steps

36. Note that we will provide material to support you (Hon Parker) at your 13 September meeting with the Minister for Land Information and Minister of Forestry to discuss the special forestry test.
37. If you agree to the updated timeline, the Treasury will continue to develop the discussion document for consideration by Cabinet in November 2021.

Annex A: Key feedback raised through the targeted stakeholder engagement

1. The following feedback was raised through the targeted stakeholder engagement and will inform the options that we draft for the discussion document. However, it does not provide a comprehensive view of the issues because we only spoke to a limited number of stakeholders. Through the upcoming public consultation, we will test these issues and invite feedback on any issues not captured, as well as potential options for change.

The 2018 changes are facilitating more overseas investment in forestry

2. The targeted engagement indicates that the 2018 changes are achieving part of the original policy intent of facilitating overseas investment in forestry.¹¹ The key message we heard from stakeholders was that the changes have improved investor confidence in forestry, by providing investors with greater certainty and improved timeframes than would have occurred if investors were only able to access the Benefit to New Zealand pathway.¹² We note that the Overseas Investment Amendment Act 2021 (the Amendment Act 2021) made changes that addressed each of those issues.
3. The other key areas of feedback on the operation and effectiveness of the 2018 changes are outlined below. The discussion document will consider the scale of these issues, whether there are other issues, as well as any options for change, with a view to testing these through the public consultation.

Stakeholders were positive about OIO interactions but concerned about some aspects of the operation of the regime that may create uncertainty and discourage investment

4. Stakeholders noted positively the way the Overseas Investment Office has engaged with applicants and the wider industry. They also, however, identified a range of technical issues and suggestions to improve the operation of the regime, and we have listed the most frequently raised issues below. These issues primarily relate to a lack of clarity around some requirements, and processes that may be unnecessarily burdensome or drawn out, which may create uncertainty and discourage investment.
5. Some of these issues may be able to be addressed or mitigated through operational change or guidance, while others would likely require regulatory change. In each case, we will consider the extent of the issue and whether/what the appropriate changes might be.
 - a. **Long and variable processing timeframes:** Despite comments on improved timeframes (compared to the Benefit to New Zealand test), stakeholders commented on the long and variable processing timeframes for both the special forestry test and standing consents, noting the impact of these timeframes on New Zealand's attractiveness to investment when considering other comparable jurisdictions. Some investors indicated that they would be prepared to pay more for shorter processing times.

Stakeholders did, however, provide positive feedback about the OIO's engagement through the assessment process and through their wider industry stakeholder engagement.

11 Few stakeholders commented on the extent to which the changes are achieving the other original policy intent of improving the coherence of the overseas investment screening regime.

12 At the time that Cabinet considered the 2018 forestry changes, the main issues with the then-regime were the benefit test and the counterfactual analysis used to assess the benefits. The benefit test could be difficult to meet for mature, well-managed forests as forestry investors struggled to show a 'point of difference' from the current owner or a hypothetical New Zealand investor.

These issues and suggestions are common across all investment pathways. We will shortly provide you advice on the final statutory timeframes to apply to applications for consent made under the Act, following the introduction of statutory timeframes through the Amendment Act 2021.

- b. **Concerns around the operation of 'existing arrangements':** The special forestry test requires the maintenance of existing arrangements over the land (e.g., those relating to heritage, biodiversity, access and log supply). Stakeholders commented that existing arrangements can be difficult, costly, and time-consuming to determine and there was uncertainty on how formal an arrangement needs to be before it is recognised. These issues could be related to the way this requirement has been operationalised in practice and could be addressed, or mitigated, by publishing operational guidance or operational change.
- c. **Uncertainty over scope of standing consent conditions:** Some stakeholders expressed frustration at the uncertainty over the scope of standing consent conditions (e.g. permitted number of transactions or total area of land) that might be ultimately-approved.¹³ Relatedly, stakeholders observed that the scope of a standing consent appears to be trending down over time, making a standing consent less valuable and potentially not worth pursuing.
- d. **Information requirements:** Stakeholders commented that the OIO's pre-application meetings have helped to create awareness of the information needed but some questioned the relevance and necessity of information that the OIO has asked for to process applications.¹⁴
- e. **Clarification on the scope of forestry activities / 'crop of trees':** Some stakeholders, including members of FMAG, questioned why nurseries were excluded from the special forestry test as not being 'crops of trees.' Relatedly, some stakeholders raised questions about the length of rotation required to come under the special forestry test, and questioned whether native trees that have long harvest time might be eligible.¹⁵
- f. **Impact of special land offer requirements:** Two affected stakeholders expressed concern with the current special land offer requirements. Officials advised that these rules will be addressed through the Amendment Act 2021 changes, which will rationalise and simplify the process for the Crown's acquisition of fresh and seawater areas (formerly known as special land). Stakeholders welcomed these changes.

13 Investors in forestry or forestry rights may choose to apply for a standing consent. This allows them to apply for consent before identifying the property or land they want to buy. A standing consent covers a predetermined number of transactions and may have an expiry date. Standing consents are for quality investors with a proven track record. Since 2018, six standing consents have been granted to date, and there are no standing consent applications currently being assessed.

14 For example, one investor noted that they had to provide satellite imagery in relation to a building on the property.

15 [36]

... And some of the requirements for investors may not be as effectively facilitating overseas investment in forestry as they could be, or may be having unintended consequences.

6. In addition to the feedback on improved investor confidence, the following key matters relating to the effectiveness of the 2018 changes were raised during the targeted engagement. Many of these comments relate to the key design features of the 2018 changes that were put in place to address wider issues, such as ^[1] to avoid creating loopholes for the residential land rules.
 - a. **Maintenance of domestic log supply:** The special forestry test requires the maintenance of existing log supply arrangements. Some stakeholders questioned the practical effect of this requirement given, for example, that very few contracts are for long-term supply. Under the Terms of Reference, the Forestry Review will consider the extent to which the changes are aligned with the Government's objectives for domestic wood processing. ^[1]
 - b. **Restriction on residential purposes:** A number of stakeholders commented that the requirement that dwellings within forestry blocks only be used for permitted forestry worker accommodation, which was introduced to avoid a loophole in the residential land rules, is incentivising potentially inefficient use of the land.¹⁶ The requirement may be resulting in negative local impacts (because the investor must give notice to current tenants), which could be mitigated by the publication of operational guidance.
 - c. **Impact and lack of clarity of the 'exclusively or nearly exclusively used for forestry' requirement:** The special forestry test requires that the land be used exclusively or nearly exclusively for forestry, which was introduced to avoid a loophole in the broader sensitive land rules. Some stakeholders noted the consequences of this requirement, with it potentially resulting in inefficient use of land, such as afforestation of productive arable land (see below), as well as uncertainty about the effect of this requirement.¹⁷ Some of these concerns could be addressed with the publication of operational guidance.
 - d. **Farmland conversions:** While the use of the special forestry test for farmland to forestry conversions is outside of the scope of this Review, stakeholders did proactively raise this issue.¹⁸ Industry noted that it has been helpful for increasing investment in forestry. Other stakeholders noted that this is a 'hot button' issue and one that is better addressed holistically as a land management issue. As this review is coming out first, it will therefore become more of a focal point for the farmland conversions issue.

16 For example, as these houses are rarely used for forestry worker accommodation, this requirement may result in existing houses becoming a liability, due to health and safety concerns from leaving a house unoccupied, with some stakeholders commenting that investors are demolishing houses due to these risks.

17 For example, the extent of ancillary activities that can take place, such as beekeeping or windfarms.

18 Under the Terms of Reference, the Forestry Review will not inquire into the appropriateness of applications to convert farmland to forestry using that test, beyond reporting on the frequency with which those applications use the special forestry test consent pathway. Conversions of farmland to forestry are better considered as part of the work on addressing afforestation concerns, which looks at conversions more broadly, rather than being confined to conversions by overseas persons.

Stakeholders also commented that the 'exclusively or nearly exclusively used for forestry' requirement may lead to afforestation of productive arable land. We note that under the special forestry test, land can be subdivided and sold (e.g. rather than using some farmland for forestry).

7. Other key feedback on the effectiveness of the 2018 changes include:
 - a. **Impact on public access:** Environmental and recreation interest groups commented that investment through the Special Forestry Test has resulted in 'missed' public access opportunities (assuming the investment had instead successfully progressed through the Benefit to New Zealand test).
 - b. **Value of the modified benefits test:** This test was designed to be less onerous to meet than the usual benefits test by comparing the investment against a counterfactual of what the current owner only would do with the land (rather than by what a hypothetical alternative investor might), to encourage overseas investment into forestry. There have been no applications under the modified benefits test, and some stakeholders questioned the value of retaining this pathway.

Annex B: Targeted stakeholder engagement undertaken

1. The following table lists the stakeholders with whom we engaged through the targeted engagement over May-August 2021.

Type	Stakeholder
Law firms	Lefever Law Catherine Reid, Barrister (OIO Specialist) Buddle Findlay Minter Ellison
Investors	Pan Pac Forest Products Limited Rayonier Matariki Forests New Forests NZ Pty Limited
Iwi	Te Rarawa Maungaharuru-Tangitū Trust <i>Meetings scheduled but cancelled</i> Ngāti Tamaterā Nga Maunga Whakahii o Kaipara Development Trust
Industry groups	Forestry Ministerial Advisory Group <i>Meeting scheduled but cancelled</i> Members of the Iwi Forestry Reference Group
Environmental and recreational groups	Walking Access Commission Queen Elizabeth II National Trust Heritage NZ (written feedback received)

Annex C: Interconnection with other government work programmes

1. The following table provides indicative timelines for the Emissions Reductions Plan, the Forestry & Wood Processing Industry Transformation Plan (F&WP ITP) and the proposed review of the Forests Act 1949, alongside the proposed Forestry Review timeline.

	Overseas Investment Act Forestry Review	Climate change – Emissions Reductions Plan	Forestry & Wood Processing ITP	Proposed comprehensive review of the Forests Act 1949 (timeline indicative only)
September 2021		Public consultation		Initial policy analysis development of project plan (underway).
October 2021			Cabinet to receive a progress update and confirm priorities for ITPs	
November 2021	Cabinet consideration and approval of discussion document	Cabinet consideration of the final Emissions Reductions Plan (ERP)		[33]
December 2021	Release of discussion document and public consultation	Publish ERP		
January 2022	Public consultation			
February 2022			[33]	
March 2022	Submissions analysis and policy development			
April 2022				
May 2022				
June 2022	Cabinet agreement to any reform package			[33]
July 2022 (onwards)	Depending on Cabinet decisions: <ul style="list-style-type: none"> • embedding operational changes • developing and passing new regulations • developing and introducing new legislation 			