

The Treasury

Overseas Investment Act Forestry Review Information Release

June 2022

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- [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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TE TAI ŌHANGA
THE TREASURY

Treasury Report: Overseas Investment Act: Removing forestry conversions from the 'special forestry test'

Date:	7 October 2021	Report No:	T2021/2512
		File Number:	IM-5-8-4

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 and to either: a. continue to address concerns about the impact of land use change for forestry activities through existing government programmes, which address the issue more broadly OR b. initiate work to consider removing forestry conversions from the special forestry test as part of the Forestry Review (in addition to the work above). <i>If you agree to option b:</i> Agree to seek Cabinet approval, at the time you seek agreement to the release of the Forestry Review discussion document, to an amended Terms of Reference.	Monday 11 October
Minister for Land Information (Hon Damien O'Connor)	Note the contents of this report.	N/A
Minister of Forestry (Hon Stuart Nash)	Note the contents of this report.	N/A

Contact for telephone discussion (if required)

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

Minister's Office actions (if required)

Refer this report to the Minister of Climate Change.

Return the signed report to Treasury.

Enclosure: Yes (attached)

Treasury Report: Overseas Investment Act: Removing forestry conversions from the 'special forestry test'

Executive Summary

This report provides advice requested by you (Minister Parker) on whether to initiate work to consider removing land for conversion to production forestry ('forestry conversions') from the special forestry test¹ under the Overseas Investment Act 2005 (the Act). This report seeks your agreement to a revised timeline for the Forestry Review and to either:

- i. continue to address concerns about the impact (including speed, scale and location) of land use change for forestry activities through existing government programmes, which address the issue more broadly, or
- ii. initiate work to consider removing forestry conversions from the special forestry test as part of the Forestry Review (in addition to the work above).

Impact of current overseas investment settings on land use change to forestry

In 2018, the Government changed how overseas investments in forestry are screened under 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). The special forestry test is intended to facilitate more overseas investment in plantation forestry than would be facilitated under the existing benefits test. It aims to be more permissive, create more certainty for investors and streamline the processing of applications.

[1]

around 80 per cent of overall land converted to plantation forestry (most of which would be by New Zealanders) takes place outside of the special forestry test (though the data are not directly comparable²). Instead, the recent increase in forestry conversion is likely be primarily driven by Emissions Trading Scheme (ETS) settings and the impact of the rising carbon price, as well as government afforestation schemes and high log prices. These factors are likely to be driving unintended consequences:

- *More speculative investment in production forestry (both from domestic and international investors):* This reflects that the value proposition for investment in production forestry is both wood and fibre, as well as the carbon credits investors can claim. We do not have enough evidence to assess:
 - the extent to which this might be driving changes to land management practices or impacting related industries, nor
 - the extent to which this issue relates to forestry conversions only, or to investment in existing production forestry as well.

1 The 'special test relating to forestry activities', commonly known as the 'special forestry test'

2 The available data are not directly comparable in that there is a lag between OIO approval, purchasing of land and eventual planting.

For completeness, there may be some ancillary planting of native forestry under the special forestry test, in the form of riparian boundaries or set-backs that are unsuitable for exotic forestry. Since 2018, there have been four consents granted under the Benefit to New Zealand test for conversion-related investments, of which approximately 2,042 ha is expected to be new planting.

- *Afforestation of productive land:* Conversion from pastoral farming to forestry changes the patterns of economic activity and employment, and has broader wellbeing impacts. There are spillover losses from farmland conversion in terms of farming-related support activity.

[1]

the special forestry test is designed to facilitate overseas investment in production forestry. The screening regime therefore does not act as a substantial check on overseas demand for investment in new production forestry in the same way the Act does for other land-based investments. As such, you may wish to initiate work on removing forestry conversions from the special forestry test.

Impact of initiating work to prevent applications involving forestry conversions from using the special forestry test

Progressing work in this area does entail some risk:

- *Signalling that the Government is open to removing forestry conversions from the special forestry test* (i.e., by initiating work on this issue) could impact New Zealand's attractiveness for overseas investment in existing forestry and foreign direct investment, [1]
- *The broader impact of any ultimate change to the special forestry test could be significant.* Given the sector's reliance on overseas investment, removing forestry conversions from the special forestry test may have an impact on other Government policy goals (including the forestry sector and related industries, and New Zealand meeting its emissions budgets and emissions reduction targets) as a result of reduced capital flows. There may also be impacts on Māori economic interests.

If you agreed to initiate work on removing forestry conversions from the special forestry test through the Forestry Review (see below), the upcoming consultation would be an opportunity to assess and test analysis on the likely impacts of this change ahead of a Cabinet decision on a reform package.

Options to address land use change for forestry activities

We recommend you agree to either of the following options:

1. Continue to address the impact of land use change for forestry activities through existing government programmes, which address the issue more broadly (*status quo*)
(If you place significant weight on managing risks to the forestry sector of reduced capital flows, as well as to New Zealand's attractiveness for foreign direct investment, this option has merit)
2. Initiate work to consider removing forestry conversions from the special forestry test, in addition to the work above.
(If you place significant weight on using the Act as an additional tool to address unintended consequences in the forestry sector being driven from outside the regime, this option has merit)

If you agree with option 2, we recommend that this be considered through the Forestry Review currently underway. This would ensure that this issue can be considered alongside a review of the broader 2018 forestry changes to the Act and would ensure that any future Cabinet decision on this issue has the benefit of stakeholder feedback via the upcoming public consultation.

Forestry Review timeline

This report seeks your agreement to a revised timeline for the Forestry Review to delay Cabinet's consideration of the discussion document by three weeks and release the discussion document in late January 2022, rather than immediately before the Christmas break. This approach would ensure that the 2021/22 Christmas break does not lead to a loss in momentum for the consultation.

In addition, this approach would ensure Cabinet decisions on the Forestry Review will be aligned with the release of the Emissions Reduction Plan, which will confirm the role of forestry (including production forestry) in New Zealand's climate change targets, [33]

Next steps

If you agree to Option 2 (initiate work to consider removing forestry conversions from the special forestry test), the Treasury will include this issue in the upcoming discussion document. Officials will draft a Cabinet paper that will seek Cabinet approval to:

- a revised Terms of Reference for the Forestry Review to include consideration of removing forestry conversions from the special forestry test, and
- release the discussion document.

Recommended Action

We recommend that you:

a **note** that this report responds to your request for advice on initiating work to consider removing forestry conversions from the special forestry test.

b [1]

EITHER

If you place significant weight on managing risks to the forestry sector of reduced capital flows, as well as to New Zealand's attractiveness for foreign direct investment more generally

c **agree** to continue to address the impact (including speed, scale and location) of land use change for forestry activities through existing government programmes, which address the issue more broadly.

Agree/disagree.

OR

If you place significant weight on using the Act as an additional tool to address unintended consequences in the forestry sector being driven from outside the regime

d **agree** to initiate work to consider removing forestry conversions from the special forestry test as part of the Forestry Review (in addition to the work at a above).

Agree/disagree.

If you agree to progress this work as part of the Forestry Review (option b)

e **agree** to seek Cabinet approval, at the time you seek agreement to the release of the Forestry Review discussion document, to an amended Terms of Reference for the Review to include consideration of removing forestry conversions from the special forestry test.

Agree/disagree.

f **agree** to the updated Forestry Review timeline, which proposes to seek Cabinet approval of the discussion document in December 2021, and public consultation over January-March 2022.

Agree/disagree.

g **note** that final Cabinet decisions on the Forestry Review will be aligned with the release of the Emissions Reduction Plan, which will confirm the role of forestry (including production forestry) in New Zealand's climate change targets, [33]

h **refer** this report to the Minister of Climate Change.

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: Removing forestry conversions from the 'special forestry test'

Purpose of Report

1. This report provides advice requested by you (Minister Parker) on whether to initiate work to consider removing land for conversion to production forestry ('forestry conversions') from the special forestry test³ under the Overseas Investment Act 2005 (the Act).
2. This report seeks your agreement to either:
 - a. continue to address concerns about the impact (including speed, scale and location) of land use change for forestry activities through existing government programmes, which address the issue more broadly, or
 - b. initiate work to consider removing forestry conversions from the special forestry test as part of the Forestry Review (in addition to the work above).
3. If you agree to progress this work as part of the Forestry Review, this report seeks your agreement to seek Cabinet approval to an amended Terms of Reference (at the time you seek Cabinet agreement to the release of the Forestry Review discussion document).
4. This report also seeks your agreement to a revised timeline for the Forestry Review to delay Cabinet's consideration of the discussion document and consequent deliverables by three weeks. Under the revised timeline, Cabinet would approve the release of the discussion document in December 2021, before it is released in late January 2022 (rather than immediately before the Christmas break).
5. This report has been prepared by the Treasury in consultation with Te Uru Rākau – New Zealand Forestry Service / Ministry for Primary Industries, the Overseas Investment Office (OIO), the Ministry for the Environment and the Ministry of Foreign Affairs and Trade.

Background

6. The Associate Minister of Finance, Minister of Land Information and Minister of Forestry met on 22 September 2021 to discuss the role of overseas investment in the forestry sector (see T2021/2357 for the agency-prepared A3 to support that discussion).
7. You subsequently sought more detailed advice from officials on whether to initiate work to consider removing forestry conversions from the special forestry test.

Scope of Overseas Investment Act Forestry Review

8. In March 2021, Cabinet agreed to conduct a tightly-focused review (the Forestry Review) focusing on the operation and effectiveness of the 2018 changes relating to how overseas investments in forestry are screened under the Act (CAB-21-MIN-0084 and DEV-21-MIN-0044 refer).

³ The 'special test relating to forestry activities', commonly known as the 'special forestry test'

9. In 2018, the Government changed how overseas investments in forestry are screened under 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). The special forestry test is intended to facilitate more overseas investment in plantation forestry than would be facilitated under the existing benefits test. It aims to be more permissive, create more certainty for investors and streamline the processing of applications.
10. Analysis of the original policy rationale and intent underpinning the 2018 changes is out of scope of the Forestry Review.⁴ In addition, the Review will not consider:
 - whether carbon farming (permanent forestry) should be able to use the special forestry test, or
 - the appropriateness of applications to convert farmland to forestry using the special forestry test, beyond reporting on the frequency with which those applications use the consent pathway. [1]

Targeted stakeholder consultation has been conducted

11. Officials have completed the initial targeted stakeholder consultation for the Forestry Review (see T2021/1911 for the update to Ministers on this engagement) and are now developing a discussion document, which we recommend be released in January 2022, on issues identified and potential options for change (see below for the revised Forestry Review timeline).
12. During the initial targeted stakeholder consultation, however, stakeholders did proactively raise the use of the special forestry test for forestry conversions. Industry noted that allowing the use of the special forestry test for forestry conversions has been helpful for increasing investment in forestry. Other stakeholders noted that forestry conversions, including by overseas investors, is a 'hot button' topic and one that is better addressed holistically as a land management issue.

Impact of current overseas investment settings on land use change to forestry

13. Consideration of this issue is only the first stage of a policy process, and we are not seeking final decisions on the use of the special forestry test for forestry conversions. However, in considering whether to initiate work to consider removing forestry conversions from the special forestry test there are two key trade-offs to consider:
 - whether to use an additional tool (the Act) to address unintended consequences in the forestry sector, which are being driven from outside of the regime, against
 - managing risks to the forestry sector of reduced capital flows, as well as to New Zealand's attractiveness for foreign direct investment, [1]

⁴ 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>

The overseas investment screening regime is unlikely to be a key driver of forestry conversions

14. The significant majority of conversions of land into plantation forestry (production and permanent) do not utilise the special forestry test, with available data suggesting around 80 per cent of overall land converted to plantation forestry (most of which would be by New Zealanders) takes place outside of the special forestry test (though the data are not directly comparable⁵). Over the past three years, there have been consents for 23,402 ha of new planting through the special forestry test relative to an estimate of 105,200 ha of exotic afforestation in New Zealand since the beginning of 2019.

Other factors, such as ETS settings and the impact of the rising carbon price, are likely to be key drivers of the recent increase in forestry conversions

15. [1]

There is a range of factors, including Emissions Trading Scheme (ETS) reforms, higher carbon prices, government afforestation schemes, and high log prices, that are driving a recent increase in forestry conversions.

16. These factors are likely to be driving unintended consequences:

- *More speculative investment in production forestry (both from domestic and international investors):* This reflects that the value proposition for investment in production forestry is both wood and fibre, as well as the carbon credits investors can claim⁶. We do not have enough evidence to assess:
 - a. the extent to which this might be driving changes to land management practices or impacting related industries (such as the domestic wood processing industry), nor
 - b. the extent to which this issue relates to forestry conversions only, or to investment in existing production forestry as well.
- *Afforestation of productive land:* Conversion from pastoral farming to forestry changes the patterns of economic activity and employment, and has broader wellbeing impacts. This is most pronounced when the forest is established solely for carbon sequestration (this type of conversion is explicitly excluded from the special forestry test). There are spillover losses from farmland conversion in terms of farming-related support activity.

5 The available data are not directly comparable in that there is a lag between OIO approval, purchasing of land and eventual planting. For completeness, there may be some ancillary planting of native forestry under the special forestry test, in the form of riparian boundaries or set-backs that are unsuitable for exotic forestry. Since 2018, there have been four consents granted under the Benefit to New Zealand test for conversion-related investments, of which approximately 2,042 ha is expected to be new planting.

6 Investors can claim carbon credits for production forests, but only until they reach their long-term average stock – which is around 20 years for *Pinus radiata*.

The Act does not act as a substantial check on overseas demand for investment in new production forestry in the same way the Act does for other land-based investments

17. Overseas investment in production forestry, including in land to be converted to production forestry, is facilitated through the more permissive special forestry test,⁷ which was introduced to increase overseas investment in forestry. This recognised the importance of inward investment to forestry and supported the Government's broader forestry priorities (e.g. the One Billion Trees Programme). Overseas investment in other land-based investments requires applicants to deliver certain benefits to New Zealand, with an elevated benefit threshold for farmland.
18. While the overseas investment screening regime is unlikely to be a key driver of forestry conversions, it is designed to facilitate overseas investment in production forestry and, therefore, does not act as a substantial check on overseas demand for investment in new production forestry in the same way the Act does for other land-based investments.
19. The current forestry screening settings reduce our ability to manage or protect against current and emerging concerns or risks from overseas investment in forestry to New Zealanders' wellbeing. This increases our exposure to [1] actual negative effects of forestry conversions on the four capitals – financial/physical, human, social and natural.

Together, the current overseas investment settings, combined with ETS settings and the impact of the rising carbon price, may be driving unintended consequences

20. Since the forestry changes were introduced to the Act in 2018, the ETS and carbon price drivers are likely to be resulting in both more speculative overseas investment in production forestry, as well as greater afforestation of productive land by overseas (as well as domestic) investors than originally envisaged at the time the 2018 forestry changes were introduced. Some of the land acquired through the special forestry test for conversion investments is arable land (Land Use Capability (LUC) classes 1-4). Areas of land in LUC classes 1-4 are more likely to be subdivided and sold off, though some of that land will be converted to forestry (although we currently have limited evidence on this).⁸

⁷ Most land transacted under the special forestry test is for existing forestry (79 per cent) rather than conversions (21 per cent). Farmland conversion to forestry also takes place via the Benefit to New Zealand test consent pathway, in which the investor must demonstrate benefits, and where there is greater discretion for decision-makers. Since the introduction of the Special Forestry Test, only investments that have not been eligible for the special forestry test have come through the Benefit to New Zealand test (see details in footnote 11). These have related to carbon-only investments or an investment in a nursery). None have been for rotation forestry.

⁸ Between October 2020 and August 2021, just over 25 per cent of land acquired under the special forestry test for conversion investments is arable land (LUC classes 1-4). The OIO has not mapped new planting to the LUC data, so cannot report specifically on that. The land of lower LUC classification is more likely to be the parts of the land that are subdivided and sold; but in other cases, it will be a mixture as LUC classes are 'marbled' through a property (i.e., not uniform).

Impact of preventing applications involving forestry conversions from using the special forestry test

21. There are existing government programmes affecting domestic regulation of land use, which will continue to impact land use change over time. However, if you are concerned about the speed and cumulative impact of these programmes in the short to medium term, you could use an additional tool (the Act) to address unintended consequences in the forestry sector. [1]
22. Preventing applications involving forestry conversions from using the special forestry test would not prevent conversion-related investments from getting consent under the Act. Instead, it would allow the regime to manage or protect against current and emerging concerns or risks from overseas investment in forestry to New Zealanders' wellbeing by forcing investors to seek consent under the Benefit to New Zealand test (as for investments in permanent (carbon-only) forestry).
23. The Benefit to New Zealand test requires investor to demonstrate benefits, and involves greater discretion for decision-makers. This is a much more involved and complex test that requires in-depth consideration of the additionality of the investment.

Progressing work in this area does entail some risk...

24. There are risks in signalling that the Government is open to removing forestry conversions from the special forestry test, by initiating work on this issue. Initiating work could potentially impact on:
 - reduced overseas investment in existing forestry, both through regulatory uncertainty and to the extent the value proposition for overseas investment in forestry reflects ease of investment in both existing forestry and new forestry
 - more speculative investments in forestry conversions by overseas investors in the short term (in advance of any change), on the expectation that the consent pathway may become harder, and
 - New Zealand's attractiveness for foreign direct investment, [1]

25. [1]

... And the broader impact of any ultimate change to the special forestry test could be significant.

Impact on the forestry industry

26. The ownership patterns and investment challenges of the forestry sector that motivated the introduction of the special forestry test are still here. The forestry sector is heavily dependent on access to international capital through inward investment, with up to 70 per cent of plantation forest being foreign-owned.
27. Given the sector's reliance on overseas investment, removing forestry conversions from the special forestry test may have an impact on the forestry sector and related industries (including the domestic wood processing industry and future bio-economy related opportunities) by reducing the rate of afforestation.

Impact on New Zealand's emissions reduction targets

28. The Climate Change Commission recommends that production and permanent forestry will play an important role in meeting the country's emissions budgets and targets. Given the sector's reliance on overseas investment, removing forestry conversions from the special forestry test would impact the rate of afforestation and may impact New Zealand meeting its emissions budgets and emissions reduction targets. This is because afforestation could decrease below that required to meet the Government's carbon sequestration targets and the transition to a circular bioeconomy.
29. The Climate Change Commission recommends that an additional 380,000 hectares of exotic plantation (fibre and wood) forest need to be planted by 2035. The land most suitable to meet this recommendation is hill country farmland, of which there is estimated to be between 7.5 and 10.4 million hectares. This indicates that, while locally significant, farm to forest conversions in the next 13 years would involve less than 1 percent of this class of land.

Reputational risks and potential impact on bilateral relationships

30. One of the drivers of the introduction of the streamlined test three years ago was a *quid pro quo* with the forestry investment industry for bringing forestry rights into the screening regime. While the inclusion of forestry conversions in the streamlined test was not a specific part of that discussion, the forestry industry would still see forestry conversions within that context.
31. [1]

Impacts on Māori economic interests

32. Any reduction in sector attractiveness risks a capital or revenue hit to significant iwi investments. Iwi are often partners for foreign forestry investors and supported the liberalisation of screening of overseas forestry investment. Removing forestry conversions from the special forestry test may impact negatively on the value of Māori assets, to the extent that this change would deter overseas investment partners and hamper efforts to convert historically under-developed Ahu Whenua trust-land⁹ to production forest, including through aggregation arrangements.
33. If you agreed to initiate work on removing forestry conversions from the special forestry test through the Forestry Review (see below), the upcoming consultation would be an opportunity to assess and test analysis on the likely impacts of this change ahead of Cabinet's decision on a reform package.

⁹ Established under Te Ture Whenua Māori Act 1993, Ahu whenua trusts are land administration trusts designed to manage whole blocks of Māori freehold land.

Options to address land use change for forestry activities

34. As noted above, in considering whether to initiate work to consider removing forestry conversions from the special forestry test there are two key trade-offs to consider:
- whether to use an additional tool (the Act) to address unintended consequences in the forestry sector, which are being driven from outside of the regime, noting that this change is unlikely to substantially address this broader issue, against
 - managing risks to the forestry sector, as well as to New Zealand's attractiveness for foreign direct investment, [1]

Option 1: Continue to address the impact of land use change for forestry activities through existing government programmes, which address the issue more broadly (*status quo*)

If you place significant weight on managing risks to the forestry sector of reduced capital flows, as well as to New Zealand's attractiveness for foreign direct investment, this option has merit

35. The Act is just one of a range of regulatory instruments impacting forestry settings and influencing outcomes in the forestry sector (and downstream industries). If you decided against progressing work to address land use change for forestry activities via the Act, existing government programmes affecting domestic regulation of land use will continue and impact land use change over time. These government programmes, which apply equally to overseas and domestic land holders and investors, include:
- the Forestry, Climate Change and Land Use work programme as part of the Emissions Reduction Plan
 - ongoing implementation of the National Environmental Standards for Plantation Forestry (NES-PF), with potentially an amended NES-PF to encompass permanent as well as production forests
 - implementation of the Aotearoa New Zealand Biodiversity Strategy and the National Policy Statement on Indigenous Biodiversity
 - the Forestry and Wood Processing Industry Transformation Plan, and
 - resource management reforms.

36. This status quo option:

- is likely to go some way in addressing unintended consequences of more speculative investment in production forestry, as well as greater afforestation of productive land by overseas (as well as domestic) investors than originally envisaged, but this would depend on the speed and cumulative impact of the existing government programmes above.
- [1]

Option 2: Initiate work to consider removing forestry conversions from the special forestry test (*in addition to the work above*)

If you place significant weight on using the Act as an additional tool to address unintended consequences in the forestry sector being driven from outside the regime, this option has merit

37. The Act could be amended to bring investments related to forestry conversions within the Benefit to New Zealand test consent pathway, as for investments in permanent (carbon-only) forestry. This would be achieved by preventing applications involving forestry conversions from using the special forestry test. This would be a relatively straightforward amendment to the Act and bring it back in line with the drafting that was initially introduced to Parliament in 2018.¹⁰

Impact of initiating work on this issue

38. Signalling that the Government is open to removing forestry conversions from the special forestry test (i.e., by initiating work on this issue) would entail some risk. These risks include impacts on New Zealand's attractiveness for overseas investment in existing forestry and foreign direct investment, [1]
re

Effectiveness of removing conversions from the special forestry test at managing land use change, if progressed

39. As noted above, such an amendment would not prevent conversion-related investments from getting consent under the Act. Instead, it would allow the regime to manage or protect against current and emerging concerns or risks from overseas investment in forestry to New Zealanders' wellbeing by forcing investors to seek consent under the Benefit to New Zealand test (as for investments in permanent (carbon-only) forestry). This is a much more involved and complex test that requires in-depth consideration of the additionality of the investment.

40. [1]
However, our initial view is that this change is unlikely to substantially address this broader issue, given around 80 per cent of overall land converted to plantation forestry (most of which would be by New Zealanders) takes place outside of the special forestry test (though the data are not directly comparable¹¹).

41. [1]

42. Officials considered other options, outlined in **Annex A**, to influence forestry conversions under the Act, such as amending the check-list requirements that apply to forestry conversions under the special forestry test or operational change or operational guidance. However, these are unlikely to be effective at addressing this issue.

10 During the legislative process for the 2018 forestry changes, the Government initially proposed that the new special forestry test only be used where the land is already forestry land, and not land for conversion into forestry. Following feedback during the select committee process, the Government agreed that the test could be used by investors acquiring land for conversion to forestry. This was on the basis that this would best support encouraging investment into forestry.

11 The available data are not directly comparable in that there is a lag between OIO approval, purchasing of land and eventual planting. For completeness, there may be some ancillary planting of native forestry under the special forestry test, in the form of riparian boundaries or set-backs that are unsuitable for exotic forestry. Since 2018, there have been four consents granted under the Benefit to New Zealand test for conversion-related investments, of which approximately 2,042 ha is expected to be new planting.

Mechanisms to initiate work to consider removing forestry conversions from the special forestry test

We recommend any work on this issue be considered through the Forestry Review

43. If you wish to initiate work to consider removing forestry conversions from the special forestry test, we recommend that this be considered through the Forestry Review currently underway. This would ensure that this issue can be considered alongside a review of the broader 2018 forestry changes to the Act and would ensure that any future Cabinet decision on this issue has the benefit of stakeholder feedback via the upcoming public consultation.
44. Government has already signalled that the issue of forestry conversions under the special forestry test is out of scope of the Forestry Review (both through the publicly available Terms of Reference and the targeted stakeholder engagement that officials have undertaken). If you agree to initiate this work, the Treasury will engage with your office to manage anticipated stakeholder interest in the change in approach.
45. There are several other work programmes underway across government that are relevant to the Forestry Review (see **Annex B** for indicative timelines for related government work programmes). The timing of the Forestry Review will ensure that final decisions on forestry conversions under the special forestry test (proposed for July 2022) will align with:
 - the release of the Emissions Reduction Plan (due by May 2022), which will confirm the role of forestry (including production forestry, currently facilitated through the special forestry test) in New Zealand's climate change targets, and
 - final Cabinet decisions on the Forestry & Wood Processing Industry Transformation Plan (F&WP ITP) [33]
46. The development of any new legislation as a result of the Forestry Review is scheduled to commence from August 2022 (see revised Forestry Review timeline below), so is unlikely to be enacted in this term of Government (subject to Government decisions on the priority of any proposal in the Legislation Programme).

Other mechanisms considered to prevent applications involving forestry conversions to production forestry from using the special forestry test

47. Officials considered other mechanisms to initiate work to consider removing forestry conversions from the special forestry test, specifically:

Progressing this through legislative change at a faster pace than the Forestry Review, either via a discrete piece of legislation or added to an existing legislative vehicle

- We advise against this as without a strategic plan for the role of forestry (to be delivered through government work programmes, such as the Emissions Reduction Plan and the F&WP ITP), there are risks in pushing ahead in the near term with further specific amendments to the overseas investment screening regime. [1]

Amending the scope of the Forestry Review to undertake more fundamental reform of the Overseas Investment Act forestry settings

- A first principles review could assess the role of overseas investment on the forestry sector. This could consider the role of the special forestry test more generally. However, there are challenges around this, including limited scope for significant revision and the length of time since last reform.

Updated Forestry Review timeline

48. In September 2021, you agreed to a revised timeline for the Forestry Review (T2021/1911 refers). At the time, you noted 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.
49. The recent pieces of advice to Ministers on the special forestry test, and the role of overseas investment in the forestry sector, has diverted Treasury International team resources and exacerbated existing capacity pressures.
50. We now propose to delay Cabinet’s consideration of the discussion document by three weeks (to December 2021) and release the discussion document in late January 2022, rather than immediately before the Christmas break. This revised timeline will ensure that the 2021/22 Christmas break does not lead to a loss in momentum that may result if the discussion document were to be released shortly ahead of the Christmas break. We therefore seek your agreement to the following timeline:

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> 	December 2021 8 December 2021 13 December 2021
Release of discussion document and public consultation	Late January 2022 – March 2022
Submissions analysis and policy development	March 2022 – June 2022

12 The role of forestry in meeting New Zealand’s climate change targets is being considered through the Forestry, Climate Change and Land Use work programme as part of the Emissions Reduction Plan (ERP). The ERP is now scheduled to be released by the end of May 2022, and final decisions on the Forestry & Wood Processing Industry Transformation Plan (F&WP ITP) [33]

Action	Date
Cabinet agreement to reform package	July 2022
Depending on Cabinet decisions: <ul style="list-style-type: none"> • embedding operational changes • developing and passing new regulations • developing and introducing new legislation 	August 2022 onwards

51. Should you agree to initiate work to consider removing forestry conversions from the special forestry test as part of the Forestry Review, this revised timeline is still practicable. However, closer to the time we will explore whether you wish to publicly release the revised Terms of Reference for the Forestry Review (subject to Cabinet agreement) in December 2021, ahead of the release of the discussion document in late January 2022.

Next steps

52. If you agree to Option 2 (initiate work to consider removing forestry conversions from the special forestry test), the Treasury will include this issue in the upcoming discussion document. Officials will draft a Cabinet paper that will seek Cabinet approval to:
- a revised Terms of Reference for the Forestry Review to include consideration of removing forestry conversions from the special forestry test, and
 - release the discussion document.
53. If you agree to the revised timeline, the Treasury will continue to develop the discussion document for consideration by Cabinet in December 2021.

Annex A: Other options considered to influence forestry conversions under the Overseas Investment Act

1. Officials considered other options to influence forestry conversions under the Overseas Investment Act, outlined below.
 - Amending the check-list requirements that apply to forestry conversions under the special forestry test: This would require legislative change and there are clear limits to how far any amendments could go without becoming a qualitative assessment more akin to the benefits test.
 - Operational change or operational guidance: Given the check-list nature of the special forestry test, there is no opportunity to meaningfully address these issues through operational change or operational guidance.
 - Ministerial Directive Letter: [36]

 - National interest test: There is a residual lever (under section 20B of the Act) for the Minister of Finance to apply the national interest test to any transaction, if the Minister considers that an application could be contrary to New Zealand's national interest. However, there is a high threshold for applying the national interest test: it is expected to be used rarely and only where necessary to protect New Zealand's core national interests.

Annex B: 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 revised Forestry Review timeline.

Date	Overseas Investment Act Forestry Review <i>(subject to your agreement to the revised timeline)</i>	Climate change – Emissions Reductions Plan	F&WP ITP	Proposed comprehensive review of the Forests Act 1949 <i>(timeline indicative only)</i>
September 2021				Initial policy analysis development of project plan (underway). [33]
October 2021		Public consultation (end date TBC)	Cabinet to receive a progress update and confirm priorities for ITPs	
November 2021				
December 2021	Cabinet consideration and approval of discussion document	Cabinet policy decisions on the Emissions Reductions Plan (ERP)		
January 2022	Release of discussion document and public consultation			
February 2022				
March 2022		Cabinet consideration of the final Emissions Reductions Plan (month TBC)	[33]	
April 2022	Submissions analysis and policy development			
May 2022		Publish ERP		
June 2022				
July 2022	Cabinet agreement to any reform package			