

20 June 2022

Finance and Expenditure Committee
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Submission on the Overseas Investment (Forestry) Amendment Bill

Introduction

1. Energy Resources Aotearoa represents energy intensive businesses, from explorers, producers, distributors, and sellers to users of energy resources like oil, LPG, natural gas, refined products, and hydrogen.
2. This document constitutes our submission to the Finance and Expenditure Committee (**the Committee**) on the Overseas Investment (Forestry) Amendment Bill. The Bill removes the streamlined Special Forestry Test for overseas investment in new production forestry for harvesting (forestry conversions) and subjects these investments to the standard Benefit to New Zealand test.
3. We refer the Committee to our recent submission on the Ministry for Primary Industry's *Managing Exotic Afforestation Incentives* discussion document, which covers the matters we discuss here in further detail.¹

Key points

Forestry is a key component of our net zero transition

4. An Emissions Trading Scheme (**ETS**) led approach will deliver a net-zero transition by 2050 at least cost to community welfare. Minimising these costs requires us to preserve options around the mix of potential emissions reductions, removals, and offsets, and to avoid foreclosing options except in the serious circumstances where any genuine problems be resolved through other means.
5. This suite of options includes forestry which, given recent carbon prices, is a cost-efficient source of net emissions reductions. This means that any measure which restricts this option will likely increase the cost of the net-zero transition.

¹ <https://www.energyresources.org.nz/dmsdocument/213>



Aligning treatment of forestry conversions with other land investments makes sense, but we question the underlying policy problem/rationale used to justify the change

6. The underlying policy rationale for the change raises questions about whether this is the most effective means to address the identified problem. The Regulatory Impact Statement (**RIS**) primarily justifies the proposal on the basis that forestry conversions are leading to adverse environmental and economic impacts. There is limited information about the breadth and extent of this issue, and how it has evolved in the (only) four years since overseas investment screening for these investments was streamlined. The proposal seeks to address these spill-over and indirect impacts by requiring overseas investments of this kind to be subject to more discretion.
7. Fundamentally, if certain parties are concerned about land use and afforestation, those who think land can be put to better use than the owner's (or prospective buyer's) preferred use should buy the land at an untainted market value. That is a core customary civil process for resolving land use disputes. The core situation here is the ever-present one of different preferences.
8. If the Government considers adverse land use impacts will not be resolved through civil means, the right tool is likely to be either pricing externalities or using the land use regulatory regime (e.g., the Resource Management Act). These measures would apply to any forestry conversion, regardless the country of origin of the prospective investor – and so are much more closely linked to the stated policy problem.
9. We acknowledge that the proposal brings the treatment of forestry conversions in line with most other investment categories under the overseas investment regime. On that basis alone the proposal would be sensible, but the stated intent behind the change undermines this.

The substance and process of the policy proposal will undermine investment confidence

10. As the RIS notes, any increase in discretion in the overseas investment regime will undermine investor certainty, and this will be the likely impact of this measure.
11. We note that a range of measures pertaining to forestry are being pursued in parallel (most notably the proposal to remove new exotics from the ETS and emerging proposals to further restrict afforestation in the Resource Management Act). The interactions between these measures, including their cumulative impact on investment signals and afforestation, has not been assessed in detail.
12. This proposal has been developed at pace. This has resulted in limitations and constraints in the overall policy process. As the RIS notes, no broad consultation

has been undertaken to build an evidence base on the impact of current screening settings.

Closing remarks

13. In summary:
 - a. while the proposal would treat afforestation consistently with other land investments under the overseas investment regime, the underlying policy rationale suggests this regime is not the best tool to address the problem as identified;
 - b. land use impacts from competing use for land should be resolved through civil means and/or the land use regulatory regime;
 - c. the reversal of the streamlined treatment for forestry only four years after it was introduced adds to investment uncertainty generally; and
 - d. developing the proposal at pace has limited its evidence base and analysis, which is not in the service of good public policy generally.
14. We're happy to speak to this submission if required.