



OIA15-032

OFFICIAL INFORMATION ACT REQUEST

I refer to your official information request of 13 July 2015 relating to advice the Minister received regarding the swamp kauri management measures announced that same day.

Following the release of my decision last week, the following information is released to you under the Official Information Act 1982:

- AM15-018.

I have withheld some information in these documents pursuant to section 9(2)(a) of the Official Information Act, to protect the privacy of natural persons. I am satisfied that in the circumstances of this case, the withholding of this information is not outweighed by other considerations which render it desirable in the public interest to make the information available.

You may be interested to know the Ministry for Primary Industries (MPI) has proactively released a large amount of information on swamp kauri on the MPI website here: <http://mpi.govt.nz/exporting/forest-products/wood-and-wood-products/swamp-kauri>. This OIA release, with your contact details redacted, will also be published on the website.

You have the right under section 28(3) of the Official Information Act to seek an investigation and review by the Ombudsman of our decision to withhold information. A request must be made in writing to:

The Ombudsman
Office of the Ombudsmen
PO Box 10 152
WELLINGTON

Yours sincerely

A handwritten signature in blue ink that reads "Craig Trotter".

Craig Trotter
Director (Acting), Spatial, Forestry and Land Management

AM15-018

Ministry for Primary Industries
Manatū Ahu Matua



Aide-memoire:

From: Aoife Martin
Acting Deputy Director-General, Regulation & Assurance
for Director-General

s 9(2)(a)

To: Hon Nathan Guy
Minister for Primary Industries

Date: 10 July 2015

Visit to Whangarei: 13 July 2015

Purpose

1. This aide memoire sets out plans for your visit to Whangarei on Monday 13 July to discuss the management of swamp kauri in Northland.
2. During your visit the proposed new measures to increase transparency and strengthen oversight of the swamp kauri sector will be announced. The core public messaging is that government is seeking to build public trust in the swamp kauri regulatory regime through improving the information base and increasing transparency of how the sector is being regulated.
3. The first appendix to this aide memoire is your full itinerary for your Whangarei visit. The second appendix is an A3 document that summarises the new additional measures. You will have received a separate briefing (B15-008) on those aspects of your Whangarei visit that do not relate to swamp kauri management.

Meetings

4. You have two meetings related to swamp kauri issues, both in the morning of 13 July.

Security Level – In Confidence

Northland Regional Council

5. The first meeting is with the Northland Regional Council (NRC), specifically ^{s 9(2)(a)} [redacted] Bill Shepherd. The Chief Executive Malcolm Nicolson is in Wellington on the 13th and has given his apologies. ^{s 9(2)(a)} [redacted] is the council's Group Manager Regulatory Services. Bill Shepherd is the NRC Chairman, and was appointed to that role in 2013. ^{s 9(2)(a)} [redacted]
6. Your discussion with the NRC will focus on the respective roles of Northland councils and the Ministry for Primary Industries (MPI) in regulating the swamp kauri sector. Under the Resource Management Act (RMA), Northland councils have responsibility for managing the environmental effects of salvaging swamp kauri. The appended A3 provides details on the existing planning framework for managing these activities.
7. MPI and the Ministry for the Environment have formed an initial view that Northland councils are properly implementing their responsibilities under the RMA:
 - a. Although there are no specific protections for swamp kauri in district and regional plans in Northland, there are protections for areas of notable environmental value, such as wetlands or areas with indigenous vegetation. Resource consent is required for swamp kauri extracted from these areas.
 - b. Where NRC has detected non-compliance with the RMA enforcement action has been taken.
8. MPI has engaged proactively with NRC on the management of swamp kauri in the past and has a good working relationship with the Council.

Nelson's Kaihu Kauri

9. The second meeting is with Nelson Parker, an operator in western Northland who is one of the most experienced swamp kauri operators in the country. Mr. Parker has worked with swamp kauri timber since 1991 and runs the Kaihu Kauri business 30km north of Dargaville. Kaihu Kauri is involved in extraction, milling, and product manufacture, and also has a showroom/gallery on site displaying finished products for domestic and international markets. ^{s 9(2)(a)} [redacted]
10. Mr. Parker considers that the current regulatory framework for the sector is appropriate but that the public attention on the sector is in response to the activities of less scrupulous operators that had previously operated in the sector. He is supportive of additional measures being taken to improve the public's knowledge and understanding of the sector and how it is being regulated. He has in the past encouraged MPI to take a tougher stance on export approvals for some finished products, such as temple poles. Mr. Parker is satisfied that the approval for export of the temple poles/Maori carvings that featured in the recent media coverage was appropriate.

Additional measures for swamp kauri management

11. The attached A3 (Appendix 2) sets out the current regulatory framework for swamp kauri management and the proposed additional measures to manage the extraction, milling and export of swamp kauri. The additional measures are designed to increase the information available across the swamp kauri supply chain. This information will enable councils (under the RMA) and MPI (under the Forests Act) to have a stronger information base from which to enforce the respective regulatory provisions applying to the sector. The increased information will also allow for greater transparency of the sector's and the regulator's activities and provide a platform for greater public trust in swamp kauri operations.
12. MPI will issue a press release on 13 July announcing the interim measures and explaining the rationale for them.

Key messages

13. The government is seeking to increase public trust in the operation of the sector through increased transparency and oversight. The foundation for that will be a stronger information base on the end to end activities of the swamp kauri sector.
14. The Ministry regularly reviews how regulations are enforced to ensure that they are doing the best job that they can. This is no different in regard to swamp kauri. The Ministry is satisfied that it is properly enforcing the Forests Act, but is conscious of the value to the general public of increasing transparency around how the sector operates and is regulated.
15. MPI will continue to work closely with NRC to ensure greater alignment of our respective regulatory responsibilities and to increase oversight of the swamp kauri sector. MPI will also continue its collaborative working arrangements with the New Zealand Customs Service to ensure the export of swamp kauri (as well as any other indigenous timber) is closely monitored.
16. MPI has discussed these new measures with key swamp operators. While many in the swamp kauri sector consider the current regulatory framework is working effectively, they do see value in the additional measures as a way to increase public confidence in their activities and the swamp kauri sector.

Minister / Minister's Office

Seen / Referred

/ /2015

**APPENDIX 1
ITINERARY FOR 13 JULY 2015**

Time	Activity	Details	MPI officials Attending	Location
WHANGAREI 13 JULY				
9:20 am	Arrive Whangarei		Martyn Dunne Aoife Martin Ben Dalton s 9(2)(a) to meet attendees at Whangarei airport	
9:30 am	Travel to Northland Regional Council	Drive time: 15 minutes		
10:00 am	Northland Regional Council	Meeting Bill Shepherd (Chairman) and s 9(2)(a) (Group Manager Regulatory Services)	Martyn Dunne Ben Dalton Aoife Martin s 9(2)(a)	36 Water St, Whangarei
11:00 am	Travel to Nelson's Kaihu Kauri Mill Dargaville	Drive time: 1 hour 15 minutes		3 State Highway 12 Kaihu, RD 9 Dargaville
12:15pm	Kaihu Kauri Dargaville	Meeting Chief Executive Nelson Parker	Martyn Dunne Ben Dalton Aoife Martin s 9(2)(a)	
1:15pm	Travel to Whangarei (with time for lunch as required)	Drive time: 1 hour 15 minutes Opportunity to stop for lunch as required		

Out of Scope

OVERVIEW OF EXISTING AND NEW MANAGEMENT MEASURES FOR SWAMP KAURI

Swamp kauri is kauri timber that has been buried and preserved in what used to be swamps for anywhere between 800 years and 60 000 years. The Ministry for Primary Industries (MPI) has specific responsibilities for the regulation of the milling and export of swamp kauri under the Forests Act 1949. Responsibility for its extraction rests with councils under the Resource Management Act 1991.

EXISTING MANAGEMENT MEASURES

EXTRACTION	MILLING	EXPORT
<p>Extraction is regulated under the Resource Management Act 1991 and is given effect through regional and district plans.</p> <p>Under the Northland Regional Council (NRC) plan extraction is a permitted activity provided it occurs outside areas of indigenous wetlands.</p> <p>District councils in the area have responsibility for rules that relate to indigenous vegetation clearance.</p> <p>Operators are not required to notify the Council of any permitted activity they're undertaking but they must adhere to any conditions in the relevant plans that apply to that activity.</p>	<p>Swamp kauri can only be milled if the timber has an approved MPI milling statement and is milled at a sawmill registered with MPI under the Forests Act.</p> <p>Sawmill operators are required to submit quarterly returns detailing the indigenous timber that their mill has processed and the source of that timber.</p>	<p>Swamp kauri can only be exported as a finished product or as whole or sawn swamp kauri stumps or roots.</p>
<p>Consents are required if extraction will:</p> <ul style="list-style-type: none"> • disturb an indigenous wetland; • remove indigenous forest; or • cause adverse effects on the natural ecosystem such as impacts on a wetland from water level changes. <p>Significant wetlands are not specifically identified in the Regional Soil and Water Plan for Northland but it does contain criteria to determine whether an area is an indigenous wetland.</p>	<p>Milling statements can be issued pre or post extraction, but milling cannot progress without a milling statement.</p> <p>Milling statements can only be issued if the swamp kauri has been salvaged:</p> <ul style="list-style-type: none"> • from land that is not indigenous forest land; or • from indigenous forest land (including wetlands) where the natural values of that land will be maintained when the swamp kauri is extracted. 	<p>Export approval is needed before exporting swamp kauri stumps and roots.</p> <p>To secure export approval, exporters complete a "notice of intention to export indigenous timber". MPI confirms the source of the stump material and completes a visual inspection to confirm the material proposed for export meets the Forests Act definition of a stump.</p> <p>Exports can only progress once an approval has been given.</p>
<p>NRC has established good relationships with operators. It maintains a record of current swamp kauri operators and advises them of any requirements that must be met before extraction can occur.</p>	<p>MPI assesses whether the site is indigenous or non-indigenous forest land using photos provided by the applicant, aerial imagery and mapping information held by MPI, and local knowledge of the site. Where warranted, MPI will undertake a site visit to gather information in order to reach a decision on the milling statement application.</p>	<p>Exporters of finished or manufactured products do not have to notify MPI before exporting.</p> <p>MPI encourages exporters to voluntarily use the notification and inspection process to confirm that exports of finished or manufactured products comply with the Forests Act. Voluntarily working within this process avoids exporters breaching the requirements of the Forests Act.</p> <p>MPI works closely with Customs to monitor all indigenous timber exports including swamp kauri.</p>



Released under Official Information Act 1982

NEW MANAGEMENT MEASURES

EXTRACTION	MILLING	EXPORT
Public Factsheet outlining the overall regulatory regime for the management of swamp kauri to help clarify the relative roles of central and local Government and the key elements of the legal frameworks in place.		
Operators to voluntarily notify NRC ahead of any and all extraction activities commencing. This will provide an early opportunity for the Council to assess any site specific issues and whether the proposed extraction should be a permitted activity or if it would require a consent. NRC will share this information with MPI.	Create a swamp kauri specific milling statement application form in order to capture finer scale data (such as log volumes and log numbers) so as to improve traceability across the supply chain.	MPI and Customs to increase oversight of exports, including: <ul style="list-style-type: none"> • export alerts on identified swamp kauri operators (and related companies); • continue with existing alerts on all swamp kauri products; and • ensuring there are appropriate export codes for finished manufactured indigenous timber products.
Operators to voluntarily notify NRC of the volume extracted to ensure regulators to have a greater oversight of the total volume of swamp kauri in the supply chain. NRC will share this information with MPI.	Where possible MPI will inspect all extraction sites as part of the swamp kauri milling statement approval process in order to confirm salvage activities are consistent with the milling statement approval.	Operators to voluntarily notify finished products for export approval using the ITE form. MPI will inspect these products to ensure only finished products as defined by the Forests Act are exported. MPI (throughASUREQuality) to maintain 100 percent visual inspections on all product notified for export. As part of the inspection process additional information will be collected, including details of modified or declined export consignments, so as to ensure there is a stronger basis for public trust in export decisions reached. Create a swamp kauri specific Intention to Export form. Factsheet developed for operators to use in overseas markets on the export controls relating to swamp kauri to increase awareness amongst buyers. Assist operators with appropriate text around advertising products in overseas markets to avoid confusion and the perception that products are not compliant with the legislation. MPI will continue regular monitoring of trade listings and will take follow up action on listings that could be misleading or suggest non-compliance with export controls.
NRC, as part of their Plan review process and implementation of the National Policy Statement for Freshwater Management is reviewing provisions relating to wetland management. In addition NRC will consider publishing information to ensure activities in sensitive environments are appropriately managed.	MPI to publish quarterly reports of regulatory activities under the Forests Act relating to swamp kauri (applications to mill, sawmill activity and exports) to increase transparency in order to lift public trust. Updated factsheet for swamp kauri operators outlining the specific Forests Act requirements that must be met for the milling and export of swamp kauri. Additional MPI resource in Whangarei to increase MPI profile with the sector and the public, and to increase inspections of sawmills and export consignments. Public release of all MPI swamp kauri OIAs from July 2012 to present so as to increase transparency on activities in order to lift public trust.	



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