



Office of Hon Nathan Guy

MP for Otaki

Minister for Primary Industries

Minister for Racing

18 AUG 2015

MinOIA14-081

OFFICIAL INFORMATION ACT REQUEST

I refer to your official information request of 16 June 2015 relating to swamp kauri export.

The following information is released to you under the Official Information Act 1982:

- AM13-799 (9 May 2014);
- AM13-809 (15 May 2014);
- B14-354 (5 February 2015); and
- B14-399 (18 February 2015).

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. Some information is also withheld under section 9(2)(g)(i) to maintain the effective conduct of public affairs through the free and frank expression of opinions. 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.

I suggest you refer to the information available on the MPI website related to swamp kauri, which can be found at <http://mpi.govt.nz/exporting/forest-products/wood-and-wood-products/swamp-kauri> as this includes material you may be interested in. This OIA release, with your contact details redacted, will be published on this website in the coming days.

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.

Yours sincerely

Hon Nathan Guy
Minister for Primary Industries

AM 13-799

Ministry for Primary Industries
Manatū Ahu Matua



From: Aoife Martin
Acting Deputy-Director General
Regulation and Assurance

Contact s 9(2)(a)

To: Hon Nathan Guy
Minister for Primary Industries

Hon Jo Goodhew
Associate Minister for Primary Industries

Date: 9 May 2014

Overview of MPI processes relating to the auditing and monitoring of swamp kauri under the Forests Act 1949

1. The purpose of this aide-memoire is to provide you with information relating to the processes that the Ministry for Primary Industries (MPI) has in place to ensure that swamp kauri activity is compliant with the Forests Act 1949. This is in light of the recent media interest into the industry.
2. "Swamp kauri" refers to kauri logs that have been buried and preserved in swamps for anywhere between 800 and 60000 years. The timber is valuable particularly when exported. Operators and retailers have been extracting and selling swamp kauri domestically for more than 30 years.
3. The extraction of the resource and the requirement to ensure such extraction occurs in a sustainable manner is administered under the Resource Management Act 1991 by regional councils. The milling and export of swamp kauri is administered under the Forests Act 1949.
4. Under the Forests Act, the milling and/or export of swamp kauri is prohibited if it has been excavated from indigenous forest land. Nor can it be exported unless it meets the definition of a finished product, component of a finished product or is from stump or root material.
5. While MPI makes every effort to ensure that indigenous timber products being exported satisfy the requirements of the Forests Act, it is not possible to police, or restrict what happens to swamp kauri products once they leave New Zealand. Therefore it is possible that further processing could occur after the product arrives at its destination.

6. An increase in demand internationally, particularly from China has encouraged new operators to enter the industry leading to a significant upsurge in swamp kauri activity in Northland. This has resulted in increased public interest in how MPI monitor and regulate the export of indigenous timber as per the requirements of the Forests Act.
7. To ensure that the provisions of the Forests Act are being met MPI undertakes the following initiatives:
 - Regular inspections of sawmills registered to mill indigenous timber. Additionally, MPI routinely visits excavation sites to ensure the source of the timber does not come from indigenous forest land.
 - Requirement that exporters notify MPI of their intent on to export swamp kauri, 10 days prior to export.
 - The source of all swamp kauri exports is verified prior to export.
 - AsureQuality completes a physical inspection of the export consignment to ensure it complies with the definition of finished product under the Act.
 - NZ customs alert in place if consignments are detected that may not be compliant with the Act.
 - Comprehensive training material prepared to assist all warranted forestry officers (MPI and AsureQuality) to undertake inspections of export consignments.
 - Factsheets have been prepared for the swamp kauri sector detailing the export and milling regulations as per the Forests Act with the aim of improving voluntary compliance.
 - Public information factsheets have been produced detailing MPI's monitoring and regulating procedures relating to the export of swamp kauri.
 - Maintaining regular contact with the Northland Regional Council (NRC) to ensure both MPI and NRC are aware of all swamp kauri excavation sites.

Security Level – In Confidence

8. The recent Third Degree programme on TV3 implied that a swamp kauri product advertised for sale in the United States did not meet the export requirements of the Forests Act. The relevant consignment has been traced and MPI can confirm that the conditions of the Act were satisfied. Further information on this matter will be provided in AM 13-809.

Minister / Minister's Office

Seen / Referred

/ /2014



Aide-memoire:

From: Scott Gallacher
Deputy Director-General, Regulation and Assurance
for Director-General

Contact: Aoife Martin, Director Spatial, Forestry and Land Management
s 9(2)(a)

To: Hon Jo Goodhew
Associate Minister for Primary Industries

Date: 15 May 2014

**Response to matters raised during the item on the swamp kauri industry
broadcast by the TV3 current affairs programmed 3rd Degree**

1. You have asked for information relating to two issues arising from the broadcast of the 3rd Degree programme on 30 April 2014. The two matters relate to:
 - a. The legality of the swamp kauri advertised by an American company that looked wet and unfinished;
 - b. MPI processes in place to monitor reference to Oravida in Official Information Act (OIA) responses or media requests.

Legality of timber

2. The 3rd Degree programme featured an image sourced from an American website depicting a swamp kauri table top that was advertised as being freshly unloaded with the moisture of the New Zealand peat bogs still fresh on the surface of the slab. The image showed water patches on the surface of the timber.
3. You have expressed concern that this timber was not compliant with the export provisions as specified in section 67C of the Forests Act 1949 because it was advertised as being still wet and unvarnished.
4. MPI can confirm that the table top shown was exported to the USA company Ancientwood Limited by the New Zealand company Ancient Kauri Kingdom Limited. Ancient Kauri Kingdom Limited requested that MPI inspect the product to ensure it met the definition of a table top prior to export.

Security Level – In Confidence

5. The inspection occurred in August 2012. The inspecting forestry officer was satisfied the tabletop was in its final shape and form and ready to be used for its intended purpose as a finished component of a table (as per the requirements of the Forestry Act). Attached is an image that MPI took during the inspection and a copy of the image of the product presented for sale.
6. At the time MPI was satisfied, and remains satisfied, that the timber met the export requirements of the Forest Act 1949.
7. We consider that the depiction of the timber on the Ancientwood Limited website was done for promotional purposes only and that the moisture apparent on the timber was likely rain water. Further the varnishing or coating of a timber product prior to export is not considered to be a requirement that must be satisfied under the export provisions of the Act. This is because varnishing is considered to be part of the preservation process rather than the manufacturing process and is therefore not captured by the definition of a finished product under the Act.

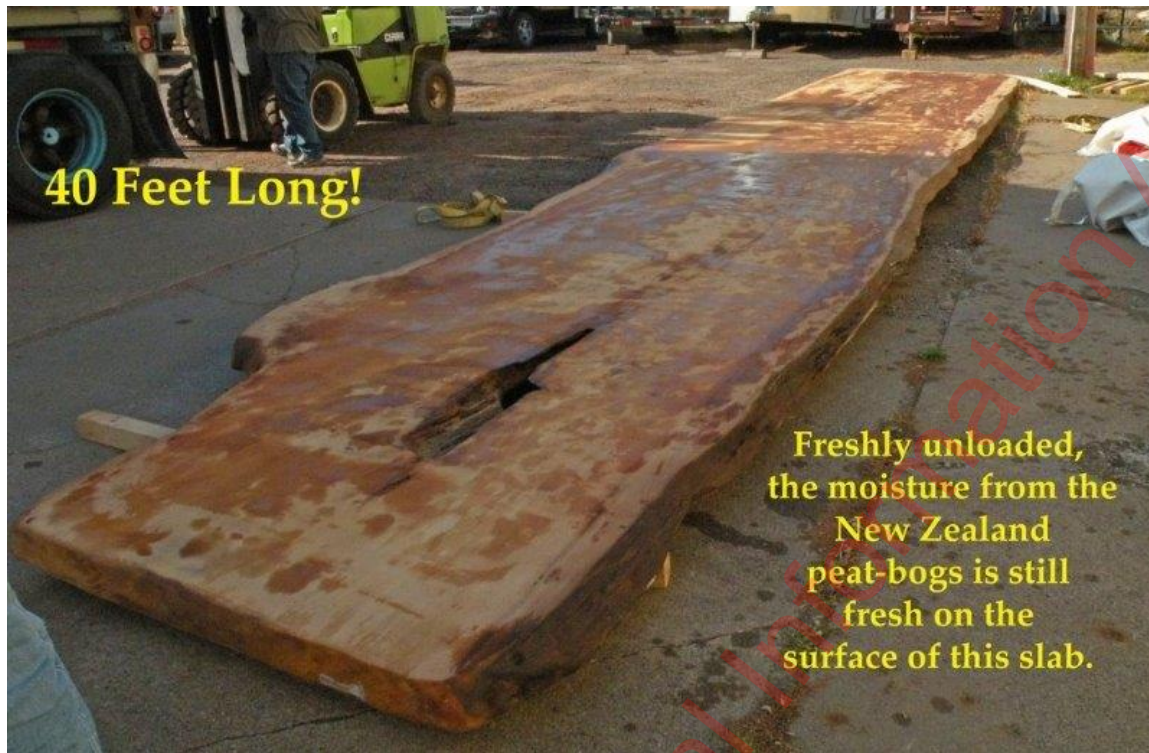
Oravida and the swamp kauri

8. The programme also referenced information released under the OIA that Oravida Kauri Limited had exported one consignment of swamp kauri to China in 2013.
9. The OIA response referred to was provided to ^{s 9(2)(a)} the Northland Environmental Protection Society. The material (export consignment notices) was released on April 17 2014 under OIA13-370. A copy of the material was provided to your office for review prior to its release.
10. In addition to this, on the afternoon that the 3rd Degree programme was broadcast MPI received an OIA request ^{s 9(2)(a)} seeking information specifically relating to Oravida. Your office was advised of this matter. The OIA has yet to be finalised and, as part of our standard processes, will be provided to your office for a review before it is released.
11. Further to this, MPI is also completing an assessment of all swamp kauri OIA requests in terms of their explicit relevance to Oravida. The result of this assessment will be captured in the Ministerial cover note that accompanies OIA responses provided for your review.

Minister / Minister's Office

Seen / Referred

/ /2014





1.

Distribution
Minister
Minister's Advisor
Minister's Office

Ministry for Primary Industries
Manatū Ahu Matua



05 February 2015

Document Number: B14-354

Proposed review of the management regime for the utilisation of swamp kauri

Purpose:

To seek your approval to initiate a review of the management regime for the utilisation of swamp kauri.

Minister	Action Required:	Minister's Deadline
Associate Minister for Primary Industries	Note and agree the recommendations contained in the briefing.	When convenient
Cc Minister for Primary Industries		

Contact for telephone discussion (if required)

	Name	Position	Work	After Hours
Responsible Manager	Scott Gallacher	Deputy Director General	s 9(2)(a)	s 9(2)(a)
Author	Aoife Martin	Director Spatial, Forestry and Land Management	s 9(2)(a)	s 9(2)(a)

Key Messages

1. MPI is seeking your approval to commence a review of the management regime that governs the utilisation of swamp kauri.
2. This review is in response to increased public concern about perceived unrestricted access to the resource, the potential environmental impacts of excavation and extraction, and the impact that the recent growth in the swamp kauri export market has had on the domestic sector. MPI's view is that recent levels of public engagement on this issue are unlikely to abate and some form of intervention or public education may be warranted.
3. You have previously signalled that this review is one of your priorities for the current term of government.
4. MPI also considers that this review provides an opportunity to assess the appropriateness of some of the regulatory measures that apply across the wider indigenous forestry sector.
5. Should you agree to start the review process at this time, the first stage will be to confirm the scope of the review and to establish its Terms of Reference. MPI will provide you with a draft Terms of Reference in late February.

Recommendations

6. MPI recommends that you:

- a) **Note** that public opposition to the utilisation of swamp kauri continues to be vocal. **Noted**
- b) **Note** that you have previously signalled that reviewing the management of swamp kauri is a priority for you during the current term of government. **Noted**
- c) **Agree** to direct MPI to start the planning and preparatory work for the review. **Agreed / Not Agreed**
- d) **Agree** to discuss the purpose of the review with Minister Smith and to seek his views on scope. **Agreed / Not Agreed**
- e) **Note** that if you agree to start the review process at this time, further advice on the proposed scope and Terms of Reference for the review will be provided in late February. **Noted**

Scott Gallacher
Deputy Director-General
Regulation and Assurance
for Director-General

Hon Jo Goodhew
Associate Minister for Primary Industries

/ / 2015

Background

Purpose

7. This briefing seeks your approval to commence a formal review of the management regime that governs the utilisation of swamp kauri. You recently identified this review as one of your priorities for the next three years in the forestry portfolio.

Issue

8. "Swamp kauri" refers to kauri logs that have been buried and preserved in swamps for anywhere between 800 and 60,000 years. The timber is valuable, particularly when exported. Operators and retailers have been extracting and selling swamp kauri domestically for more than 30 years and a viable and valuable export industry has been operating for the past 5 – 10 years.
9. The swamp kauri sector is focused on Northland, although the actual presence of swamp kauri is expected to extend across the upper North Island.
10. In recent years, an increase in demand, particularly from China, has encouraged new operators to enter the industry leading to a significant upsurge in swamp kauri activity in Northland. This has resulted in increased public concerns around the appropriateness and legitimacy of the activity. A local environmental group, the Northland Environmental Protection Society (NEPS) is actively opposed to the utilisation of swamp kauri and is leading much of the local campaigning.
11. Much of the public opposition centres on the perceived unrestricted access to the resource, the environmental impacts of excavation and extraction, and the impacts that recent growth in the swamp kauri export market has had on the domestic sector.
12. In the past three years MPI has received 13 Official Information Act requests and provided 10 Ministerial responses on this matter. The majority of these OIA requests were received by NEPS in 2014. Last year the perceived issues surrounding the swamp kauri management regime also featured in national press articles and on television. The most recent Ministerial correspondence has gone as far as claiming that the regulatory regime is corrupt.
13. Despite intense media and public scrutiny over MPI's administration of the swamp kauri industry in recent years, there has been no evidence to suggest that MPI has not discharged its legislative responsibilities appropriately. Despite this, there is no sign that the public opposition will lessen and MPI considers that a more formal and structured review of the regime is warranted.

Context

14. The regulatory regime that governs the utilisation of swamp kauri is complicated. Many of the concerns that have been raised with how swamp kauri is managed are beyond MPI's current area of legislative responsibility.
15. The extraction of the resource and the requirement to ensure such extraction occurs in a sustainable manner is administered under the Resource Management Act 1991 by regional councils. The milling and export of swamp kauri is administered under the Forests Act 1949. The Forests Act requires that saw mills must record the volume and source of any swamp kauri that it processes, while the export prohibitions prevent the export of swamp kauri products unless they have been processed to a finished product or originate from stump or root material.
16. MPI makes every effort to ensure that indigenous timber products being exported satisfy the requirements of the Forests Act. This includes warranted forestry officers inspecting all notified exports before they leave New Zealand. If MPI is not satisfied that the export provisions have been met then the export consignment cannot leave the country until such assurance is provided.
17. However, it is not possible to police or restrict what happens to swamp kauri products once they leave New Zealand. It is possible that further processing could occur after the product arrives at its destination and MPI is aware of instances when this has occurred. Much of the criticism levelled at MPI is that product has been exported which has then been further processed in the overseas market, which implies that it did not meet the finished product definition under the Forests Act.
18. Appendix 1 provides an overview of the full suite of work that MPI undertakes with respect to swamp kauri to support its regulatory responsibilities under the Forests Act.

Proposed review

19. Continued public opposition to the utilisation of swamp kauri can be expected throughout 2015. MPI considers that a formal review of the regulatory system is warranted to confirm that we are meeting our existing legislative responsibilities but also to assess whether the management regime is fit for purpose. As part of MPI's preliminary priorities discussion with you prior to Christmas you indicated your support for such a review, § 9(2)(g)(i)
20. MPI is now seeking your approval to formally commence this review. Should you agree with this recommendation the first stage will be to confirm the scope of the review and to establish its Terms of Reference. As part of this preparatory stage we would like to better understand your drivers for the review, as they will influence its scope.

Scope

21. There are a number of considerations with respect to the scope of the review which MPI is considering:
 - a. Whether the review be limited to only MPIs responsibilities under the Forests Act or if it should extend to cover all aspects of the management regime taking account of the full suite of responsibilities that exist under the RMA.
 - b. Whether the review is limited to 'how' we implement the current regime or if it should encompass the wider legislative settings underpinning the regime and their appropriateness. This could have implications for how we address the review findings and will be influenced by whether there is an appetite for legislative change; should the review find that this is required.
22. Following an initial assessment, MPI considers that a comprehensive review of the entire management system is warranted. Anything less is unlikely to address the full suite of public concerns that have been raised.
23. MPI has had an initial conversation with Ministry for the Environment. MfE understands the drivers for the review and the role of the RMA in the current management regime, but acknowledged that its limited resources are focused on the wider RMA reforms. MfE also advised that as it has not yet given significant consideration to whether Northland Regional Council is discharging its duties appropriately under the RMA, a review into the management of the swamp kauri regime would be beneficial. Despite being responsible for the RMA, which is one of the key pieces of legislation governing the swamp kauri sector, neither MfE nor the Minister for the Environment has been the focus of the public opposition or media attention experienced by MPI on this matter.
24. If you support a comprehensive review then MPI recommends that you raise this issue with Minister Smith and seek his formal agreement that the review includes the relevant responsibilities under the RMA. A letter will be prepared for you to send to Minister Smith on this matter.

Terms of Reference

25. As part of the preparatory phase, consideration will be given to how the review will be conducted and by whom. Options available for consideration include:
- a. Whether the review is lead internally by MPI or an independent external review team. The former is likely to be easier to deliver and less costly as much of the required knowledge and understanding is already available within MPI. However, there may be concerns about integrity and transparency of the review if it is lead internally. As before we will give this further consideration, but the option to publish the review findings would likely address concerns around transparency.
 - b. Whether the review is focused internally on central and local government roles and responsibilities or if it should seek views from stakeholders in the region, including those both opposed to and supportive of the current regime. Opening the review up to the wider community will increase costs and complexity but is likely to support transparency and stakeholder buy-in to the review findings.
26. MPIs preliminary assessment is that the review be lead from within MPI but that it should be externally focused and seek views from stakeholders and the wider community.
27. MPI considers there are two additional benefits associated with delivering this review:
- a. Provides an opportunity to assess the regulatory measures that apply across the wider indigenous forestry sector to ensure that they are enabling sustainable utilisation within appropriate environmental limits.
 - b. Provides an opportunity to better understand the economic contribution that the swamp kauri sector contributes to Northland and regional economic development more generally.

Appendix 1

To ensure that the provisions of the Forests Act are being met MPI with respect to swamp kauri the following process steps are in place:

- Regular inspections of sawmills registered to mill indigenous timber and routine visits of excavation sites.
- Require that exporters notify MPI of their intention to export swamp kauri, 10 days prior to export.
- Source of all swamp kauri exports is verified prior to export.
- AsureQuality completes a physical inspection of the export consignment to ensure it complies with the definition of 'finished product' under the Act.
- NZ customs alert in place if consignments are detected that may not be compliant with the Act.
- Comprehensive training material prepared to assist all warranted forestry officers (MPI and AsureQuality) to undertake inspections of export consignments.
- Factsheets have been prepared for the swamp kauri sector detailing the export and milling regulations as per the Forests Act, with the aim of improving voluntary compliance.
- Public information factsheets have been produced detailing MPI's monitoring and regulating procedures relating to the export of swamp kauri.
- Maintaining regular contact with the Northland Regional Council (NRC) to ensure both MPI and NRC are aware of all swamp kauri excavation sites.

Distribution
Minister
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Minister's Office

Ministry for Primary Industries
Manatū Ahu Matua



18 February 2015

Document Number: B14-399

Update on the proposed review of the swamp regime in advance of your meeting with Hon Nick Smith

Purpose:

This briefing responds to your request for additional advice on management of swamp kauri (B14-354 refers), including key facts and figures, perceived problems and our proposal for next steps. ^{Out of Scope}

It also provides some suggested talking points for your meeting with Hon Nick Smith on Thursday 19 February.

Minister	Action Required:	Minister's Deadline
Associate Minister for Primary Industries	Note and agree the recommendations contained in the briefing.	For your meeting with Hon Nick Smith on Thursday 19 February.
CC Minister for Primary Industries		


MPI Officials Attending the Meeting

Aoife Martin, Director Spatial, Forestry and Land Management

Contact for telephone discussion (if required)

	Name	Position	Work	After Hours
Responsible Manager	Aoife Martin	Director Spatial, Forestry and Land Management	§ 9(2)(a)	§ 9(2)(a)
Principal Author	§ 9(2)(a)	Senior Analyst		

Key Messages

1. The level of public interest in the management of the swamp kauri resource has reached a point where officials consider that a formal assessment of the regulatory settings around swamp kauri is justified.
2. While harvesting of swamp kauri is economically beneficial, concerns are being expressed about the environmental impacts associated with extracting the resource and whether regulation is adequate to ensure that use of the resource is sensibly controlled.
3. We recommend that you agree to a formal assessment led by MPI assessing the regulatory regime around swamp kauri, including rules around extraction, milling and exporting.
4. While the outcomes of the review cannot be predetermined, it is likely that if there is a need to change the forestry provisions that manage the sector this could require a legislative change. In contrast changes to regime under the Resource Management Act (RMA) will likely be affected through regional and district plans without the need for any legislative amendment.
5. Out of Scope

6. We recommend that you discuss these issues with Hon Nick Smith at your meeting on 19 February.

Recommendations

7. MPI recommends that you:

- a) **Note** that concerns have been expressed by the public about the management of swamp kauri in Northland

Noted

- b) **Note** that MPI is satisfied that it is implementing the current regulatory settings appropriately

Noted

- c) **Note** that MPI believes that the current regulatory settings may not be optimal

Noted

- d) **Agree** that MPI lead a formal assessment of regulatory settings that impact on swamp kauri

Agreed / Not Agreed

- e) **Agree** to discuss these issues ^{Out of Scope} [redacted] with the Minister for the Environment at your meeting with him on 19 February.

Agreed / Not Agreed

Scott Gallacher
Deputy Director-General
Regulation and Assurance
for Director-General

Hon Jo Goodhew
Associate Minister for Primary Industries

/ / 2015

Purpose

8. We met with you on 10 February regarding the regulatory regime and management issues surrounding extraction and export of swamp kauri in Northland. You requested further advice particularly on the problem definition, key facts and figures, and the potential scope of a formal assessment (review) of the current management regime.
9. The briefing seeks your agreement to proposed parameters of a review into the management regime of swamp kauri.
10. This briefing also provides talking points (Appendix 1) to support your conversation with the Hon Nick Smith on this issue. Out of Scope

Key facts and figures

11. Swamp kauri is defined as kauri logs that have been buried and preserved in ancient swamps for between 800 and 60,000 years. Over time both the kauri and the swamp have become part of the soil layer. Swamp kauri is not kauri dug up from swamps, but from land that may have been swamp in ancient times.
12. Swamp kauri has been extracted from Northland land for more than 30 years. Mostly it has been converted into high-value furniture.
13. Most swamp kauri is dug up from farmland (estimated at 90% of swamp kauri extraction). It is highly unusual for swamp kauri to be extracted from indigenous land areas¹, and this practice requires consent under the Resource Management Act. The Forests Act prohibits the milling of any such timber unless there is a registered sustainable forest management plan, permit or personal use approval.
14. The resource is spread throughout Northland and Auckland, with known excavation sites located from the Aupouri Peninsula north of Kaitia to Takanini in South Auckland. While there are no known excavation sites south of Auckland, it is probable that swamp kauri occurs over the entire natural kauri range, which extends as far south as Tauranga and Kawhia.
15. Once milled the timber is highly valuable, especially overseas. Unmilled logs are not of commercial value and are sometimes used domestically in carving and small-scale manufacturing such as woodturning.

¹ 'Indigenous land' refers to land with indigenous material growing in it, whether trees, plants or grasses.

16. There are six operators that excavate and export swamp kauri in Northland, and a further three that just excavate. MPI is able to collect information on the size of the sector from sawmilling records. However, this can only ever provide an estimate of part of the total volume excavated, as not all swamp kauri is sent to a saw mill for further processing. MPI is aware of operators that are storing large volumes of swamp kauri with the intention of milling it in the future.
17. Information collected by MPI over the past five years indicates that:
 - a. 37,500 m³ of log volume has been approved for milling. The recovery rate for swamp kauri is estimated to be 50%.
 - b. 6200m³ of log volume was approved for export (including whole stumps, stump timber and finished product).²
 - c. The average value of sawn stump timber is currently \$3000-\$5000/m³.
 - d. The average value of swamp kauri in a high-value finished table is estimated to be \$20,000/m³. However this is a highly variable figure and depends on the artist or manufacturer and the destination.
18. Overseas sales have most recently become dominated by China (approximately 75% of all export trade) with Europe being the second biggest export market. Export volumes steadily increased from 2009 to 2012 then increased significantly again in 2013, and again in 2014. Between 2012 and 2014 export volumes increased seven fold.
19. The volume of swamp kauri still in the ground is unknown. A preliminary assessment made by scientists from Auckland and Waikato Universities is that we cannot assess how much swamp kauri exists in the ground. Operators expect supply to continue for many years, but recognise that they will need to dig deeper to extract it.
20. We are advised that demand is at such a level that supply is the limiting factor.
21. Two regulatory regimes impact on the management of swamp kauri activity:
 - a. The Resource Management Act (RMA) governs excavation and extraction (including requirement to extract in a sustainable manner), with regulatory decisions made by regional and district councils through their planning processes
 - b. The Forests Act governs the milling and export of indigenous timber, with regulatory decisions made by MPI.

Benefits of harvesting swamp kauri

22. Swamp kauri is of high commercial value. While there is some public opposition to its extraction, it is currently providing a healthy economic return to a region that has relatively low levels of economic activity.

² The discrepancy between volumes approved for milling and volumes approved for exporting is explained by operators storing milled timber under cover (where it can be stored indefinitely), and sales to the domestic market.

23. Scientists at universities and crown research institutes are also interested in swamp kauri, because it provides valuable information about soil and climate. They currently rely on the goodwill of operators to secure samples for research purposes. Any review will need to consider how swamp kauri extraction can meet scientific research objectives as well as economic objectives. For example there may be an opportunity to formalise the arrangements the science community currently has with operators.
24. MPI considers that the ideal regulatory regime would support reasonable levels of extraction, milling and export of swamp kauri as an economically and environmentally sound resource.

Issues around utilisation of swamp kauri

25. Recently, public opposition to the extraction of swamp kauri has become vocal and begun to receive more media coverage. Concerns are expressed mainly in Northland itself, often by environmental groups concerned about how and where the resource is extracted. Public concern fits within three themes:
 - a. the environmental impacts associated with extracting the resource, for example that irreversible damage may be done during the extraction process;
 - b. the implications of removing a finite resource, because swamp kauri, like other ground-based resources, is not renewable;
 - c. issues about whether sufficient swamp kauri is made available for use in the domestic market – there is a small industry manufacturing trinkets and furniture. We understand that some operators donate small amounts of timber to local wood turners.
26. Over the last two years, MPI has been under significant scrutiny relating to how we implement the provisions in the Forests Act that control the milling and export of swamp kauri. To date no issues have been identified with how we are fulfilling our current regulatory role.
27. However, the regulatory regime is split between two statutes and is highly complex. There are questions about whether we are regulating and controlling activity at the right points and in the right ways. How the RMA and Forests Act work together to manage swamp kauri is also unclear, and given the two processes are not currently well aligned it is possible that parts of the supply chain may not be well managed.

28. s 9(2)(g)(i)



29. Some of the negative publicity over the last two years has arisen from people claiming that further processing is occurring after the timber leaves New Zealand. While this may occasionally be the case, if the product meets the definitions specified in the Forests Act then there is no justification to prevent its export.
30. The issues with the export provisions in the Forests Act also extend beyond the swamp kauri regime and the justification for these restrictions is routinely questioned by operators in the wider indigenous forestry sector.

Proposed scope of assessment work

31. In light of the current negative publicity, the size of the problem and the impact of two different regulatory regimes, we have given careful consideration to the appropriate scope of a formal assessment of the existing swamp kauri regulation.
32. Extraction of swamp kauri per se is not necessarily a problem. Such extraction is not sustainable in the traditional sense because it is a non-renewable resource. While there are rules in place through regional plans to ensure that wetlands and indigenous forests are protected which protect some swamp kauri from excavation, the application of these rules may require strengthening.
33. An assessment of the regulatory settings is needed so that publically-voiced issues about swamp kauri are addressed satisfactorily while still allowing the economic benefits to local communities to continue.
34. While swamp kauri is currently an issue of concern to some members of the public, there are other 'buried timber' species across New Zealand (e.g. rimu on the West Coast of the South Island). There is a need to ensure there is consistency and a reasonable precedent set by any management regime targeted at swamp kauri.
35. We propose a formal assessment of the regulatory settings, to be led by MPI, which would cover the milling and export regimes run by MPI and the RMA regime around extraction.

Suggested parameters for review


Timeframe	6-8 months – completion with recommendations by end October 2015
Led by	MPI in consultation with MfE, LGNZ
Reporting to	Associate Minister for Primary Industries
Objective	Identify the most appropriate regime to manage the extraction, milling and export of swamp kauri
Consulting with	MfE, LGNZ, Northland Regional & District Councils, pre-identified concerned environmental advocates, industry representatives
Products	Discussion paper (March) followed by recommendations to Minister/s OR fact-to-face consultation with predetermined questions followed by recommendations to Minister/s

36. The review would also examine other regimes that regulate the extraction of valuable material from land in New Zealand – for example, coal, minerals, pounamu. We anticipate being able to draw on at least some of these regimes when recommending change options for regulation of swamp kauri extraction.
37. We recommend a limited consultation outside central and regional government as part of the review, including environmental advocates who have raised concerns up to now, and industry representatives.

Meeting with Hon Nick Smith

38. At your meeting with Hon Nick Smith on 19 February, you will want to discuss:
 - a. the need for a review;
 - b. the scope of the review specifically seeking his support to extend it to include RMA responsibilities;
 - c. the role of MPI in leading the review; and
 - d. the possible outcomes of the review.
39. If the review recommends change to the Forests Act then it could point to some form of legislative change.
40. If the review recommends change to the RMA regime, MPI expects that it would be at the district and/or regional plan level rather than requiring legislative change.
41. Officials believe that an assessment of the current regulatory regimes relating to swamp kauri is justified; and that such an assessment would help to clarify government's objectives and expectations around this resource.
42. MPI has shared the content of this briefing with Ministry of the Environment officials.


Out of Scope



Out of Scope

Released under the Official Information Act 1982

Out of Scope



Released under the Official Information Act 1982


APPENDIX 1

TALKING POINTS FOR MEETING WITH HON NICK SMITH


Swamp Kauri

1. There is a level of noise around extraction and export of swamp kauri, which extends to print media (NZ Herald, Northern Advocate) and an item each on TVNZ (*Sunday*) and TV3 (*3rd degree*).
2. MPI has been scrupulous in following up allegations of negligent or improper behaviour by regionally-based staff. There is no evidence of inappropriate decision-making by officials.
3. Is a review desirable? How could officials involve those who have concerns about utilisation of swamp kauri in such a review to address the negative coverage?
4. Do we agree that banning extraction of swamp kauri outright is not the solution? If we do, then the focus needs to be on getting the regulatory regime right. This would be the main focus of the review.
5. Are you supportive of the review addressing the full extent of the swamp kauri management regime?
6. The implications of the review on the extraction side would be at the level of council planning rather than the legislation.
7. We will need a form of communications strategy around the review, so that the public gets consistent messages.

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