



18 December 2018

Mr Peter Hughes CNZM
State Services Commissioner
State Services Commission
PO Box 329
WELLINGTON 6140

Dear Peter

State Sector Inquiry into the Use of External Security Consultants

Thank you for your letter of 17 December 2018 regarding the inquiry carried out by Doug Martin and Simon Mount QC in relation to the State Sector Inquiry into the Use of External Security Consultants (the Inquiry). I welcome the report and have appreciated the manner in which the inquirers have dealt with MBIE during the course of the inquiry.

This letter sets out the actions MBIE has underway, or will be taking, in order to fully respond to the findings and recommendations in that report.

Key findings in relation to MBIE

The Inquiry finds that while no single event breached the State Services Commission's (SSC's) Code of Conduct, MBIE's conduct, considered as a whole, failed to maintain the level of objectivity and impartiality that the SSC's Code of Conduct requires. I understand that this stems from multiple issues arising in the 2012-2015 period, including that some interactions lacked appropriate professional distance, and the way MBIE set up cross-government work in relation to enforcement of the Crown Minerals Act (specifically, Operation Exploration). The Inquiry considered that the latter did not keep TCIL (who were acting on behalf of industry participants) at appropriate arms length. Added to this, while MBIE took steps in 2013/14 to separate policy, regulatory and promotional functions in regards to oil and gas exploration, this was not sufficient to address the bias towards the industry which was perceived by some stakeholders opposed to exploration.

How MBIE will respond to the findings of the Inquiry

In response to the Inquiry's findings, you have suggested that I consider reviewing our internal policies to assure myself they are consistent with the SSC's Code of Conduct. You have also requested that I undertake a review of Operation Exploration. I agree that both actions are warranted, and in addition have set out below some further steps that we are taking related to the findings of the Inquiry.





Model Standards for Information gathering and public trust

I welcome the guidance from the Commission in relation to how agencies ensure appropriate planning, governance and oversight of information gathering activities for compliance purposes. I agree with your view that agencies must consider not just what they are allowed to do, but also what they should do, when utilising the authority given to us by Parliament. We must act in a way that helps to foster New Zealander's trust and confidence in the public service.

In recent years, MBIE has made significant improvements in how it undertakes its regulatory stewardship role and oversees the operation of the sixteen regulatory systems for which it has oversight responsibilities. This includes the establishment in 2017 of MBIE's Regulatory Governance Board, comprised of Deputy Chief Executives and senior specialists in regulatory policy and practice.

In order to ensure adherence to the new Model Standard is embedded within MBIE, I have asked a General Manager within my Extended Leadership Team, who is highly experienced in regulatory governance and operations, to take responsibility for overseeing the implementation of the Model Standards within MBIE. This person will provide assurance to me that MBIE is, and will continue, to operate consistently with the Model Standards across all our regulatory regimes. As a member of the Regulatory Governance Board, they will ensure that Deputy Chief Executives responsible for the regulatory functions of MBIE are informed of any changes required.

As the Regulatory Practice lead for the public sector, I also see an opportunity for MBIE to help support other agencies to ensure they are acting consistent with the Model Standard through the Regulatory Practice Initiative (G-REG).

Oversight of operational compliance activities

It is important that the way in which we go about our operational compliance work is appropriately planned and governed to ensure both compliance with the law, and consideration of our broader responsibilities as public servants. The Inquiry has raised queries about the way in which aspects of our regulatory compliance work in the Crown Minerals space was undertaken, and found that we did not keep TCIL at an appropriate arms length.

I agree that MBIE needs to review the way in which we are planning and operationalising our responsibilities in relation to the non-interference provisions in the Crown Minerals Act. I will develop a Terms of Reference to review the governance and membership of "Operation Exploration" and of the Mineral Exploration Joint Intelligence Group which is part of that. I would appreciate input from the State Services Commission in finalising the Terms of Reference.

I expect the findings from the review to help inform the work of MBIE's Regulatory Governance Board in ensuring that we have appropriate governance and oversight of all our operational compliance activities.





Ensuring staff understand and maintain appropriate professional distance

MBIE has initiated significant work to help staff understand and make appropriate declarations of interests, in order to identify where potential conflicts of interest may arise. MBIE's Integrity Unit has already developed a training and awareness package that is being delivered to leadership teams, and a second package aimed at line managers who facilitate the declaration of interests by staff.

We are also developing requirements for a new declaration of interest register to make it easier to lodge, manage, and monitor actual, potential or perceived conflicts. A programme of speakers on integrity and ethics topics, to raise overall awareness of these issues, and an online learning module, (utilising MBIE-specific scenarios) are also being developed.

MBIE will be reviewing and refreshing its Code of Conduct in 2019. The findings of the Inquiry will be taken into account in progressing this work. In particular, we will take into account the findings in relation to individual relationships to ensure our people are given appropriate guidance about interactions with stakeholders. The review is scheduled to commence in April 2019.

MBIE will also be commencing a review of its declaration of interests policy and procedure in the New Year. The new procedures will contain more examples to help our people identify when interests may require management to keep them safe and the reputation and trust of our organisation strong in the minds of New Zealanders.

Please do not hesitate to contact me if you would like to discuss any aspect of my response.

Kind regards

Carolyn Tremain
Chief Executive

