

**POST-CABINET PRESS CONFERENCE: MONDAY, 31 OCTOBER 2017**

**PM:** Good afternoon, everyone. We have held our second Cabinet meeting this afternoon, and this press conference gives me an opportunity to reflect one of the first substantial decisions that has been made by Cabinet. This Government places a high priority on homeownership and housing affordability. We stand strongly in favour of the view that housing is a right. That is why we have been committed, and remain committed, to banning foreign speculators from purchasing existing homes in New Zealand. It's an ambition that is shared by New Zealand First and also the Green Party as our coalition and as our confidence and supply partners. Today I can confirm that Cabinet and Ministers have found and agreed a solution to make housing and homeownership more accessible for New Zealanders. The Government will introduce an amendment to the Overseas Investment Act to classify residential housing as sensitive and introduce a test for residency. The effect of this will mean that non-residents or non-citizens cannot purchase existing residential dwellings in New Zealand, with the exception of Australian citizens, because New Zealand citizens hold the same right to purchase in Australia and it is a right we will extend to them in New Zealand.

We expect legislation to be in place and introduced before Christmas and to take effect once passed in early 2018. This solution does not breach our Korea FTA. It will not impact on TPP if passed on the time line that I have proposed, nor will it impact on the China FTA. It poses challenges for one agreement, and that is our agreement with Singapore, but we have been advised that there is a way through for this agreement, and this is also an agreement that is due for renegotiation soon. This presents and represents a simple, clean solution to help us act in the best interests of homebuyers in New Zealand.

I want to speak briefly to the situation that we as a new incoming Government have found ourselves in. First, the former Minister for Trade in August said that there was nothing in the TPP to stop future Governments from introducing discriminatory tax settings. He, of course, was referring to the potential of a stamp duty. What he failed to recognise is that a stamp duty would breach the Korea FTA. It was not a plausible solution for us. In fact, it was a poor solution from a Government who chose to ignore New Zealand's best interests when they were negotiating, particularly TPP.

I would also extend that assertion for negotiations more broadly for the TPP. Yes, TPP11 is in many respects a very different agreement than it once was, but it still holds very challenging clauses around investor-State disputes and settlements. We, at this late stage, are now focused on this issue. We have given a new mandate to negotiators around these clauses. We will do all we can at this late stage to negotiate in the best interests of New Zealand and New Zealanders when it comes to the use of ISDS clauses. In Cabinet today we have also issued instructions to negotiators that we would like them to ensure that no further free-trade agreements include ISDS clauses. In the meantime we will continue to work through and develop a forward-looking trade agenda, one that puts New Zealand and its exporters at its heart and one that ensures in future we do not find ourselves again in this compromised position. I am happy to take questions, as is our Minister for Trade and Export Growth.

**Media:** Prime Minister, does this mean that the argument consistently put forward by the previous National Government that it was impossible to have a ban on foreign buyers and sign TPP—that their argument was, effectively, false?

**PM:** Yes, absolutely. Their argument was false. We have found a solution, a way that allows us to act in the best interests of New Zealanders and homebuyers in New Zealand. That allows us to now focus on some of those additional sticking points with TPP11, including the ISDS clauses. But you're right, the Government—the past Government—was, essentially, wrong when it said that there was no way through on this.

**Media:** Is it the TPP11 that's enabled you to do this, or could you have done it under the TPP12, as well?

**PM:** There were clauses that allowed exemptions when it came to overseas investment. So my understanding is that we would have been able to do it under the previous iteration, as well.

**Media:** You say you're determined to do your utmost to amend the ISDS provisions, but you're not saying that that's—what, you'll die in a ditch over that?

**PM:** I'm not going to expose, again, our negotiating position here in this press conference this afternoon. What I'm flagging is that we have, and always have had, concerns with the ISD clauses, as has almost every State around the table at some time or another. We have now given a renewed mandate to our negotiators to go into those negotiations at this late stage and seek, as far as possible, to remove New Zealand from those clauses.

**Media:** But you said—but obviously in future trade agreements, say the EU deal, you wouldn't do it with them if there was an ISDS. So that's a new policy.

**PM:** Yes. We are—

**Media:** But you're not saying the same for the TPP, are you? So it's still going to be—

**PM:** But, again, I'm not going to undermine our negotiating position. We are going in with the explicit intent to try and remove New Zealand from these clauses, but I will acknowledge it's very difficult at this late stage. It will be difficult at this late stage to achieve that outcome, but that is not going to stop us from trying.

**Media:** The ISDS is a fundamental plank of the TPP. I mean, you can't take that out and have a TPP.

**PM:** And for some countries it has been a fundamental obstacle, as well.

**Media:** So in terms of this legislation that you are going to introduce, it's based on existing residential housing still, so can foreigners buy—will foreigners be able to buy residential land without existing housing on it, and put a house on it?

**PM:** Yes. That's always been our position. Our position has always been that if you are adding to supply, for onsale of that new dwelling, then you will be able to build, if it is provided to be sold on.

**Media:** So the test isn't to do with the land; it's to do with the fact that there is a house on some land?

**PM:** There will be still a test around it being classified as residential land in order for that dwelling to be built on it, but also then the test becomes whether or not a home will be built to be onsold.

**Media:** Do you know if this advice was given to the previous Government, that they could have done this?

**PM:** I don't believe they ever asked for it.

**Media:** PM, so will you put this in place so that non-resident foreigners can buy homes off the plan, or will?

**PM:** Yeah, that's a detail that we're working through. It's been raised with us that particularly when it comes to apartment dwellings that this is potentially an issue. We're working through some of the detail it, but our intent is to stop existing homes from being purchased, and for new dwellings it must be adding to additional supply. We want to increase the supply of housing available in New Zealand whilst, of course, reducing down the demand for existing dwellings.

**Media:** How can you change the OIA to say that you can buy a house when it is a new house, but after it is built that will then become sensitive?

**PM:** You can buy the land in order to build a new home on it. We're confident, and our advice is, that it will be possible to create those tests, but, essentially, upfront, it will, essentially, act as a ban for anyone who seeks to purchase an existing home.

**Media:** Have you talked to Singapore about the issues there? When are you going to do that? When you can try and renegotiate—

**PM:** Yeah, look, we'll undertake to do that as soon as we are able. Of course, our priority has been finding a workable solution, with some urgency, in the lead-up to APEC in particular. But given that we have that renegotiation on the agenda, that does provide us an opportunity. But, again, we'll look to raise it with them as soon as we are able to.

**Media:** Can you tell us which countries we have common cause with on ISDS clauses, or how many of the TPP countries there are who have common cause with us?

**PM:** Who have taken issue over time? I know that Canada certainly has their experience with NAFTA. In fact, most nations at some point or other have raised concern. David, did the list—

**Hon David Parker:** Through time, just about every country. You know, Australia's been on both sides of the debate. So's Japan, so's Canada, so are various other countries, and so's New Zealand.

**Media:** But I am talking about—

**Hon David Parker:** They are all in it now, as we speak.

**Media:** Yeah, but as you head to TPP talks, how many of those countries in the TPP11 do you think have common cause with New Zealand and would like to see the ISDS clauses out?

**PM:** Well, that's something that we're testing. But, obviously, the point that we're at right now is that up for renegotiation are not issues around tariff barriers, but there are some other additional issues that are on the table. I accept that they are narrow, but that is not going to stop us from trying to act in New Zealand's best interests, even if it is at this late stage.

**Media:** How quickly can you get this passed in 2018?

**PM:** Our view is we can have it introduced before Christmas, and we'll aim to have it passed early in 2018. Of course the enforcement, if down the track any enforcement of TPP11, would become a cut-off date, so we are aiming to do it as early as possible.

**Media:** Do you think this could create some tensions or issues at APEC next week when you meet with the TPP leaders?

**PM:** I think all APEC leaders absolutely understand the position of any nation's leader to govern and negotiate in the best interests of the country they represent. I absolutely believe they understand that. It's something that I've raised in some of the conversations I had when I became Prime Minister. Some of the first things that I advocated on behalf of New Zealand around were these very issues, and I absolutely expect they'll understand the position that we're in.

**Media:** Do you expect to take any measures to stop a sort of rush of people trying to get in under the wire before you get the law into place?

**Hon David Parker:** I don't know how you could, and I don't think it will be a big issue, to be honest. We will have this legislation introduced before Christmas, and we need to bring it to conclusion. If TPP did proceed, which remains possible, it needs to be passed finally before TPP comes into effect, not before it's signed.

**PM:** So best indications are that would be early next year. Bernard?

**Media:** So how will this be policed? Will the OIO get extra resources? Who'll be the one who will decide whether someone's a foreigner or not?

**PM:** Well, just up front, I mean, obviously every transfer of title requires a conveyancer or lawyer, and they will be familiar with the fact that this measure exists—that this ban is in place. So really, there will be a role for them to play at the point of sale and at the point of transfer of title. So that will be your first test. Beyond that, the OIO will be particularly focused on applications that relate to the purchasing of land for building existing housing. That will be where I think their focus on applications will be. We will need to make sure that they are resourced to process those applications. David?

**Hon David Parker:** Yeah. Someone who purchased a property in breach of the law would be entering into an illegal transaction, and they would be exposed to the remedies under the Overseas Investment Act, as currently occurs for people who are buying sensitive farmland.

**Media:** Were New Zealand First and the Greens on board with this, and have they got any requirements, or specific requirements—

**PM:** Yes. They've always—both parties, you'll see, share and support the position of banning foreign overseas buyers from purchasing existing homes. Both have campaigned around addressing this issue to make sure that housing is more accessible for New Zealand buyers. They're both, obviously, aware of the measures that we're taking and support them.

**Media:** What about the ISDS, though?

**PM:** On ISDS, both parties have expressed strong concerns around ISDS. As I said this morning, I'm seeking consensus around our negotiating position.

**Media:** But when it comes to ratifying TPP11—assuming the Cabinet wants to—is it the case that New Zealand First will be required to support that through collective Cabinet responsibility, but the Greens will be able to oppose it?

**PM:** Oh look, at this point our absolute focus has been the consensus around that negotiating position, and that is what we have. And I'm focused now on the process of negotiation that we have in the final stages of TPP11. That's where my focus is.

**Media:** So how many homes do you expect this will free up in, say, the first 12 months, or how many foreign buyers are buying New Zealand homes—

**PM:** We've always expressed an intense frustration with the lack of data made available to us. The Government's first attempt to size this issue was inadequate. They didn't include companies or trusts purchasing, or those who may even have temporary ability to reside in New Zealand—they may not be residents. So it's always been difficult to quantify. We know, though, that what has been done has really under-measured the existence of this issue in New Zealand.

**Hon David Parker:** Can I also add that it depends on what part of the property cycle you're in. When things were really hot internationally in property in recent years and when capital flows changed around the world, there was no doubt that at times there was a more greater pressure of foreign buyers on existing homes than is the case today. But those things can happen again in the future, and so we need to be able to protect New Zealand for now and the future. And if this is not done before TPP concludes—if it does—then we, effectively, lose the right to impose that control for ever, not just under TPP but under earlier trade agreements because TPP effects would flow through to those earlier agreements under most favoured nation clauses. So if New Zealand is to retain the right to control who buys our existing homes, this is the time it needs to be implemented.

**PM:** And can I add as well that this of course places us in the position of many comparable nations. It's not unusual that we're acting in this way now; it's unusual that this hasn't been done before.

**Media:** How can you figure out if trusts and other legal entities, whether the beneficial owners are really foreigners or not?

**Hon David Parker:** You can require a certificate from a lawyer to the best of their knowledge the beneficial owner of this—

**PM:** Is a resident and citizen.

**Hon David Parker:** —land that's being transferred is not a non-resident or a non-citizen. Beyond that, it's a bit like tax law. If people breach it, then they'll be liable to the consequences of the law. No doubt, if they're borrowing money to secure across those properties, their banks will be interested, too.

**Media:** What if you decided to put that law about non-citizens and non-residents? Because at the moment the rules are focused around non-residents for tax purposes. It seems to have widened the restriction out, particularly for citizens. And some people will be residents but not citizens.

**Hon David Parker:** Our underlying ethos here has been that if you've got the right to live here long-term, you've got the right to buy here. That's an expression of that.

**Media:** But what if you're not a citizen? That means you can't buy.

**PM:** Well, if you're a resident, then you can, and if you're classified as a permanent resident or hold a resident class of visa, you are able to purchase here. And that's for very clear reasons. If you have the right to live here long-term, you should have the right to buy here, and that's the really simple principle that we've enforced with this solution, and it is the best solution that we can find that enables us to balance all of those expectations.

**Media:** And what about non-resident foreigners who already own property? Will they be forced to—

**PM:** This is not retrospective, and thank you for the ability to clarify that point. This is not a retrospective piece of legislation; this is a forward-looking piece of legislation. We have to act in good faith, for those who have already purchased in New Zealand.

**Media:** But they wouldn't be able to purchase new houses?

**PM:** Not unless they were building.

**Media:** And just in the press release you've got that this means non-residents or non-citizens can not purchase existing residential dwellings. So there's no—

**Hon David Parker:** The intention is to—if there is a New Zealand citizen who is living overseas and not resident in New Zealand, they will still be able to buy in New Zealand.

**PM:** Yeah.

**Media:** What about a non-citizen who is resident in New Zealand?

**PM:** So it's if you're either a resident or you're a citizen. If you're neither of those things, you cannot buy.

**Media:** And will the buying new houses, land and new houses—will those houses then have to be sold on, or could these non-resident foreigners rent—

**PM:** Yes, yes, that is correct.

**Media:** Could they rent them out or does it have to be sold?

**PM:** Either sold or leased. Audrey.

**Media:** Just on the stamp duty, are you implying that National were misleading in conveying the advice they were getting from officials, or do you think that the officials have given you different advice to National?

**Hon David Parker:** Well, I have no indication that different advice was given by officials, and I'd be surprised if that was the case. I have copies of statements that were made by National during the election saying that a ban, as we're proposing, would cut across a range of existing free-trade agreements—and they include Australia, Korea—and cause

considerable difficulty with China. They're just wrong on that, as we are now proving. And they have also said that we could introduce a stamp duty, but we now learn that that would breach the South Korean free-trade agreement.

**Media:** But the Prime Minister spoke about the TPP provisions for a stamp duty, but you're talking about Korea. They are separate things, aren't they? So the stamp duty could apply for the TPP but not for the South Korea FTA?

**PM:** Of course. The implication was that a stamp duty presented some kind of solution on this issue, and the point we're making is it didn't.

**Media:** So how could National have said these things without advice from the ministry? You're saying that weren't even advised, they just made it up?

**PM:** I can't say that for sure when it comes to the issue of a stamp duty. When it comes to the solution that we've found, I'm not clear that they ever really sought advice on the use of the OIA or an OIO provision as a way of resolving this issue. It was obviously clear to both us and, I'm sure, to the public—this was not an issue that they saw as being problematic. The Government never saw the need to ban foreign speculators from purchasing existing homes, so therefore why would they have sought advice on it. Enough advice, however, to speculate around issues like stamp duty without being clear on the wider implications.

**Media:** But wasn't the select committee advised in the South Korea deal that you could not ban foreigners under the South Korea? I'm not sure whether you could say it wasn't just the OIA that—

**Hon David Parker:** Not quite—not quite. The advice was opaque.

**Media:** How do you mean? Do you mean it was fudged?

**PM:** Let's just say we've got advice now, and it's very clear on what we are able to do.

**Media:** Who's this advice from? Is it Treasury or MFAT or both?

**PM:** Of course, we've had a range of advice from officials because this also affects Land Information New Zealand. The OIO is administered in part by the Associate Minister of Finance, and there are obviously trade implications, so we've sought advice from a range of officials.

**Media:** Do you feel that they've been working on this for a while or just for the last few days?

**PM:** Oh, certainly there was a level of preparedness in case of a potential change of Government. I certainly felt that we received advice as early as we could when we came into office, but I think every measure they took to prepare was appropriate.

**Media:** On that issue, have they provided advice on the economic impact of these changes?

**PM:** Not that I've explicitly seen.

**Media:** Do you think officials failed to offer free and frank advice on this issue when National was in Government?

**PM:** No, that's not an aspersion I'm going to cast, because that assumes that that advice was sought, or at least that officials were left the impression that the Government required that advice. So I'm not going to cast that aspersion.

**Media:** So is it that, in terms of foreigners buying land, are you worried that there could be foreign speculators that start land banking or start accumulating a lot of residential land?

**PM:** Oh, land banking is an issue that also we'll be looking at in more detail further down the track. At the moment our priority has been dealing with this issue as quickly as we can, because these OIO provisions need to be resolved sooner rather than later.

**Media:** Just on the Australian exemption, there's all sorts of rights that New Zealanders don't have in Australia that we afford Australians here, so I'm just wondering why you felt the need to give them reciprocity in terms of the housing.

**PM:** Fair's fair. They've given us reciprocity, and so our view is that—

**Media:** But in lots of areas they don't.

**PM:** Indeed. But if we want to maintain a moral high ground then we need to ensure that we're maintaining our side of the deal, and, of course, we've signed up to agreements that make it implicit on us that we do that.

**Media:** So if South Korea allows New Zealanders to be able to buy houses there, will we reciprocate?

**Hon David Parker:** Well that's—

**PM:** They don't.

**Hon David Parker:** They don't.

**Media:** But what if they were to?

**PM:** Well we've got an explicit agreement around with Australia on this issue. They already give us the right to do that in Australia, and it is a different case. We have a right to live in Australia; they have a right to live here. That then extends the right to buy.

**Hon David Parker:** Perhaps the better question to ask, Alex, with respect, is: why is it that the prior Government agreed with South Korea that South Korea could and does ban New Zealand buyers of their existing homes, but they put at risk that right.

**Media:** I just want to know what your thinking is, so?

**Hon David Parker:** We think that if you've got the right to live here, you've got the right to buy here, but not otherwise.

**Media:** Just in terms of passing the ban clarifying the Act before TPP enters into force, is there just sort of a general assumption that we would be better protected if that happened before it entered into force or is there an explicit clause in TPP that basically says anything you do before then is protected?

**Hon David Parker:** We've been advised that we are best to act with alacrity.

**Media:** You said before that the TPP12 could have been—you could have done this with the TPP12 in place, and it wasn't just an issue of a window being opened by TPP11, so that's inconsistent with what you just said.

**Hon David Parker:** No, well, it would have had to have been done with alacrity in respect of TPP12 too.

**PM:** Of course.

**Media:** The alacrity between what and what? Sorry, what—

**Hon David Parker:** Before it came into force.

**Media:** So it's not the signing or the ratification, it's when it comes into force.

**PM:** Comes into force. Indeed.

**Media:** Will you be releasing this advice that you've been given on this quickly, because it seems relevant to what you've announced, given what we've been told.

**PM:** Yeah, and our hope and expectation is that once decisions are made that, as a matter of course, where appropriate we make Cabinet documents available, but we are still in the process of finalising decisions, and while we're in that process we'll hold on to that advice. But, in due course, we will be looking to release it.

**Media:** Prime Minister, just in broad terms, can you give your opinion on TPP. Is it a good deal for New Zealand if you can deal with these issues?

**PM:** As I've always said, we want the ability to be able to advocate on behalf of New Zealand's best interests, whilst at the same time acknowledging the benefits that exist for our exporters. The issue of homeownership presented a fundamental barrier, from our perspective, in achieving both of those goals. We've now presented a solution which enables us to focus in on some of those remaining concerns. ISDS clauses remain a significant concern for us. We believe it's our responsibility to go and continue, even at this late stage, to act in the best interests of New Zealand and advocate around those clauses, and to change our agenda going forward. But we are a party and a Government that believes in good trade deals—ones that benefit New Zealand overall. We will be keeping that in mind in our negotiations. We will be at the table, but I want to reserve our position when it comes to those negotiations so we can continue to act in New Zealand's best interests.

**Media:** What would you say to some of the critics that say that you perhaps haven't gone far enough here? There was a big groundswelling around people not wanting to have anything to do with the TPP at all.

**PM:** We've already set out some of the fundamental objections that we've had, some of which have been dealt with in recent times, around TPP11. A considerable one for us, of course, was foreign ownership; we've found a way to deal with that. When it comes to TPP11 and ISDS clauses, we continue to fight that battle.

**Media:** What impact do you think this will have on house prices?

**PM:** Of course, the focus for us is on making sure that that flow of foreign capital into our housing market is halted. We would expect that to have some effect at the moment. Of course, there is speculation around it having plateaued in Auckland already, but there is no doubt that there's been an issue around demand and our lack of supply, and this is one of the many ways that we can address that. But it's one of many; it's not the only tool.

**Media:** So lower, or lower than it otherwise would have been?

**PM:** We're hoping it will take some of the heat out of our housing market, particularly in Auckland.

**Hon David Parker:** It depends on the part of the price cycle. When things were really running hot, when the price bubble was being inflated and there were large flows of capital into New Zealand, it would have had a larger price effect making this change than than it will now. But it's very important that we reserve these rights for New Zealand, through time, into the future.

**Media:** But just getting back to the here and now—

**PM:** Final question.

**Media:** —it sounds that you haven't asked for advice on the economic impact of these measures you've announced.

**Hon David Parker:** In what respect do you mean? What's going to be the impact on the number of houses built in New Zealand? It will be negligible, because you can still build a house for onsale.

**Media:** Yeah, but on the wider impact on the economy, because, as you know—

**PM:** That implies that we have accurate data, and the last Government didn't collect it. One last question.

**Media:** Quickly, on a separate issue, is the Government planning to rebrand and rename the Ministry for Vulnerable Children?

**PM:** Certainly, we've had a significant amount of opposition to the title "Ministry of Vulnerable Children". We always believed that it stigmatised kids—it didn't focus on the

well-being of children generally. To see such an extraordinary amount of money has been spent on that exercise I think would be alarming for everyone. We'll be looking to find a way through that means that we have a ministry that acts on behalf of all children, but doesn't do that at an extraordinary cost or a waste of taxpayers' money. All right everyone, thank you.

**conclusion of press conference**