

23 May 2019

Overseas Investment Act Reform
The Treasury
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Christchurch City Council submission on the Reform of the Overseas Investment Act 2005

Introduction

1. Christchurch City Council (the Council) thanks the Treasury for the opportunity to provide comment on the reform of the Overseas Investment Act 2005 (the Act).

Submission

Water is a sensitive asset

2. Christchurch is blessed with having access to pristine quality drinking water from deep aquifers under the city. Our water is central to our sense of who we are and our residents are passionate about it. For us it is clearly a sensitive asset that needs to be treated as such in the Act. We are deeply concerned that while that residential housing and rural land over five hectares are regarded as “sensitive assets” under the Act something as fundamental as water is not.
3. Christchurch City Council is currently exploring the possibility of applying for a Water Conservation Order on the city’s deep aquifer to protect the water for future generations.
4. To have overseas investors able to take our water, bottle it and export it without the scrutiny of the Overseas Investment Commission and without a requirement to benefit our community in a meaningful way is anathema.
5. While the Overseas Investment Act is unlikely to enable the protection of our water assets on its own, we regard it as one tool in a suite of regulatory and legislative approaches to provide comprehensive protection of water assets.

Amending the terms of reference

6. The Terms of Reference for the review include the constraint that the review is not intended to result in the screening of investments that are currently not screened. In the case of water this is at odds with the review objective to provide appropriate protection against risks to New Zealand associated with the overseas ownership of sensitive assets.
7. The Terms of Reference should be amended to remove the ‘no new screening’ constraint.

Amending the screening regime to include consideration of water extraction

8. The consultation document indicates that the Act does not allow for consideration of risks that may be posed by certain types of investments and may limit the Government's ability to decline certain investments that might have "negative effects on New Zealanders' wellbeing".
9. One such investment highlighted in the discussion document is water extraction for water bottling. The focus of the discussion document is water extraction for foreign-owned water bottling companies, presumably for subsequent sale overseas.
10. We agree with the observation that there "are some public concerns about overseas investments involving water bottling. These include the potential environmental effects and that overseas persons may profit from a high-value resource without paying a charge." These concerns are very strongly felt in Christchurch.
11. We note that the Act currently only allows for water extraction proposals to be assessed by the Commission if the investment is associated with sensitive land or where an investment scale threshold is reached. This has been shown to be completely unacceptable to our community as evidenced by the degree of ongoing community opposition to a recent investment in a property to be used to extract water for bottling.
12. Water takes for large commercial and industrial use are of growing concern to Christchurch residents, including the 'mining' of water by overseas investors. We consider that the benefits of such overseas investments may be outweighed by costs to the public good and the environment.
13. We seek changes to the Act that enable screening, and assessment of the national interest, of any use of water extractions for water bottling purposes by overseas investors.
14. We note that while water bottling accounts for a very small percentage of all water extraction in New Zealand, it is an issue of concern for many. We also note that water bottling is undertaken by both foreign-owned and New Zealand owned or controlled companies, and that the products produced may be sold overseas or within New Zealand. We are aware that there are a number of current and past industrial sites in Canterbury with existing water take consents that could also be sought for water bottling.
15. We seek amendments to the Act so that assessments of overseas investments can explicitly consider the environmental impacts and benefits of water extraction for water bottling, while noting that the issue of plastic waste as a downstream impact is also of grave concern.
16. We recommend that the Government also look at other mechanisms to better protect New Zealand's water resources from the impacts of extraction for large private use and profit, such as strengthening the Resource Management Act and considering how to introduce a charge on exports of bottled water.

Amending the screening process to include corporations in 'good character' test

17. Currently the Act allows for assessment of individuals (including owners and directors) but does not allow decision-makers to assess the 'character' of a corporate entity when assessing an application for an overseas investment.
18. We consider that a corporate entity's environmental, safety and financial (including taxation) performance and compliance should be included in the 'good character test'. It is our view that a corporate entity with a poor record of performance in any of these areas would be unlikely to be an investor in New Zealand's national interests.

Other recommendations for amending the Act

19. As it is currently structured the Act appears to focus primarily on benefits to New Zealand that may arise from overseas investments, with little or no scope to also assess costs that might arise from these investments.
20. We recommend that the Act is amended to allow for consideration of environmental, social, cultural and economic costs of an overseas investment as well as any benefits that might be associated with the investment.
21. The Act is currently limited in the extent to which an overseas investment application can be assessed in terms of the proposed activity's implication for New Zealand's national security.
22. We support amendment of the Act to enable decision-makers to assess the implications of overseas investments applications on national security.

Conclusions

23. In summary:
 - Water is more than a simple natural resource and needs to be afforded specific protection under the Act.
 - Extracting water for bottling generally provides limited economic benefit and brings with it an undermining and devaluing of a community's sense of self and risks to the protection of the asset for future generations.
 - Corporations carry a reputation and this, along with the character of its key personnel, should be considered explicitly in overseas investment applications.
 - The concept of national security should extend to protection of natural assets.

Thank you for the opportunity to provide this submission.

For any clarification on points within this submission please contact Brendon Anstiss, at 03 941 8472 or Brendan.Anstiss@ccc.govt.nz.

Yours faithfully,



Lianne Dalziel
Mayor