

Submission to the Finance and Expenditure Select Committee on “OVERSEAS INVESTMENT AMENDMENT BILL” JANUARY 2018

INTRODUCTION

1. Straterra welcomes the opportunity to submit on the Overseas Investment Amendment Bill, which was introduced to the House of Representatives on 14 December 2017. The submission deadline of 23 January 2018 is noted, and this submission is made on 24 January as we advised would be the case.
2. Straterra is the industry association representing the New Zealand minerals and mining sector. Our membership is comprised of mining companies, explorers, researchers, service providers, and support companies.
3. We wish to be heard by the Finance and Expenditure committee in support of this submission.

Straterra’s approach to the submission and our interest

4. Straterra does not express a view on the merits of generally preventing overseas persons from buying houses or other pieces of residential land.
5. Straterra submits from the perspective of ensuring a significant potential unintended consequence is understood by the Committee and its advisors, and that the Bill manages this risk.

The value of mining

6. Before making our case, we point out the significant economic benefits the mining industry delivers to New Zealand:
 - The mining and exploration sector (excluding quarrying) employs some 4,140 people, who earn on average \$102,100 a year, almost twice the national average wage¹.
 - The petroleum and minerals sector has the highest labour productivity of any sector in New Zealand, at \$333 per hour worked².
 - Mining makes significant regional economic contributions. As an independent report for OceanaGold found, in 2016, \$330 million, or 88% of the company’s expenditure on its domestic operations in New Zealand reached people and businesses in New Zealand through wages and procurement³.

¹ *Mining and Exploration 2016 Sector Profile* (2017). Infometrics.

² *Petroleum and Minerals Sector Report* (2013). Ministry of Business, Innovation and Employment.

³ *OceanaGold’s contribution to New Zealand: Report on the economic, social and environmental contributions of OceanaGold to New Zealand in 2016* (2017). KPMG.

The Problem with the Overseas Investment Amendment Bill

The Bill's direct effect

7. The Bill proposes to classify residential land as 'sensitive' under the Overseas Investment Act 2005, to thereby regulate and restrict its transfer to overseas persons.
8. Overseas-registered mining companies can be required to purchase residential properties in relation to their operations, but not for the purpose of commercial property speculation. Unless adequate provisions are made for effective exemptions from the any outright ban, this Bill would prevent mining companies from purchasing residential land for the purpose of either:
 - a. conducting mining activities on or under the land with surface impacts, e.g. to conduct earthworks, build infrastructure, or extract minerals; or
 - b. managing adverse effects on households where those effects (such as noise etc) are not acceptable to the householder, and where that person would prefer the company bought the property. An inability to manage adverse effects would impact both the community and (appropriately, in those circumstances) the mining companies' ability to gain community support and planning consent for their proposed and ongoing operations.

Requirements to purchase property under resource consent conditions

9. Territorial authorities may require, through resource consent conditions, that a mining company purchase a property if certain criteria are met in relation to an affected property. This is to manage effects on that property/ person. Hauraki District Council currently imposes such conditions, and it is reasonable that both mine operators and local communities should be able to continue with this condition, as agreed as part of resource consent applications relating to the Martha and Correnso goldmines in Waihi.

Overall adverse outcomes

10. A ban through an Act of Parliament, or even processes that require costly, uncertain or time-consuming regulatory approvals, would effectively override the wishes of local communities, as expressed in local plan provisions and consent conditions, while achieving no benefit in delivering on the policy intent.
11. Preventing mining companies from purchasing residential properties would have significant adverse economic and social effects, by 1) preventing mine developments, and 2) preventing purchases designed or required by consent conditions to promote community well-being where householders do not wish to own a property near a mine.
12. Any such ban would run contrary to the Labour Party's policy intent, which according to its manifesto is simply to *"...ban foreign speculators from buying existing New Zealand homes. This will remove from the market foreign speculators who are pushing prices out of reach of first home buyers."*⁴

A Proposed Solution

13. Proposed New section 23A provides for *"applications for "standing consent" in advance of transaction,"* but currently this would only apply *"if the person applies under the increased housing on residential land test."*
14. We consider that mining companies should also be able to apply for "standing consent", against appropriate criteria. This would avoid unnecessary compliance costs, noting that a mining

⁴ Source: <http://www.labour.org.nz/housing>

development could affect many houses/residential properties. We suggest provision be made to relate a “standing consent” to the area within either a mining permit granted under the Crown Minerals Act 1991, or a resource consent granted under the Resource Management Act 1991.

15. We do acknowledge that the Bill provides some exceptions to the ban, providing the applicant can meet specified tests (although there are some important issues with these tests –for commentary refer to the written submission made by OceanaGold New Zealand Limited). However, such case-by-case, property-by-property approval processes are inefficient and will at least lead to unwarranted imposts, or even prevent business and development entirely.

Summary

16. When considering amendments to this Bill, the Committee should bear in mind how the provisions will affect overseas-registered mining companies seeking to purchase residential properties, in line with points made above.
17. Mining companies make significant economic contributions to New Zealand, and can successfully pass the current *benefit to New Zealand* test under the Overseas Investment Act. Given the policy intent is to *ban foreign speculators from buying existing New Zealand homes*, we do not consider it appropriate or necessary to require mining companies to seek individual approvals for the purchase of residential land.
18. Councils may require that mining companies purchase residential properties if the property owner wishes to divest, and this should not be over-ridden by the Bill.