

Benefit to New Zealand Factors



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Recent updates to this resource:

24 April 2009: New Designation and Delegation Letter

Introduction

If an investment includes sensitive land and requires consent, the applicant must demonstrate how the transaction will, or is likely to, benefit New Zealand (and, in some cases, how that benefit is substantial and identifiable).

Benefit, or likely benefit, to New Zealand is considered against a large number of economic and conservation factors.

The relevant Ministers or the regulator (the OIO) determine the relative importance to be given to each factor. Depending on the nature of the investment certain factors will normally be relatively important while others will normally be less important.

For example, walking access is likely to be far more important for some blocks of land than for others. Consequently, the walking access factor may be valued more highly than other factors.

Legislation

Section 16 of the Overseas Investment Act 2005 sets out the criteria for consent for overseas investments in sensitive land. Under section 16(1)(e)(ii), it must be shown in certain circumstances that the overseas investment “will or is likely to benefit New Zealand”. The factors used to assess whether there is such a benefit are set out in section 17 of the Act and regulation 28 of the Overseas Investment Regulations 2005.

Substantial and identifiable benefit

If the relevant land includes non-urban land that exceeds five hectares (either alone or with associated land), the relevant Ministers or the regulator (the OIO) must determine that the benefit will or is likely to be “substantial and identifiable”.

The Act does not define the meaning of a “substantial and identifiable benefit.” The fact that section 16(1)(e)(ii) refers simply to “benefit” whereas section 16(1)(e)(iii) refers to “substantial and identifiable benefit” suggests a degree of differentiation. Thus the degree of benefit required to be established under section 16(1)(e)(iii) will need to be greater than the benefit under section 16(1)(e)(ii).

In coming to a final decision, the relevant Ministers or the OIO will take all of the sensitive factors relevant to the land into account when deciding whether the benefit to New Zealand is “substantial and identifiable”.

Approach to factors

1. Relevant or not relevant

The applicant should first identify which factors are relevant and which factors are not relevant. The factors that are not relevant should simply be identified and noted as “not relevant”.

2. High importance

Secondly, from the relevant factors, the applicant should identify which factors the relevant Ministers or the OIO are likely to consider to be of high importance in the context of the investment being made. Only address the relevant factors of high importance. It is unlikely there will be more than ten such factors. There may very well be less - perhaps three or four. The OIO will write to you asking you to address another relevant factor if it believes you haven't identified a factor of high importance.

3. Evidence

Once you have identified the relevant factors of high importance, check the evidence required to satisfy each factor (see below). For each relevant factor, you must attach supporting documents that provide evidence for the claims you are making in the application.

4. Business plans and reports (economic benefits)

Any applicant addressing one or more factors listed in section 17(2)(a) (economic benefits) of the Act must provide the following business plan or business report, depending on which is appropriate for the nature of the investment being made.

Note that in addition to a business plan or report, the applicant must provide further evidence or reports for each factor of high importance addressed. For example, an applicant addressing the “Jobs” factor must provide the OIO with both:

- a business plan or report as described here, and
- the additional information listed in the “Jobs” factor below.

A business plan describes the:

- nature of any business to be undertaken on the land

- major proposed developments
- proposed level of capital expenditure necessary to establish that business or implement major proposed developments
- proposed timing of the establishment of the business and the implementation of the major developments and the likely capital expenditure
- requirements that must occur or be completed before the business is established and each of the major developments is commenced (for example zoning changes or resource consents)
- likelihood of those events occurring and the timeframe in which they are likely to occur
- likely business income and business expenditure in each of the first five years of the proposed overseas investment in sensitive land
- number of full time equivalent positions (being 30 or more hours per week) that will be required to operate the proposed business.

A report identifies the:

- nature of any business currently undertaken on the land
- current productivity of the business (for example number of stock units being carried, the volume of grapes being harvested)
- gross annual income, operating expenses and net surplus of the business currently undertaken on the land, and
- number of full time equivalent positions that are currently required to operate any business currently undertaken on the land.

This report may be provided to the OIO directly by the operator of the business currently being undertaken on the land.

Factors

Overview

Economic benefit factors

Jobs - section 17(2)(a)(i)

New technology or business skills - section 17(2)(a)(ii)

Export receipts - section 17(2)(a)(iii)

Added market competition, greater efficiency or productivity or enhanced domestic services in New Zealand - section 17(2)(a)(iv)

Additional investment for development purposes - section 17(2)(a)(v)

Primary products - section 17(2)(a)(vi)

Other Act factors

Significant indigenous vegetation & significant habitats of indigenous fauna - section 17(2)(b)

Trout, salmon, wildlife and game - section 17(2)(c)

Historic heritage - section 17(2)(d)

Walking access - section 17(2)(e)

Offer back of special land - section 17(2)(f). See the OIO publication "Offer Back of Special Land".

Regulations factors

Consequential benefits - regulation 28(a)

Key person in a key industry - regulation 28(b)

Image, trade or international relations, international obligations - regulation 28(c)

Offer significant investment - regulation 28(d)

Previous investments - regulation 28(e)

Significant Government policy or strategy - regulation 28(f)

Ongoing viability of other investments - regulation 28(g)

Strategically important infrastructure on sensitive land - regulation 28(h)

Jobs

Jobs are a factor under [section 17\(2\)\(a\)\(i\)](#) of the Act. This factor will support an application when new jobs are being created or jobs are retained (that might otherwise be lost but for the proposed investment by the applicant).

Direct new job opportunities are within the entity/property being acquired. For a typical land application this may include shearers, harvesters, planters, property advisers etc. However, new job opportunities need not necessarily be provided directly by the applicant or the business it is buying. They might flow indirectly via suppliers or elsewhere in the industry. For a typical land application this may include freezing workers, school teachers, supermarket/retail workers, wharf workers etc.

The job opportunities must be in New Zealand. They cannot include jobs created in Australia by a New Zealand company.

Jobs that are being "retained" must "exist" and must be under a plausible threat of loss if the investment does not proceed. Applicants must establish that there is an actual threat to the existing jobs.

The OIO expresses jobs in "full time equivalent" units (FTEs). One FTE is a job of 30 hours or more per week. Jobs that are for less than 30 hours each week are expressed as a proportion of 30 hours to calculate a FTE factor (for example a 15 hour per week job is 0.5 FTEs).

Report

If relevant, the OIO requires a report detailing the extent to which the overseas investment will, or is likely to, result in the retention or creation of jobs.

The report should detail:

- state the number (by reference to FTEs) of new direct job opportunities being created, including a brief description of the roles and the number of opportunities in each role
- state the number (by reference to FTEs) of new indirect job opportunities being created
- state when the new job opportunities will be available, and identify any conditions that must be satisfied before those jobs are created
- describe any new intangible opportunities, e.g. whether the new job opportunities include a diversification of roles or improve working conditions.

New technology or business skills

New technology or business skills are a factor under [section 17\(2\)\(a\)\(ii\)](#) of the Act. This factor will apply where an investment will result in the introduction of new technology or business skills into New Zealand.

Business skills include:

- technical qualifications
- experience
- processes
- corporate standards (for example ISO)
- first example of particular skill/expertise (for example "world leader")

Business skills also include the particular business attributes or expertise an individual can contribute to an investment or the investing entity. For example, the investment may involve the placing of an overseas entity's employee/shareholder within the New Zealand operations. This individual may have technical skills or knowledge and experience that is not available in New Zealand.

Technology includes:

- processes/systems (operational)
- machinery
- intellectual property
- IT systems.

The technology or business skills must be introduced into New Zealand as a result of the investment - they must not already be in New Zealand.

Report

The OIO requires a report detailing the extent to which the overseas investment will, or is likely to, result in the introduction of new technology or business skills into New Zealand.

The report should detail:

- the nature of the technology or business skills that are "new" to New Zealand
- how the overseas person will acquire, or has acquired, the technology or business skills
- when the technology or business skills will be introduced. Any uncertainties or contingencies relating to the achievement of the benefits claimed under this factor (i.e. that they are dependent on Resource Management Act 1991 approval for a new factory etc) should be detailed
- the capital expenditure (if any) required to introduce the technology or business skills
- how the technology or business skill impacts on the investment. The introduction of new technology typically results in a more efficient allocation of resources and increased productivity. Accordingly, if the investment met the technology/business skills factor, it would typically also meet the productivity factor, and
- what benefits will or are likely to accrue to New Zealand (or any part of it) or group of New Zealanders as a result of introducing the technology or business skills.

Export receipts

Export receipts are a factor under [section 17\(2\)\(a\)\(iii\)](#) of the Act. Exports are goods or services of domestic origin which are exported/sold from New Zealand to another country. Exports include the provision of domestic tourist and education services to overseas tourists/visitors to New Zealand.

A New Zealand exporter is anyone whose sales show export receipts in New Zealand Government accounts. While the factor refers to New Zealand exporters (plural), the OIO has interpreted this to mean “one or more exporters”.

The exporter may be the applicant itself.

Report

The OIO requires a report detailing the extent to which the overseas investment will, or is likely to, result in increased export receipts for New Zealand exporters.

The report should detail:

- the increase in export receipts (in dollar and volume terms)
- the products or services that will be sold or rendered to earn those export receipts
- the export destinations
- the likely timeframe in which those exports receipts will be earned
- whether there is likely to be an improved ability for New Zealand exporters to sell goods into a particular export market (for example through providing access to offshore networks and/or improving the distribution and marketing of New Zealand products) and the extent to which that improved ability will, or is likely to, result in increased export receipts for New Zealand exporters
- any uncertainties or contingencies relating to the achievement of the benefit claimed under this factor, and
- what benefits will, or are likely to, accrue to New Zealand (or any part of it) or group of New Zealanders as a result of the increased export receipts.

Added market competition, greater efficiency or productivity or enhanced domestic services in New Zealand

This factor under [section 17 \(2\)\(a\)\(iv\)](#) of the Act is relevant to investments that:

- adds more players and/or supply (quantity or quality) in a market that benefits consumers in New Zealand
- improves use of an existing resource or asset
- increases the amount of good or service produced
- improves an existing service or introduces a new service.

Added market competition means adding more players and/or supply (quantity or quality) in a market that benefits consumers in New Zealand. If the new dynamics of the industry result in the new player(s) being better placed to take on a dominant supplier and/or improve their productivity, added market competition can still occur even where the number of players/suppliers is reducing.

Greater efficiency is the improvement of use of an existing resource or asset (i.e. improving the input/output ratio).

Greater productivity is increasing the amount of good or service produced. Increases in productivity typically result from increased efficiency and the introduction of new

technology or business skills or the introduction of capital to expand the existing operations.

Domestic services are enhanced if the quality or quantity of an existing service is improved, or a new service is introduced. The service may be “down-stream” from the investment being considered. "Services" applies only to services, and does not include goods.

Report

The OIO requires a report detailing the extent to which the overseas investment will, or is likely to, result in added market competition, greater efficiency or productivity, or enhanced domestic services, in New Zealand.

In the case of “added market competition” the report should detail:

- the market in which competition will be added
- the method by which competition will be added
- the extent to which competition will be added
- if the investment also needs Commerce Commission approval, whether the Commerce Commission was satisfied that the proposed acquisition would not, or would not be likely, to substantially reduce competition in any relevant market. If the Commerce Commission requires some divestiture as a condition of approval, indicate what needs to be divested
- any uncertainties or contingencies relating to achievement of the benefits under this factor, and
- what benefits will or are likely accrue to New Zealand (or any part of it) or group of New Zealanders as a result of the added market competition.

In the case of “added greater efficiency or productivity” the report should detail:

- the market or industry in which there will be greater efficiency or productivity
- the method by which added greater efficiency or productivity will be achieved (for example, reduction in the cost of operations due to economies of scale)
- the extent to which there will be added greater efficiency or productivity
- the timeframe by, and over which, the added greater efficiency or productivity will occur
- projected changes in output (units or revenue) or profit
- projected input/output ratios (for example stock units/ha, net profit/ha), and
- what benefits will or are likely accrue to New Zealand (or any part of it) or group of New Zealanders as a result of the greater efficiency or productivity.

In the case of “enhanced domestic services” the report should detail:

- the nature of the domestic service that will be enhanced
- how it will be enhanced
- the extent to which it will be enhanced
- when it will be enhanced
- any uncertainties or contingencies relating to achievement of the benefits under this factor, and
- what benefits will or are likely to accrue to New Zealand (or any part of it) or group of New Zealanders as a result of the enhanced domestic services.

Additional investment for development purposes

Additional investment for development purposes is a factor under [section 17\(2\)\(a\)\(v\)](#) of the Act. The “additional investment” must occur after the initial purchase, in other words, the purchase price of the initial asset is not “additional investment” for development purposes.

“Development purposes” means that the additional investment should have the effect of increasing the productive capacity of the asset purchased or an asset that is yet to be purchased.

The additional investment must be “introduced into New Zealand” in the form of:

- further foreign direct investment, including any retained earnings that form part of the foreign direct investment component of the balance of payments statistics compiled by Statistics New Zealand, and
- any borrowings by the applicant that increase the foreign claim on New Zealand assets.

The OIO accepts the following matters as additional investment for development purposes:

- capital fertiliser (where the capital component is that amount spent greater than 10% of the average amount spent for a farm in that area)
- fencing (new or significantly more than usual repairs and maintenance)
- purchase of stock to lift stock capacity (not maintain existing stock levels)
- new yards/woolsheds etc (not repairs and maintenance)
- provision of new water supplies/irrigation
- new roading/services
- building a new factory/purchase of a new plant
- establishing new environmental initiatives (for example fencing off native bush, establishing/restoring wetlands), and
- establishing a forest (but not ongoing silviculture maintenance).

The OIO does not usually accept as additional investment for development purposes the following:

- building a dwelling house for personal use
- usual farm maintenance/expenditure
- amenity plantings, and
- the freeing up of the vendor's capital, unless there is a direct tangible link to the overseas investment being considered and the further additional development by the vendor (i.e. the vendor may be selling part of an asset to provide funds to expand another asset). However the other significant investment factor in regulation 28(d) may apply - “whether granting the application for consent will, or is likely to, result in the owner of the relevant land undertaking other significant investment in New Zealand”.

Report

The OIO requires a report detailing the extent to which the overseas investment will, or is likely to, result in the introduction into New Zealand of additional investment for development purposes.

The report should detail:

- the amount of investment capital to be introduced
- the development into which the investment will be directed
- the timeframe by and over which the investment will be made

- any uncertainties or contingencies relating to achievement of the benefits under this factor, and
- what benefit will accrue to New Zealand (or any part of it) or group of New Zealanders as a result of the additional investment.

Primary products

Primary products is a factor under section 17(2)(a)(vi) of the Act. This criterion would likely support an overseas investment where it proposed to use primary products in the production of other goods in New Zealand. For example: where the investor proposed to build a manufacturing plant to process logs into pulp and paper.

Primary products are raw materials that are “extracted” from the land or ocean. They include products of mining, agriculture, forestry and fisheries. These goods are either sold as is or used as raw materials for use in processing or manufacturing.

Primary products include:

- logs
- fruit
- vegetables
- nuts
- flowers
- seafood
- metals, and
- precious stones.

"Processing" refers to the use of a primary product to make another product. Processing must occur in New Zealand - this includes on board fishing vessels in the New Zealand Exclusive Economic Zone prior to export.

Report

The OIO requires a report detailing the extent to which the overseas investment will, or is likely to, result in increased processing in New Zealand of New Zealand's primary resources.

The report should detail:

- the primary product
- the method by which the increased processing will be achieved
- the amount of the increase in processing of that product likely to occur (in dollar or volume terms)
- how the increase is linked to the investment
- the timeframe in which the increase will occur
- any uncertainties or contingencies relating to achievement of the benefits under this factor, and
- what benefit will accrue to New Zealand (or any part of it) or group of New Zealanders as a result of the increased processing of primary products.

The increased processing could be carried out by another party and could only be indirectly linked to the investment (for example creating a dairy farm is likely to result in increased processing of milk products in New Zealand). The more direct the relationship between the investment and the increase, the more relevant the factor will be.

The processing of a primary product will add value to the product, thereby improving export returns, creating job opportunities needed in the processing or manufacturing stage and may facilitate the introduction of new technology into New Zealand markets. Accordingly, an investment assessed positively against this factor may also likely to be assessed positively against other factors.

Activities such as silviculture do not constitute processing of primary products - that is tending to the primary products prior to harvest.

Significant indigenous vegetation and significant habitats of indigenous fauna

This factor, under section 17(2)(b) of the Act, is relevant for overseas investments that include sensitive areas of vegetation and fauna, which require mechanisms for protecting or enhancing in that region.

Sensitive areas of vegetation and fauna include areas that:

- have vegetation that has suffered relatively low degrees of modification since the arrival of Europeans or is the subject of significant natural or human-induced restoration (i.e. has a high degree of naturalness or the potential to regain that in the foreseeable future)
- have vegetation that is part of a continuous sequence of several vegetation types (for example altitudinal, from wet to dry, across geological gradients)
- have vegetation that provides a useful extension to, or buffer for, an adjacent protected or unprotected natural area, or in some other way (for example as a source of seeds) supports the viability of a protected or unprotected natural area in the local area
- contains taxa that are only present in that location (i.e. are or would be classified as “one location” taxa under the threat classification system)
- contain significant or viable populations of taxa that are classified as nationally critical, nationally endangered, nationally vulnerable or in serious decline
- contain the only local population or an important local population of a taxon that is classified as range restricted or sparse or in gradual decline
- contain a population of an indigenous taxa which is of particular scientific or genetic significance (for example the type locality of the taxa, populations at the limits of the range of species, populations in unusual habitats), and
- provide an important resource for a significant population of a migratory indigenous taxa or an indigenous taxa which uses a range of resources across a large territory.

Some degree of uncertainty is likely to be encountered when compiling evidence about sensitive areas of vegetation or habitats of fauna. The Department of Conservation has already identified many sensitive areas through its “Protected natural areas programme” and through surveys, and some information will be available from its regional offices. Local authority district plans and regional plans will also set out any areas sensitive to the region and rules or conditions that apply to these areas.

Key attributes to consider are the:

- natural character of the land - the dominance of indigenous species and the degree to which the area has been affected by human disturbances over time
- viability potential of the land - which is the potential for the natural regeneration of vegetation and re-colonisation of indigenous species

- representativeness - i.e. the current extent of the vegetation/habitats as a proportion of the total remaining, and the proportion included in the protected area network
- diversity - i.e. the range of natural attributes of the area/habitat
- distinctive state - how closely the vegetation and fauna compare to other areas in the region and on the property itself (for example are there some habitats that are unusual or uncommon to the area or that particular property), and
- threatened state - are any of the flora or fauna species present on the property considered to be in threatened state either within the region or on a national basis.

In the wider context, areas of vegetation and habitats must be considered as a whole because a combination of attributes for an area can have higher significance than each attribute on its own.

Applicants can protect or enhance areas of significant indigenous vegetation and significant habitats of indigenous fauna by many methods, including:

- controlling weeds and pests, for example, removing wilding pines
- restoring areas to their natural state by planting native species that naturally occur at the site
- fencing areas from stock
- constructing fire breaks and controlling human-induced erosion, and
- protecting areas under the Queen Elizabeth the Second National Trust Act 1977, or the Reserves Act 1977.

Report

The OIO requires a report on the current and proposed mechanisms for protecting or enhancing existing areas of significant indigenous vegetation and significant habitats of indigenous fauna.

The report should detail:

- the existing areas of significant indigenous vegetation and significant habitats of indigenous fauna on the land
- the extent to which the proposed mechanisms will protect or enhance that vegetation or fauna
- a conservation plan detailing the measures to be undertaken
- the capital expenditure (if any) required
- any uncertainties or contingencies relating to the achievement of the benefits claimed under this factor, and
- the timeframe within which the measures are to be put in place.

Trout, salmon, wildlife and game

Trout, salmon, wildlife and game is a factor listed in section 17(2)(c)(i) of the Act. This factor applies where a property has significant habitats of trout, salmon, other wildlife or game.

Wildlife includes animals protected under section 3 of the Wildlife Act 1953, and game as defined in section 2(1) of that Act.

Habitats considered sensitive to ongoing management and sustainability of New Zealand's populations of sports fish and wildlife include:

- freshwater waterways used by migratory fish and upstream catchments that hold non-migratory species of fish
- wetlands visited by game birds such as swans and ducks
- scrubby habitats that hold pheasants and quail, and
- all habitats containing protected wildlife.

Applicants for overseas investment in sensitive land can demonstrate their intention to protect or enhance the habitats of trout, salmon, and protected wildlife present on the property by:

- agreeing appropriate access to areas that hold sports fish, wildlife, and game birds
- undertaking pest and weed control programmes to protect areas that hold wildlife such as native birds
- preventing stock and contaminants from entering waterways
- protecting natural wetlands from stock and from being drained, and
- restocking waterways.

Report

The OIO requires a report detailing the proposed mechanisms for protecting or enhancing existing areas of significant habitats of trout, salmon, wildlife and game, including:

- a description of the existing areas of significant habitats of trout, salmon, wildlife and game on the land
- the extent to which the proposed mechanisms will protect or enhance that trout, salmon, wildlife and game
- a conservation plan detailing the measures to be undertaken
- the capital expenditure (if any) required
- any uncertainties or contingencies relating to the achievement of the benefits claimed under this factor, and
- the timeframe within which the measures are to be put in place.

The report should also detail how the applicant will provide, protect, or improve walking access to those habitats by the public or any section of the public.

Historic heritage

Historic heritage is a factor under section 17(2)(d) of the Act. This factor applies where an investment includes sites of historical heritage. Adequate mechanisms must exist to protect or enhance any historic heritage sites, or comply with any protections that exist already.

“Historic heritage” is defined in section 6(1) of the Act. Under the Historic Places Act 1993, historic heritage incorporates “natural and physical resources that contribute to an understanding and appreciation of New Zealand's history and cultures deriving from any of the following qualities: archaeological, architectural, cultural, historic, scientific, technological” and includes:

- historic sites, structures, places and areas
- archaeological sites
- sites significant to Māori, including wāhi tapu, and
- surroundings associated with the natural and physical resources.

Applicants can demonstrate their intention to protect or enhance historic heritage sites present on the property by agreeing to mechanisms including:

- registration of a historic heritage sites area under the Historic Places Act 1993 by providing a copy of a letter in support of any publicly notified registration proposal
- conserving and maintaining sites known to have historic significance by including a conservation or management plan to be approved by the New Zealand Historic Places Trust
- protecting sites using legislation such as the Queen Elizabeth the Second National Trust Act 1977, and the Historic Places Act, and
- permitting appropriate access to wāhi tapu and other heritage sites located on the property.

The usual policy relating to properties containing registered wāhi tapu sites is to require the applicant to provide a statement to the effect that the applicant will comply with the requirements of the Historic Places Act 1993, that traditional access arrangements for local iwi will be permitted to continue and to provide evidence that local iwi have been consulted about the investment.

Report

The OIO requires a report detailing:

- a description of the historic heritage within the land
- the extent to which the proposed mechanisms will protect or enhance that historic heritage
- a conservation plan detailing the measures to be undertaken
- the capital expenditure (if any) required
- any uncertainties or contingencies relating to the achievement of the benefits claimed under this factor, and
- the timeframe within which the measures are to be put in place.

Applicants can also refer to the Historic Places Trust's Sustainable Management of Historic Heritage Guidelines: Guide No.8 Overseas Investment Act 2005.

Walking access

Walking access is a factor under section 17(2)(c)(ii) of the Act. Landowners are encouraged to provide walking access to areas of significance and public interest.

Walking access will be relevant where there is no adequate existing public access to areas such as lakes and other water margins, publicly owned conservation land, sites of historic and cultural importance (including wāhi tapu), mountain passes and other publicly owned land.

A range of existing legal arrangements, commonly referred to as the “Queen's chain”, has resulted in approximately 70% of land abutting New Zealand's coast, lakes and rivers being in some form of public ownership or subject to statutory access provisions. However, due to the historical nature that led to the formation of these interests in land, many of the access points are interspersed by privately owned land. In the absence of such access, the Government encourages landowners to provide walking access to areas of significance and public interest.

Formal mechanisms for access include the creation of walkways under the Walking Access Act 2008.

Applicants for consent to overseas investment in sensitive land can demonstrate their intention to provide, protect, and improve public walking access along and to water margins on land they are intending to purchase by agreeing to:

- allow appropriate access over the property to specific sites of public interest (such as lakes and mountain passes, other publicly owned land) and to adjoining public land
- allow access along the margins of certain rivers and waterways
- establish tracks and signs to assist the public to navigate on the property where necessary, and
- ensure any existing or new tracks or walkways on the property have signs in appropriate locations advising the public.

Report

The OIO requires a report detailing whether there are or will be adequate mechanisms in place for providing, protecting, or improving walking access over the relevant land or a relevant part of that land by the public or any section of the public.

The report should detail:

- a description of the walking access over the land, including maps showing the proposed walking access
- whether the walking access will be created under statute (for example Walking Access Act 2008)
- the extent to which the proposed mechanisms will provide, protect, or improve walking access
- a brief report detailing the measures to be undertaken
- the capital expenditure (if any) required
- any uncertainties or contingencies relating to the achievement of the benefits claimed under this factor, and
- the timeframe within which the measures are to be put in place.

Alternatively, walking access may not be appropriate if it would be dangerous to allow public access to any of the property because the property primarily comprises industrial buildings.

Consequential benefits

Consequential benefits is a factor under regulation 28(a). This factor applies when tangible or intangible benefits accrue as a result of the investment being made. These benefits may include additional investments in New Zealand and sponsorship of community projects.

Key person in a key industry

Key person in a key industry is factor under regulation 28(b). This factor applies where a person with high standing and influence is involved in an industry which has a material impact on the economy.

The key person's involvement in the industry must be more than as a regular (or even prominent) player. They must be in a position to materially contribute to an improvement in the relations between New Zealand and the other country.

Image, trade or international relations, international obligations

Image, trade or international relations, and international obligations are all factors under regulation 28(c). These factors ensure New Zealand will not be adversely affected by the

refusal of applications and ensure New Zealand will not breach any international obligations.

There are many ways in which refusal of an application may adversely affect New Zealand's image overseas or its trade or international relations. However, New Zealand will not be at risk of adverse affect merely due to the likelihood of adverse publicity.

Applicants who believe that this component of this factor applies should present a thorough argument detailing the likely adverse affects, and provide evidence that supports the claims made.

Report

If an applicant believes that refusal will result in New Zealand breaching any of its international obligations, they should:

- clearly identify the international obligation they believe will be breached,
- explain how the obligation will be breached,
- provide a copy of the document that establishes the obligation, and
- identify the extent to which the breach of the obligation will impact New Zealand.

Other significant investment

Other significant investment is a factor under regulation 28(d). This factor will apply when the vendor of the relevant land undertakes other significant investment in New Zealand.

For example, the vendor of the sensitive land may direct the purchase proceeds into another significant project. To be significant, the investment must be “noteworthy, of considerable amount, effect or importance, not insignificant or negligible”.

Report

If relevant, the OIO requires a report detailing the extent to which the overseas investment will, or is likely to, result in other significant investment in New Zealand.

The report should detail:

- the vendor's proposed investment
- the timeframe within which the investment will take place
- any uncertainties or contingencies relating to the achievement of the investment
- why the investment is significant. In this regard, the quantum of the investment and the impact of it are matters that should be addressed, and
- the linkage between granting the application for consent and the owner of the relevant land undertaking significant investment in New Zealand.

Previous investments

Previous investments is a factor under regulation 28(e). This factor assesses the prior (and current) investment performance of the applicant.

The relevant investments don't need to be investments that required consent under the Overseas Investment Act 1973 (repealed) or the Act.

Report

If relevant, the OIO requires a report detailing the prior (and current) investment performance of the applicant.

The report should detail:

- the applicant's previous investments (these can include investments that are still held by the applicant and investments made in the past that the applicant no longer holds), and
- how those investments have been or are of benefit to New Zealand.

Significant Government policy or strategy

Significant government policy or strategy is a factor under regulation 28(f). This factor requires that investments support significant government policy or strategy, such as the government's biodiversity strategy, carbon credit policy, protection of endangered species and provision of public walkways.

Report

If relevant, the OIO requires a report detailing whether the overseas investment will, or is likely to, support significant government policy or strategy.

The report should:

- identify the government policy or strategy that the investment will support
- provide copies of policy documents, statements and publications that evidence the significance of the policy or strategy, and
- detail how the investment will support the policy or strategy.

Ongoing viability of other investments

Ongoing viability of other investments is a factor under regulation 28(g). This factor recognises that some investments may not otherwise meet the threshold in their own right, but nonetheless support or enhance an earlier investment by the applicant.

Examples include:

- acquiring land to provide a buffer zone for a factory or a mine, or to resolve a resource management dispute with neighbours that would detrimentally affect the carrying on of the investment
- buying a neighbouring property onto which the original business may be extended, and
- purchasing a supplier of the original business in order to ensure certainty of supply of raw materials.
-

Report

If this factor applies the OIO requires a report detailing how the investment will support or enhance an earlier investment.

Strategically important infrastructure on sensitive land

Strategically important infrastructure on sensitive land is a factor under regulation 28(h). This factor asks whether the overseas investment will, or is likely to, assist New Zealand to maintain control of strategically important infrastructure on sensitive land.

Report

If relevant, the OIO requires a report detailing whether the overseas investment will, or is likely to, assist New Zealand to maintain control of strategically important infrastructure on sensitive land.

The report should identify:

- whether the investment constitutes "infrastructure" and if so, whether it would be considered "strategically important"
- if the overseas investment is infrastructure that is strategically important infrastructure:
- the level of New Zealand control, and
- how the overseas investment will maintain that level of New Zealand control.

Delegation and fees

The Minister of Finance and the Minister for Land Information have delegated to the regulator (the OIO) many of the powers to grant consent under the Act. In these delegated cases, the regulator fees apply.

The relevant Ministers generally grant consent where the substantial and identifiable benefits criterion (section 16(1)(e)(iii)) applies.

However, even if the substantial and identifiable criterion applies, decisions will be delegated where:

- the land is leasehold (other than pastoral lease land) or the interest being acquired is an interest as mortgagee or encumbrancee, or
- the only 'sensitivity' is that the land is non-urban and more than five hectares.

See the current Ministerial designation and delegation letter for more information.

Further information

Visit the OIO website at www.linz.govt.nz/oio to find related links, documents and answers to frequently asked questions. Read the Overseas Investment Act 2005 and the Overseas Investment Regulations on www.legislation.govt.nz.

If you require further information, please contact the OIO.

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