



Overseas Investment Office

Radio New Zealand House
155 The Terrace
PO Box 5501
Wellington 6145
New Zealand
+64 4 460 0110
www.linz.govt.nz

Our Ref: 201710046

3 September 2020

Wairarapa Estate Limited

BY EMAIL: mwakelin@newforests.com.au

Attention: Matthew Wakelin

Dear Matthew

Formal warning: breach of conditions

1. We refer to Wairarapa Estate Limited (**Wairarapa Estate / you**)'s consent (201710046), dated 6 September 2018, to acquire approximately 3,061 hectares of land at Wairarapa (**Consent**).
2. We are:
 - (a) advising you that we consider you are in breach of your conditions of consent since 20 December 2019,
 - (b) providing you until **3 December 2020** to apply to vary those conditions to remedy the breaches, and
 - (c) formally warning you that we may choose to enforcement action, including requiring you to dispose of the land, if these breaches are not resolved.
3. Please respond to us by **17 September 2020** to confirm you whether or you not you will apply for a variation.

Breaches of conditions

4. Your annual reporting identified breaches of special conditions 1, 2, 5, part of special condition 6, and special conditions 7 and 8, which you were required to complete by 20 December 2019.
5. We have reviewed your response (dated 20 August 2020) to our enquires about this matter, and we remain of the view you are in breach of the majority of the conditions.
6. We note that, while you consider work in progress to comply has been impacted by COVID-19 related measures, the breached conditions were due to be completed before such measures took effect in New Zealand.
7. At this stage, we consider you are in breach of:
 - (a) Special Condition 1:

You have not upgraded the Craigie Lea Road to a minimum cost of \$200,000, as set out in this condition, by 19 December 2019. Your attempts to comply began after the condition was due, including meeting with the Carterton District Council.
 - (b) Special Condition 2:

You have not implemented the required covenants under the Reserves Act 1977. Your efforts liaising with the Department of Conservation began in earnest after the 19 December 2019 due date.

(c) Special Condition 6:

While you have engaged an archaeologist, we note that the comprehensive analysis has not been completely finalised as required. In addition to this, this process was due to be completed by 20 December 2019. We also note that the consultation with iwi was due to be completed by 30 June 2020 however this is still ongoing.

(d) Special Condition 8:

You have not provided public access, as defined in this condition, in relation to Erindale forest, Craigie Lea forest, or Beehive Creek. However, we note you expect to meet this special condition by Q4 2020.

8. You were in breach of Special Conditions 5 and 7 for a number of months but, after our enquiries, you have advised and provided information that show you are now compliant.

Decision on enforcement action

9. As noted in our letter to you of 7 August 2020, the OIO takes breaches of the conditions of consent seriously and expects all consent holders to comply with the same.
10. We expect consent holders who are unable to meet conditions to proactively engage with the OIO prior to breaches occurring to find a mutually agreeable outcome.
11. On this occasion, we have balanced our concerns however with the fact that you have co-operated with our enquiries and provided all information requested.
12. Therefore, in these circumstances, we have decided to allow you **three months** from the date of this letter to apply to vary the conditions you are in breach of. Please confirm by **17 September 2020** that you will submit a variation application within the specified timeframe.
13. Any application is subject to our ordinary assessment criteria and this invitation does not provide any assurances that it will or will not be approved.
14. Please be aware that special conditions 2 and 8 are tied to standard condition 6 which allows the OIO to require you to dispose of the land in case where these conditions are not satisfied.
15. Accordingly, if you chose not to submit a variation application, we may take further enforcement action which may include requiring you to dispose of the land.

Formal warning

16. We are also issuing you a formal warning about your compliance.
17. You have a history of non-compliance with conditions of other consents that were granted.
18. Due to this compliance history, we are concerned that you are not taking your consent conditions and obligations to under the Overseas Investment Act 2005 (**Act**) seriously.
19. Given this background, we are may begin with more firm enforcement action in future, should we become aware of any non-compliance. This may include seeking performance injunctions or requiring you to dispose of property.

20. You are on notice that we will take this warning into account if engage in any further breaches. We may also draw this warning to the attention of the Court in any subsequent proceedings brought by us.
21. We will be publishing this warning letter on our website. We may make public comment about our investigations and conclusions including issuing a media release or making comment to media. This is important for the public interest for transparency and to act as a deterrent for other investors.
22. If you have any questions or do not fully understanding anything in this letter, please do not hesitate to contact Svetlana Malivuk.

Yours sincerely

Svetlana Malivuk
Senior Investigator
Overseas Investment Office

DDI: +64 4 471 6657
Email: smalivuk@linz.govt.nz

Nelson Curry
Senior Solicitor
Overseas Investment Office

DDI: +64 4 830 3958
Email: ncurry@linz.govt.nz

CC: Dan Williams, Anderson Lloyd
dan.williams@al.nz