

**Application No. (s)** 200520122

**Decision No. (s)** 200520102

16 December 2005

Paul Gunn/Chris Linwood  
Russell McVeagh  
P O Box 8  
AUCKLAND

Dear Mr Gunn/Mr Linwood

**APPLICANT – OVISNEGRA LIMITED**

1. Thank you for your letter of 18 November 2005.

**INTERPRETATION**

2. Where a term defined in the Overseas Investment Act 1973 or the Overseas Investment Regulations 1995 or the Overseas Investment Act 2005 appears in this document, that term shall have a corresponding meaning.
3. Applicant includes any nominee of the applicant.
4. Unless the context otherwise requires, a reference to the Overseas Investment Office is a reference to the Regulator.

**DECISION**

5. We refer to your letter of application dated 18 November 2005 to the Overseas Investment Commission which outlines the proposed overseas investment ("the investment") by the Applicant. Consent under the Overseas Investment Regulations 1995 has been granted, by virtue of section 77(2)(b) of the Overseas Investment Act 2005, to:
  - (a) the giving effect to any transaction which results in the Applicant acquiring an estate in 50.356 hectares of land situated at Mataka Station, Purerua Peninsula, Bay of Islands and described in CT 190757 (North Auckland Registry).

**CONDITIONS OF CONSENT**

6. Consent has been granted subject to the following conditions:
  - (a) the consent will lapse if the land, (the investment) has not been acquired by and transferred to the Applicant by 16 December 2006;
  - (b) the Applicant must notify the Overseas Investment Office in writing as soon as practicable, and no later than 16 December 2006, whether settlement of the acquisition of the investment took place. If settlement of the acquisition of the investment did take place, the notice must include:
    - (i) the date of settlement;

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- (ii) final consideration paid (plus GST, if any);
  - (iii) the structure by which the acquisition was made, and whether an associate of the Applicant acquired the investment;
  - (iv) where applicable, copies of transfer documents and settlement statements; and
  - (v) any other information that would aid the Overseas Investment Office in its function to monitor conditions of consent.
- (c) That the Applicant, or the individuals with control of the Applicant, must:
- (i) continue to (and in the case of individuals with control of the Applicant, collectively) have business experience and acumen relevant to the investment;
  - (ii) continue to demonstrate financial commitment to the investment;
  - (iii) continue to be of good character; and
  - (iv) not become an individual of the kind referred to in section 7(1) of the Immigration Act 1987.
- (d) The Applicant must notify the Overseas Investment Office within 28 working days if the Applicant:
- (i) or any person in which the Applicant has, or had at the time of the offence or contravention, a 25% or more ownership or control interest, commits an offence or contravenes the law (whether convicted or not); or
  - (ii) ceases to be an overseas person; or
  - (iii) sells the investment.
- (e) On the basis that the applicant may implement its obligations by contributing its pro rata share of the conservation projects which will be carried out on a collective basis, the applicant must to the extent that they are within the Applicant's control (whether personally or as a member of the Mataka Residents' Association):
- (i) retain the conservation areas on the property identified in the application for conservation purposes;
  - (ii) maintain the coastal planting areas completed by Mataka Limited;
  - (iii) prior to any earthworks commencing on the property advise Iwi and invite them to be present. If during such earthworks any koiwi or other archaeological remains are uncovered, work shall cease and the Iwi and The New Zealand Historic Places Trust be advised immediately;
  - (iv) ensure that an effective possum control, goat eradication and weed control programme in consultation with and to the satisfaction of the Environmental Services Manager of the Far North District Council and maintain a Kiwi protection programme is maintained;

- (v) ensure that the obligations given to Wharengaerae 2b Papakainga Trust as set out in the correspondence with the Trust continue to be honoured;
  - (vi) ensure that Motutui Island not be included in a subdivided lot that is acquired by an overseas person;
  - (vii) ensure that an esplanade reserve be created at the beach at Howe Point and at the beach at Whale Bay by 31 December 2005; and
  - (viii) ensure that the farm lease be entered into for not less than 10 years, and not withdraw more than 4 hectares of the lot the subject of this application for housing from the farmed area.
- (f) The Applicant must report in writing to the Overseas Investment Office providing evidence of compliance with condition 6(c) no earlier than 16 June 2006 and no later than 16 December 2006 and condition 6(e) by 16 December 2006. The Applicant must also, if required by the Overseas Investment Office, provide this information at any subsequent time.
7. This consent does not eliminate the need for the Applicant to comply with other New Zealand legal requirements.

#### **MONITORING CONDITIONS OF CONSENT**

8. The Overseas Investment Office may also, by notice in writing, require the Applicant to provide a statutory declaration verifying the extent to which the Applicant has complied with the conditions of consent, and, if the Applicant is in breach of a condition or conditions, the reasons for the breach and the steps the Applicant intends to take to remedy the breach.

#### **SANCTIONS**

9. The Overseas Investment Act 1973 and the Overseas Investment Act 2005 contains sanctions for breaching of the Overseas Investment legislation, failing to comply with conditions of consent and failing to provide information required by the Overseas Investment Office.

#### **PUBLIC INFORMATION**

10. The Overseas Investment Office produces a publicly available record of all decisions made under the Act.
11. The Official Information Act 1982 contains reasons for withholding information, including unreasonable prejudice to commercial position (section 9(2)(b)(ii) of that Act). After considering the provisions of that Act, the Overseas Investment Office is of the view that the information set out on the attached draft decision sheet should be released.
12. The Overseas Investment Office acknowledges your request for confidentiality (if any) in respect of the application. If you are of the opinion that some of the information contained on the attached form is incorrect or should be withheld in terms of the Official Information Act 1982, please write to me within 10 working days of the date of this letter setting out:
- (a) the information which you consider should be withheld; and
  - (b) by reference to section 9(2) of the Official Information Act, the basis on which the information could be withheld.

**GST INVOICE/RECEIPT**

13. Please find enclosed a GST invoice/receipt for the application fee.

Yours sincerely

Annelies McClure – Manager  
Overseas Investment Office

Released under the Official Information Act 1982