

Application No. 200610083

Decision No. 200610086

30 June 2006

Alan Paterson/Andrew Beresford
Russell McVeagh
PO Box 8
AUCKLAND

Dear Mr Paterson/Mr Beresford

APPLICANT – WENDOVER INVESTMENTS LIMITED

1. Thank you for your letter of 20 April 2006.

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 20 April 2006 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 20.0915 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) this consent will lapse if the property, specified securities or land has not been acquired and transferred [or business has not been established] by 30 June 2007;
 - (b) the Applicant or their agent must notify the Overseas Investment Office in writing as soon as practicable and no later than 30 June 2007 advising whether the investment proceeded. If the investment proceeded the notice must include:
 - (i) the date of settlement;

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- (ii) final consideration paid (including any GST payable and including the amount of the consideration that is attributable to the unimproved value of any land acquired);
 - (iii) the structure by which the acquisition was made (for example, advise whether a nominee of the applicant acquired the property);
 - (iv) any other information which would aid the Overseas Investment Office in its function to monitor overseas investment in New Zealand; and
 - (v) Copies of certificates of title and transfer documents where applicable.
- (c) every individual with a 25 percent or more beneficial interest in the overseas investment, or where the Applicant is not an individual, the individuals exercising control over the Applicant (as the case may be) must continue to meet the eligibility criteria specified in section 14A(2)(a)-(c) [or section 14B(2)(a)-(c) as applicable] of the Overseas Investment Act 1973.
7. 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:
- (a) retain the conservation areas on the property identified in the application for conservation purposes;
 - (b) maintain the coastal planting areas completed by Mataka Limited;
 - (c) 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;
 - (d) 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;
 - (e) ensure that the obligations given to Wharengaerae 2b Papakainga Trust as set out in the correspondence with the Trust continue to be honoured;
 - (f) ensure that Motutui Island not be included in a subdivided lot that is acquired by an overseas person;
 - (g) ensure that an esplanade reserve be created at the beach at Howe Point and at the beach at Whale Bay; and
 - (h) ensure that the farm lease be continued 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.
8. This consent does not eliminate the need for the Applicant to comply with other New Zealand legal requirements.

REPORTING REQUIREMENTS

9. If the investment proceeds the Applicant or their agent must:

- (a) report in writing to the Overseas Investment Office providing evidence of compliance with condition 6(c) in this letter no earlier than 30 December 2006 and no later than 30 June 2007. The Applicant must also, if required by the Overseas Investment Office, provide this information at any subsequent time;
 - (b) notify the Overseas Investment Office in writing within 28 days of ceasing to be an overseas person; and
 - (c) notify the Overseas Investment Office in writing within 28 days of selling any land (or specified securities in a land-owning entity) which this letter grants them consent to acquire.
10. This information is sought for the purpose of compiling statistical information about overseas investment in New Zealand and to monitor compliance with the conditions of this consent.
11. 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

12. 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

13. The Overseas Investment Office produces a publicly available record of all decisions made under the Act.
14. 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.
15. 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

16. 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