

Decision Date

Original decision: 17 April 2011

Varied: 27 May 2015

Decision

Pursuant to section 27 of the Overseas Investment Act 2005, the conditions of consent granted to Bernard Jean Sabrier on 17 April 2011 have been varied.

Statutory Conditions of Consent

Section 28 of the Overseas Investment Act 2005 ("the Act") provides that it is a condition of every consent, whether or not it is stated in the consent, that:

- (a) the information provided by each applicant to the Overseas Investment Office or the relevant Ministers in connection with the application was correct at the time it was provided; and
- (b) each consent holder must comply with the representations and plans made or submitted in support of the application and notified by the Overseas Investment Office as having been taken into account when the consent was granted, unless compliance should reasonably be excused.

For the purposes of section 28(1)(b), the representations and plans made or submitted in support of the application and taken into account when consent was granted are those contained in the application letter and in all attachments annexed to the application.

Varied Conditions of Consent

1. The consent will lapse if the Investment has not been acquired by and transferred to the Applicant within twelve months of the date of consent.
2. The Applicant must notify the Overseas Investment Office in writing as soon as practicable, and no later than twelve months from the date of consent, 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:
 - (a) the date of settlement;
 - (b) final consideration paid (plus GST, if any);
 - (c) the structure by which the acquisition was made, and whether an associate of the Applicant acquired the Investment;
 - (d) where applicable, copies of transfer documents and settlement statements; and
 - (e) any other information that would aid the Overseas Investment Office in its function to monitor conditions of consent.
3. The Applicant, or the individuals with control of the Applicant, must:
 - (a) continue to be of good character; and

- (b) not become an individual of the kind referred to in section 15 or 16 of the Immigration Act 2009.
4. The Applicant must notify the Overseas Investment Office within 28 working days if the Applicant:
- (a) 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
- (b) ceases to be an overseas person; or
- (c) sells the Investment.
5. The Applicant must report in writing to the Overseas Investment Office providing evidence of compliance with condition 3 no earlier than six months from the date of consent and no later than twelve months from the date of consent.
6. The Applicant must by 1 September 2015 make a payment of \$60,000 into a fund established by Massey University for the purpose of providing financial support to one or more Massey University student(s) undertaking postgraduate kiwi research work in the Northland region. The Applicant will use best endeavours to procure a written report from Massey University to the Overseas Investment Office by 1 September 2016 confirming payment of the financial contribution and reporting on the progress of Massey University in applying this contribution to postgraduate research projects, and ensure that Massey University will, upon request, provide a copy of finalised research papers and/or reports (as applicable) to the Applicant and to the Overseas Investment Office.
7. The Applicant must undertake the development referred to in paragraph 4.1(b) of the Application within three years of the date of consent provided this is consistent with the rules of the Mataka Residents Association and any consent notices registered on Computer Register 320618. The Applicant must provide a written report three years after the date of consent setting out details of all development undertaken in accordance with the commitment in paragraph 4.1(b).

Monitoring Conditions of Consent

For the purpose of monitoring conditions of consent, the Overseas Investment Office may, under section 38 of the Act, require the consent holder to provide information or documents, or both, that are specified in the notice. Under section 40 of the Act, the Overseas Investment Office may also require a consent holder to provide a statutory declaration verifying the extent to which the consent holder has complied with the conditions of consent, and, if the consent holder is in breach of a condition or conditions, the reasons for the breach and the steps the consent holder intends to take to remedy the breach.

Sanctions

The Act provides for civil and criminal sanctions for breaching the Act, failing to comply with the conditions of consent and failing to provide information required by the Overseas Investment Office. The Overseas Investment Office has an obligation to investigate and act upon alleged and suspected breaches of the Act.

General

A reference to the "Overseas Investment Office" in this Notice includes a reference to the regulator (as defined by the Act). A reference to the Applicant includes a reference to the consent holder.



Jenna Reid
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Overseas Investment Office

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