

# Application for Consent to Acquire Sensitive New Zealand Assets

(One-off and Standing Consents)

Use this template for all applications for consent (including standing consents) other than applications made under the home to live in New Zealand pathway (commitment to reside).

See our website for other application templates including for home to live in, exemption, and variation applications.

It is important that you provide us with accurate and complete information. It is an offence to make a false or misleading statement or material omission in any information or document provided to the Overseas Investment Office (OIO).

The OIO may use relevant legislation to share details of this application with other agencies to the extent permitted by law and as required to complete the application process.

## Instructions:

- Please do not remove the instruction text from this template.
- Use the latest version of this template. Download this template from our website before each use.
- Ensure that your application is complete before submitting it to the OIO (we will not commence our [Quality Assurance](#) process until we have received all of your documents).
- Follow the guidance in each section. Provide all required information.
- Be concise and use plain English. Use headings and tables (if relevant) and explain industry terminology.
- Documents in a foreign language must be accompanied by full certified translations (unless otherwise agreed with the OIO in advance).
- This is a living document and must be updated during the assessment process if further information is provided. Updated versions of this document must be recorded in the table below and with [tracked changes](#) so the OIO can easily identify those updates.
- Contact the OIO if you have any questions about this template or your application generally (+64 4 462 4490, [oio@linz.govt.nz](mailto:oio@linz.govt.nz)).

## Electronic Filing Requirements

Your application and supporting information must be submitted electronically using our [Application Submission Webform](#). The Webform is a secure upload site and provides details of our electronic filing requirements.

Please do not provide hard copy versions of your documents.

Checklist		
1.	Electronic copy of your signed application (without appendices)	<input checked="" type="checkbox"/>
2.	Electronic copy of each appendix to your application (number and describe each appendix as follows: 'Appendix 01 – X')	<input checked="" type="checkbox"/>
3.	All PDF documents are: <ul style="list-style-type: none"><li>• 'Printed to PDF', or scanned and OCR'd (i.e. all text in the document can be copied)</li><li>• Free from security restrictions</li><li>• In colour (if the document contains colour)</li><li>• If scanned, at 300 dpi (where possible)</li></ul>	<input checked="" type="checkbox"/>

### Version control

Record the details of each version of the application below.

Applicant Name		Click or tap here to enter text.
Version	Date	Description
1.0	7 August 2020	First version submitted to OIO
2.0	26 August 2020	Second version submitted to OIO in response to its QA decision letter of 25 August 2020
Final version	23 October 2020	Final version submitted to OIO

### Applicant signature – Version 1.0

Only version 1.0 and the final version of the application must be signed.

Sign version 1.0 of the application below.

Version 1.0		
Signature:		Date: 07/08/20
Rajeev Ruparelia	Position: Director of the Applicant	7 August 2020

### Applicant signature – Final version

Do not sign the final version of the application below until the OIO requests you to

Signature:

[ s 9(2)(a) ]

Date: 23<sup>rd</sup> October 2020

Rajeev Ruparelia

Position: Director of the Applicant

Released under the Official Information Act 1982

## Summary of Key Information

We use the information in this table to quickly identify the nature of the application, enter the application into our case management system and commence our quality assurance process.

We may contact the parties listed below during the process and following a decision.

If you are applying for a standing consent, complete as much of the table as you can and state N/A in rows which are not relevant. *Note: The OIO expects all applicants for standing consents to attend a pre-application meeting.*

Date	23/10/2020
Case number	202000458
Applicant	NZ Healthcare Investments Limited
Target entity (if any)	APHG NZ Investments Limited
Vendor/Lessor	Healthscope Pathology Holdings No. 2 Pty Ltd
Decision type	Significant business assets decision
Transaction type	Acquisition of securities
Transaction of national interest	<p><b>Section 20A:</b></p> <p>Does the transaction fall under Section 20A of the Act?</p> <p><input type="checkbox"/> Yes, the transaction is an investment in a strategically important business.</p> <p><input checked="" type="checkbox"/> Yes, the transaction involves a non-New Zealand government investor.</p> <p><input type="checkbox"/> No, the transaction is neither of the above.</p> <p><b>Section 20B:</b></p> <p>Does the Applicant consider the transaction to be a transaction of national interest under section 20B of the Act?</p> <p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p> <p>Note: Under Section 20B the Minister may consider any application to be a transaction of national interest. For more information on this, please refer to the OIO's <a href="#">Supplementary Ministerial Directive Letter</a> and Treasury's <a href="#">Foreign Investment Policy and National Interest Guidance</a>.</p>
Assets/Investment	Acquisition of 100% of the shares in APHG NZ Investments Limited
Application type	One-off consent application
Decision maker	OIO and Minister of Finance
Application Fee	The application fee will be paid by direct credit after the correct amount has been confirmed by the OIO. Please send the GST receipt to <a href="mailto:Andrew.petersen@bellgully.com">Andrew.petersen@bellgully.com</a>
Contact details: Applicant's advisor(s)	Andrew Petersen / James Cooney <a href="#">Click or tap here to enter text.</a>



	<p>Bell Gully</p> <p><a href="mailto:Andrew.petersen@bellgully.com">Andrew.petersen@bellgully.com</a> / <a href="mailto:James.Cooney@bellgully.com">James.Cooney@bellgully.com</a></p> <p>Ph: +64 916 8622 / +64 916 8620</p> <p>Vero Centre, 48 Shortland Street, Auckland</p>
Contact details: Applicant	<p>Soo Yien Khor</p> <p>Ontario Teachers' Pension Plan (Asia) Limited – Director &amp; Senior Legal Counsel, Asia</p> <p>Room 2801, Level 28/F, Alexandra House, 18 Chater Road, Hong Kong</p>
Contact details: Vendor	<p>The Vendor's contact details in relation to the Application for Consent is that of its advisor, MinterEllisonRuddWatts, which are set out below.</p> <p>MinterEllisonRuddWatts</p> <p>Level 22, PwC Tower, 15 Customs Street West, Auckland Central, Auckland 1010, New Zealand</p> <p>Attention: Mark Forman (Partner)</p> <p><a href="mailto:Mark.Forman@minterellison.co.nz">Mark.Forman@minterellison.co.nz</a></p> <p>+64 9 353 9944</p> <p>+64 21 243 6954</p>
NZ Service Address	<p>Bell Gully</p> <p>Vero Centre</p> <p>48 Shortland Street</p> <p>Auckland 1010</p>
Requested decision date	As soon as possible

## Defined terms

Extend this table to list all the defined terms you have used in your application. Use meaningful terms that are easily remembered and are consistent across this document and (if applicable) your Investment Plan.

Act	means the Overseas Investment Act 2005
APHG	means APHG Healthcare Group Limited
APHG NZ	means APHG NZ Investments Limited
APHG Shares	means 100% of the fully paid ordinary shares in APHG NZ
Applicant	means NZ Healthcare Investments Limited
Board Members	means OTPP Board Members
Completion	means completion of the Proposed Transaction
Guardians	means the Guardians of New Zealand Superannuation
Healthscope	means Healthscope Pathology Holdings No. 2 Pty Ltd

IWC	means individuals with control of the relevant overseas person
NZ Super	means the New Zealand Superannuation Fund
NZSF Healthcare	means NZSF Healthcare Investments Limited
NZSRIA	means the New Zealand Superannuation and Retirement Income Act 2001
OIO	means Overseas Investment Office
OTF	means Ontario Teachers' Federation
OTPP	means Ontario Teachers' Pension Plan Board
OTPP Appointer	means 2767641 Ontario Ltd.
[ s 9(2)(b)(ii) ]	[ s 9(2)(b)(ii) ]
OTPP Fund	means the fund composed of the investments and other assets of the Plan
OTPP Holdco	means 2767640 Ontario Ltd.
[ s 9(2)(b)(ii) ]	[ s 9(2)(b)(ii) ]
Plan	means the Ontario Teachers' pension plan
Proposed Transaction	means the Applicant's acquisition of the APHG Shares
Regulations	means the Overseas Investment Regulations 2005
ROP	means relevant overseas person
SSA	means the share sale agreement entered into by the Applicant and the Vendor on 4 August 2020
Target	means APHG NZ
Vendor	Healthscope

# Section 1: Introduction

## Investment Summary

### Required Content:

Provide a brief description of the 'who, what, where' for the investment and consent sought.

#### 1 Response

1. This application is made by the Applicant for consent under the Act and the Regulations to acquire up to 100% of the shares in APHG NZ by way of the Proposed Transaction.
2. APHG NZ is the largest provider of pathology services in New Zealand, operating under the Southern Community Laboratories, Labtests, Medlab South and Gribbles brands. Following the Proposed Transaction, APHG NZ will be 100% owned by the Applicant, which itself is beneficially owned 50% by OTPP and 50% by the Guardians through intermediary companies.
3. OTPP oversees Canada's largest single-profession pension plan and pays defined benefit pensions and invests assets on behalf of ~329,000 retired and working teachers. OTPP invests around the world, in virtually every sector of the investment universe. Wherever OTPP invests the goal is clear: to increase the value of its assets so the Plan can pay pensions and meet its long-term funding needs. OTPP was incorporated by the Teachers' Pension Act (Ontario) and is a corporation without share capital. OTPP is a non-NZ government investor for the purposes of section 20A(1)(b) of the Act (see further below).
4. NZ Super is New Zealand's sovereign wealth fund, established in 2001 under the NZSRIA. NZ Super is managed by the Guardians, a Crown Entity also established under the NZSRIA. The purpose of NZ Super is to reduce the tax burden on future taxpayers of the cost of New Zealand superannuation. The Guardians is not an "overseas person" for the purposes of the Act.
5. The structure diagram at **Appendix 01** sets out the intended structure through which OTPP and the Guardians will hold their interests in APHG NZ after Completion.
6. The Applicant seeks consent from the OIO for the Proposed Transaction pursuant to section 10(1)(b) of the Act for an overseas investment in significant business assets because the value of the Target's New Zealand assets, and the consideration payable for the APHG Shares under the Proposed Transaction, exceeds \$100 million.
7. The Proposed Transaction does not involve an interest in any "sensitive land" for the purposes of the Act.

## Key Dates

### Required Content:

Provide the following:

- The date by which consent is required (this must be a date, not a timeframe that requires calculation, e.g. 90 working days from X), - explain any consequences should the date not be met (e.g. the vendor is entitled to cancel the agreement).
- The details of the OIA condition in the agreement for sale and purchase - reference the relevant clause(s), state the condition date, and note any rights of extension (if not already addressed above).
- Any request for urgency – ensure you provide the supporting information set out on our [website](#) (avoid requesting urgency without first discussing it with the OIO).

## 2 Response

8. The Applicant and the Vendor signed the Share Sale Agreement (**SSA**) (attached as **Appendix 02**) and the Proposed Transaction was publicly announced on 4 August 2020.
9. [ s 9(2)(b)(ii) ]  
[Redacted]  
  - a) [ s 9(2)(b)(ii) ]  
[Redacted]
  - b) [ s 9(2)(b)(ii) ]  
[Redacted]
  - c) [ s 9(2)(b)(ii) ]  
[Redacted]
10. [ s 9(2)(b)(ii) ]  
[Redacted]
11. Given [ s 9(2)(b)(ii) ]  
[Redacted] the Applicant kindly requests that the OIO consider this application and issue a consent decision as soon as possible, in order to provide greater certainty to the Vendor and the Purchaser in the current economic climate that Completion will occur.



## Section 2: Investment

Use this section to confirm: The particulars of the overseas transaction(s), the consent(s) requested and why, and that the transaction has not already been given effect without consent (i.e. the transaction is conditional on OIO consent being granted).

This section does not apply to applications for a standing consent (state NA and move on to the next section).

### Required content:

Provide the following:

- Describe the proposed transaction – identify all parties to the transaction including the entity/individual(s) acquiring the investment, target entity, vendor etc
- A statement about whether you have any existing interest in the sensitive assets and/or existing relationship with the vendor.
- A statement about whether you have consulted with any other Government department about the transaction (if yes, provide the contact details for the relevant official(s)).
- Describe the target entity/business (if relevant).
- Describe relevant agreements and steps involved in the transaction – include:
- details of any pre-conditions to the completion of the acquisition other than OIO consent.
- diagrams if this will assist in explaining the transaction.
- details of any pre-consent arrangements such as short-term leases, management agreements, etc.

### Required attachments:

Attach relevant transaction agreements/documents (full executed copies without redactions) – for example: Agreement for sale and purchase, lease agreements, forestry rights agreement, *profit à prendre* agreement, independent advisers report, scheme booklet. Provide draft agreements if executed copies are not available.

## 3 Response

### *Proposed Transaction*

12. The Applicant and the Vendor entered into the SSA on 4 August 2020 to record and give effect to the terms and conditions of the Proposed Transaction. A copy of the SSA is attached at **Appendix 02**.
13. The Applicant will acquire the APHG Shares from the Vendor as part of the Proposed Transaction. [ s 9(2)(b)(ii) ]

- a) [ s 9(2)(b)(ii) ]
- b) [ s 9(2)(b)(ii) ]
- c) [ s 9(2)(b)(ii) ]
- d) [ s 9(2)(b)(ii) ]
14. [ s 9(2)(b)(ii) ]
15. The shares in the Applicant are held:
- a) 50% by OTPP Holdco (a wholly-owned subsidiary of OTPP); and
  - b) 50% by NZSF Healthcare (a wholly-owned subsidiary of Guardians).
16. The Proposed Transaction constitutes an investment in “Significant Business Assets” for the purposes of the Act.
17. The Applicant is a newly incorporated company so it has no pre-existing relationship with the Target or any direct or indirect interest in its business or assets.
18. Neither OTPP nor the Guardians has any pre-existing relationship with the Target or any direct or indirect interest in its business or assets.
19. The Applicant considers the Proposed Transaction an opportunity to invest in, and continue growing, APHG NZ’s pathology services and facilities in New Zealand. The Applicant’s intention is to support APHG NZ’s people to continue delivering the best possible pathology services to DHBs and patients, in a cost efficient manner. Historically, having been a smaller business unit inside a larger foreign healthcare provider, APHG NZ did not have the capital available to pursue attractive growth initiatives. [ s 9(2)(b)(ii) ]

#### *Consultation with Government department/s*

20. OTPP has not consulted with any government department/s about the Proposed Transaction.
21. The Guardians, as an autonomous crown entity, has had the following interactions:
- a) DHB meetings with Auckland, Southern and Christchurch;
  - b) notification of the Proposed Transaction to the Minister of Finance’s office and Treasury’s institutional investment team (the proposed transaction was also noted in a quarterly report to the Minister of Finance); and
  - c) the Guardians also engaged external advisors who undertook due diligence work on the Guardians’ behalf, and looked at the political reform agenda for health. They interviewed a range of elected representatives, politicians and officials as part of their report.

## Consideration and Financing

### Required Content:

Provide details of the consideration and financing for the transaction. For international transactions, also state the consideration or asset value for the New Zealand assets.

#### 4 Response

22. The consideration for the Proposed Transaction is [ s 9(2)(b)(ii) ]
23. It is anticipated that the Applicant's participation in the Proposed Transaction will be funded by:
- a) [ s 9(2)(b)(ii) ]
  - b) [ s 9(2)(b)(ii) ]
  - c) [ s 9(2)(b)(ii) ]

### Consent(s) requested

#### Required Content:

Provide the following:

- Explain why the transaction requires consent.
- Confirm all transactions for which consent is sought and when they are likely to occur (consider whether the consent is required for linked transactions such as the grant and exercise of options).
- Identify whether the transaction is a transaction of national interest.

#### 5 Response

24. The Applicant is an overseas person, as it is beneficially owned more than 25% by overseas persons.
25. The Proposed Transaction requires consent pursuant to section 10(1)(b) of the Act on the basis that it will result in the Applicant acquiring the APHG Shares, and each of:
- a) the value of APHG NZ's total gross assets [ s 9(2)(b)(ii) ]
  - b) the consideration for the APHG Shares [ s 9(2)(b)(ii) ]
- exceed NZ\$100 million.
26. The Applicant accordingly requests consent under the Act to acquire the APHG Shares.
27. The Proposed Transaction is a transaction of national interest because OTPP is a "non-NZ government investor", as further set out below.

## Section 3: Applicant

Use this section to provide full ownership and control information for the applicant. This information will help us understand the individual or entity making the investment and identify who we should focus our assessment on (i.e. identify the ROP and IWC for the investment).

### Ownership and control

Required content:

Provide the following:

- Full information on ownership and control of the acquiring entity tracing back to ultimate owners/controllers including:
  - The role and significance of any intermediary entities and other parties (including associates) holding a direct or an indirect interest in the acquiring entity.
  - Whether a foreign government or its associates would hold an interest in the asset.
  - A description of all share classes on issue (and who owns them) and any trust arrangements.
  - Incorporation, shareholder and director information for all entities (or equivalent information if the applicant is not a company).
- An explanation of decision making as it relates to the proposed investment - address the following questions (with reference to relevant documents where appropriate):
  - Who is providing the required business experience and acumen?
  - Where is the financial commitment coming from (funding)?
  - Who approved the acquisition of the investment? Did they consult with others (e.g. parent entities) before making the decision?
  - Who could approve the divestment of the investment?
  - Who is responsible for the day to day management of the investment?
  - Who can approve significant capital and operating expenditure?
  - Are there formal (or informal) decision making delegations in place? Who controls those delegations?

## Required attachments:

Attach the following:

- Structure diagram(s) showing full legal and beneficial ownership of the sensitive assets (pre and post transaction where helpful). Provide an additional simplified ownership structure diagram for complex ownership structures.
- Certificate(s) of incorporation.
- A breakdown of beneficial ownership of Applicant by Country (see Appendix Template).
- A list of persons beneficially owning 5% or more of the Applicant (see Appendix Template).
- Formation documents (e.g. trust deeds, constitutions).

## 6 Response

### ***The Applicant***

28. The Applicant is a limited liability company that was incorporated in New Zealand on 3 August 2020. The Applicant is an overseas person for the purposes of the Act as it is 25% or more owned or controlled by overseas persons. Copies of the Applicant's certificate of incorporation and constitution are attached at **Appendix 03** and **Appendix 04**.
29. The Applicant does not have any financial statements or annual reports as it was only recently incorporated.

### **Ownership Interests in the Applicant**

30. A list of beneficial investors with a 5% or greater interest in the Applicant and a geographical breakdown of the Applicant's ultimate beneficial investors is attached at **Appendix 05**.
31. The Applicant is ultimately owned 50% each by OTPP and the Guardians through intermediary companies (and accordingly the geographic ownership breakdown of the Applicant is 50% Canada and 50% New Zealand).

### ***OTPP Holdco***

32. As set out above, OTPP oversees Canada's largest single-profession pension plan and pays defined benefit pensions and invests assets on behalf of ~329,000 retired and working teachers. OTPP Holdco is a subsidiary of OTPP that was incorporated to carry out the Proposed Transaction and to hold OTPP's 50% interest in the Applicant. It is a limited liability company that was incorporated in Ontario, Canada on 23 July 2020. OTPP Holdco is an overseas person as it is a 25% or more subsidiary of a body corporate incorporated outside New Zealand. Copies of OTPP Holdco's certificate of incorporation and bylaws are attached at **Appendix 06** and **Appendix 07**.
33. As set out above, OTPP Holdco has a 50% ownership interest in the Applicant.
34. OTPP Holdco does not have any financial statements or annual reports as it was only recently incorporated.
35. OTPP Holdco is 100% directly owned by OTPP. OTPP was incorporated by the Teachers' Pension Act (Ontario) in the province of Ontario, Canada. It is a corporation without share capital. Accordingly, it does not have any shareholders or owners. Under the Teachers' Pension Act (Ontario), OTPP is jointly sponsored by the Ontario Teachers' Fund (OTF), a



professional organisation of which all of the teachers in publicly-funded schools in the Province of Ontario are members, and the Ontario Government.

### ***NZSF Healthcare***

36. As set out above, the Guardians is the Crown Entity responsible for managing NZ Super. The Guardians hold its 50% share in the Applicant via NZSF Healthcare.
37. NZSF Healthcare is a wholly-owned “fund investment vehicle” (FIV) formed under the NZSRIA and controlled by the Guardians. The Guardians is an autonomous crown entity established under statute to manage the assets held in NZ Super. FIVs are separate legal entities from the Guardians that are formed or controlled by the Guardians for the purpose of holding, facilitating, or managing the investments of NZ Super. A FIV is not a crown entity subsidiary.
38. NZSF Healthcare is a FIV formed by the Guardians to hold shares in the Applicant. In addition:
- a) NZSF Healthcare is a New Zealand incorporated company; and
  - b) NZSF Healthcare has 100 shares on issue, all of which are held by the Guardians.
39. The Guardians and NZ Super have been established by legislation and do not have constitutional documents. A copy of the NZSRIA can be found [here](#). The framework for the governance and operation of the Guardians is provided by the NZSRIA and the Crown Entities Act 2004 found [here](#).
40. Further information about the Guardians, including Annual Reports, is available here: <https://nzsuperfund.nz>.
41. The respective percentage ownership interests in the Applicant held by each of OTPP and the Guardians are as set out below:

Party	Ownership of the Applicant
OTPP Holdco	50%
NZSF Healthcare	50%

### **Control of the Applicant**

#### ***OTPP Holdco***

42. OTPP has clear delegated authorities in place for the approval of new investments and the management of its existing investments. The applicable delegated authority for who has approval and management responsibilities is determined by the size and location of the investment, as set out below in respect of APHG NZ and the Proposed Transaction.

[ s 9(2)(b)(ii) ]

43. Given the consideration value of the Proposed Transaction and asset class of the Target, the

[ s 9(2)(b)(ii) ]

44. [ s 9(2)(b)(ii) ]

#### *OTPP Appointer*

45. [ s 9(2)(b)(ii) ] the constitution of APHG NZ will be amended immediately prior to Completion to expressly provide that no class of securities issued by APHG NZ (and accordingly none of the APHG Shares acquired by the Applicant) will carry the right to vote for the election, appointment, or removal of APHG NZ directors.
46. The constitution of APHG NZ will instead confer the right to vote for the election, appointment or removal of directors with specified entities (each an **Appointer**). The Appointer entities must not directly own any securities in APHG NZ.
47. Similarly, the constitution of the Applicant (as adopted on incorporation) provides that no class of securities issued by the Applicant carries the right to vote for the election, appointment or removal of directors. Instead the constitution of the Applicant confers the right to vote for the election or removal of directors with specified Appointer entities. The Appointer entities must not directly own any securities in the Applicant.
48. On the OTPP side, the entity that holds the right to vote for the election, appointment or removal of the directors of APHG NZ and the Applicant is OTPP Appointer. OTPP Appointer is a newly incorporated limited liability company that was incorporated in Ontario, Canada on 23 July 2020 for the purposes of the Proposed Transaction.
49. OTPP Appointer has the right to appoint, remove or replace, at any time, up to three of the up to seven directors of each of the Target and the Applicant and the right to jointly appoint (with the Guardians Appointer) an independent chairperson. This independent chairperson will be determined and appointed after completion of the Proposed Transaction.
50. OTPP Appointer is an overseas person because it is 100% directly owned by OTPP.

<sup>1</sup> This is based on OTPP's share of the purchase price. These thresholds are for transactions in "developed markets". New Zealand is a developed market.

<sup>2</sup> [ s 9(2)(b)(ii) ]

51. Copies of OTPP Appointer's certificate of incorporation and bylaws are attached at **Appendix 08** and **Appendix 09**.
52. OTPP Appointer does not have any financial statements or annual reports as it was only recently incorporated.

***NZSF Healthcare***

53. As set out above, NZSF Healthcare is a FIV formed by the Guardians to hold shares in the Applicant. The Guardians' interest in the Applicant is managed and controlled by the NZSF Healthcare directors.
54. NZSF Healthcare is not an overseas person.

***The Guardians***

55. As with OTPP Appointer, the entity that holds the right to vote for the election, appointment or removal of the directors of APHG NZ and the Applicant is the Guardians. The Guardians have the right to appoint, remove or replace, at any time, up to three of the up to seven directors of each of the Applicant and the Target, and the right to jointly appoint (with the OTPP Appointer) an independent chairperson (which will occur post-completion of the Proposed Transaction).
56. The Guardians is accountable to the New Zealand Government, but is legally separate and has operational independence regarding its investment decisions. The Guardians operates at "double-arm's length" to the NZ Government, which means that the NZ Government does not determine the pool of candidates put forward for appointment to the Guardian's Board, and the Guardian's Board and management make all investment decisions on behalf of NZ Super.
57. The Guardians is not an overseas person.
58. As a statutory body, the Guardians have no share capital (and therefore no "economic ownership"). The Guardians is 100% New Zealand owned.

***Voting rights of the Appointed Directors***

59. [ s 9(2)(b)(ii) ]

a) [ s 9(2)(b)(ii) ]

b) [ s 9(2)(b)(ii) ]

## Relevant overseas person

Who is the relevant overseas person for the investment (refer OIO [guidance](#))?

### Required content:

Identify the ROP and explain the rationale for your selection (if relevant, explain why you have excluded entities or individuals with an ownership or control interest from the ROP).

Note - ROP is a collective term that may cover more than one individual / entity.

### 7 Response

60. The ROPs for the purposes of this application are:

- a) the Applicant – this is the entity directly acquiring the APHG Shares.
- b) OTPP Holdco – this entity holds and is responsible for OTPP's interest in the Applicant (and in turn the Target through the Applicant);
- c) OTPP Appointer – this entity does not have any ownership in the Applicant or the Target, but has the ability to appoint more than 25% of the directors of the boards of each of the Applicant and the Target.

61. No other entities (including the intermediate holding companies and trusts) have any relevant positive or negative control in respect of the Proposed Transaction or the Target post Completion. For the purposes of this application and section 15 of the Act, the Applicant considers that the following are not ROPs:

- a) NZSF Healthcare;
- b) the Guardians; and
- c) OTPP.

62. The Applicant appreciates that OTPP, the Guardians and NZSF Healthcare could be considered to be ROPs (as associates of the Applicant) for the purposes of the Act and that the OIO has discretion to determine the relevant ROPs. However, the Applicant considers that it is not necessary or appropriate for OTPP, the Guardians and/or NZSF Healthcare to be treated as ROPs for the purpose of this application.

63. As a crown entity governed by the NZSRIA, the Guardians must act in a manner consistent with the NZSRIA. The Guardians have a legislative mandate to invest NZ Super on a prudent, commercial basis and, in doing so, must manage and administer NZ Super in a manner consistent with:

- a) best practice portfolio management;
- b) maximising return without undue risk to NZ Super as a whole; and
- c) avoiding prejudice to New Zealand's reputation as a responsible member of the world community.



64. The statutory framework imposed on the Guardians and its FIVs is consistent with the purpose of the Act (which acknowledges that it is a privilege for overseas persons to own or control sensitive New Zealand assets, and requires overseas investment to meet certain criteria, and be subject to certain conditions, when being granted consent). Neither the Guardians nor NZSF Healthcare are overseas persons. The Applicant has provided information on NZSF Healthcare and Guardians for completeness, but is not necessary for the Guardians or NZSF Healthcare to be treated as ROPs for the purpose of this application.
65. As set out above, [ s 9(2)(b)(ii) ]

## Individuals with control

Who are the individuals with control of each relevant overseas person for the investment (refer OIO [guidance](#))?

### Required content:

Identify the IWCs and explain the rationale for your selection (if relevant, explain why you have excluded members of the governing body of an ROP or individuals with a more than 25% ownership or control interest).

### Required attachments:

Attach the following:

- A completed ROP/IWC table (see Appendix template).
- Copies of passports for each IWC or written confirmation from the OIO that it has waived this requirement. Ensure copies of passports comply with the electronic filing requirements set out above (the OIO will not accept copies with dark shadows, glare from light, or cropped, distorted, or blurry images).

## 8 Response

66. The directors of the Applicant, OTPP Holdco and OTPP Appointer, and the members of the [ s 9(2)(b)(ii) ] are the individuals exercising control over the ROPs and are therefore the IWCs for the purposes of the application.
67. OTPP Appointer expects to appoint a further director of the Applicant and OTPP Holdco in due course. This director is not expected to be appointed prior to completion of the Proposed Transaction (but if a director is appointed prior to consent being granted the Applicant will update the OIO, or will ensure that director is of good character if it is appointed after consent is granted).
68. For the reasons set out above, the Applicant is of the view that the directors of the Guardians and NZSF Healthcare are not IWCs. However, for completeness, the Applicant notes that the



only directors of NZSF Healthcare are William Goodwin and Hishaam Mirza (who are also directors of the Applicant).

69. The directors of the Applicant at Completion will be:

Name	Residential address
Rajeev Ruparelia	Repulse Bay, Hong Kong
Hishaam Mirza	Auckland, New Zealand
William Goodwin	Auckland, New Zealand

70. The director of OTPP Holdco at Completion will be:

Name	Residential address
Rajeev Ruparelia	Repulse Bay, Hong Kong

71. The director of OTPP Appointer at Completion will be:

Name	Residential address
Rajeev Ruparelia	Repulse Bay, Hong Kong

72. The members of the OTPP Equities Investment Committee are:

Name	Residential address
[ s 9(2)(a) ]	London, United Kingdom
[ s 9(2)(a) ]	Toronto, Canada
[ s 9(2)(a) ]	Toronto, Canada
[ s 9(2)(a) ]	Etobicoke, Canada
[ s 9(2)(a) ]	London, United Kingdom
[ s 9(2)(a) ]	Toronto, Canada
[ s 9(2)(a) ]	Repulse Bay, Hong Kong
[ s 9(2)(a) ]	Mississauga, Canada
[ s 9(2)(a) ]	Tin Hau, Hong Kong

73. Curriculum vitae for each of the IWCs and copies of the relevant pages of their passports are attached as **Appendix 10** and **Appendix 11** respectively.

## Business activities

### Required content:

Provide the following:

- Describe the applicant's business activities generally.
- Describe any current or past business operations in New Zealand - address whether the applicant is a new investor or has a track record in New Zealand.
- Details of any previous consent applications by the applicant or related entities including OIO case numbers.
- A summary of financial position (e.g. market capitalisation, gross revenue, net profit, net asset value).
- A link to applicant website and annual report (if available online).
- Information on the business activities of individuals if the investor is effectively an individual (or a few individuals).

Note – If you are required to provide any of the above information in your investment plan (e.g. for standing consent applications), then you can state this and reference the relevant part of that document.

### Required attachments:

Attach the following:

- Latest financial accounts, audited where available.
- Annual report.

Note – do not provide these attachments if the information is available online.

#### 9 Response

##### **OTPP**

74. With CA\$201.4 billion in net assets<sup>3</sup> OTPP oversees Canada's largest single-profession pension plan. OTPP invests the pension fund's assets and administers the pensions of ~329,000 active and retired teachers in Ontario.
75. The key objective of OTPP is to ensure the Ontario Teachers' Pension Plan meets its long-term funding needs. To achieve this objective, OTPP seeks to maximise investment returns at an appropriate level of risk, taking into account pension liabilities (the cost of future pension benefits) and challenges presented by the OTPP's mature membership demographics.
76. OTPP invests for the long term and has a global diversified investment portfolio containing an asset mix of equities (public and private), inflation sensitive investments (real-return bonds, real estate, infrastructure and natural resources), fixed income and absolute return strategies.
77. In New Zealand:

---

<sup>3</sup> As at June 30, 2019.

- a) OTPP owns 100% of OTPP New Zealand Forest Investments Limited, which acquired 30,000 hectares of pine forests in the central North Island in 2004. The forest is managed by Hancock Forest Management; and
  - b) OTPP and Unitas Capital acquired NZ Yellow Pages in 2007. OTPP exited the investment in 2011.
78. OTPP also received OIO consent in 2020 to acquire 100% of the shares of Abano Healthcare Group Limited (Case 201900631). However, OTPP did not ultimately proceed with this transaction.
79. More information about OTPP can be found at <https://www.otpp.com/>.

#### *The Guardians*

80. The Guardians is an Auckland-based, autonomous Crown entity which invests government contributions into a global portfolio of investments: NZ Super. NZ Super is a pool of assets on the Crown's balance sheet that will eventually help pay for the increased cost of New Zealand superannuation payments, which ultimately reduces the tax burden of the cost of superannuation on future generations of New Zealanders. NZ Super was created in 2001.
81. NZ Super is a long term, growth oriented, global investment fund. The Guardians is the Crown entity charged with managing and administering NZ Super. NZ Super is governed by the NZSRIA. Under this legislation, the Guardians must invest NZ Super on a prudent, commercial basis and, in doing so, must manage and administer NZ Super in a manner consistent with:
- a) best-practice portfolio management;
  - b) maximising return without undue risk to NZ Super as a whole; and
  - c) avoiding prejudice to New Zealand's reputation as a responsible member of the world community.
82. As at 30 June 2019, NZ Super totalled NZ\$43.11B (after costs, before tax), outperforming the New Zealand Treasury Bill return (a measure of the cost to the Government of contributing capital to NZ Super, instead of using the money to repay debt) by 6.25% p.a.. NZ Super is highly diversified, with investments in a range of markets and sectors all around the world. More than 85% of NZ Super is invested offshore, in both developed and emerging markets. This diversification is in keeping with the Guardians' mandate to manage NZ Super in line with best practice portfolio management and to invest it on a prudent, commercial basis.
83. The majority of NZ Super's global investments are held passively, but the Guardians also invest globally in a range of active investment opportunities, including timber, private equity, insurance-linked securities and distressed credit.
84. The Guardians has large investments in Kaingaroa Timberlands, Fidelity Life, Metlifecare, Kiwibank, Hobsonville property, Datacom, NZ Gourmet, expansion capital, a portfolio of NZ hotels and rural farmland and horticulture assets. Set out below are further details of a selection of the Guardians investments.
- a) The Guardians invested in ConnectEast Group (then listed on the ASX), before joining a consortium of investors that took the entity private in October 2011. ConnectEast Group designed and constructed, and now operates and maintains, EastLink, the 39km tollway in the eastern suburbs of Melbourne, Australia. As at 30 June 2019, the Guardians own a 9.9% stake. Construction of EastLink started in March 2005 and it opened in June

2008. The freeway is Australia's second busiest tollway, carrying a quarter of a million vehicle trips per day on average (FY2019).

- b) The Guardians' single largest investment is Kaingaroa Timberlands, in which it has a 42% stake. The Guardians investment partners include PSP Investments and Kakano Investments (a collective of iwi groups which are also part-owners of the underlying land).
- c) In 2010, the Guardians and Infratil purchased Shell's downstream assets in New Zealand and formed Z Energy, a transport energy company. Z supplies fuel to retail customers and large commercial customers like airlines, tracking companies, mines, shipping companies and vehicle fleet operators, along with bitumen to roading contracts. Z successfully listed on the New Zealand and Australian share markets in August 2013, with the Guardians retaining a 20% stake in the company. Thereafter, in 2015 and 2016 the Guardians completed two rounds of sales, successfully reducing its stake in Z Energy by 38.9 and 36.4 million shares respectively.
- d) In late 2015, the Guardians partnered with Ngai Tahu Property and New Ground Capital to invest in a new housing development at Hobsonville Point, Auckland. The NZ\$113 million project has seen 208 new homes developed since construction began on the site in early 2017.
- e) In May 2019, the Government announced its intention to create a new NZ\$300 million venture capital fund administered by the Guardians under a new mandate. This mandate was established under the Venture Capital Fund Act 2019. Under that Act, the Guardians would appoint the New Zealand Growth Capital Partners Limited to manage a fund-of-funds, with the New Zealand Growth Capital Partners Limited in turn to appoint a number of private sector venture capital fund managers.

85. The Guardians has previously received the following consents from the OIO:

- a) Case 2010020052 (30 November 2010) – The applicant being Kaingaroa Timberlands (an entity owned by the President and Fellows of Harvard College (60%) and the Guardians (40%)) in relation to its acquisition of a leasehold interest in 105.5300 hectares of land at Dun Road, Kaingaroa<sup>4</sup>;
- b) Case 201110027 (29 April 2011) – The applicant being Kaingaroa Timberlands (an entity owned by the President and Fellows of Harvard College (60%), the Guardians (40%)) and Forest Genetics Limited (an entity owned by Kaingaroa Timberlands (51%), Carson Family Trust (34.2%), Phil Wells Family Trust (7.4%) and Juliet Wells Family Trust (7.4%)) in relation to the acquisition of a leasehold interest in 79.6 hectares of land at 1102 Te Ngae Road and State Highway 30, Rotorua<sup>5</sup>;
- c) Case 201220092 (21 April 2013) – The applicants being Public Sector Pension Investment Board, the Guardians and the President and Fellows of Harvard College in relation to the purchase of shares in KT1 Co and KT2 Co (which owned and controlled certain land interests), together with the assumption of debt and a restructure of ownership of KT1 Co and KT2 Co<sup>6</sup>;

<sup>4</sup> [<https://www.linz.govt.nz/overseas-investment/decision-summaries-statistics/2010-11/201020052>].

<sup>5</sup> [<https://www.linz.govt.nz/overseas-investment/decision-summaries-statistics/2011-04/201110027>].

<sup>6</sup> [<https://www.linz.govt.nz/overseas-investment/decision-summaries-statistics/2013-04/201220092>].



- d) Case 201320069 (11 March 2014) – The applicant being Z Energy Limited (an entity owned by New Zealand Public (36.656%), other shareholders in Z Energy Limited (22.84%), the Guardians (20%), Australian Public (15.72%), various overseas persons (2.418%) and Utilico Limited (2.366%)) in relation to the acquisition of a leasehold interest in approximately 0.8 hectares of land at Wiri<sup>7</sup>;
- e) Case 201510077 (17 November 2015) – The applicant being Z Energy Limited (an entity owned by New Zealand Public (38.86%), Australian Public (33.21%), various overseas persons (17.93%) and New Zealand Superannuation Fund Nominees Limited (10%) (being a wholly owned subsidiary of the Guardians) in relation to the acquisition of shares in Chevron New Zealand<sup>8</sup>.

86. More information about the Guardians can be found at <https://nzsuperfund.nz/>.

## Section 4: Vendor

Use this section to add vendor / lessor information. If the vendor has provided a Vendor Information Form (VIF) then you can complete this section by referring to that document. The vendor must provide a VIF for all one-off consent applications other than applications for residential (not otherwise sensitive) land and where we have waived the requirement for a VIF (e.g. hostile takeovers). The VIF must be submitted at the same time as your application.

This section does not apply to applications for residential (not otherwise sensitive) land and applications for standing consents (state NA and move on to the next section).

### Required content:

- Refer to the VIF or, if the VIF requirement has been waived, provide:
- Confirmation that the OIO waived the VIF requirement (refer to the relevant OIO email).
- The vendor information that would normally be contained in the relevant VIF (to the best of your knowledge).

### 10 Response

87. The Applicant understands the VIF will be provided separately to the OIO by the Vendor.

<sup>7</sup> [<https://www.linz.govt.nz/overseas-investment/decision-summaries-statistics/2014-03/201320069>].

<sup>8</sup> [<https://www.linz.govt.nz/overseas-investment/decision-summaries-statistics/2015-11/201510077>].



## Section 5: Investor Test

Use this section to address the investor test criteria. Set out your submissions for each criterion below using the ROP and IWCs you identified above.

Note – the onus is on you to demonstrate the investor test is satisfied. We must decline your application if we are not satisfied that all of the relevant criteria are met.

Do the ROP/IWC individuals collectively have business experience and acumen relevant to that overseas investment (refer OIO [guidance](#))?

### Required content:

Provide the following:

- Submissions on why the individuals making up the ROP and IWCs collectively have the required business experience and acumen for the proposed investment(s) (e.g. reference to qualifications, specific industry experience). It is not enough to simply refer to CVs provided with the application.
- Confirm whether the individuals intend to supplement their own expertise with that of others (e.g. farm manager, winemaker, forest manager) – if yes, provide information about the business experience and acumen of those other individuals.

### Required attachments:

- Attach curriculum vitae for each IWC and for other key individuals (e.g. farm manager, winemaker).

## 11 Response

88. As set out in **Appendix 10** the IWCs are highly regarded business persons with substantial experience in board and management roles of multinational corporations. The IWCs bring extensive and relevant experience to the oversight of the Target. For example:

a) [ s 9(2)(b)(ii) ]

and

- b) the Guardians-appointed directors of the Applicant each have extensive international private equity experience in executive / advisory positions across several high-profile multinational companies, including Todd Corporation, EDF Energy, Lazard & Co, and BP PLC.

89. In addition to the IWCs:

- a) the directors of the Guardians have extensive experience relevant to the Proposed Transaction. Members of the Guardians' board are appointed by the New Zealand Governor General on the recommendation of the Minister of Finance. The Minister may only recommend a person for appointment to the board: (i) from candidates with expertise in investment management nominated by an independent nominations committee; and (ii) after consultation with other political parties in Parliament. The names and profiles of the Guardians' board members are disclosed on the NZ Super website and can be found [here](#); and
- b) the directors of NZSF Healthcare each have extensive experience in asset management, corporate development, and managing portfolio investments.

Has the ROP demonstrated financial commitment to the overseas investment (refer OIO [guidance](#))?

**Required content:**

Provide submissions on how the ROP has demonstrated financial commitment to the proposed investment(s) (e.g. by securing funding, engaging professional advisers, incurring due diligence costs, entering into agreements, paying a deposit under an agreement, acquiring other business assets linked with the investment).

Note – the ROP must have taken actions that demonstrate financial commitment to the investment (intentions are not sufficient).

**12 Response**

90. The Applicant has engaged a number of professional advisors in relation to the Proposed Transaction, including Bell Gully and Chapman Tripp, and has already expended significant resources in assessing and advancing the Proposed Transaction and entering into the SSA.

Are all the ROP/IWC individuals of good character (refer OIO [guidance](#))?

**Required content:**

Provide the following:

- Submissions on why the individuals making up the ROP and IWCs are of good character. It is not enough to simply attach a good character declaration(s).
- You must disclose all matters potentially relevant to the good character of the IWC (the OIO determines what is actually relevant). Refer to the 'ROP/IWC Details and Good Character' Appendix Template for further guidance on the information we require. We will request a good character declaration after your application has been assessed.

**Required attachments:**

- Completed 'ROP/IWC Details and Good Character' Appendix Template.

### 13 Response

91. All of the IWCs are of good character for the purposes of section 18(1)(c) of the Act. Bell Gully has undertaken good character searches in accordance with the OIO's guidelines and the results of those searches are attached in **Appendix 12**.
92. The Applicant has confirmed that there is no further relevant information to be disclosed regarding the good character of the IWCs and that the IWCs will sign a good character declaration when requested by the OIO

Is each ROP/IWC individual not an individual of the kind referred to in section 15 or 16 of the Immigration Act 2009 (refer OIO [guidance](#))?

### 14 Response

93. Yes

## Section 6: Investment plan

Use this section to attach your Investment Plan. Your investment plan will identify the assets you wish to acquire, your investment plans for those assets and how you meet any additional consent criteria (including the relevant test – e.g. intention to reside in NZ test, benefit to

NZ test, special forestry test, modified benefit test for forestry, increased housing test, the non-residential use test, or the incidental residential use test).

This section does not apply to applications for significant business assets only (state NA and move on to the next section).

15 Refer to Investment Plan attached as

☐ Click or tap here to enter text. ☒ Not applicable

## Section 7: Transaction of National Interest

Use this section if you have identified that the transaction:

- is a transaction of national interest under section 20A of the Act
- is likely to be a transaction of national interest under section 20B of the Act and considering the [Ministerial Directive Letter](#).

### Required content:

Provide the following:

#### Section 20A

Submissions on why the transaction is a transaction of national interest under section 20A.

- Why you consider that the transaction involves a Strategically Important Business, and/or
- Full ownership details if the investment is being made by a non-New Zealand government investor.

#### Section 20B

Submissions on why the transaction may be a transaction of national interest under 20B of the Act.

### 16 Response

*Proposed Transaction involves a non-NZ government investor*

94. The Proposed Transaction will be a transaction of national interest under section 20A(1)(b) of the Act.
95. In 1990, the Ontario Government established a pension plan board (OTPP) under legislation as an independent corporation for the purpose of administering a pension plan (the **Plan**) and managing the fund composed of the investments and other assets of the Plan (the **OTPP Fund**) solely for the benefit of the Plan's beneficiaries. OTPP is a "body corporate" for the purposes of paragraph (a) of the definition of 'relevant government enterprise' in the Act and the Ontario Government is a government of a territory (or part of a territory) other than New Zealand.
96. The Plan is a contributory, defined benefit pension plan co-sponsored and jointly-managed by the Ontario Government and the Plan beneficiaries, who are represented by a separate group (the executive of the OTF). Certain employees in Ontario are required to be a member of OTF. However, neither the Ontario Government nor OTF holds any ownership interest, equity or contingent, or shares in the OTPP Fund.
97. [ s 9(2)(b)(ii) ]



[ s 9(2)(b)(ii) ]

a) [ s 9(2)(b)(ii) ]

b) [ s 9(2)(b)(ii) ]

c) [ s 9(2)(b)(ii) ]

d) [ s 9(2)(b)(ii) ]

e) [ s 9(2)(b)(ii) ]

98. [ s 9(2)(b)(ii) ]

99. [ s 9(2)(b)(ii) ]

*Proposed Transaction will be in New Zealand's national interest*

100. The Applicant considers that the Proposed Transaction would not be contrary to New Zealand's national interest.

101. The Target is already in foreign ownership. Brookfield Capital Partners V GP LLC, on behalf of BCP VIG Holdings L.P. and ANZ Hospitals Pty Ltd acquired Healthscope Limited (owner of the Vendor) in June 2019.<sup>9</sup> Prior to this, Healthscope Limited was listed on the ASX.

102. [ s 9(2)(b)(ii) ]

103. OTPP invests globally in a range of industries and is a responsible investor. OTPP invests for the long term and has a global diversified investment portfolio containing an asset mix of equities (public and private), inflation sensitive investments (real-return bonds, real estate, infrastructure and natural resources), fixed income and absolute return strategies. Further information on OTPP's corporate governance principles and responsible investing criteria is available in OTPP's annual report, available [here](#).

104. NZ Super will be jointly investing in the Target (through the Applicant) with OTPP, and holds 50% of the shares in the Applicant.

105. OTPP Holdco's ownership of the Applicant is 50% and OTPP Appointer has the right to appoint three board members (and jointly with the Guardians, the right to appoint one further board member as independent chair). The Guardians also hold a 50% interest in the Applicant through NZSF Healthcare, and have the right to appoint up to three board members (and, as set out above, one further board member as independent chair, jointly with OTPP Appointer). The Proposed Transaction will not grant OTPP absolute or independent control over the Target.

106. Given the structure of OTPP (as set out above) the Proposed Transaction will in no way grant the Ontario Government control over, or access to, the Target.

107. In regard to the national interest assessment considerations as set out in the Treasury's Guidance Note on Foreign Investment Policy and National Interest Guidance (May 2020), the Applicant notes:

- a) *National security, public order and international relations*: There will be no negative impact to New Zealand's national security, public order, or international relations as a result of OTPP's investment in the Applicant and the Target. While section 53 of the Urgent Measures Act 2020 is not yet in force,<sup>10</sup> the Applicant notes that OTPP will not have access to the sensitive data of any patients. That information is only available to management, and any reporting beyond management (by way of Board reports etc.) does not include any data on specific identified patients.
- b) *Competition*: OTPP does not have any other investments in this sector in New Zealand. As set out above, OTPP's current investments in New Zealand are limited to OTPP New Zealand Forest Investments Limited. OTPP owns c.11% in a European laboratory service provider, named SYNLAB, which provides similar pathology / lab testing services as the Target. However, SYNLAB does not have operations in New Zealand. Therefore, there is no prospect that the Proposed Transaction could result in a substantial lessening of competition in New Zealand as a result of OTPP's investment.

<sup>9</sup> OIO Case number 201900017: <https://www.linx.govt.nz/overseas-investment/decision-summaries-statistics/2019-04/201900017>.

<sup>10</sup> Which, together with Regulation 3C of the Overseas Investment Regulations 2020, will designate a business which has access to data sets of sensitive information relating to 30,000 or more individuals as a strategically important business.

- c) *Economic and social impact:* Further, OTPP is seeking to invest in and support the growth of APHG through its investment, including by supporting APHG NZ's people to continue delivering the best possible pathology services to DHBs and patients in a cost efficient manner. Under OTPP and NZ Super stewardship, APHG will continue to innovate and leverage technology to gain further efficiencies – sharing insights and value with DHBs.

The joint ownership of APHG NZ by NZ Super and OTPP brings the Target back into joint New Zealand ownership, while adding the expertise of a seasoned international partner with deep experience in the healthcare sector, including pathology and laboratory services, to further enhance the business operations and prospects of APHG NZ.

OTPP, together with the Guardians, will endeavour to position APHG NZ as part of the solution in assisting DHBs and government to manage healthcare deficits through optimizing operational efficiency, while continually seeking to improve health outcomes for all New Zealanders (as identified in the recent Health and Disability System Review). OTPP intends to leverage its significant experience in the healthcare sector, and its wide network of operating advisors to bring operational best practices and fresh strategic perspective.

OTPP and the Guardians will further assist APHG NZ in executing its strategic growth initiatives. Historically, having been a smaller business unit inside a larger foreign healthcare provider, APHG NZ did not have the capital available to pursue attractive growth initiatives. The Target has ambitions to grow and develop tangential service offerings which OTPP and the Guardians will look to support through providing capital, expertise and other requisite resources.

- d) *Alignment with New Zealand's values and interests, and broader policy settings:* OTPP has invested in other New Zealand entities, including OTPP New Zealand Forest Investments Limited and a previous investment in NZ Yellow Pages. OTPP is accordingly very familiar with New Zealand's legal system and values through its previous investments, and notes there are many similarities between Ontario (and Canada more generally) and New Zealand in terms of laws, regulations, and approach to health care.

OTPP's specific approach to investment is also well aligned with New Zealand's values and interests, and broader government policies. As a long-term investor, OTPP seeks sustainable businesses to help grow their assets. OTPP believes that how companies manage environmental, social and governance (**ESG**) factors is a key determinant of durable success, whether it's about finding the right business model for continued growth and development, or preserving scarce resources. OTPP was an early mover when it came to embracing responsible investing, and helped found the Canadian Coalition for Good Governance in 2003.

OTPP also takes environmental sustainability and climate change very seriously. OTPP first published guidelines for managing climate change risk over a decade ago, integrates climate change considerations across its investment cycle. See [here](#) for more information on how OTPP is leading and learning on climate change, and [here](#) for an overview of OTPP's implementation of sustainable agricultural practices in one of Australia's largest almond growing operations, and [here](#) for an overview of OTPP's Low Carbon Economy Transition Framework. OTPP's approach to climate change is in direct alignment with numerous government policies, including those under the ambit of the [Ministry for the Environment](#).



OTPP shares the same values of equality and inclusiveness as New Zealand. OTPP is committed to diversity and inclusion, celebrating diversity of the members that it serves, its employees, and the communities where it works and invests. OTPP welcomes engagement and partnership with all stakeholders, irrespective of race, culture, gender, sexual orientation and abilities. OTPP strongly believes that diversity enables it to be more innovative, flexible and ultimately more sustainable. Over the years, OTPP has championed for greater representation of women in capital markets and increasing female representation on boards. Most recently in July 2020, OTPP signed the BlackNorth Initiative CEO Pledge, an initiative in Canada to end anti-Black systemic racism in Canada and which seeks to enhance inclusiveness, equality, progress and leadership.

Similarly, the Guardians has a long-standing commitment to Responsible Investment and believe that ESG factors are material to long term returns. The NZSRIA also requires the Guardians to avoid prejudice to New Zealand's reputation in the world community. ESG considerations are therefore integrated into all aspects of NZ Super's investment activities, from investment selection and due diligence to ownership activities such as monitoring external investment managers, exercising voting rights and engaging with companies to improve their ESG policies and practices.

Guardians' responsible investment work programme is closely aligned to the United Nations' Principles for Responsible Investment – the leading global network for investors to demonstrate their commitment to responsible investment, to collaborate and learn with their peers about the financial and investment implications of ESG issues, and to incorporate these factors into their investment decision making and ownership practices. As well as applying ESG principles when making investment decisions, the Guardians aim to run the organisation in a way that demonstrates good ESG practice and reporting. In October 2016 the Guardians launched a multifaceted climate change strategy designed to establish resilience to climate change investment risk over the long term.

- e) *Character of the Investor:* The IWCs of OTPP are of good character, as considered by the OIO in determining the OTPP application for consent to acquire 100% of the shares of Abano Healthcare Group Limited in 2020. Further, OTPP is not subject to any international sanctions.
- f) *Covid-19 pandemic:* The Target is not in financial distress, and the Proposed Transaction is not in any way an opportunistic acquisition linked to the economic impact of the Covid-19 pandemic.

108. On the basis of the above, the Applicant submits that the Proposed Transaction does not raise any national interest concerns, and therefore no specific conditions will need to be imposed to manage any such national interest concerns.



## Section 8: General

Use this section to add additional information and comments including any special requirements regarding confidentiality.

The OIO is subject to the Official Information Act 1982. If you wish to request confidentiality you must make direct reference to the provisions of the Official Information Act 1982 that you consider justify the withholding of the information. Review our [website](#) and the [practice guidelines](#) issued by the Office of the Ombudsman before making a request. Our standard process is to consider any request you make, and to consult with you, before releasing or publishing your information.

### 17 Response

109. The information provided in this Application (including the Appendices) and any information relating to this Application which is subsequently provided to the OIO (together, the **Application Information**) is strictly confidential and commercially sensitive.

110. Pursuant to sections 9(2)(b)(ii) and 9(2)(a) of the Official Information Act 1982, the Applicant requests that all Application Information be kept strictly confidential indefinitely. The release of any of that information (in whole or part only) is likely to prejudice the interests of the Applicant and, in respect of personal information regarding individuals, would fail to protect the privacy of those individuals.

111. If the OIO receives a request under the Official Information Act 1982 for the disclosure of any Application Information, the Applicant must be notified of that request (at the contact details in the *Summary of Key Information*) in accordance with the OIO's usual policy and given an opportunity to be heard before any decision is made by the OIO regarding the release of such information.

## List of Appendices

Use this table to list all appendices attached to your application. Please name your appendices beginning with 'Appendix 01' etc.

Appendix 01	Ownership and control structure diagram
Appendix 02	SSA
Appendix 03	The Applicant's certificate of incorporation
Appendix 04	The Applicant's constitution
Appendix 05	The Applicant's ownership details
Appendix 06	OTPP Holdco's certificate of incorporation
Appendix 07	OTPP Holdco's bylaws
Appendix 08	OTPP Appointer's certificate of incorporation
Appendix 09	OTPP Appointer's bylaws
Appendix 10	IWCs' biographies
Appendix 11	Copies of IWCs passports
Appendix 12	ROP / IWC good character table