

**Decision Date**

19 November 2013

**Decision**

Consent has been granted to **Ohana LP**, or a 100% subsidiary of **Ohana LP** ("the Applicant"), giving effect to a transaction which will result in:

- (a) An overseas investment in sensitive land, being the Applicant's acquisition of a freehold interest in approximately 1,403.8544 hectares of land at 529 Matiere Road, RD, Aria, known as Pukewai Station ("the Investment").

Consent is granted subject to the following conditions:

**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 correspondence dated 28 June 2013, 18 July 2013, 18 September 2013, 15, 18, 23 and 24 October 2013 and 11 November 2013 and in all attachments annexed to that correspondence.

**Special Conditions**

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 who 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 in writing within 20 working days if:
  - (a) the Applicant, or (if the Applicant is not an individual) any individual with control of the Applicant:
    - (i) ceases to be of good character; or
    - (ii) commits an offence or contravenes the law (whether convicted or not); or
    - (iii) becomes aware of any other matter that reflects adversely on the Applicant's fitness to have the Investment; or
    - (iv) becomes an individual of the kind referred to in section 15 or 16 of the Immigration Act 2009;
  - (b) any person in which the Applicant, or any individual with control of 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
  - (c) the Applicant:
    - (i) ceases to be an overseas person; or
    - (ii) disposes of the Investment.
5. The Applicant must undertake additional capital expenditure in the form of additional fertiliser, as described in the Applicant's letter dated 15 October 2013. The cost of the additional fertiliser is approximately \$310,000 over the next five years, as follows:
  - (a) 2013-14 - an extra \$81,000;
  - (b) 2014-15 - an extra \$81,000;
  - (c) 2015-16 - an extra \$51,000;
  - (d) 2016-17 - an extra \$56,000; and
  - (e) 2017-18 - an extra \$41,000.
6. The Applicant must provide the following additional capital inputs by 20 November 2015:
  - (a) Quad bike, approximately \$16,000;
  - (b) Drafting unit with weighing/draft/EID reader, approximately \$10,000;
  - (c) Tractor and silage buggy, approximately \$40,000; and
  - (d) Dog kennels, approximately \$3,000.
7. The Applicant must provide a written annual report to the Overseas Investment Office detailing the progress of the additional fertiliser referred to in condition 5 and capital inputs referred to in condition 6.
8. The first report referred to in condition 7 is due on 22 December 2014 and the final report is due on 22 December 2017.

9. If requested in writing by the Overseas Investment Office, the Applicant must provide a written report within 20 working days (or such other timeframe as specified) on any matter relating to its compliance with:
- (a) the representations and plans made or submitted in support of the application and notified by the regulator as having been taken into account when the consent was granted; or
  - (b) the conditions of this consent.

### **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 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.



Catherine Hewitt  
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Overseas Investment Office

Released under the Official Information Act 2002