

To: Hon Dr Megan Woods, Associate Minister of Finance  
 Hon Damien O'Connor, Minister for Land Information

## ASSESSMENT REPORT: Kauri Forestry LP

<b>Date</b>	24 February 2021	<b>Classification</b>	IN CONFIDENCE: Commercially sensitive
<b>OIO reference</b> (Report reference)	201810211 BRF 21-325	<b>Suggested deadline</b>	As soon as possible

### Purpose

We seek your decision on an application for a standing consent to acquire interests in sensitive land for forestry purposes under the Overseas Investment Act 2005 (the Act).

### Action sought

1. Review this report and consult with each other if desired.
2. Determine whether to grant consent and, if so, on what conditions.
3. Indicate your decision from page 3.

### OIO Contacts

Name	Position	Contact	First contact
Michael Appleyard	Manager Applications	04 830 3880	<input checked="" type="checkbox"/>
Phillip Anderson	Senior Advisor	04 471 6653	

*Decision*

① Subdivision of land for farming  
 & when/how is this advertised?

② Ability of vendor to subdivide first

## A. Summary

- The Applicant (Kauri Forestry LP - **Kauri**) is seeking a standing consent to acquire sensitive land for forestry purposes.<sup>1</sup> For the reasons set out below, our recommendation is to **grant consent**.

### Key information

<b>Applicant</b>	<b>Kauri Forestry LP</b> (Switzerland 93%, Germany 7%)	
<b>Application type</b>	Standing Consent (forestry activities) for overseas investments in sensitive land.	
<b>Proposed scope of Standing Consent</b>	<b>Limit type</b>	<b>Limit recommended by OIO</b>
	<b>Interest type</b>	No limit (e.g. freehold, leasehold, forestry rights, and interests in forestry owning companies)
	<b>Land types</b>	Forest land and land to be converted to forestry (may include farm land, permitted residential land and special land <sup>2</sup> )
	<b>Location</b>	Nationwide
	<b>Max transactions</b>	Maximum of <b>20 transactions</b> (but within the maximum total land area limit listed below)
	<b>Max total area</b>	<b>Maximum total of 6,000 ha</b> of sensitive land
	<b>Max area per transaction</b>	<p><b>Existing forest – 2,500 ha</b> per transaction involving an acquisition of interests in land that is already used exclusively or nearly exclusively for forestry activities;</p> <p><b>New forest – 500 ha</b> per transaction involving an acquisition of interests in land that is Non-Forest Land, including farm land being acquired for conversion to forestry*.</p> <p>* We note that Kauri has requested a threshold of <b>750 ha</b> due to the unusual nature of its business model. Its reasons for doing so are set out in <b>Attachment 4</b> and is further discussed under the scope section below.</p>
	<b>Use-by date</b>	<b>31 March 2024</b> (duration of approximately 3 years)
<b>Relevant tests</b>	<ul style="list-style-type: none"> <li>Investor Test - s16(2)</li> <li>Standing Consent (Forestry Activities) – s23A and cl 3 of Schedule 4</li> </ul>	

<sup>1</sup> Under Schedule 4, clause 3 of the Act.

<sup>2</sup> Special land comprises of certain qualifying riverbeds, lakebeds, foreshore and seabed.

## Timing

2. Kauri seeks a decision as soon as practicable, having lodged its original application over a year ago in August 2019. A decision has been delayed due to the need to develop standing consent processes, Covid-19 and Kauri undertaking an internal restructure and providing additional information about an underlying investor.
3. Meanwhile, Kauri has continued to successfully apply under the one-off special forestry consent pathway (five consents have been granted since October 2019).
4. Processing days for the application are set out in the table below. Currently, there are no processing target dates for standing consents as they remain relatively new and are complex to process.

Quality Assurance	OIO Processing	Waiting for Applicant / Vendor	Third party consultation
7	77	259	0

## B. Decision

### Core tests

4. I determine that:
  - (a) The 'relevant overseas person' (ROP) is:

Relevant overseas person	Role
Kauri Forestry LP (Kauri)	Applicant
Craigmore Forestry GP Limited (GP)	General Partner of Kauri
s.9(2)(b)(ii) IM)	Investment Manager for Kauri
s.9(2)(b)(ii)	Limited Partner of Kauri (s. %)
	Limited Partner of Kauri (s. %)
s.9(2)(b)(ii)	s.9(2)(b)(ii) and majority beneficial owner of Kauri

- (b) The 'individuals with control of the relevant overseas person' (IWCs) are:

Individual	Role
Forbes Elworthy (NZ)	director of IM entity and founder of the Craigmore Group
Che Charteris ((NZ)	director of GP and of IM entity
s.9(2)(b)(ii)	s.9(2)(b)(ii)
s.9(2)(b)(ii)	s.9(2)(b)(ii)
s.9(2)(b)(ii)	s.9(2)(b)(ii)

- (c) The individuals with control of the relevant overseas person collectively have business experience and acumen relevant to the overseas investment;
- (d) The relevant overseas person has demonstrated financial commitment to the overseas investment;
- (e) All the individuals with control of the relevant overseas person are of good character;
- (f) Each individual with control of the relevant overseas person is not an individual of the kind referred to in sections 15 or 16 of the Immigration Act 2009 (which list certain persons not eligible for visas or entry permission under the Immigration Act).

5. I am satisfied that the Investor Test in section 16(2)(a)-(d), as outlined in paragraphs 4(c) to 4(f) above, has been met.

**Hon Damien O'Connor**

**Hon Dr Megan Woods**

Agree

Agree

Disagree

Disagree

6. I am satisfied, in relation to the **remaining criteria for a forestry activities standing consent** set out in clause 3 of Schedule 4 of the Act, that:

6.1 the following conditions will be, or are likely to be, met:

- (i) conditions for the purpose of ensuring that the special test relating to forestry activities is met for each overseas investment under the standing consent;
- (ii) conditions requiring farm land/farm land securities to be offered for acquisition on the open market to non-overseas persons;
- (iii) conditions requiring that the OIO be notified of each transaction settled under the standing consent; and
- (iv) additional conditions, including conditions limiting the land that can be acquired under the standing consent.

6.2 the applicant has adequate processes in place for meeting the requirements of regulation 29 (which include continuing to implement existing arrangements for specified purposes, existing conditions of consent, and log supply obligations);

6.3 the applicant has a strong record of compliance with the Act and with conditions and other requirements imposed under it.

**Hon Damien O'Connor**

**Hon Dr Megan Woods**

Agree

Agree

Disagree

Disagree

Decision about whether to grant or decline consent

7. My ultimate decision is to:

**Hon Damien O'Connor**

Grant consent subject to the conditions in the Proposed Decision in **Attachment 1**

Grant consent with amended conditions provided on: 16/3/21

Decline consent

Hon Damien O'Connor

Date: 16 / 3 / 21

**Hon Dr Megan Woods**

Grant consent subject to the conditions in the Proposed Decision in **Attachment 1**

Grant consent with amended conditions provided on:

Decline consent

Hon Dr Megan Woods

Date: / /

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PROVIDED  
10 MARCH 2021

**Standing Consent for Overseas Person to Acquire Sensitive New Zealand Land**

Read this consent carefully - you must comply with all the conditions. If you do not, you may be required to dispose of land acquired under this consent and/or be subject to fines or other penalties. We may also vary or revoke this standing consent.

**Consent**

**Decision date:**

The following people have been given the following consent:

<b>Case</b>	201810211
<b>Consent type</b>	Standing Consent (forestry activities) for overseas investments in sensitive land.
<b>Consent</b>	You may give effect to overseas investments in sensitive land, subject to the limits and conditions set out below.
<b>Consent Holders</b>	(a) Kauri Forestry LP (CN 2695031)  (b) Any joint venture with a non-overseas person, whether incorporated or not, in which Kauri Forestry LP holds at all times at least a more than 50% ownership and control interest  We will also refer to each Consent Holder and the Consent Holders together as <b>you</b> .
<b>Limits</b>	(a) You may settle no more than <b>20</b> overseas investment transactions.  (b) You may acquire interests in no more than <b>6,000</b> hectares of sensitive land <b>in total</b> ;  (c) The maximum land area <b>per transaction</b> is:  (i) <b>2,500</b> hectares per transaction involving an acquisition of interests in land that is already used exclusively or nearly exclusively for forestry activities; and  (ii) <b>500</b> hectares per transaction involving an acquisition of interests in land that is Non-Forest Land, including farm land being acquired for conversion to forestry.  (d) You may acquire interests in land that is located anywhere in New Zealand.  (e) This standing consent <b>cannot</b> be used to acquire an investment in a strategically important business ( <b>SIB</b> ) as described in section 20A(1)(c) or (d) of the Act.
<b>Expiry date</b>	<b>30 September 2023 (Use-by Date)</b>

**Conditions**

Your Consent is subject to the special conditions, standard conditions and reporting conditions (**Conditions**) set out below. You must comply with them all. Be aware that if you do not comply with the Conditions the Consent may be revoked or varied, you may be subject to fines or other penalties, and you may also be required to dispose of land acquired under this Consent.

We may vary the Conditions after you notify us of a transaction to record any existing arrangements, conditions of consent, or log supply obligations you must comply with. We may also vary the conditions for other purposes with your agreement. We may do so by adding schedules to this consent (one for each investment transaction requiring variation).

In the Consent and the conditions, we refer to the Overseas Investment Office as **OIO, us or we**.

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### Special conditions

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You must comply with the following special conditions. These apply specifically to this Consent and include conditions that we must impose under the Act.

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### Definitions

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**Act** means the Overseas Investment Act 2005

**Land** means the relevant land in relation to an overseas investment in sensitive land acquired under this Standing Consent.

**Legal Review** means a review by a New Zealand lawyer who has experience with the Act, to confirm a transaction is covered by this Consent and what the Consent Holder must do to comply with the Conditions.

**Non-Forest Land** means land that is **not** used exclusively, or nearly exclusively, for forestry activities.

**Notice of Intention to Offer** means a notice in respect of special land (i.e. marine and coastal area or bed of a river or lake) under regulation 13 of the Overseas Investment Regulations 2005 that meets the requirements of regulation 14 and is in the form published on our website (as updated from time to time).

**Notification Template** means the notification template for transactions settled under a standing consent published on our website and updated from time to time.

**Planting Plan** means a plan that describes how the land will be planted and identifies and explains: the area of land suitable for planting, the relevant land-use class(es) of the Land (in particular whether any of the Land is classified Land Use Class 1-5), the area you will plant with trees and type of trees you will plant, and a map showing the same.

**Regulations** means Overseas Investment Regulations 2005.

**Sensitive Land Certificate** means a certificate for the purposes of Schedule 1 of the Overseas Investment Act 2005 (as published on our website and updated from time to time) completed by a land professional or lawyer experienced in providing such certificates.

**Standing Consent Checklist** means the pre-investment checklist for standing consents published on our website and updated from time to time.

**Termination Period** means the period during which the Consent Holders may terminate a transaction, on grounds which include that the transaction is not covered by the Consent or the Consent Holders cannot comply with the Conditions.

**Worker Accommodation** means accommodation that complies with section 16A(4)(c) of the Act.

Any term or expression that is defined in the Act or Regulations and used, but not defined, in this consent has the same meaning as in the Act or Regulations.

Details	Required date
<b>Special Condition 1: due diligence</b>	
<p>You must do the following:</p> <ol style="list-style-type: none"> <li>1. complete a Standing Consent Checklist (if we have published one);</li> <li>2. obtain a Sensitive Land Certificate;</li> <li>3. obtain confirmation from the Vendor as to whether there are any requirements that must be met under regulation 29(2) (e.g. any existing arrangements, conditions of consent, or log supply obligations); and</li> <li>4. obtain a Legal Review.</li> </ol>	Before entering into transaction or during the Termination Period.
<p>You must <b>not</b> settle a transaction in reliance on this Consent unless that transaction is covered by this Consent and you can comply with the Conditions.</p> <p>If you do not comply with this condition, Standard Condition 5 will apply and we may require you to dispose of any interest in land you acquired in breach of this condition.</p>	At all times.
<b>Special Condition 2: offer any Farm Land on the open market</b>	
<p>You must <b>not</b> settle a transaction involving farm land or farm land securities (<b>Farm Land</b>) unless the criterion in section 16(1)(f) of the Act (<b>Advertising Criterion</b>) has been met.</p> <p>If you do not comply with this condition, Standard Condition 5 will apply and we may require you to dispose of any interest in land you acquired in breach of this condition.</p>	Before settlement.
<b>Special Condition 3: notice of individual acquisitions</b>	
<p>You must notify us of each transaction settled under this Standing Consent using the OIO's Notification Template (<b>Notification</b>).</p> <p>To avoid doubt, the Notification must include (as applicable):</p> <ol style="list-style-type: none"> <li>5. the Planting Plan referred to in Special Condition 5; and</li> <li>6. confirmation of your decision to retain or divest dwellings under Special Condition 9.</li> </ol>	As soon as you can, and no later than 2 months after settlement.
<b>Special Condition 4: land must be used for forestry activities</b>	
<p>The Land must be used exclusively, or nearly exclusively, for forestry activities except as otherwise permitted by special condition 10 (permitted temporary activities).</p> <p>If you do not comply with this condition, Standard Condition 5 will apply and we may require you to dispose of the relevant investment.</p>	At all times.



<p>For the avoidance of doubt, this condition does not require you to do anything in breach of any other Act, regulation, rule, bylaw, or that is otherwise contrary to law.</p> <p>However, if circumstances arise that mean you are not likely to be able to use the Land exclusively or nearly exclusively for forestry activities as required by this condition (e.g. you are declined resource consent for conversion of the Land to forestry activities), you must:</p>	
1. advise the OIO in writing of the circumstances; and	Within 2 months of the circumstance occurring
2. if required by the OIO, dispose of the interest in the Land.	Within the timeframes set by the OIO.
<b>Special Condition 5: Non-Forest Land</b>	
If you acquire Non-Forest Land, you must prepare a Planting Plan that shows how you will utilise the land purchase in terms of forestry activities.	Before Notification.
The Planting Plan should align with best industry practice and may be updated to reflect changes in government policy/strategy (e.g. to improve forestry practices or land use). The Planting Plan may reflect plans to subdivide and/or sell portions of the land (e.g. if part(s) of the land are best suited for activities other than forestry, such as farming). If material changes are made to the Planting Plan, you must notify the OIO.	Notify the OIO within 2 months of updating the Planting Plan, and in any case prior to planting.
<p>You must complete planting a crop of trees on the Non-Forest Land in accordance with the Planting Plan (provided that plan improvements may be made to align with best industry practice, government policy/strategy, and/or legal requirements).</p> <p>For the avoidance of doubt, this condition does not require you to do anything in breach of any other Act, regulation, rule, bylaw, or that is otherwise contrary to law. For example, you are not required to plant contrary to restrictions imposed as part of a resource consent.</p> <p>If you do not comply with this condition, Standard Condition 5 will apply and we may require you to dispose of the relevant investment.</p>	Within 3 years of settlement, unless an alternative period or arrangement is agreed in writing with the OIO.
For the avoidance of doubt, these conditions do not prohibit you from selling part(s) of the Land (for example, if part of the land is best suited for activities other than forestry and you plan to subdivide it for sale).	
<b>Special Condition 6: trees must be replanted after harvest</b>	

<p>You must replace each crop of trees you harvest on the Land with a new crop of trees (<b>Replant</b>). You may Replant on a like-for-like basis or on any similar basis.</p> <p>This condition does not require you to:</p> <ol style="list-style-type: none"> <li>1. Replant with the same species of tree or use the same silvicultural regime;</li> <li>2. Replant land held under a forestry right that expires upon the completion of harvesting or within 2 years of harvesting; or</li> <li>3. do anything in breach of any other Act, regulation, rule, bylaw, or that is otherwise contrary to law.</li> </ol> <p>This condition does not limit Special Condition 4.</p> <p>If you do not comply with this condition, Standard Condition 5 will apply and we may require you to dispose of the relevant investment.</p>	<p>Within 3 years of harvest, unless an alternative period or arrangement is agreed in writing with the OIO.</p>
<b>Special Condition 7: residential land</b>	
<p>You must ensure that any residential land acquired must adjoin other non-residential land being acquired in the same transaction.</p>	<p>Before Acquisition.</p>
<b>Special Condition 8: residential use restrictions</b>	
<p>The Land must not be used, or held for future use, for any residential purposes except for:</p> <ol style="list-style-type: none"> <li>1. Worker Accommodation; or</li> <li>2. as otherwise permitted by Special Condition 10 (permitted temporary activities).</li> </ol> <p>If you do not comply with this condition, Standard Condition 5 will apply and we may require you to dispose of the relevant investment.</p>	<p>At all times.</p>

<b>Special Condition 9: divestment of Surplus Dwellings</b>	
If you acquire Land containing any dwelling(s), you must decide whether you intend to retain or divest the dwelling(s).	Before Notification (or as otherwise agreed in writing with the OIO)
<p>If you decide to divest dwelling(s) (<b>Surplus Dwelling(s)</b>), you must:</p> <ol style="list-style-type: none"> <li>3. relocate the Surplus Dwelling(s) from the Land; or</li> <li>4. sell the part(s) of the Land that contain the Surplus Dwelling(s) to a third party who is not your associate.</li> </ol>	<p>Within 1 year of Settlement if no subdivision is necessary;</p> <p>or</p> <p>Within 2 years of Settlement if subdivision is necessary;</p> <p>(unless an alternative period or arrangement is agreed in writing with the OIO)</p>
<b>Special Condition 10: permitted temporary activities</b>	
<p>The Land may be used for the following temporary activities:</p> <ol style="list-style-type: none"> <li>1. the Land may be grazed prior to being planted with a crop of trees; and</li> <li>2. Surplus Dwellings may be rented while you undertake the process of divesting them in accordance with Special Condition 9.</li> </ol>	Temporarily – for the period set out in the condition.
<b>Special Condition 11: existing arrangements, consent conditions, and log supply obligations</b>	
<p>You must ensure all requirements set out in <b>regulation 29(2)</b> are met, including:</p> <ol style="list-style-type: none"> <li>1. specific obligations identified in a Notification and included in a schedule to this Consent; and</li> <li>2. obligations that are not identified in a Notification.</li> </ol> <p>In summary, the above requirements are to:</p> <ol style="list-style-type: none"> <li>1. maintain and implement any existing arrangements for specified purposes;</li> <li>2. to do, or not do, things as required by any existing conditions of consent that are for a specified purpose; and</li> <li>3. supply logs as required by any existing log supply obligations.</li> </ol> <p>(together, the <b>Obligations</b>).</p> <p>If you do not comply with this condition, Standard Condition 5 will apply and we may require you to dispose of the relevant investment.</p>	At all times

<b>Special Condition 12: special land</b>	
If regulations 29(9)-(10) apply, you must not settle a transaction under this Consent unless any special land has been offered to the Crown in accordance with the Regulations.	At all times.
You must provide us with the information we need to commence the special land offer process, being: <ol style="list-style-type: none"> <li>1. a Notice of Intention to Offer; and</li> <li>2. a Sensitive Land certificate.</li> </ol>	Before you enter into a transaction, or as soon as practicable afterwards, but (in any event) before you settle a transaction.
Unless the Crown waives it's right to acquire the special land at the outset under Regulation 15(3)(a), you must work with us to complete a special land agreement (or agreements, as the case may be) that meets the requirements of Regulation 22 ( <b>Special Land Agreement</b> ).	Before the offer of special land is made.
If the Crown accepts the offer of special land, you must adopt and be bound by the Special Land Agreement and transfer the special land to the Crown on the terms set out in the Special Land Agreement.	Upon becoming the registered owner of the Land.
This special condition will be deemed to have been complied with if the relevant Ministers make a decision to waive the offer of special land in accordance with Regulation 15(1).	
<b>Special Condition 13: Subdivided areas (LUC classes 1-5)</b>	
Where the Land includes any contiguous areas of 50 hectares or more that is classified as Land Use Capability (LUC) classes 1-5, which can practically be subdivided and sold, you must include the subdivision and sale of such areas ( <b>subdivided areas</b> ) in the Planting Plan.	Before Notification.
Any subdivided area must be sold to a third party who intends to use it for farming purposes at the time of purchase.	Within 3 years of settlement

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### **Standard conditions**

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You must also comply with the **standard conditions** set out below. These apply to all overseas people who are given consent to acquire sensitive New Zealand land, including you:

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Details	Required date
<b>Standard Condition 1: acquire the interest in land</b>	
<p>If you acquire an interest in land under this Consent, you must do so:</p> <ol style="list-style-type: none"> <li>1. by the Use-by Date stated in the Consent.</li> <li>2. using the acquisition, ownership and control structure you described in your application.</li> </ol> <p>Note, only you – the named Consent Holder - may acquire the interest in Land, not your subsidiary, trust or other entity.</p>	As stated in the Consent.
<b>Standard Condition 2: allow us to inspect the Land</b>	

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Sometimes it will be helpful for us to visit the Land so we can monitor your compliance with the Conditions.

We will give you at least two weeks' written notice if we want to do this.

You must then:

1. Allow a person we appoint (**Inspector**) to:
  - (a) enter onto the Land, including any building on it, other than a dwelling, for the purpose of monitoring your compliance with the Conditions (**Inspection**),
  - (b) remain there as long as is reasonably required to conduct the inspection,
  - (c) gather information,
  - (d) conduct surveys, inquiries, tests and measurements,
  - (e) take photographs and video records, and
  - (f) do all other things reasonably necessary to carry out the Inspection.
2. Take all reasonable steps to facilitate an Inspection including:
  - (a) directing your employees, agents, tenants or other occupiers to permit an Inspector to conduct an Inspection,
  - (b) being available, or requiring your employees, agents, tenants or other occupiers to be available, at all reasonable times during an Inspection to facilitate access onto and across the Land. This includes providing transport across the Land if reasonably required.
3. During an Inspection:
  - (a) we will not compel you and your employees, agents, tenants or other occupiers to answer our questions or to let us look at, copy or take away documents,
  - (b) our Inspector will comply with any reasonable instruction and co-operate with any reasonable health and safety policy or procedure you notify to us before the Inspection.

At all times.

**Standard Condition 3: remain of good character**

<p>You and the Individuals Who Control You:</p> <ol style="list-style-type: none"><li>1. must continue to be of good character, and</li><li>2. must not become an individual of the kind referred to in <a href="#">section 15</a> or <a href="#">section 16</a> of the Immigration Act 2009.</li></ol> <p>In summary, these sections describe convicted or deported people who are not eligible for visa or entry permission to enter or be in New Zealand and people who are considered likely to commit an offence or to be a threat or risk to security, public order or the public interest.</p> <p>The <b>Individuals Who Control You</b> are individuals who:</p> <ol style="list-style-type: none"><li>(a) are members of your governing body,</li><li>(b) directly or indirectly, own or control 25% or more of you or of a person who itself owns or controls 25% or more of you, and/or</li><li>(c) are members of the governing body of the people referred to in paragraph (b) above.</li></ol>	<p>At all times.</p>
<p><b>Standard Condition 4: tell us about changes that affect you, the people who control you, or people you control</b></p>	

Released under the Official Information Act 1982



<p>You must tell us in writing if any of the following events happens to any of the Consent Holders:</p> <ol style="list-style-type: none"> <li>1. You, any Individual Who Controls You, or any person in which you or any individual who controls you hold (or at the time of the offence held) a 25% or more ownership or control interest commits an offence or contravenes the law anywhere in the world. This applies whether or not you or they were convicted of the offence. In particular, please tell us about any offences or contraventions that you are charged with or sued over and any investigation by enforcement or regulatory agencies or professional standard bodies.</li> <li>2. An Individual Who Controls You ceases to be of good character; commits an offence or contravenes the law (whether they were convicted or not); becomes aware of any other matter that reflects adversely on their fitness to have the Land; or becomes an individual of the kind referred to in section 15 or 16 of the Immigration Act 2009 (see Standard Condition 3).</li> <li>3. You cease to be an overseas person or dispose of all or any part of the interest in Land.</li> <li>4. You, any Individual Who Controls You, or any person in which you or any Individual Who Controls You hold (or at the time of the event held) a 25% or more ownership or control interest: <ol style="list-style-type: none"> <li>(a) becomes bankrupt or insolvent,</li> <li>(b) has an administrator, receiver, liquidator, statutory manager, mortgagee's or chargee's agent appointed, or</li> <li>(c) becomes subject to any form of external administration.</li> </ol> </li> </ol>	<p>Within 20 working days after the change.</p>
<p><b>Standard Condition 5: dispose of the interest(s) in Land if you do not comply with Special Conditions</b></p>	
<p>Some of the special conditions were key to the decision to give consent. If we consider you have failed to comply with one of those Special conditions in a material way we may require you to dispose of the Land.</p> <p>If all or part of this standard condition 5 applies to a special condition, we have said so in that condition.</p> <p>We will give you written notice if we require you to dispose of the Land. After we have given you notice, you must:</p>	
<p><b>Value the interest in Land:</b> obtain and send us a copy of a market valuation of the relevant interest in Land from a New Zealand registered valuer.</p>	<p>Within six weeks of the date of our notice.</p>

<p><b>Market the Land:</b> instruct a licensed real estate agent to actively market the relevant interest in Land for sale on the open market.</p>	<p>Within six weeks of the date of our notice.</p>
<p><b>Dispose of the Land:</b> dispose of the relevant interest in Land to a third party who is not your associate.</p>	<p>Within six months of our notice.</p>
<p><b>Offer without reserve:</b> if you have not disposed of the relevant interest in Land within six months of our notice, offer the interest in Land for sale by auction or tender without a reserve price or minimum bid and dispose of the interest in Land.</p>	<p>Within nine months of our notice.</p>
<p><b>Report to us about marketing:</b> tell us in writing about marketing activities undertaken and offers received for the relevant interest in Land.</p>	<p>By the last day of every March, June, September and December after our notice or at any other time we require.</p>
<p><b>Report disposal to us:</b> send us, in writing, evidence:</p> <ul style="list-style-type: none"> <li>(a) that you have disposed of the relevant interest in Land,</li> <li>(b) of disposal (including copies of sale and purchase agreements, settlement statements and titles showing the purchaser as registered proprietor),</li> <li>(c) the purchaser is not your associate.</li> </ul>	<p>Within one month after the Land has been disposed of.</p>
<p><b>Standard Condition 6: automatic condition regarding national security</b></p>	
<p>You must not, in relation to sensitive assets in which a relevant investment is made, act or omit to act with a purpose or an intention of adversely affecting national security or public order.</p>	<p>At all times.</p>

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## Reporting conditions

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We need information from you so we can monitor your progress against the Conditions.

You must notify us of **each transaction** settled under this Standing Consent as set out in **Special Condition 3**.

In addition, you must lodge an **annual report** by **1 August each year** until the OIO confirms in writing that annual reporting is no longer required.

Each annual report must:

1. be sent to [oiomonitoring@linz.govt.nz](mailto:oiomonitoring@linz.govt.nz) (or otherwise submitted using the OIO's webform);
2. contain information about your progress in implementing the Special Conditions, including those set out in a schedule to this Standing Consent; and in particular any progress with subdividing and selling any areas over 50 hectares of LUC class 1-5 land: and
3. follow the format of, and provide any additional information required by, the relevant annual report template published on our website.

If requested in writing by the OIO, the Consent Holder must provide a written report within 20 working days (or such other timeframe as specified) on any matter relating to its compliance with:

1. the representations and plans made or submitted in support of the application (or related transactions) and notified by the regulator as having been taken into account when the Consent was granted; or
2. the Conditions.

- (c) The individuals with control of the relevant overseas person collectively have business experience and acumen relevant to the overseas investment;
  - (d) The relevant overseas person has demonstrated financial commitment to the overseas investment;
  - (e) All the individuals with control of the relevant overseas person are of good character;
  - (f) Each individual with control of the relevant overseas person is not an individual of the kind referred to in sections 15 or 16 of the Immigration Act 2009 (which list certain persons not eligible for visas or entry permission under the Immigration Act).
5. I am satisfied that the Investor Test in section 16(2)(a)-(d), as outlined in paragraphs 4(c) to 4(f) above, has been met.

Hon Damien O'Connor

Hon Dr Megan Woods

Agree	<input type="checkbox"/>	Agree	<input checked="" type="checkbox"/>
Disagree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>

6. I am satisfied, in relation to the **remaining criteria for a forestry activities standing consent** set out in clause 3 of Schedule 4 of the Act, that:

6.1 the following conditions will be, or are likely to be, met:

- (i) conditions for the purpose of ensuring that the special test relating to forestry activities is met for each overseas investment under the standing consent;
- (ii) conditions requiring farm land/farm land securities to be offered for acquisition on the open market to non-overseas persons;
- (iii) conditions requiring that the OIO be notified of each transaction settled under the standing consent; and
- (iv) additional conditions, including conditions limiting the land that can be acquired under the standing consent.

6.2 the applicant has adequate processes in place for meeting the requirements of regulation 29 (which include continuing to implement existing arrangements for specified purposes, existing conditions of consent, and log supply obligations);

6.3 the applicant has a strong record of compliance with the Act and with conditions and other requirements imposed under it.

Hon Damien O'Connor

Hon Dr Megan Woods

Agree	<input type="checkbox"/>	Agree	<input checked="" type="checkbox"/>
Disagree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>

Decision about whether to grant or decline consent

7. My ultimate decision is to:

**Hon Damien O'Connor**

Grant consent subject to the conditions in the Proposed Decision in **Attachment 1**

Grant consent with amended conditions provided on:

Decline consent

Hon Damien O'Connor

Date: / /

**Hon Dr Megan Woods**

Grant consent subject to the conditions in the Proposed Decision in **Attachment 1**

Grant consent with amended conditions provided on:

Decline consent

Hon Dr Megan Woods

Date: 18 / 03 / 21

Released under the Official Information Act 1982

## C. Background

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8. Forestry standing consents were introduced to the Act in October 2018. They enable an overseas person to obtain consent to acquire interests in multiple pieces of sensitive land in advance of entering into the relevant transactions.
9. There have been four forestry standing consents granted to date:
  - Pan Pac Forest Products Ltd (September 2019)
  - NZ Redwood Company (October 2019),
  - Oji Fibre Solutions (NZ) Ltd (September 2020)
  - Nelson Forests Ltd (September 2020).
10. In addition, Ministers are currently considering a standing consent application lodged by Matariki Group (December 2020 – Case 201900194).
11. A summary of these forestry standing consents (including their scope) is set out as **Appendix 3**.

## D. Application of the Act

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12. The standing consent will be used to acquire sensitive land.<sup>3</sup>
13. The following criteria for an investment in sensitive land apply to this application:<sup>4</sup>
  - (a) The Investor Test must be met;<sup>5</sup> and
  - (b) The requirements for a forestry standing consent must be met.<sup>6</sup>
14. The granting of a standing consent is a discretion, therefore other considerations that fall outside the criteria may be considered, provided they are relevant and in furtherance of the purpose of the Act. We have not identified any additional factors that we consider are relevant to the assessment whether to grant this standing consent.
15. We assess the Investor Test in **Section E**, reasons for and proposed scope of the standing consent in **Section F**, and the requirements for a forestry standing consent in **Section G**. We discuss the application of the national interest assessment to this application in **Part H**.

## E. Applicant and Investor Test

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16. This section describes the Applicant and assesses whether the Investor Test is met.  
**The Applicant - Kauri Forestry LP**
17. Kauri and its parent group (Craigmore Sustainables Group - **Craigmore Group**) are well-known repeat investors – we have therefore provided only a brief overview of Kauri's corporate structure.
18. Kauri itself has made 7 recent previous applications under the Act (all in 2019/20 under the special forestry test) whilst Craigmore Group has been granted approximately 32 previous consents since 2012. Further details of Craigmore Group's operations in NZ are set out below.

<sup>3</sup> As defined in Table 1, Part 1, Schedule 1 of the Act.

<sup>4</sup> Set out in Schedule 4, clause 3 of the Act.

<sup>5</sup> Section 16(2) of the Act.

<sup>6</sup> Schedule 4, clause 3 of the Act

19. Kauri is a recent (2018) NZ incorporated forestry limited partnership which is an overseas person for the purposes of the Act - as 100% of the limited partnership interests are held by overseas persons.
20. Kauri intends to settle each of its acquisitions either directly into the limited partnership or through a subsidiary company. Where Kauri incorporates a special purpose entity to acquire a freehold land interest or a forestry right, that entity will generally be 100% owned by Kauri.
21. However, Kauri may also investigate forestry investments by way of co-investment with other parties s.9(2)(b)(ii)  
s.9(2)(b)(ii)
22. The identity and ownership of the acquiring entity (whether Kauri or a subsidiary entity) will be confirmed when notice of each acquisition is provided to the Overseas Investment Office (OIO).
23. A diagram of Kauri's ownership structure is set out as **Attachment 2**.

#### *Craigmore Group*

24. Kauri's investments under the standing consent will be managed by the NZ based Craigmore Group management team.
25. Across its NZ farming and forestry funds, Craigmore Group is currently managing 32 farms and forestry blocks covering over 25,000 ha (of which approximately 16,645 ha is forestry) - valued at almost \$400m.
26. Kauri submits that it is different from any other likely applicant for a forestry standing consent, as Craigmore Group is the only large operator in all three of NZ's rural economic sectors – being forestry, livestock and horticultural farming. As a result, it focuses on ensuring that the land which it owns is used for the best and most sustainable land use.

#### *Limited Partnerships Act 2008*

27. Kauri is a limited partnership incorporated under the Limited Partnerships Act 2008.
28. A limited partnership is a form of partnership involving a general partner (who is liable for the management and administration and all the debts and liabilities of the partnership) and limited partners (who are liable to the extent of their capital contribution to the partnership).
29. Kauri obtains finance through capital contributions from its limited partner investors. It has total current capital commitments from its limited partners of s.9(2). However, discussions are currently underway to increase committed capital by s.9(2) and make capital available for approximately two years, and Kauri seeks the term of the standing consent to align with this timeframe to facilitate the deployment of all of its capital.
30. A limited partner is **not permitted** to take part in the management of the partnership.

#### Limited partners

31. Kauri is owned by its investors, who are limited partners.
32. Investors in Kauri comprise s.9(2)(b)(ii)  
s.9(2)(b)(ii)
33. The limited partners owning Kauri, with their respective ownership percentages, are:
  - a) s.9(2)(b)(ii)
  - b)

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

34. [Redacted] s.9(2)(b)(ii)  
35. [Redacted]  
36. [Redacted]

[Redacted] s.9(2)(b)(ii)  
37. [Redacted] s.9(2)(b)(ii)  
38. [Redacted]

[Redacted] s.9(2)(b)(ii)  
39. [Redacted] s.9(2)(b)(ii)  
40. [Redacted]

*Who controls Kauri and its parent entities for the purposes of this investment?*

41. By law, and under the Limited Partnership Agreement, the limited partners cannot take part in Kauri's management. [Redacted] s.9(2)(b)(ii)  
[Redacted] s.9(2)(b)(ii) Kauri has told us that if limited partners sought to exercise management control it would likely lose the limited liability protection that is afforded to it under the Limited Partnerships Act 2008.

42. Investment decisions for Kauri are made by:

- the general partner of Kauri - Craigmore Forestry GP Limited (**GP**) which is controlled (and ultimately 75.79% owned) by New Zealanders.

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



- an investment manager under delegation from the GP - s.9(2)(b)(ii)

43. The GP has overall responsibility and liability for the management and administration of Kauri and each of its subsidiary (land owning) companies. The GP has responsibility for ensuring investments are made on a basis consistent with the investment objectives, investment restrictions and policy applicable to Kauri as set out in the Limited Partnership Agreement.

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

*Recommendation*

45. For the reasons set out above, we recommend that the relevant overseas person (ROP) is (collectively):<sup>10</sup>

Entity	Role
Kauri Forestry LP (Kauri)	Applicant
Craigmore Forestry GP Limited (GP)	General Partner of Kauri
s.9(2)(b)(ii) (IM)	Investment Manager for Kauri
s.9(2)(b)(ii)	s.9(2)(b)(ii)

**Control and experience**

46. In terms of the proposed investments under this standing consent, we consider that the key strategic control and decision-making capacity rests with the GP, as well as both companies forming the joint venture appointed as the IM. We have also included s.9(2)(b) given his high level of underlying beneficial ownership. s.9(2)(b)

47. Thus, we recommend that the 'individuals with control of the relevant overseas person' (IWC)<sup>11</sup> are the directors of each of the ROPs and s.9(2)(b)(ii)

Individual	Role
Forbes Elworthy (NZ)	director of IM entity and founder of the Craigmore Group
Che Charteris ((NZ)	director of GP and of IM entity
s.9(2)(b)(ii)	s.9(2)(b)(ii)
	s.9(2)(b)(ii)
	s.9(2)(b)(ii)

<sup>10</sup> Section 15

<sup>11</sup> Section 15

s.9(2)(b)(ii)

s.9(2)(b)(ii)

### Experience

48. The IWC collectively have experience in forestry, corporate finance, and general investment management, along with corresponding qualifications from reputable domestic and international universities.
49. Craigmore has significant experience in owning and managing NZ forestry assets. To date, it has acquired more than 16,645 ha of forestry interests. Between 2010 to 2012, CFL was the largest planter of new forests in NZ.
50. In addition, Kauri will contract professional regional managers such as Eastern NZ Forestry Limited, PF Olsen, Merrill and Ring and others.

### Good character

51. All of the IWC (other than s.9(2)(b)(ii)) have been subject to recent ongoing good character checks under previous applications, including under six recent consents granted to Kauri by the OIO. The two most recent consents included s.9(2)(b)(ii) as well.
52. Matters previously investigated include that Forbes Elworthy appears on the International Consortium of Investigative Journalists offshore leaks database (in relation to a family trust unconnected with the investment).
53. s.9(2)(b)(ii)
54. s.9(2)(b)(ii)
55. Overall, we remain satisfied that s.9(2)(b)(ii) and that this matter is removed from Kauri's ongoing proposed forestry investment in NZ.
56. Overall, we consider that none of the previous matters outlined above prevent a finding of good character on behalf of any of the IWC.
57. We have conducted further open source searches for the period since the most recent consents were granted, and found nothing new of any relevance or concern. In addition, statutory declarations as to good character in respect of each of the IWCs have recently been provided to the OIO in respect of Case 202000195.

### Summary of Investor Test

58. For the reasons set out below, our conclusion is that **the Investor Test has been met:**

<b>Requirement</b>	<b>Risk</b>	<b>Summary</b>
Collectively have business experience and acumen relevant to the investment. Section 16(2)(a)	Test met	The IWCs have extensive experience in the NZ forestry industry. To date, Craigmores Group has acquired more than 16,645 ha of forestry interests.
Relevant overseas person demonstrated financial commitment. Section 16(2)(b)	Test met	In addition to the costs of preparing this application, the ROP has demonstrated financial commitment through its many previous investments in NZ.  To date, Kauri has received capital commitments from its limited partners totalling s.9(2)(b)(ii) which it is required to invest in accordance with the investment criteria set out in the Limited Partnership Agreement. The consideration to recently acquire Moerewa Station, Lagoon Hills and Moore road alone exceeded s.9(2)(b)(ii)
Is of good character. Section 16(2)(c)	No new concerns	We are satisfied the IWCs are of good character. As set out in the separate good character analysis above, we have previously investigated (and dismissed) various matters which we initially considered relevant to this criterion.  Craigmores is a repeat investor and has met the investor test requirements in 32 previous applications. The IWCs for this application are the same as those assessed in recent Kauri Cases 2020000195 and 202000372.
Not an individual of the kind ineligible for a visa or entry permission under ss 15 or 16 of the Immigration Act 2009. Section 16(2)(d)	Test met	Statutory declarations have been provided confirming that each IWC is not of the kind referred to in ss 15 or 16 of the Immigration Act 2009.

## **F. Reasons for and proposed scope of the standing consent**

59. This section describes Kauri's reasons for seeking a standing consent, the scope of the standing consent requested, and our assessment of that request.
60. We have undertaken our assessment against the criteria in the Act, based on the information available.

### **Business activities of the Applicant**

61. Kauri is a forestry specific investment vehicle, and accordingly all investments being undertaken by Kauri will be for forestry activities.
62. The investment criteria for Kauri specify that its investments must be used substantially for growing commercial forests.

#### *Kauri's existing forestry interests*

63. Kauri has already acquired the following forestry interests in NZ:

<b>Date</b>	<b>Asset acquired</b>	<b>OIO Application number</b>
September 2018	forestry right over approximately 700 ha in Gisborne and the Wairarapa from Craigmores Forestry Limited (approximately 208 ha of this is currently being sold to another overseas	Exempted interest

	person)	
June 2019	approximately 1,876 ha of farm land in Moerewa, Northland	201900004
August 2019	approximately 4,273 ha of mixed farm/forestry land at Lagoon Hill Road (Wairarapa);	201900040
September 2019	approximately 309 ha of farm land at 471 Moore Road, Pipiwai	201900387
October 2019	approximately 487 ha of mixed farm/forestry land at 481 Moore Road, Pipiwai	201900388
October 2020	approximately 326 ha of farm land at 26 Baker Road, Maungatapere, Whangerei	202000195
November 2020	approximately 624 ha of farm land at Boyd Road, Waipu	202000372

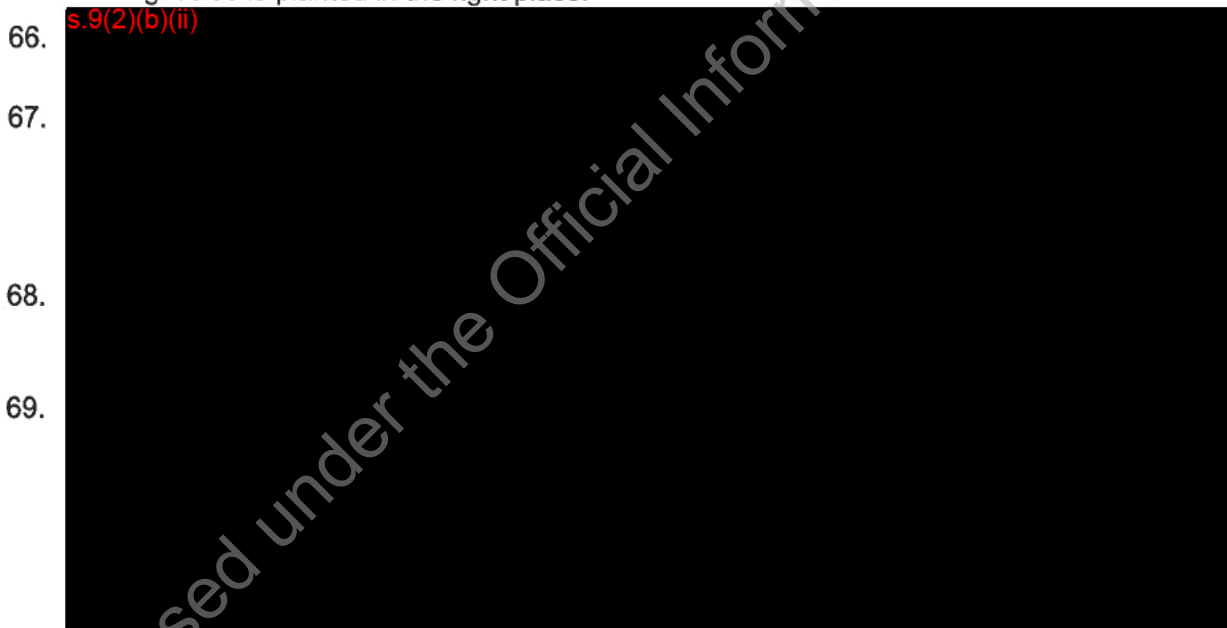
64. All of the above consents were granted under the special forestry test and involve the conversion by Kauri of land used predominantly for farming into commercial forest.
65. Kauri wishes to achieve a spread of its forestry investments over at least 2 distinct areas for risk mitigation (wind and fire) and submits that it is focussed on ensuring that the right tree is planted in the right place.

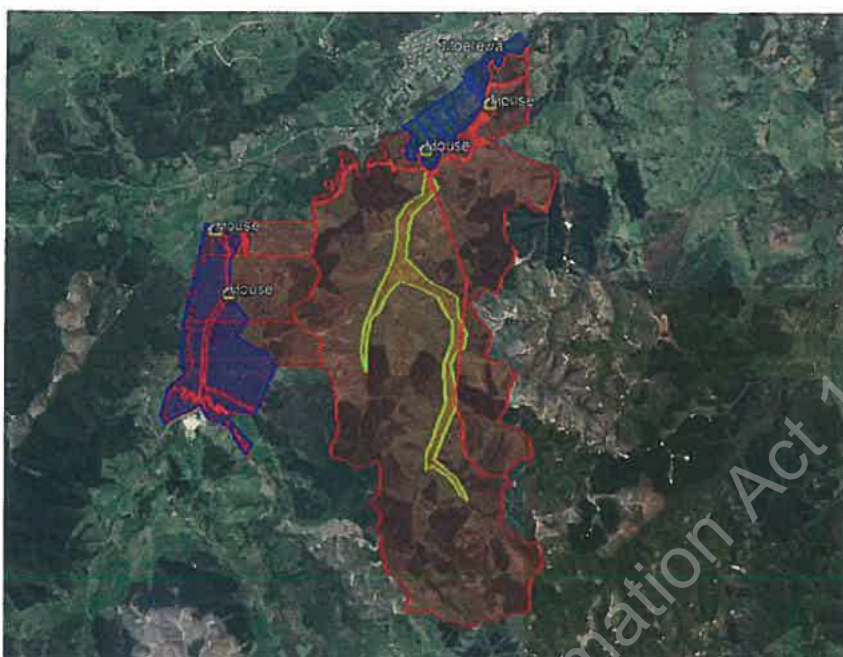
66. s.9(2)(b)(ii)

67.

68.

69.





70. Kauri does not have any pre-determined relationships with offshore wood processors, and its first priority will be to supply logs to local wood processors (subject to capacity) and then exporting logs to the open market.
71. Kauri considers co-investment to be a likely scenario. Such co-investment may include Kauri investing into forest owning entities, for example acquiring a 50% interest in an existing forest owning entity owned by an investment group such as s.9(2)(b)(ii). The other parties to any such co-investment may be either overseas persons or NZ entities (such as s.9(2)(b)(ii)).

#### Advantages of a standing consent

72. The key value of a standing consent for Kauri is that it will enable it to submit tenders that are not conditional on OIO consent being obtained (provided the properties satisfy the necessary conditions). This will allow it to be more competitive when competing against other bidders for available land and will enable it to consider properties of a smaller scale, which can be very suitable for conversion to forestry.
73. Where separate OIO applications are required for each acquisition, Kauri is more likely to focus on larger scale properties, where the costs and timing associated with the OIO process can be more justified by the scale of the transaction. A standing consent will enable Kauri to consider properties of a smaller scale.

#### Recommended scope of the standing consent

74. The following table outlines the scope of the standing consent requested and our assessment as to the appropriateness of that request:

Limit	Requested	OIO comment
Acquiring Entity	Kauri and 50%+ subsidiaries	<p>Kauri intends to settle each of its acquisitions either directly into the LP or through a subsidiary company. Where Kauri incorporates a special purpose entity to acquire a freehold land interest or a forestry right, that entity will generally be 100% owned by Kauri.</p> <p>However, Kauri may also investigate forestry investments by way of co-investment with other parties. This is permitted by the terms of Kauri's</p>

ability to subdivide?  
land → could plan?

Limit	Requested	OIO comment
		investment criteria provided that Kauri always owns a controlling interest of at least s.9(2)(b) of ordinary equity in all investments. <b>We consider these entities are appropriate standing consent holders.</b>
Interest type(s)	Freehold, Leasehold, Forestry Rights, 50% or more interests in forestry owning companies	<b>We consider this request appropriate</b> given Kauri's track record and its reasons for seeking consent. An example of a non-freehold interest being acquired occurred with the recent purchase of Moerewa Station where leases enabling access to the Station were acquired.  We do not consider there is a need to limit the type of interests in sensitive land that Kauri can acquire. <b>We therefore recommend there be no limits on interest type.</b>
Land type(s)	Forest land, and land for afforestation	<b>We consider this request appropriate</b> given Kauri's track record and its reasons for seeking consent.
Farm land	Yes.	<b>We consider it appropriate that the standing consent allows the acquisition of farmland</b> as Kauri s.9(2)(b)(ii) expects to acquire farm land for conversion into forestry. However, as stated above, Kauri has previously sought to retain acquired land for its highest better use by subdividing off prime farm land (Moerewa Station).  <b>Special Condition 2</b> will require that Kauri must not settle a transaction involving farm land or farm land securities unless the criterion in section 16(1)(f) of the Act has been met (i.e. any farm land must have been advertised to New Zealanders on the open market in accordance with the Act).  We note that while it is open to Ministers to put other limits or conditions around the acquisition of farm land, <b>no</b> such limits have been imposed on other standing consents to date (other than limiting the area per acquisition). However, as stated above, Kauri has voluntarily proposed <b>Special Condition 13</b> which will require it to subdivide off any 50 ha plus areas of higher quality LUC land within 3 years of acquisition.
Special land	Yes.	<b>We consider it appropriate that the standing consent allow the acquisition of land containing special land.</b>  Land acquired for forestry purposes often contains special land. Craigmore Group has experience with the special land offer process via its previous applications.  <b>Special Condition 10</b> will require any special land to be offered to the Crown in accordance with the Act.
Residential land	Yes	<b>Special Condition 4</b> will require that only permitted residential land is acquired under the standing consent.
Location	Nationwide	Kauri intends to acquire land nationwide which <b>we consider appropriate</b> under this standing consent.
Maximum total area	6,000 ha	<b>We consider the maximum area is reasonable</b> given the nature of Kauri's business, its reasons for seeking consent, given that the Special Forestry Test is relatively new, there is a need to approach standing consents carefully, and a high degree of trust is required.  Kauri has calculated the requested area based upon the likely cost of purchase and development of a hectare of forestry and the maximum funds available to it. Kauri is comfortable that this area threshold is suitable provided it can subtract any areas which it is required to

Can be done prior to subdividing

Limit	Requested	OIO comment
		subdivide and sell to other parties.  A maximum total area of 6,000 ha is also considerably less than the area limit (15,000 ha) that Ministers granted for two recent similar standing consents. If more land is required to meet Kauri's investment plans, it would still be able to seek consent under the one-off application process.
<b>Maximum area per transaction</b>	4,500 ha	Imposing different maximum thresholds for areas of existing forest land, as opposed to land to be converted to forestry, is consistent with similar recent standing consents granted by previous Ministers. We propose: <ul style="list-style-type: none"> <li>• <b>Existing forest – 2,500 ha</b> per transaction involving an acquisition of interests in land that is already used exclusively or nearly exclusively for forestry activities; and</li> <li>• <b>New forest – 500 ha</b> per transaction involving an acquisition of interests in land that is Non-Forest Land, including farm land being acquired for conversion to forestry. As stated above, Kauri has requested a 750 ha threshold given its business model and given it will subdivide off larger higher quality LUC land areas which are suitable for better use. Further reasons for its request are set out in <b>Attachment 4</b>.</li> </ul> <p>If a transaction involving a larger area of land is required to meet its investment plans, Kauri would still be able to seek consent for the larger transaction under the one-off application process.</p>
<b>ua</b>	20	<b>We consider this number of transactions to be appropriate</b> given the maximum area requested and that Kauri intends to acquire small and medium sized properties which would be less viable without a standing consent.
<b>Duration</b>	3 years	<b>We consider 3 years appropriate</b> given Kauri and Craigmere Group's track record, reasons for consent, and the duration granted by Ministers in similar applications.

75. We note our suggested scope of consent is consistent with two recent similar standing consents granted by previous Ministers – with the exception of the possible larger area threshold for new forest land as detailed above.<sup>12</sup>

76. We note also that:

- (a) the consent is limited to investments in sensitive land (that is, it does not cover investments in significant business assets);
- (b) if Ministers grant a consent that allows purchase of unforested land for conversion to forestry, we consider that a planting condition should be imposed (see Special Condition 5, which requires planting of non-forest land to be completed within 3 years of settlement unless otherwise agreed with the OIO).

## **G. Requirements for a forestry standing consent**

77. This section addresses the remaining criteria for a standing consent:<sup>13</sup>

- that the conditions imposed on the standing consent (including mandatory conditions) will, or are likely to be, met;

<sup>12</sup> 201900313 (Oji Fibre Solutions (NZ) Limited), and 201900078 (Nelson Forests Limited). Further information about the scope of these standing consents is set out in **Attachment 3**.

<sup>13</sup> Schedule 4, clause 3 of the Act.

- that Kauri has adequate processes in place for meeting the requirements set out in regulations (e.g. continuing existing arrangements, existing consent conditions, and log supply obligations); and
  - that Kauri has a strong record of compliance with the Act.
78. This section first describes the processes and systems Kauri and Craigmore Group will use to meet the above criteria. It then addresses whether these criteria have been met.
79. Various mandatory and discretionary conditions of consent will be imposed which will ensure that all standing consent (forestry activities) requirements will be met. These consent conditions are included in **Attachment 1**.

### **Processes for complying with requirements**

80. Kauri's processes for identifying the relevance of different criteria, and to ensure that these and all standing consent conditions are complied with, will include the following.

#### *Due diligence*

81. Kauri has already successfully applied for consent under the special benefits test for forestry activities in respect of six property acquisitions. In addition, Craigmore Group has been investing in NZ since 2010 and has made more than 32 successful applications under the Act. In each case, it has undertaken a due diligence process to ensure that each investment meets the requirements of the Act (such as farm land advertising).
82. Kauri completes a thorough due diligence review of each property before committing to the acquisition. This due diligence process will be modified to ensure the standing consent requirements are met. Kauri primarily uses an experienced legal representative who is very familiar with the OIO legislation and processes. If a standing consent is granted, this representative will confirm whether the acquisition can be completed within the requirements and conditions of the standing consent. If it cannot, either a separate application for consent will be made, or Kauri will not proceed.
83. If the Vendor obtained consent for its acquisition, then Kauri will require a copy of the consent to identify any commitments required in the consent conditions. In addition, the Vendor will be required to complete a Vendor Statement setting out its knowledge of any existing arrangements on the Land.
84. The processes to be put in place are summarised in the following table.



## Compliance with conditions of consent

The Act requires that standing consents include conditions about requirements relating to the Special Forestry Test, farm land advertising, and notifying the OIO of transactions settled under the consent (mandatory conditions). The Act also provides for additional conditions including conditions limiting the scope of the standing consent (discretionary conditions). The criteria for consent include the requirement that these mandatory and discretionary conditions will, or are likely to be, met. The table below details these mandatory and discretionary conditions, confirms they have been imposed on the consent, and addresses whether they are likely to be complied with.

In general, with regard to all of the requirements below, we are satisfied that the conditions will be met having regard to:

- the nature of Kauri's core business – which is long-standing and entirely forestry related;
- Kauri's reasons for acquiring land under the standing consent – which is to secure and grow its forestry estate;
- Kauri's commitment to subdivide off larger (50 ha plus) areas of higher quality LUC land;
- the due diligence processes set up by Kauri;
- the Pre-acquisition Legal Review imposed under the proposed conditions of consent; and
- Kauri and Craigmores track record of compliance.

**Special Condition 1** requires certain due diligence steps, including obtaining a Land Certificate which will identify significant types of land.

Requirement	Special Condition	Met / Likely to be met?	OIO Analysis
<b>Forestry activities</b> The land will be, or will likely be, used exclusively, or nearly exclusively, for forestry activities (s16A(4)(a)).	4, 5, 10, 13	Yes	We are satisfied that this condition is likely to be met.  The investment criteria of Kauri specify that its investments must be used substantially for growing commercial forests.  Where land includes land that is not currently used for forestry purposes, Kauri will undertake such additional new planting as may be required to ensure that the land is exclusively or nearly exclusively used for forestry purposes.  In most cases, not all land acquired is plantable, or should not be planted, and it requires an assessment in each case as to whether sufficient area is plantable to meet this requirement. As stated above, Kauri has committed to subdivide off any 50 ha plus areas of higher quality LUC land.  Where the area which cannot be planted or subdivided exceeds 10%, Kauri intends to confirm with the OIO prior to making any agreement unconditional whether it is satisfied that the plantable area is

			<p>sufficient.</p> <p>Kauri also expects to generate ancillary revenue from activities such as honey production or grazing. The extent to which this is permissible will be evaluated on a case by case basis.</p> <p><b>Special Conditions 4</b> will require any land to be used exclusively, or nearly exclusively, for forestry activities.</p> <p><b>Special Condition 5</b> will require Kauri to complete planting of any unforested land within 3 years of settlement of any land acquisition.</p> <p><b>Special condition 10</b> will also permit certain temporary activities such as grazing and the renting of dwellings pending their divestment.</p> <p><b>Special condition 13</b> will require Kauri to subdivide off any 50 ha plus areas of higher quality LUC land within 3 years of acquisition.</p>
<p><b>Residential land</b></p> <p>Any residential land adjoins non-residential land that also forms part of the relevant land (s16A(4)(b)) (<b>permitted residential land</b>)</p>	<p>1, 7</p>	<p>Yes</p>	<p>We are satisfied that Kauri will only acquire permitted residential land, having regard to Kauri and Craigmere Group's track record of compliance with the Act, and the Land Certificate Kauri will obtain confirming whether the land contains residential land.</p> <p><b>Special Condition 1</b> requires Kauri to undertake various due diligence steps which will identify any residential land.</p> <p><b>Special Condition 7</b> will only allow the acquisition of permitted residential land.</p>
<p><b>Residential purposes</b></p> <p>Relevant land will not be used, or held for future use, for any residential purposes other than for a permitted purpose (i.e. worker accommodation supporting forestry activities on the relevant land) (s16A(4)(c))</p>	<p>8-10</p>	<p>Yes</p>	<p>We are satisfied that this condition is likely to be met having regard to:</p> <ul style="list-style-type: none"> <li>the due diligence processes set up by Kauri which will confirm the existence of dwellings on the relevant land, and their intended use, prior to entering into any agreement or during the due diligence process;</li> <li>the nature of Kauri's business – which is long-standing and entirely forestry related. Dwellings will only be acquired where they are already located on the relevant land, or where they are necessary to provide accommodation supporting the forestry activities. Use of the land for any residential purpose outside of this is not contemplated or permitted by Kauri's investment criteria;</li> <li>where there is any dwelling that Kauri does not intend to use for accommodation for supporting the forestry activities, that part of the land will be subdivided and sold, or the dwelling will be removed/relocated;</li> <li>Kauri and Craigmere Group's track record of compliance.</li> </ul> <p><b>Special condition 8</b> provides that the land must not be used for residential purposes except for</p>

		Yes	<p>forestry worker accommodation.</p> <p>Also refer to <b>Special Conditions 9 and 10</b> which provide for the divestment of dwellings and some limited transitional residential use in some cases.</p>
<p><b>Regulations</b></p> <p>That any requirements set out in regulations in accordance with subsection (5) will be, or are likely to be, met (s16A(4)(d)). In summary - continuing existing arrangements, existing consent conditions, and log supply obligations.</p>	<p>1, 11</p>	Yes	<p>The requirements set out in the Regulations are considered in the Adequate Processes Table below.</p> <p>We are satisfied that this condition is likely to be met having regard to Craigmore Group's track record of compliance;</p> <ul style="list-style-type: none"> <li>the pre-acquisition Legal Review;</li> <li>By requiring the Vendor and the holder of any current forestry right to complete a Vendor Statement confirming the nature of all existing arrangements;</li> <li>Kauri's due diligence process.</li> </ul> <p><b>Special Condition 1</b> requires Kauri to undertake various due diligence steps which will identify existing arrangements, existing consent conditions, and log supply obligations.</p> <p><b>Special condition 11</b> requires existing arrangements, consent conditions, and log supply obligations to continue.</p>
<p><b>Replanting</b></p> <p>Crops of trees will be, or will likely be, replaced with a new crop of trees after harvest (s16A(4)(e)).</p>	<p>6</p>	Yes	<p>We are satisfied that this condition is likely to be met having regard to Kauri and Craigmore Group's track record of compliance.</p> <p>s.9(2)(b)(i) [REDACTED] The primary tree species planted will be <i>pinus radiata</i>. The expected rotation timeframe for radiata is 25-30yrs. s.9(2)(b)(ii) [REDACTED]</p> <p>It is expected that approximately s.9(2)(b) [REDACTED] of the Kauri portfolio will, on acquisition, comprise existing trees. For existing trees, the focus of Kauri is on acquiring trees across of spread of ages, from young to semi/near mature trees.</p> <p>The <i>radiata</i> will, subject to market conditions, mostly be established under a high-quality framing (structural) grade regime, which maximises the combination of carbon credit and timber volume production. All <i>radiata</i> will be planted with the intention of harvest and replanting. All replanting will occur in accordance with industry best practice – currently the planting season immediately following harvest.</p> <p><b>Special condition 6</b> requires trees to be replanted after harvest.</p> <p>As permitted by section 3(5) of Schedule 4 of the Act, Kauri requests that the standing consent include conditions that provide that the requirement in section 16A(4)(e) does not have to be met in relation to a crop of trees that is harvested under the forestry right if the forestry right expires on completion of the</p>

<p><b>Special land</b> Special land to be offered to the Crown in accordance with the Regulations (s16A(4)(f)).</p>	<p>1,12</p>	<p>harvesting or after a short period following the completion of the harvesting.</p> <p>We are satisfied that this condition is likely to be met having regard to Kauri and Craigmore Group's track record of compliance and:</p> <ul style="list-style-type: none"> <li>the due diligence processes set up by Kauri;</li> <li>the Land Certificate confirming whether the land contains special land;</li> <li>By requiring the Vendor to complete a Notice of Intention to Offer Special Land and providing the same to the OIO as part of the notification process, along with Kauri's commitment to be bound by that offer.</li> </ul> <p><b>Special Condition 1</b> requires Kauri to undertake various due diligence steps which will identify any special land.</p> <p><b>Special condition 12</b> requires special land to be offered to the Crown in accordance with the requirements of the Regulations.</p>	<p>Yes</p>
<p><b>Farm land advertising</b> Farm land to be offered for acquisition on the open market to non-overseas persons in accordance with the Regulations (cl 3(b) of Schedule 4, and s16(1)(f)).</p>	<p>1,2</p>	<p>We are satisfied that this condition is likely to be met having regard to Craigmore Group's track record of compliance</p> <p>Kauri intends to review the details of any advertising that has been carried out, including internet searches, and discussions and correspondence with the Vendor and their agent, requesting copies of relevant advertisements as appropriate, and assessing that advertising against the requirements in the Regulations.</p> <p><b>Special Condition 1</b> requires Kauri to undertake various due diligence steps which will identify any farm land.</p> <p><b>Special condition 2</b> requires farm land to be offered on the open market to non-overseas persons.</p>	<p>Yes</p>
<p><b>Notification conditions</b> The regulator will be, or will likely be, notified of each transaction entered into under the standing consent in accordance with the requirements of the consent (clause 3(c) of Schedule 4)</p>	<p>3</p>	<p>We are satisfied that this condition is likely to be met having regard to Craigmore Group's record of compliance.</p> <p>The acquisitions team and Kauri's legal advisors will be aware of the notification requirements, and will ensure that they form part of the settlement process.</p> <p><b>Special condition 3</b> requires the consent holder to notify the OIO of each transaction settled under the standing consent using the notification template published on our website.</p>	<p>Yes</p>

<p><b>Other conditions</b> Additional conditions, including conditions limiting the scope of the standing consent, will be, or are likely to be, complied with (clause 4 of Schedule 4).</p>	<p><b>Various, refer conditions</b></p>	<p>The proposed standing consent is subject to several limits and other conditions. Kauri understands and acknowledges the importance of OIO compliance. Failure to comply could compromise Kauri's standing consent, which is not a position that it intends to put itself in, either commercially or reputationally. Kauri's due diligence process will confirm whether the investment can be acquired in accordance with the standing consent and that the conditions of the standing consent will continue to be complied with. We are satisfied that these conditions are likely to be met having regard to Kauri and Craigmore Group's track record of compliance and the pre-acquisition Legal Review.</p>
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Adequate processes in place		
The second criterion for a standing consent is that Kauri has adequate processes in place for meeting the requirements set out in regulations (e.g. continuing existing arrangements, existing consent conditions, and log supply obligations). The table below addresses this criterion.		
<b>Special condition 1</b> will require Kauri to undertake certain due diligence steps which will identify whether any qualifying existing arrangements, prior consent conditions or log supply obligations exist.		
Requirement	Adequate processes in place?	OIO Analysis
<p><b>Indigenous vegetation / fauna</b></p> <p>Existing arrangements in place protecting areas of indigenous vegetation or habitats of indigenous fauna will be implemented and maintained (s29(2)(a) of the Act)</p>	Yes	<p>We are satisfied that Kauri has adequate processes in place to meet this requirement:</p> <ul style="list-style-type: none"> <li>for all potential forestry investments, Kauri will commission an ecology report to determine whether there are any such existing arrangements. Kauri also often uses PF Olsen to provide due diligence reports on potential forestry investments. These reports include commentary on environmental areas, setbacks and riparian plantings.</li> <li>the Vendor and the holder of any current forestry right will also be required to complete a Vendor Statement to identify any existing arrangements.</li> <li>Kauri intends to apply for <i>Forest Stewardship Council</i> or <i>Programme for the Endorsement of Forest certification</i> as this aligns with Kauri's own environmental and social governance goals which are enshrined in its management agreement <b>s 9(2)(b)(i)</b></li> <li>in addition, Kauri will be required to operate in accordance with the <i>National Environmental Standards for Plantation Forestry</i> which came into effect in May 2018 and which impose new rules regulating all aspects of the forestry cycle.</li> <li>Kauri recognises that there will be areas where radiata is not a socially or commercially responsible crop to establish such as steep riparian gullies, where such trees may topple into waterways causing erosion and flooding. In such areas, a lighter permanent crop such as manuka or larger natives with timber potential (totara) would be planted instead.</li> <li>details of any protected areas will be included in the management arrangements</li> </ul>
<p><b>Trout, Salmon, Wildlife and Game</b></p> <p>Existing arrangements in place protecting areas of habitats of trout, salmon, wildlife protected under section 3 of the Wildlife Act 1953, or game as defined in section 2(1) of that Act will be implemented and maintained (s29(2)(a) of the Act).</p>	Yes	

<p><b>Public access</b></p> <p>Existing arrangements in place providing access to land for members of the public or any section of the public will be implemented and maintained (clause 29(2)(a) of the Act).</p>	<p>Yes</p>	<p>for the Land.</p> <p>We are satisfied that Kauri has adequate processes in place to meet this requirement. Kauri will review:</p> <ul style="list-style-type: none"> <li>the public access maps available on the NZ Walking Access Commission website;</li> <li>the Vendor and the holder of any current forestry right will be required to complete a Vendor Statement confirming the nature of any existing arrangements.</li> <li>Kauri will examine the terms of any OIO consent applicable to the Vendor.</li> </ul>
<p><b>Historic Heritage</b></p> <p>Existing arrangements in place protecting any historic place or historic area that is entered on the New Zealand Heritage List/Rārangi Kōrero under the Heritage New Zealand Pouhere Taonga Act 2014 will be implemented and maintained (clause 29(2)(a) of the Act).</p>	<p>Yes</p>	<p>We are satisfied that Kauri has adequate processes in place to meet this requirement. Kauri will:</p> <ul style="list-style-type: none"> <li>examine the NZ Heritage List/Rārangi Kōrero to ensure that any qualifying historic heritage areas are identified;</li> <li>the Vendor and the holder of any current forestry right will be required to complete a Vendor Statement confirming the nature of any existing arrangements.</li> <li>obtain a Schedule 1 Certificate from an accredited LINZ certifier, which may identify relevant sites.</li> </ul> <p>Details of any protected areas will be included in the management arrangements for the Land.</p>
<p><b>Wāhi Tapu</b></p> <p>Existing arrangements in place protecting any wāhi tapu or wāhi tapu area that—</p> <ul style="list-style-type: none"> <li>is entered on the New Zealand Heritage List/Rārangi Kōrero under the Heritage New Zealand Pouhere Taonga Act 2014; or</li> <li>is identified in the terms of any lease or forestry right, if the lease or forestry right is, in relation to the overseas investment, the interest in land, or one of the interests in land, described in section 12(a) of the Act will be implemented and maintained (s 29(2)(a))</li> </ul>	<p>Yes</p>	<p>We are satisfied that Kauri has adequate processes in place to meet this requirement. Kauri will:</p> <ul style="list-style-type: none"> <li>examine the NZ Heritage List/Rārangi Kōrero to ensure that any qualifying wāhi tapu or wāhi tapu areas are identified;</li> <li>the Vendor and the holder of any current forestry right will be required to complete a Vendor Statement confirming the nature of any existing arrangements.</li> <li>review the terms of any existing lease or forestry rights, which may identify relevant wāhi tapu;</li> <li>obtain a Schedule 1 Certificate from an accredited LINZ certifier, which may</li> </ul>

<p>of the Act).</p>		<p>identify relevant sites and any land set apart as Maori reservation. Details of any protected areas will be included in the management arrangements for the Land.</p>
<p><b>Māori reservation land</b> Existing arrangements in place protecting any land that is set apart as Māori reservation and that is wāhi tapu under section 338 of Te Ture Whenua Māori Act 1993 will be implemented and maintained (s29(2)(a) of the Act).</p>	<p>Yes</p>	<p>We are satisfied that Kauri has adequate processes in place to meet this requirement. Kauri will:</p> <ul style="list-style-type: none"> <li>require the Vendor and the holder of any current forestry right to complete a Vendor Statement confirming whether they required OIO consent, or acquired the land/forestry rights under a standing consent;</li> <li>If OIO consent was required, Kauri will require a copy of the Notice of Decision confirming the consent conditions, as well as a copy of any subsequent correspondence with the OIO, DOC, WAC or any other equivalent body in relation to the consent conditions (including annual OIO reporting);</li> <li>as part of its due diligence process, review the OIO's decision summary register. If there are existing consent conditions, the ability to comply with these conditions will be considered as part of the due diligence process.</li> </ul>
<p><b>Existing consent conditions</b> Existing consent conditions that require or prohibit actions on the relevant land in relation to the above matters will be complied with (s29(2)(b) of the Act).</p>	<p>Yes</p>	<p>We are satisfied that Kauri has adequate processes in place to meet this requirement. Kauri will:</p> <ul style="list-style-type: none"> <li>require the Vendor and the holder of any current forestry right to complete a Vendor Statement confirming whether there are any existing log supply agreements in place;</li> <li>review any information memorandums which, for large scale forest estates, often include details of log supply arrangements</li> </ul> <p>If there are any existing log supply arrangements, these will be reflected in the management arrangements for the land.</p>
<p><b>Existing log supply obligations</b> Logs will be supplied, or will continue to be supplied, as required by any existing supply obligation (so long as the obligation remains in place) (clause 29(2)(c) of the Act).</p>	<p>Yes</p>	<p>We are satisfied that Kauri has adequate processes in place to meet this requirement. Kauri will:</p> <ul style="list-style-type: none"> <li>require the Vendor and the holder of any current forestry right to complete a Vendor Statement confirming whether there are any existing log supply agreements in place;</li> <li>review any information memorandums which, for large scale forest estates, often include details of log supply arrangements</li> </ul> <p>If there are any existing log supply arrangements, these will be reflected in the management arrangements for the land.</p>



## Applicant's compliance record

85. Kauri is a relatively new investor which has obtained 6 recent 2019/20 consents under the Act. Since that time, there has been insufficient time to assess Kauri's compliance with the conditions of these recent consents.
86. However, Craigmores has lodged more than 32 applications since 2012. The previous consents are set out in **Attachment 3**.

### Our review of Craigmores's compliance history

87. In terms of compliance with the Act, the OIO has undertaken seven "investigations" of Craigmores related entities, which are summarised in the following table:

Entity	Issue	Our assessment
20141013	Craigmores Farming NZ LP acquisition of 4ha at Pig Island Road – delegated consent sought by mistake when ministerial consent required	Retrospective consent granted and no blame attached to Craigmores – which had relied on an incorrect land status certificate provided by an expert LINZ certified supplier. No retrospective penalty imposed.
201410084	Craigmores Farming NZ LP acquisition of 4ha of associated land surrounded by other land it owned. Neglected to make the ASP subject to OIO consent and therefore gave effect before consent granted	Technical mistake. Craigmores failed to seek legal advice prior to entering a land purchase agreement (which should have been conditional upon acquiring OIO consent). Craigmores's legal advisors later discovered the issue and alerted the OIO prior to Craigmores acquiring the legal interest. \$2,000 penalty imposed.
201410034	Craigmores Farming NZ LP – DOC letter regarding timing of Craigmores consultations	OIO view was that the alleged breaches not of a particularly serious nature and no further action taken.
201810020	Craigmores Farming NZ LP requested confirmation that an exemption for a mortgage interest	No further action taken as transactions in question appeared to be automatically exempt under the Act.
201900388	Kauri Forestry LP – Moore Road	Related to a potential unauthorised ownership change. It was determined that there had been no change of ownership and no further action was required
201900004	Kauri Forestry LP – Moerewa Station	OIO outcome yet to be determined. Consent included a requirement to undertake a subdivision, which has not been completed on time. Delay appears to have been caused by an unexpected delay in receiving a response by another entity (partly due to Covid-19). The subdivision is expected to proceed in early 2021.
201900040	Kauri Forestry LP – Lagoon Hill Station	OIO outcome yet to be determined. This was only notified in early February 2021. It relates to a consent condition dealing with "option land" whereby Kauri could choose to either keep or sell the option land. Kauri has now determined that it would be better to sell a greater area than originally identified (654ha rather than 594ha) as being more suited for non-forestry purposes. Kauri will still plant the required amount of area under the

		consent.
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88. We consider that these matters are minor in nature and of no consequence given the very large number of acquisitions Craigmore Group has undertaken, and the very large number of consent conditions which it has fully complied with since 2012.

*Conclusion re compliance history*

89. On balance, our view is that Kauri and Craigmore Group have a sufficiently strong record of compliance with the Act and consent conditions to be recommended for a standing consent.
90. However, it is ultimately a matter for Ministers to determine whether you are satisfied they meet the 'strong record of compliance' criterion.

## **H. Not a transaction of national interest**

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91. The investment does not involve a transaction of national interest under the mandatory criteria of s20A of the Act. This is because the standing consent itself does not involve a transaction as such, nor does this consent involve a non-NZ government investor, or an investment in a strategically important business (as defined in section 20A).
92. We have not referred this transaction to the Minister of Finance for him to call it in for a national interest assessment on a discretionary basis. He has therefore not declined consent to the transaction.
93. We are directed<sup>14</sup> that the starting point is the assumption that overseas investment is in New Zealand's national interest and that we should only seek the Minister of Finance to exercise his discretion for a national interest assessment if the proposed investment:
- could pose risks to NZ's national security or public order; or
  - would grant an investor significant market power within an industry or result in vertical integration of a supply chain; or
  - has foreign government or associated involvement that was below the 10 per cent threshold for automatic application of the national interest test, but granted that government (and/or its associates) disproportionate levels of access to or control of sensitive NZ assets; or
  - would have outcomes that were significantly inconsistent with or would hinder the delivery of other Government objectives.
94. We do not consider that this investment engages any of these risk factors.

## **I. Conclusion**

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95. After considering the Application, our view is that:
- (a) the Investor Test has been met; and
  - (b) all other requirements for a forestry standing consent have been met:
    - I. the conditions criterion (that conditions will, or are likely to, be met);
    - II. the processes criterion (that Kauri has adequate processes in place for meeting requirements of the Special Forestry Test); and
    - III. the strong record of compliance criterion.

<sup>14</sup> Supplementary Ministerial Directive Letter (8 June 2020)

96. Therefore, we consider that the criteria for consent in Schedule 4 have been met and our recommendation is to **grant consent**.
97. If you agree, we refer you to **Attachment 1** to review the Proposed Decision (including consent conditions), and from page 3 of this Assessment Report to record your decision.



**Michael Appleyard**  
Manager, Applications  
**Overseas Investment Office**

Date: 24 February 2021

## **J. List of Attachments**

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1. Proposed Decision and Conditions
2. Intended ownership structure
3. List of prior and current standing consents
4. Kauri's submission regarding proposed scope and conditions of consent

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## ATTACHMENT 1 – PROPOSED DECISION

### Standing Consent for Overseas Person to Acquire Sensitive New Zealand Land

Read this consent carefully - you must comply with all the conditions. If you do not, you may be required to dispose of land acquired under this consent and/or be subject to fines or other penalties. We may also vary or revoke this standing consent.

#### Consent

##### Decision date:

The following people have been given the following consent:

<b>Case</b>	201810211
<b>Consent type</b>	Standing Consent (forestry activities) for overseas investments in sensitive land.
<b>Consent</b>	You may give effect to overseas investments in sensitive land, subject to the limits and conditions set out below.
<b>Consent Holders</b>	(a) Kauri Forestry LP (CN 2695031) (b) Any joint venture with a non-overseas person, whether incorporated or not, in which Kauri Forestry LP holds at all times at least a more than 50% ownership and control interest We will also refer to each Consent Holder and the Consent Holders together as <b>you</b> .
<b>Limits</b>	(a) You may settle no more than <b>20</b> overseas investment transactions. (b) You may acquire interests in no more than <b>6,000</b> hectares of sensitive land <b>in total</b> ; (c) The maximum land area <b>per transaction</b> is: (i) <b>2,500</b> hectares per transaction involving an acquisition of interests in land that is already used exclusively or nearly exclusively for forestry activities; and (ii) <b>500</b> hectares per transaction involving an acquisition of interests in land that is Non-Forest Land, including farm land being acquired for conversion to forestry. (d) You may acquire interests in land that is located anywhere in New Zealand. (e) This standing consent <b>cannot</b> be used to acquire an investment in a strategically important business ( <b>SIB</b> ) as described in section 20A(1)(c) or (d) of the Act.
<b>Expiry date</b>	<b>31 March 2024</b> (Use-by Date)

#### Conditions

Your Consent is subject to the special conditions, standard conditions and reporting conditions (**Conditions**) set out below. You must comply with them all. Be aware that if you do not comply with the Conditions the Consent may be revoked or varied, you may be subject to fines or other penalties, and you may also be required to dispose of land acquired under this Consent.

We may vary the Conditions after you notify us of a transaction to record any existing arrangements, conditions of consent, or log supply obligations you must comply with. We may also vary the conditions for other purposes with your agreement. We may do so by adding schedules to this consent (one for each investment transaction requiring variation).

In the Consent and the conditions, we refer to the Overseas Investment Office as **OIO, us or we**.

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### **Special conditions**

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You must comply with the following special conditions. These apply specifically to this Consent and include conditions that we must impose under the Act.

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### **Definitions**

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**Act** means the Overseas Investment Act 2005

**Land** means the relevant land in relation to an overseas investment in sensitive land acquired under this Standing Consent.

**Legal Review** means a review by a New Zealand lawyer who has experience with the Act, to confirm a transaction is covered by this Consent and what the Consent Holder must do to comply with the Conditions.

**Non-Forest Land** means land that is **not** used exclusively, or nearly exclusively, for forestry activities.

**Notice of Intention to Offer** means a notice in respect of special land (i.e. marine and coastal area or bed of a river or lake) under regulation 13 of the Overseas Investment Regulations 2005 that meets the requirements of regulation 14 and is in the form published on our website (as updated from time to time).

**Notification Template** means the notification template for transactions settled under a standing consent published on our website and updated from time to time.

**Planting Plan** means a plan that describes how the land will be planted and identifies and explains: the area of land suitable for planting, the relevant land-use class(es) of the Land (in particular whether any of the Land is classified Land Use Class 1-5), the area you will plant with trees and type of trees you will plant, and a map showing the same.

**Regulations** means Overseas Investment Regulations 2005.

**Sensitive Land Certificate** means a certificate for the purposes of Schedule 1 of the Overseas Investment Act 2005 (as published on our website and updated from time to time) completed by a land professional or lawyer experienced in providing such certificates.

**Standing Consent Checklist** means the pre-investment checklist for standing consents published on our website and updated from time to time.

**Termination Period** means the period during which the Consent Holders may terminate a transaction, on grounds which include that the transaction is not covered by the Consent or the Consent Holders cannot comply with the Conditions.

**Worker Accommodation** means accommodation that complies with section 16A(4)(c) of the Act.

Any term or expression that is defined in the Act or Regulations and used, but not defined, in this consent has the same meaning as in the Act or Regulations.

Details	Required date
<b>Special Condition 1: due diligence</b>	
<p>You must do the following:</p> <ol style="list-style-type: none"> <li>1. complete a Standing Consent Checklist (if we have published one);</li> <li>2. obtain a Sensitive Land Certificate;</li> <li>3. obtain confirmation from the Vendor as to whether there are any requirements that must be met under regulation 29(2) (e.g. any existing arrangements, conditions of consent, or log supply obligations); and</li> <li>4. obtain a Legal Review.</li> </ol>	<p>Before entering into transaction or during the Termination Period.</p>
<p>You must <b>not</b> settle a transaction in reliance on this Consent unless that transaction is covered by this Consent and you can comply with the Conditions.</p> <p>If you do not comply with this condition, Standard Condition 5 will apply and we may require you to dispose of any interest in land you acquired in breach of this condition.</p>	<p>At all times.</p>
<b>Special Condition 2: offer any Farm Land on the open market</b>	
<p>You must <b>not</b> settle a transaction involving farm land or farm land securities (<b>Farm Land</b>) unless the criterion in section 16(1)(f) of the Act (<b>Advertising Criterion</b>) has been met.</p> <p>If you do not comply with this condition, Standard Condition 5 will apply and we may require you to dispose of any interest in land you acquired in breach of this condition.</p>	<p>Before settlement.</p>
<b>Special Condition 3: notice of individual acquisitions</b>	
<p>You must notify us of each transaction settled under this Standing Consent using the OIO's Notification Template (<b>Notification</b>).</p> <p>To avoid doubt, the Notification must include (as applicable):</p> <ol style="list-style-type: none"> <li>5. the Planting Plan referred to in Special Condition 5; and</li> <li>6. confirmation of your decision to retain or divest dwellings under Special Condition 9.</li> </ol>	<p>As soon as you can, and no later than 2 months after settlement.</p>
<b>Special Condition 4: land must be used for forestry activities</b>	
<p>The Land must be used exclusively, or nearly exclusively, for forestry activities except as otherwise permitted by special condition 10 (permitted temporary activities).</p> <p>If you do not comply with this condition, Standard Condition 5 will apply and we may require you to dispose of the relevant investment.</p>	<p>At all times.</p>

<p>For the avoidance of doubt, this condition does not require you to do anything in breach of any other Act, regulation, rule, bylaw, or that is otherwise contrary to law.</p> <p>However, if circumstances arise that mean you are not likely to be able to use the Land exclusively or nearly exclusively for forestry activities as required by this condition (e.g. you are declined resource consent for conversion of the Land to forestry activities), you must:</p>	
1. advise the OIO in writing of the circumstances; and	Within 2 months of the circumstance occurring
2. if required by the OIO, dispose of the interest in the Land.	Within the timeframes set by the OIO.
<b>Special Condition 5: Non-Forest Land</b>	
If you acquire Non-Forest Land, you must prepare a Planting Plan that shows how you will utilise the land purchase in terms of forestry activities.	Before Notification.
The Planting Plan should align with best industry practice and may be updated to reflect changes in government policy/strategy (e.g. to improve forestry practices or land use). The Planting Plan may reflect plans to subdivide and/or sell portions of the land (e.g. if part(s) of the land are best suited for activities other than forestry, such as farming). If material changes are made to the Planting Plan, you must notify the OIO.	Notify the OIO within 2 months of updating the Planting Plan, and in any case prior to planting.
<p>You must complete planting a crop of trees on the Non-Forest Land in accordance with the Planting Plan (provided that plan improvements may be made to align with best industry practice, government policy/strategy, and/or legal requirements).</p> <p>For the avoidance of doubt, this condition does not require you to do anything in breach of any other Act, regulation, rule, bylaw, or that is otherwise contrary to law. For example, you are not required to plant contrary to restrictions imposed as part of a resource consent.</p> <p>If you do not comply with this condition, Standard Condition 5 will apply and we may require you to dispose of the relevant investment.</p>	Within 3 years of settlement, unless an alternative period or arrangement is agreed in writing with the OIO.
For the avoidance of doubt, these conditions do not prohibit you from selling part(s) of the Land (for example, if part of the land is best suited for activities other than forestry and you plan to subdivide it for sale).	
<b>Special Condition 6: trees must be replanted after harvest</b>	
You must replace each crop of trees you harvest on the Land with a new crop of trees ( <b>Replant</b> ). You may Replant	Within 3 years of harvest, unless an alternative

<p>on a like-for-like basis or on any similar basis.</p> <p>This condition does not require you to:</p> <ol style="list-style-type: none"> <li>1. Replant with the same species of tree or use the same silvicultural regime;</li> <li>2. Replant land held under a forestry right that expires upon the completion of harvesting or within 2 years of harvesting; or</li> <li>3. do anything in breach of any other Act, regulation, rule, bylaw, or that is otherwise contrary to law.</li> </ol> <p>This condition does not limit Special Condition 4.</p> <p>If you do not comply with this condition, Standard Condition 5 will apply and we may require you to dispose of the relevant investment.</p>	<p>period or arrangement is agreed in writing with the OIO.</p>
<b>Special Condition 7: residential land</b>	
<p>You must ensure that any residential land acquired must adjoin other non-residential land being acquired in the same transaction.</p>	<p>Before Acquisition.</p>
<b>Special Condition 8: residential use restrictions</b>	
<p>The Land must not be used, or held for future use, for any residential purposes except for:</p> <ol style="list-style-type: none"> <li>1. Worker Accommodation; or</li> <li>2. as otherwise permitted by Special Condition 10 (permitted temporary activities).</li> </ol> <p>If you do not comply with this condition, Standard Condition 5 will apply and we may require you to dispose of the relevant investment.</p>	<p>At all times.</p>

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<b>Special Condition 9: divestment of Surplus Dwellings</b>	
If you acquire Land containing any dwelling(s), you must decide whether you intend to retain or divest the dwelling(s).	Before Notification (or as otherwise agreed in writing with the OIO)
<p>If you decide to divest dwelling(s) (<b>Surplus Dwelling(s)</b>), you must:</p> <ol style="list-style-type: none"> <li>3. relocate the Surplus Dwelling(s) from the Land; or</li> <li>4. sell the part(s) of the Land that contain the Surplus Dwelling(s) to a third party who is not your associate.</li> </ol>	<p>Within 1 year of Settlement if no subdivision is necessary;</p> <p>or</p> <p>Within 2 years of Settlement if subdivision is necessary;</p> <p>(unless an alternative period or arrangement is agreed in writing with the OIO)</p>
<b>Special Condition 10: permitted temporary activities</b>	
<p>The Land may be used for the following temporary activities:</p> <ol style="list-style-type: none"> <li>1. the Land may be grazed prior to being planted with a crop of trees; and</li> <li>2. Surplus Dwellings may be rented while you undertake the process of divesting them in accordance with Special Condition 9.</li> </ol>	Temporarily – for the period set out in the condition.
<b>Special Condition 11: existing arrangements, consent conditions, and log supply obligations</b>	
<p>You must ensure all requirements set out in regulation 29(2) are met, including:</p> <ol style="list-style-type: none"> <li>1. specific obligations identified in a Notification and included in a schedule to this Consent; and</li> <li>2. obligations that are not identified in a Notification.</li> </ol> <p>In summary, the above requirements are to:</p> <ol style="list-style-type: none"> <li>1. maintain and implement any existing arrangements for specified purposes;</li> <li>2. to do, or not do, things as required by any existing conditions of consent that are for a specified purpose; and</li> <li>3. supply logs as required by any existing log supply obligations.</li> </ol> <p>(together, the <b>Obligations</b>).</p> <p>If you do not comply with this condition, Standard Condition 5 will apply and we may require you to dispose of the relevant investment.</p>	At all times

<b>Special Condition 12: special land</b>	
If regulations 29(9)-(10) apply, you must not settle a transaction under this Consent unless any special land has been offered to the Crown in accordance with the Regulations.	At all times.
You must provide us with the information we need to commence the special land offer process, being: <ol style="list-style-type: none"> <li>1. a Notice of Intention to Offer; and</li> <li>2. a Sensitive Land certificate.</li> </ol>	Before you enter into a transaction, or as soon as practicable afterwards, but (in any event) before you settle a transaction.
Unless the Crown waives it's right to acquire the special land at the outset under Regulation 15(3)(a), you must work with us to complete a special land agreement (or agreements, as the case may be) that meets the requirements of Regulation 22 ( <b>Special Land Agreement</b> ).	Before the offer of special land is made.
If the Crown accepts the offer of special land, you must adopt and be bound by the Special Land Agreement and transfer the special land to the Crown on the terms set out in the Special Land Agreement.	Upon becoming the registered owner of the Land.
This special condition will be deemed to have been complied with if the relevant Ministers make a decision to waive the offer of special land in accordance with Regulation 15(1).	
<b>Special Condition 13: Subdivided areas (LUC classes 1-5)</b>	
Where the Land includes any contiguous areas of 50 hectares or more that is classified as Land Use Capability (LUC) classes 1-5, which can practically be subdivided and sold, you must include the subdivision and sale of such areas ( <b>subdivided areas</b> ) in the Planting Plan.	Before Notification.
Any subdivided area must be sold to a third party who intends to use it for farming purposes at the time of purchase.	Within 3 years of settlement

## Standard conditions

You must also comply with the **standard conditions** set out below. These apply to all overseas people who are given consent to acquire sensitive New Zealand land, including you:

Details	Required date
<b>Standard Condition 1: acquire the interest in land</b>	
<p>If you acquire an interest in land under this Consent, you must do so:</p> <ol style="list-style-type: none"> <li>1. by the Use-by Date stated in the Consent.</li> <li>2. using the acquisition, ownership and control structure you described in your application.</li> </ol> <p>Note, only you – the named Consent Holder - may acquire the interest in Land, not your subsidiary, trust or other entity.</p>	As stated in the Consent.
<b>Standard Condition 2: allow us to inspect the Land</b>	
<p>Sometimes it will be helpful for us to visit the Land so we can monitor your compliance with the Conditions.</p> <p>We will give you at least two weeks' written notice if we want to do this.</p> <p>You must then:</p> <ol style="list-style-type: none"> <li>1. Allow a person we appoint (<b>Inspector</b>) to:               <ol style="list-style-type: none"> <li>(a) enter onto the Land, including any building on it, other than a dwelling, for the purpose of monitoring your compliance with the Conditions (<b>Inspection</b>),</li> <li>(b) remain there as long as is reasonably required to conduct the inspection,</li> <li>(c) gather information,</li> <li>(d) conduct surveys, inquiries, tests and measurements,</li> <li>(e) take photographs and video records, and</li> <li>(f) do all other things reasonably necessary to carry out the Inspection.</li> </ol> </li> <li>2. Take all reasonable steps to facilitate an Inspection including:               <ol style="list-style-type: none"> <li>(a) directing your employees, agents, tenants or other occupiers to permit an Inspector to conduct an Inspection,</li> <li>(b) being available, or requiring your employees, agents, tenants or other occupiers to be available, at all reasonable times during an Inspection to facilitate access onto and across the Land. This includes providing transport across the Land if reasonably</li> </ol> </li> </ol>	At all times.

<p>required.</p> <p>3. During an Inspection:</p> <p>(a) we will not compel you and your employees, agents, tenants or other occupiers to answer our questions or to let us look at, copy or take away documents,</p> <p>(b) our Inspector will comply with any reasonable instruction and co-operate with any reasonable health and safety policy or procedure you notify to us before the Inspection.</p>	
<p><b>Standard Condition 3: remain of good character</b></p>	
<p>You and the Individuals Who Control You:</p> <ol style="list-style-type: none"> <li>1. must continue to be of good character, and</li> <li>2. must not become an individual of the kind referred to in <a href="#">section 15</a> or <a href="#">section 16</a> of the Immigration Act 2009.</li> </ol> <p>In summary, these sections describe convicted or deported people who are not eligible for visa or entry permission to enter or be in New Zealand and people who are considered likely to commit an offence or to be a threat or risk to security, public order or the public interest.</p> <p>The <b>Individuals Who Control You</b> are individuals who:</p> <ol style="list-style-type: none"> <li>(a) are members of your governing body,</li> <li>(b) directly or indirectly, own or control 25% or more of you or of a person who itself owns or controls 25% or more of you, and/or</li> <li>(c) are members of the governing body of the people referred to in paragraph (b) above.</li> </ol>	<p>At all times</p>
<p><b>Standard Condition 4: tell us about changes that affect you, the people who control you, or people you control</b></p>	
<p>You must tell us in writing if any of the following events happens to any of the Consent Holders:</p> <ol style="list-style-type: none"> <li>1. You, any Individual Who Controls You, or any person in which you or any individual who controls you hold (or at the time of the offence held) a 25% or more ownership or control interest commits an offence or contravenes the law anywhere in the world. This applies whether or not you or they were convicted of the offence. In particular, please tell us about any offences or contraventions that you are charged with or sued over and any investigation by enforcement or regulatory agencies or professional standard bodies.</li> <li>2. An Individual Who Controls You ceases to be of good character; commits an offence or contravenes the law (whether they were convicted or not); becomes aware of any other matter that reflects adversely on their fitness to have the Land; or becomes an individual of the kind</li> </ol>	<p>Within 20 working days after the change.</p>

<p>referred to in section 15 or 16 of the Immigration Act 2009 (see Standard Condition 3).</p> <p>3. You cease to be an overseas person or dispose of all or any part of the interest in Land.</p> <p>4. You, any Individual Who Controls You, or any person in which you or any Individual Who Controls You hold (or at the time of the event held) a 25% or more ownership or control interest:</p> <p>(a) becomes bankrupt or insolvent,</p> <p>(b) has an administrator, receiver, liquidator, statutory manager, mortgagee's or chargee's agent appointed, or</p> <p>(c) becomes subject to any form of external administration.</p>	
<p><b>Standard Condition 5: dispose of the interest(s) in Land if you do not comply with Special Conditions</b></p>	
<p>Some of the special conditions were key to the decision to give consent. If we consider you have failed to comply with one of those Special conditions in a material way we may require you to dispose of the Land.</p> <p>If all or part of this standard condition 5 applies to a special condition, we have said so in that condition.</p> <p>We will give you written notice if we require you to dispose of the Land. After we have given you notice, you must:</p>	
<p><b>Value the interest in Land:</b> obtain and send us a copy of a market valuation of the relevant interest in Land from a New Zealand registered valuer.</p>	<p>Within six weeks of the date of our notice.</p>
<p><b>Market the Land:</b> instruct a licensed real estate agent to actively market the relevant interest in Land for sale on the open market.</p>	<p>Within six weeks of the date of our notice.</p>
<p><b>Dispose of the Land:</b> dispose of the relevant interest in Land to a third party who is not your associate.</p>	<p>Within six months of our notice.</p>
<p><b>Offer without reserve:</b> if you have not disposed of the relevant interest in Land within six months of our notice, offer the interest in Land for sale by auction or tender without a reserve price or minimum bid and dispose of the interest in Land.</p>	<p>Within nine months of our notice.</p>
<p><b>Report to us about marketing:</b> tell us in writing about marketing activities undertaken and offers received for the relevant interest in Land.</p>	<p>By the last day of every March, June, September and December after our notice or at any other time we require.</p>

<p><b>Report disposal to us:</b> send us, in writing, evidence:</p> <ul style="list-style-type: none"> <li>(a) that you have disposed of the relevant interest in Land,</li> <li>(b) of disposal (including copies of sale and purchase agreements, settlement statements and titles showing the purchaser as registered proprietor),</li> <li>(c) the purchaser is not your associate.</li> </ul>	<p>Within one month after the Land has been disposed of.</p>
<p><b>Standard Condition 6: automatic condition regarding national security</b></p>	
<p>You must not, in relation to sensitive assets in which a relevant investment is made, act or omit to act with a purpose or an intention of adversely affecting national security or public order.</p>	<p>At all times.</p>

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### **Reporting conditions**

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We need information from you so we can monitor your progress against the Conditions.

You must notify us of **each transaction** settled under this Standing Consent as set out in **Special Condition 3**.

In addition, you must lodge an **annual report** by **1 August each year** until the OIO confirms in writing that annual reporting is no longer required.

Each annual report must:

1. be sent to [oiomonitoring@linz.govt.nz](mailto:oiomonitoring@linz.govt.nz) (or otherwise submitted using the OIO's webform),
2. contain information about your progress in implementing the Special Conditions, including those set out in a schedule to this Standing Consent; and in particular any progress with subdividing and selling any areas over 50 hectares of LUC class 1-5 land; and
3. follow the format of, and provide any additional information required by, the relevant annual report template published on our website.

If requested in writing by the OIO, the Consent Holder must provide a written report within 20 working days (or such other timeframe as specified) on any matter relating to its compliance with:

1. the representations and plans made or submitted in support of the application (or related transactions) and notified by the regulator as having been taken into account when the Consent was granted; or
2. the Conditions.

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**ATTACHMENT 2 – OWNERSHIP/CONTROL STRUCTURE DIAGRAMS**

s. 9(2)(b)(ii)





**CONFIDENTIAL**

**NOT FOR PUBLIC RELEASE**

s.9(2)(b)(ii)

s.9(2)(b)(ii)

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# ATTACHMENT 3 – PRIOR AND CURRENT FORESTRY STANDING CONSENTS

## Forestry standing consent applications

	Pan Pac Forest Products	NZ Redwood Company	Nelson Forests	Oji Fibre Solutions	Matariki Forests (Rayonier)	Kauri Forestry LP (managed by Craigmores)
<b>Status of Application</b>	Granted (Sept 2019)	Granted (Oct 2019)	Granted (Sept 2020)	Granted (Sept 2020)	With Ministers for a decision	Under assessment
<b>Maximum total land area granted / recommended (compared w/ max area requested by Applicant)</b>	20,000 ha granted (requested 30,000 ha)	4,000 ha granted (requested 4,000 ha)	15,000 ha granted (requested 67,303 ha)	15,000 ha granted (requested 30,000 ha)	15,000 ha recommended (Applicant requested 20,000 ha)	Timing TBC Scope TBC (Applicant requested 6,000 net ha)
<b>Maximum number of transactions</b>	25	10	25	25	12 requested and recommended	10 requested
<b>Maximum land area per transaction (compared w/ area requested by Applicant)</b>	10,000 ha granted (requested 25,000 ha)	2,000 ha granted (requested 2,000 ha)	- 2,500 ha for land already used for forestry; and - 500 ha for non-forest land (e.g. farm conversions)	- 2,500 ha for land already used for forestry; and - 500 ha for non-forest land (e.g. farm conversions)	Recommendation: - 2,500 ha for land already used for forestry; and - 500 ha for non-forest land (e.g. farm conversions) (Applicant requested 10,000 ha)	Scope TBC (Applicant requested 4,500 ha)
<b>Duration of standing consent granted / recommended (compared w/ duration requested by Applicant)</b>	3 years granted (same as requested)	4 years granted (3 years requested)	3 years granted (3 or 5 years requested)	3 years granted (same as requested)	3 years recommended (3 years requested)	3 years recommended (3 years requested)
<b>Any regional limitations imposed (compared w/ requested by Applicant)</b>	Nationwide (same as requested)	Manawatu-Wanganui (same as requested)	Nationwide (same as requested)	Central North Island area - shown in map (same as requested)	North & South Auckland, Hawkes Bay, Gisborne, Wellington, Canterbury, Westland, Otago and Southland (same as requested)	Scope TBC (Nationwide scope requested by Applicant)



New Zealand Government

# ATTACHMENT 4 – APPLICANT’S SUBMISSION RE AREA THRESHOLDS



19 February 2021

Overseas Investment Office  
Land Information New Zealand  
PO Box 5501  
Wellington 6145

Attention: Phillip Anderson  
By Email: [panderson@lirz.govt.nz](mailto:panderson@lirz.govt.nz)

## Kauri Forestry LP – Standing Consent 201810211 – Draft Conditions

We refer to your letter dated 11 February 2021, setting out the proposed scope and draft conditions in respect of the application for a Standing Consent made by Kauri Forestry LP under the Special Benefits Test for Forestry.

### Limits

#### Number of Transactions – paragraph (a):

We request that the number of transactions that may be settled using the Standing Consent be increased from 10 to 20. We acknowledge that the Standing Consent application requested that the Standing Consent allow up to 10 transactions. However, that was also based on the Applicant's request that it be permitted to acquire up to 4,500 hectares per transaction – the Applicant initially expected that it might acquire a large proportion of the total 6,000 hectares requested over approximately 5 transactions, with the balance being made up with smaller transactions.

As a limit of 500 hectares is now proposed for acquisitions of "Non-Forest Land", the total land area acquired by the Applicant pursuant to the Standing Consent may occur over a larger number of transactions that was originally contemplated.

#### Maximum land area per transaction – Non-Forest Land - paragraph (c)(ii):

We request that the maximum land area per transaction be amended to read as set out below, with the introduction of a new "Plantable Land" definition to replace references to "Non-Forest Land". The basis for this request, and a potential alternate option are also set out below.

Limits	
	a) You may settle no more than <del>10</del> <u>20</u> overseas investment transactions.
	b) You may acquire interests in no more than 6,000 hectares of sensitive land in total;
	c) The maximum land area per transaction is: <ul style="list-style-type: none"><li>i. 2,500 hectares per transaction, involving an acquisition of interests in land that is already used exclusively or nearly exclusively for forestry activities; and provided that</li><li>ii. <u>The total area of Plantable Land must not exceed 500 hectares per transaction involving an acquisition of interests in land that is</u></li></ul>

Lefever Law  
PO Box 33064  
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Lefever Law

	<p><b>Non-Forest Land, including farm land being acquired for conversion to forestry:</b></p> <p>d) You may acquire interests in land that is located anywhere in New Zealand.</p> <p>e) This standing consent cannot be used to acquire an investment in a strategically important business (SIB) as described in section 20A(1)(c) or (d) of the Act.</p>
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**Definitions**

Plantable Land means the area of land that can reasonably be converted to forestry, after excluding (i) areas of existing plantation forestry (ii) areas of existing native bush, (iii) any areas that the Consent Holder intends to subdivide and sell following settlement and (iv) reasonable allowances for roads, set-backs, buffer areas, riparian plantings, and other land that can reasonably be deemed to be non-productive.

We note that the requirement to complete any identified subdivision and sale would then become land-specific conditions once the transaction has been notified to the OIO.

As the only large operator in all three of New Zealand's rural economic sectors – Livestock, Forestry, and Horticulture - Craigmore Sustainables (which has management control over the Applicant) focuses on ensuring land is used for the best and most sustainable land use. In line with this, the Applicant has proposed a new Special Condition in respect of land that could be subdivided and sold, effectively requiring it to subdivide and sell commercially viable blocks of LUC classes 1-5 (after placing a covenant on them prohibiting planting of forestry for at least 10 years).

*Statement of Reasons and Alternative Options*

The Applicant acknowledges that Ministers are looking to strike a balance between the "risks" of allowing transactions to occur without specific pre-transaction review by the OIO, and providing meaningful Standing Consents under the permitted legislative regime. Any concerns about productive farm land being converted to forestry align with the Applicant's investment strategy, where afforestation is focussed on land that is best suited to forestry purposes.

As such, the Applicant considers that the proposed changes to the conditions will better meet this objective, for the following reasons:

- Using the total land area as the limit for new forest plantings creates a perverse incentive where the least productive farmland may not be converted to forestry.

*For example, under the current wording, a 600ha title area property with 400ha of native bush and 200 ha of farmland would not be permitted to be purchased under the Standing Consent – when it is in fact likely to be a property that is marginal for farming and naturally converting to native bush. However, the current wording would allow purchase of a highly productive property that is 500ha title area and 475ha productive farmland.*

Given the central issue concerns the conversion of productive farmland into forestry, this limit should only focus on the area of productive farmland (and not-unproductive areas) being converted to forestry (what the Applicant terms "Plantable area"). The term "Non-Forest Land" should be replaced with "Plantable Area". This change provides more flexibility for the Applicant to focus on planting forests on the least productive farmland.



- The Applicant's focus on "best use for the land" means that it will look to subdivide and sell areas of the land that are better suited for continued farming use, as well as some or all of the existing dwellings. The proposed amendment allows more flexibility to purchase a property and then plant only that land that is suitable for forestry – other forestry operators do not have the experience with farming that Craigmore does, and tend not to take this approach.

*Craigmore Sustainables and the Applicant have historically demonstrated this behaviour. For example, a mixed forestry-farming property purchased by the Applicant in Northland has been subdivided to allow a larger property to be sold for dry stock farming. This is also occurring with another property in Wairarapa.*

- As additional protection, the Applicant is willing to put a covenant on the title of any land that is sold to prevent commercial forestry plantations being established within a decade from sale.
- If the total land area limit could be revised to account for some of these issues, it would allow the Applicant more flexibility, while still ensuring that any land that will *in fact* be converted from farming to forestry is within the proposed 500 ha limit. A maximum area of 500 ha of Plantable Land is an appropriate balance between public influence over land purchases with offshore capital and land use change; and ensuring the Applicant establishes efficient-sized forests that are well managed (small forest can be poorly managed and create risk e.g. fire, erosion at harvest due to small river setbacks).

The requested amendments are also intended to clarify how the land area limits are applied if a parcel of land has dual land uses e.g. if the Applicant wished to acquire an area of land that was 900 ha, including 450 ha of existing plantation forest and 450 ha of farm land that would be converted to forestry. In addition, rural land transactions often involve multiple Records of Title, and the principal land use may differ across the different titles. As such a single transaction could potentially involve both existing forest land and Non-Forest Land.

Because "land" is not defined in the Act, arguably different parts of a single Record of Title could have different land uses – the proposed amendments would clarify the situation in a way that appears to align with the policy intent behind the different area limits for forestry and Non-Forest Land.

Alongside the amendment proposed above, we have formulated another potential option that would address the Applicant's concerns and provide the required flexibility to ensure that the Standing Consent is meaningful in relation to the Applicant's investment strategy and acquisition programme. The two options are set out in order of the Applicant's preference – Option 2 has been included as an alternative should the Ministers determine they are not willing to adopt the "Plantable Land" approach.

Option 1: Specify that the 500 ha relates to "Plantable Land" (as per the proposed amendment above)

Option 2: Increase the threshold for "Non-Forest Land" acquisitions from 500 ha to 750 ha

This option would allow the Applicant a "buffer" above the proposed 500 ha to account for non-plantable areas included in land transactions. In some ways this is a simpler approach, as it avoids the need for a detailed land mapping and land use calculation – determinations can be made based solely on the relevant gross title area. It also simplifies the Applicant's reporting to, and monitoring by, the OIO.

#### *Proposed Additional Special Condition for Subdivided Land*

As the Applicant's afforestation strategy is focused on the best use for the land, the Applicant is willing to offer an additional Special Condition in consideration for some additional flexibility in the application of the land transaction limits. This proposed Special Condition would require the Applicant to:

- Subdivide and sell any large areas of the land that are classified as Land Use Capability (LUC) classes 1-5; and
- Protect the existing land use of those subdivided areas by way of a land covenant, to limit the risk of that land subsequently being sold to a third party for afforestation.



Some proposed wording for such a Special Condition is set out below:

<b>Special Condition 13: Subdivided Land</b>	
Where the Land includes any contiguous areas of 50 hectares or more that are classified as Land Use Capability (LUC) classes 1-5 and that can practically be subdivided and sold, the Consent Holder will include the subdivision and sale of such areas in its Planting Plan, and prior to any sale of such land the Consent Holder will register a covenant on the title(s) to the land preventing future conversion to forestry for a minimum period of 10 years from settlement.	

We note that such a Special Condition would also address any risk of the Applicant acquiring large farm-land land areas under the Standing Consent and subsequently subdividing and selling a substantial portion of that land area and retaining only a small area for planting. While the Applicant does not intend to use the Standing Consent in this way, ultimately the outcome if it did so would be that the "Non-Forest Land" that is not planted by the Applicant would, in the future, be further protected from conversion to forestry due to the existence of the new land covenant.

We confirm that the Applicant is otherwise comfortable with the proposed terms of the Standing Consent as set out on page 2 of your letter.

**Special Conditions**

*Special Condition 5:*

We request that the "Required Date" for completion of planting of a crop of trees on any Non-Forest Land / Plantable Land be extended to 3 years from settlement (unless an alternative period or arrangement is agreed in writing with the OIO).

The Applicant generally aims to plant smaller land areas (< 500 ha) over two planting seasons – planting entire properties in a single season in some cases is not best industry practice (a standard to which the Applicant's Planting Plan must comply as per Special Condition 5). If a land purchase is settled in, say, March, the Applicant is unlikely to be in a position to obtain tree stocks and undertake necessary land preparation operations for the upcoming winter planting season (9 months' notice is required in order to order trees). In that situation, the first planting season would commence approximately 15 months after settlement.

In addition, where land is being acquired for new forestry conversions, the Applicant is generally willing to allow the vendor to stay on the property for a period of time after settlement, allowing them to manage their exit from the land and lifestyle change. The planting plan will then be prepared having regard, in part, to the vendor's transitional use of the land. The Applicant would like to have the flexibility to negotiate with vendors for a longer transitional period where it is appropriate having regard to the land characteristics and seasonal considerations.

We acknowledge that the draft wording for Special Condition 5 does allow the Applicant to agree an extended period on a case-by-case basis with the OIO. However, to facilitate:

- the practical use of the Standing Consent by the Applicant without requiring pre-transaction correspondence with the OIO in each case, and
- confirmation that the transaction can be completed in reliance on the Standing Consent within standard contractual due diligence periods,

the Applicant would prefer to have the flexibility of a three-year period, to allow the issues to be addressed without the need for specific OIO approval in each case.

*Special Condition 7:*

We request that the "Required Date" be amended to confirm what is intended by the term "acquisition" (which is not a defined term). Given that it is a requirement of section 16A(4)(b)(ii) that any residential land must adjoin non-residential land, we suggest that this timeframe should be "before entering into transaction or during the Termination Period".

*Special Condition 9:*

We request that the "Required Date" for divestment of any Surplus Dwellings is amended by adding the words "(unless an alternative period or arrangement is agreed in writing with the OIO)". This would give the Applicant some more comfort that if there were any delays, particularly in a subdivision process, due to circumstances beyond its control, there is a process for obtaining the OIO's approval to an extended timeframe.

It would also support the Applicant potentially negotiating with a vendor for a longer transitional period, as discussed above.

*Special Condition 12:*

We acknowledge that the proposed wording of Special Condition 12, being the special land offer process, reflects the existing special land provisions set out in the Regulations. As currently worded, those provisions require the vendor of the land to be involved in the special land offer process, and for a large part of the process to be completed prior to settlement of the transaction. This could potentially lead to delays if the OIO happens to be experiencing high demand at the time that a special land notice is given. If the Applicant is working to a 20 working day confirmation process, it is possible that the special land process could exceed that period. It also requires the involvement of the vendor, which can give rise to additional delays for vendors who are not familiar with the process.

The current draft form of the Overseas Investment Amendment Bill replaces the special land provisions with new provisions for "fresh or seawater areas" which should give rise to a much more straight forward process where special land is involved.

As such, we request that Special Condition 12 be amended to record that if the special land provisions (as currently set out in Regulations 12-26) are amended or replaced, the OIO will work with the Consent Holder to agree on new wording for Special Condition 12 that reflects the new or amended legislative process.

We also request that part 4 of Special Condition 12 be amended, to recognise that:

- Not all special land offers, even if accepted, result in a *transfer* of land. Although the sale of the special land to the Crown is *settled*, a physical transfer may not occur immediately or at all. Special land offers associated with *usque ad medium filum aquae* rights involve a relinquishing of common law rights without a physical land transfer. Special land offers associated with river or lake beds generally allow either party to require a transfer of land, but it is not a process automatically triggered by Crown acceptance. The requirement to be bound by the terms of the Special Land Agreement (which will include provisions relating to transfer of that land to the Crown) should be sufficient.
- The timeframes set out in the Special Land Agreements may mean that the Crown does not accept the Special Land Offer until after settlement of the land purchase – the Consent Holder would then not be bound by the Special Land Agreement until acceptance.



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The proposed amendments to the wording of Part 4 of Special Condition 12 are set out below:

Details	Required Date
<i>If the Crown accepts the offer of special land, you must adopt and be bound by the Special land Agreement and <del>transfer the special land to the Crown on the terms set out in the Special Land Agreement</del></i>	<i>Upon becoming the registered owner of the Land <u>or on the date that the Crown notifies you that it has accepted the offer of special land, whichever is the later.</u></i>

Yours faithfully  
Lefever Law

Christina Lefever  
Principal

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