

To: Kirsty Hulena, Principal Customer Regulatory Specialist

## ASSESSMENT REPORT: Pepper New Zealand Limited

<b>Date</b>	13 November 2023	<b>Classification</b>	IN CONFIDENCE: Commercially sensitive
<b>LINZ reference</b>	202300631 BRF 24-192	<b>Deadline</b>	13 November 2023

### Purpose

We seek your decision on an application for consent to acquire significant business assets under the Overseas Investment Act 2005 (**Act**).

### Action sought

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

### Key information

4. For the reasons set out in this report, our recommendation is to **grant consent**.

<b>Applicant</b>	<b>Pepper New Zealand Limited</b> Australia (45.77%); United States of America (15.80%); Cayman Islands (7.70%); Peoples Republic of China (6.80%); United Kingdom (6.30%); and Various (17.63%)
<b>Vendor</b>	<b>The Hongkong and Shanghai Banking Corporation Limited</b> Asia Pacific Region (47%); United Kingdom (23%);
<b>Asset</b>	The book of mortgage, home loan and other similar loan facilities to customers of the wealth and personal banking business of The Hongkong and Shanghai Banking Corporation Limited (New Zealand Branch)
<b>Consideration</b>	\$1,250,000,000.00
<b>Relevant tests</b>	Significant Business Assets: s13(1)(a) Investor test: s18A National interest test: s18(b)

### Timing

5. The Overseas Investment Regulations 2005 specify the total assessment timeframe for this application is 55 working days. This application is currently on day 55, therefore a decision is due to the applicant by 13 November 2023.
6. The Applicant requested a decision be made by 1 November 2023 as it aligns with its strong preference to settle ahead of the final completion date of 22 December 2023 (or such other date as the parties agree). We have not given the Applicant any indication whether we will be able to meet their preferred timeframe.

## A. Decision

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### Core tests

7. I determine that:

7.1 The 'relevant overseas person' (ROP) is (collectively):

Relevant overseas person	Role
Pepper New Zealand Limited	Applicant
Pepper Money Limited	Parent Company of Applicant

7.2 The 'individuals with control of the relevant overseas person' (IWC) are:

Individuals with control	Role
Therese Mary McGrath	Directors of Pepper New Zealand Limited
John Paul Williams	
Michael Charles Culhane	Directors of Pepper Money Limited
Michael John Cutter	
Akiko Jackson	
Des O'Shea	
Mario Rehayem	
Justine Elizabeth Turnbull	
Robert James Verlander	

7.3 One of the relevant overseas persons established one of the factors contained in section 18A(4) of the Act. However, I consider that does not make any of the relevant overseas persons or individuals with control unsuitable to invest in New Zealand.

### National interest assessment

8. The investment includes a transaction of national interest under section 20A because the transaction involves an investment by a non-NZ government investor.

9. I note that the Minister of Finance has not declined consent to this transaction on the basis that the transaction is contrary to New Zealand's national interest.

### Decision about whether to grant or decline consent

10. My ultimate decision is to grant consent subject to the conditions in the Proposed Decision in **Attachment 1**

**s.9(2)(a)**

Kirsty Hulena, Principal Customer Regulatory Specialist

Date: 13 / 11 / 2023

## B. Background and proposed transaction

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11. The Applicant is seeking consent under the Act to acquire the book of mortgage, home loan and other similar loan facilities to customers of the wealth and personal banking business of the Vendor. The Asset is estimated to consist of approximately § 9(2)(b)(i) New Zealand retail borrowings being approximately 0.5% of the total market for residential mortgage loans in New Zealand.
12. The Applicant is a non-bank lender that operates as an alternative home loan provider in the New Zealand market and is an indirect wholly owned subsidiary of Pepper Money Limited which is listed on the Australian Securities Exchange.
13. The Vendor announced, in June 2023, its exit from the New Zealand's wealth and personal banking market. The Vendor has operated in New Zealand since 1987, being the first overseas bank to be granted a banking licence in New Zealand. It provides banking services to New Zealanders in three sectors – commercial banking; wealth and personal banking; and global banking and markets.

## C. Application of the Act

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14. The Asset is sensitive because the consideration paid for the Assets is more than \$100 million,<sup>1</sup> so consent is required.<sup>2</sup> The following criteria for an investment in significant business assets apply to this application:<sup>3</sup>
  - The investor test must be met.<sup>4</sup>
  - You must also note whether the investment is a transaction of national interest and, if so, whether the Minister of Finance has decided that the investment is contrary to New Zealand's national interest.<sup>5</sup>
15. We assess the investor test in **Part E**, and discuss national interest matters in **Part F**.

## D. Applicant and investor test

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16. This section describes the Applicant and assesses whether the investor test is met.

### Business Activities

17. Pepper Money Limited is an Australian and New Zealand non-bank lending and servicing business. It was established in 2000 and began as a specialist in residential home loans. It now provides lending products in the form of home loans, car loans, commercial asset finance loans, and small balance Australian commercial real estate loans. It also undertakes servicing for third-party loans, as well as third party broker servicing.
18. The acquisition is in the ordinary course of business for the group of companies associated with the Applicant (**Pepper Group**).<sup>6</sup> In 2011, the Applicant obtained consent from LINZ to acquire approximately AU\$5.1 billion of home loans in Australia and New Zealand from GE Capital. Included in this acquisition was approximately AU\$800 million of New Zealand mortgages.<sup>7</sup>

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<sup>1</sup> Section 13(1)(c) of the Act.

<sup>2</sup> Under sections 10(1)(b) and 13(1)(c) of the Act.

<sup>3</sup> Set out in section 18 of the Act.

<sup>4</sup> Section 18A(4) of the Act.

<sup>5</sup> Section 18(1)(e) of the Act.

<sup>6</sup> Pepper Money Limited and its subsidiaries.

<sup>7</sup> Case 201110083

19. The Applicant intends to transfer the Asset to its receivables backed securitisation programme.

### Ownership

20. The Applicant is a wholly owned subsidiary of Pepper Europe Holdings Pty Limited which is in turn a wholly owned subsidiary of Pepper Money Limited. 60.56% of its shares are held by Pepper Group ANZ Holdco Limited (**Pepper Group ANZ**). The remaining 39.44% shares are held by other investors and management of Pepper Money Limited.
21. Pepper Group ANZ is a wholly-owned subsidiary of Pepper Global Midco Limited which is a wholly owned subsidiary of Pepper Global Topco Limited. The most significant ultimate owner of Pepper Group ANZ is [REDACTED] s.9(2)(a), who holds [REDACTED] s.9(2)(a). The remaining shareholding is widely held, managed by KCA Funds (66.62%)<sup>9</sup> or Pepper Global Limited (12.27%).
22. A diagram of the intended ownership structure is in **Attachment 2**.
23. For these reasons, we recommend that the 'relevant overseas person' (ROP) is (collectively):

Relevant overseas person	Role
Pepper New Zealand Limited	Applicant
Pepper Money Limited	Parent Company of Applicant

### Control

24. The Applicant is controlled by its directors and the directors of Pepper Money Limited.
25. Therefore, we recommend that the 'individuals with control of the relevant overseas person' (IWC)<sup>10</sup> are:

Individuals with control	Role
Therese Mary McGrath	Directors of Pepper New Zealand Limited
John Paul Williams	
Michael Charles Culhane	Directors of Pepper Money Limited
Michael John Cutter	
Akiko Jackson	
Des O'Shea	
Mario Rehayem	
Justine Elizabeth Turnbull	
Robert James Verlander	

<sup>8</sup> Citizenship: Australian and Place of Residence: Australia.

<sup>9</sup> Funds, clients and accounts managed, advised or sub-advised by KKR Credit Advisors (US) LLS or its affiliates.

<sup>10</sup> Section 15.

## Summary of investor test

26. Pepper Money Limited has established a factor under s18A(4)(a)(iii). In 2014 it was charged under section 109(1) of the Liquor Control Act 1988 (WA) for the sale of liquor without a licence or permit as it had supplied liquor to a group of mortgage brokers on a charter boat. It plead guilty to the offence and was sentenced to the minimum fine for a corporation of \$10,000. Since being fined, all events are held on licensed premises.
27. Given the relatively minor nature of the offence, the fact it occurred nearly 10 years ago<sup>11</sup> and the mitigations undertaken we consider this does not make the Applicant unsuitable to invest in New Zealand. For these reasons our conclusion is that **the investor test has been met.**

## E. Transaction of national interest

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28. The proposed overseas investment is a transaction of national interest under the mandatory criteria in the Act.<sup>12</sup> This is because the investment involves a non-NZ government investor.<sup>13</sup> The non-New Zealand government investor are

**s.9(2)(ba)(i)**

29. The first step is for you to decide whether all of the other criteria for granting consent are met. If you are satisfied that they are, you must then refer the investment to the Minister of Finance for a decision about whether the transaction is contrary to New Zealand's national interests. We will prepare a separate report to the Minister of Finance for the national interest assessment.
30. Once the Minister of Finance has made this decision, you will be able to make the final decision about whether to grant or decline consent.
31. If the Minister of Finance determines that the investment:
  - is contrary to New Zealand's national interest, then consent has been declined;
  - is not contrary to New Zealand's national interests, then you must grant consent if the other tests are satisfied;
  - is not contrary to New Zealand's national interests but that actions are desirable to manage the risks posed by the investment, then you may consider what conditions are necessary to mitigate the risks posed by the investment.

## F. Conclusion

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32. After considering the application, our view is that:
  - the investor test has been met; and
  - the transaction is considered to be a transaction of national interest.

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<sup>11</sup> If over 10 years ago the factor would not have been established.

<sup>12</sup> Section 20A of the Act.

<sup>13</sup> As defined in section 6 of the Act.

33. 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.

s.9(2)(a)

Eva Hansen

Customer Regulatory Specialist  
**Overseas Investment - LINZ**

Date: 13 / 11 / 2023

## **G. List of Attachments**

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1. Proposed Decision
2. Intended ownership structure

Released under the Official Information Act 1982

## ATTACHMENT 1 PROPOSED DECISION

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### Consent for Overseas Person to Acquire Significant New Zealand Business Assets

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Read this consent carefully - you must comply with all the conditions. If you do not, you may be subject to fines or other penalties.

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#### Consent

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Decision date: 13 November 2023

The following people have been given the following consent:

<b>Case</b>	202300631
<b>Consent</b>	The Consent Holder may acquire the Assets subject to the Conditions set out below.
<b>Consent Holder/s</b>	Pepper New Zealand Limited (Company number: 3416551) We will also refer to each Consent holder and the Consent holders together as you.
<b>Assets</b>	The book of mortgage, home loan and other similar loan facilities to customers of the wealth and personal banking business of The Hongkong and Shanghai Banking Corporation Limited (New Zealand Branch)
<b>Timeframe</b>	You have until 31 November 2024 to acquire the Assets.

Released under the Official Information Act 1982

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## Conditions

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Your Consent is subject to the conditions set out below. These apply to all overseas people who are given consent to acquire significant business assets, including you.

You must comply with them all. Be aware that if you do not comply with the conditions you may be subject to fines or other penalties.

In the Consent and the Conditions, we refer to Toitū Te Whenua Land Information New Zealand as **LINZ, us or we**.

**Act** means the Overseas Investment Act 2005.

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## Definitions

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**Act** means Overseas Investment Act 2005

**Regulations** means Overseas Investment Regulations 2005

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.

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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.

Details	Required date
<b>Automatic condition: National Interest</b>	
You must not, in relation to the Asset, act or omit to act with a purpose or an intention of adversely affecting national security or public order	At all times

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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:

Details	Required date
<b>Standard condition 1: Acquire the Assets</b>	
You must acquire the Assets  1. by the date stated in the Consent. If you do not, your Consent will lapse and you must not acquire the Assets, and 2. Using the acquisition, ownership, and control structure you described in your application. Note, only you - the named Consent holder - may	As stated in the Consent



Details	Required date
<p>acquire the Assets, not your subsidiary, trust, or other entity.</p>	
<p><b>Standard condition 2: Tell us when you acquire the Assets</b></p>	
<p>You must tell us in writing when you have acquired the Assets. Include details of:</p> <ol style="list-style-type: none"> <li>1. the date you acquired the Assets (<b>settlement</b>),</li> <li>2. consideration paid (plus GST if any),</li> <li>3. the structure by which the acquisition was made and who acquired the Assets, and</li> <li>4. copies of any transfer documents and settlement statements.</li> </ol>	<p>As soon as you can, and no later than two months after settlement</p>
<p><b>Standard condition 3: Remain not unsuitable to Invest in New Zealand</b></p>	
<p>You, and to the extent that you are not an individual, the Individuals Who Control You must remain not unsuitable to own or control the Assets in accordance with section 18A(1) of the Act. 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 more than 25% of you or of a person who itself owns or controls more than 25% of you, and</li> <li>c. are members of the governing body of the people referred to in paragraph (b) above.</li> </ol> <p>To avoid doubt, this includes the members of your governing body.</p>	<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 become aware that you and/or any Individual Who Controls you establishes any of the investor test factors listed in section 18A(4) of the Act.</li> <li>2. You cease to be an overseas person or dispose of all or any part of the Asset.</li> <li>3. Your New Zealand Service Address changes. This is the address you provided us in your application as the address which we will send any legal document we need to serve on you.</li> </ol>	<p>Within 20 working days after the change</p>

**ATTACHMENT 2 – INTENDED OWNERSHIP STRUCTURE**

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s.9(2)(b)(ii) and s.9(2)(ba)(i)

s.9(2)(ba)(i)

Released under the