

From: oio@linz.govt.nz on behalf of [Overseas Investment Office Application submission online form](#)
To: christina@lefeverlaw.co.nz
Cc: [s 9(2)(a)]
Subject: Application received – Kauri Forestry LP
Date: Thursday, 4 May 2023 3:01:55 p.m.



Hi Kauri Forestry LP

Thank you for your application to the Overseas Investment Office. Below are the details you have submitted.

Your application will now be reviewed to check you have provided all the information we need to assess your application. We will get back to you within 12 working days.

If your application can be accepted, we will:

- contact to advise you and provide information on the process
- request payment of the application fee, and
- provide an indication of the assessment timeframe
- or, we may require further information. If we do, we will start to process your application when we receive all the information we need.

If we cannot accept your application we will give our reasons for this.

In the meantime, there is more information on our website www.linz.govt.nz/overseas-investment

Ngā mihi nui
The Overseas Investment Office team

Application submission details

Submitted on Thu, 04/05/2023 - 15:00

Submission ID: 7164

Submitted values are:

Start

Application type

Exemption

Exemption type

Farm land advertising

Application detail

Details

Have you attended a pre-application meeting?

No

Are you resubmitting this application?

No

Is this a [retrospective application](#)?

No

Applicant name

Kauri Forestry LP

Is the Applicant the purchaser or vendor in the transaction?

Purchaser

Short description of requested exemption

An exemption from the farmland advertising requirements for land being acquired “on trust” by the Applicant that will ultimately be transferred back to the New Zealand Vendor on completion of a subdivision.

Full legal name of the target entity (if any)

NA

Applicant's address for service in New Zealand

[s 9(2)(a)]

Requested decision date

15/06/2023

Reason for requesting this date

The requested decision date reflects the OIO's target decision timeframe of 30 working days for farm land advertising exemptions. The Agreement does provide for a shorter timeframe to confirm the condition relating to the advertising exemption (21 April 2023) – the Applicant has requested an extension of this condition date to 16 June 2023, but would appreciate if a decision could be made as soon as possible so the parties can proceed with the remaining steps of the Agreement with more certainty.

Has an Agreement for Sale and Purchase been entered into?

Yes

Date of Sale and Purchase Agreement

08/03/2023

Due date of the Overseas Investment Act condition

21/04/2023

Describe what the transaction is and why the transaction requires consent under the Act (referencing the relevant sections of the Act)

The transaction involves the acquisition by the Applicant of a freehold interest in sensitive land (non-urban land over 5 hectares). The Applicant is an overseas person, as all of the limited partnership units in the Applicant are held by overseas persons. The Applicant will acquire the Land under its Standing Consent (subject to the advertising exemption being granted).

The Vendor owns all of the land currently contained within Record of Title 777359, comprising a total of 526.6069 hectares across three legal lots. The Vendor only wishes to sell, and the Applicant only wishes to purchase, approximately 215 hectares that is best suited to forestry. This requires a subdivision of Record of Title 777359. The Subdivision boundary has been designed so that the Vendor will retain the good, productive rolling livestock land, whilst the steep land will be converted to forestry. The Agreement is conditional on the Vendor completing a subdivision to separate two of the current lots into a separate legal title. Because the further subdivision that is required to create a new title for the 215 hectares being acquired by the Applicant (Subdivision) requires a subdivision of the remaining legal lot, it will take longer to complete. Accordingly, the Vendor and the Applicant have agreed that if the Subdivision has not been completed by the agreed settlement date (20 working days from completion of the first subdivision), on settlement the Applicant will take legal title to the whole of the lot (i.e. the Land), on the basis that it holds the Retention Land component on trust for the Vendor and will transfer the Retention Land back to the Vendor on completion of the Subdivision.

In terms of OIO conditions, the Agreement was conditional on:

1. The Applicant confirming, within 5 working days of the date of the Agreement, that it could acquire the Land under the Standing Consent (clause 22.1); and
2. The Applicant confirming, within 30 working days of the date of the Agreement, that it could obtain an exemption from the farm land advertising requirements in respect of the Balance Land (clause 22.3).

The condition in clause 22.1 has been confirmed, subject to:

- Confirmation of the advertising exemption; and
- Confirmation from the OIO as to whether it will waive the freshwater interests requirements in respect of freshwater areas that are on the Retention Land but not the Balance Land

Describe details of any pre-consent arrangements, or any existing relationship between the purchaser and vendor such as short-term leases, management agreements, etc

None

Decision maker

Overseas Investment Office

Does any information in this application need to be kept confidential from other parties to this application?

Yes - information about the financial position, investment strategy, and ownership and control structures of the Applicant is commercially sensitive and confidential information of the Applicant and the wider Craigmores Sustainable Group and is not to be disclosed publicly or to any third party, including the Vendor.

Contact details

Applicant contact person's name

Che Charteris

Applicant contact person's email

[s 9(2)(a)]

Applicant contact person's phone number

[s 9(2)(a)]

Contact person name

Christina Lefever

Contact email

christina@lefeverlaw.co.nz

Best contact phone number

+6421878942

Role in application

Legal representative

What law firm are you from (if applicable)?

Lefever Law

Do you want to add another contact person?

Yes

Contact person name

John Barker

Contact email

[s 9(2)(a)]

Best contact phone number

[s 9(2)(a)]

Role in application

Other

Please describe role

General Manager - Forestry, Craigmore Sustainables

Vendor/Lessor name

Roderick William Cameron and Tod Hamish Lewis Barrell

Vendor/Lessor's email

[s 9(2)(a)]

Vendor/Lessor's phone number

[s 9(2)(a)]

Invoice details

Released under the Official Information Act 1982

Name and company for invoice
Kauri Forestry LP

Postal address for invoice

[s 9(2)(a)]

Defined terms

Defined terms

- **Terms: the Act**
Meaning: the Overseas Investment Act 2005
- **Terms: Agreement**
Meaning: The Agreement for Sale and Purchase between the Vendor and the Purchaser relating to the Land, dated 8 March 2023 (a copy of which is attached at Appendix 10)
- **Terms: Applicant**
Meaning: Kauri Forestry LP
- **Terms: Balance Land**
Meaning: That part of the Land that will be retained by the Applicant following completion of the Subdivision, being a total of approximately 214.7 ha (subject to survey and subdivision)
- **Terms: Land**
Meaning: Means approximately 486.4 ha of the land currently comprised in Record of Title 777359, which will be transferred to the Applicant on settlement of the Agreement
- **Terms: Ministerial Directive Letter**
Meaning: The Ministerial Directive Letter dated 24 November 2021, which contains directives relating to the exemption power in section 20 of the Act
- **Terms: Regulations**
Meaning: Overseas Investment Regulations 2005
- **Terms: Retention Land**
Meaning: That part of the Land that will be held on trust by the Applicant and transferred back to the Vendor on completion of the Subdivision, being a total of approximately 271.982 ha (subject to survey and subdivision)
- **Terms: Standing Consent**
Meaning: The Standing Consent granted to the Applicant, OIO decision number 201810211
- **Terms: Subdivision**
Meaning: The subdivision of the Land into two separate titles, one for the Balance Land (outlined in pink) and one for the Retention Land (remaining area), as shown in the subdivision plans attached at Appendix 4
- **Terms: Vendor**
Meaning: Roderick William Cameron and Tod Hamish Lewis Barrell as trustees of the Remcam Trust

Exemption

Explain the details and scope of the requested exemption.

The Applicant is requesting an exemption from the farm land advertising requirements in respect of the transfer of the Retention Land to the Applicant pending completion of the Subdivision

Explain why you are applying for an exemption from the requirement for advertising farm land.

The Vendor only intends to sell the Balance Land, as it considers this land to be best suited to plantation forestry. The Vendor has advertised the Balance Land accordingly. Attached at Appendix 11 is a copy of the draft Pre-Completion Checklist, and evidence of the advertising completed for the Balance Land, which shows that the advertising of the Balance Land satisfies the requirements of the Act and Regulations.

It is not appropriate for the Vendor to advertise the Retention Land as part of the advertising campaign, as the Vendor intends to retain ownership of the Retention Land. As such, an advertisement of the Retention Land would not provide New Zealanders with a genuine opportunity to acquire the Retention Land. It would also risk putting prospective purchasers to unnecessary expense of investigating the Retention Land as a possible property for acquisition with minimal or no chance of success.

Tell us why the exemption being sought is necessary, appropriate, or desirable.

The exemption being sought is desirable as it allows the Vendor and the Applicant to settle their property transaction much earlier than if they were required to wait until completion of the Subdivision.

This will benefit the Vendor, by allowing the Vendor to receive the purchase price for the Balance Land earlier. The costs of subdivision are high and the cashflow from the settlement will help the Vendor's ability to fund the survey and fencing costs. It will also benefit the Applicant as it will allow the Applicant to carry out earthworks this coming summer to help build access tracks in preparation for planting crew access for the 2024 winter planting season.

A letter from the Vendor in support of this Application is attached at Appendix 12.

Tell us why the requested exemption is no broader than is reasonably necessary to address the circumstances.

The requested exemption only relates to the Retention Land, that will be transferred back to the Vendor on completion of the Subdivision. No exemption is being sought in respect of the Balance Land, which will be retained by the Applicant, and the Balance Land has been advertised in accordance with the Act and Regulations.

Tell us how an exemption in this instance is consistent with the purpose of the Act.

It is submitted that the requested exemption is consistent with the purpose of the Act, as it recognises that the underlying interest in the Retention Land will remain with its current New Zealand owners despite the temporary transfer of legal title to the Applicant, and that the Applicant will not control the Retention Land. The Retention Land will be held by the Applicant on trust for the Vendor, and the Applicant acquires no beneficial interest in the Retention Land. This is evidenced by the terms

of the Agreement which provides that if settlement occurs prior to completion of the Subdivision:

- the Retention Land will be held on trust for the Vendor (Clause 25.9.4)
- the Vendor will pay a proportionate share of the rates for the Land (Clause 25.9.4)
- a mortgage will be registered on the title to the Land to protect the Vendor's interests (clause 25.9.3)
- the Vendor may also register a caveat to protect its interests (clause 25.10.1)
- the purchase price being paid by the Applicant is the purchase price for the Balance Land only – no additional amount is payable if the Applicant acquires legal title to the Retention Land on settlement (clause 25.9.2)
- pending completion of the Subdivision, the Vendor has full rights in respect of the Retention Land (clause 25.12)
- the Applicant agrees not to register any other mortgage against the Land pending completion of the Subdivision (clause 25.15)
- the transfer instrument may be submitted with the Subdivision documents, such that title to the Retention Land issues directly into the name of the Vendor.

The Applicant's obligations to subdivide and dispose of the Retention Land are protected by the Agreement, but also to some extent by the terms of its Standing Consent. The Standing Consent requires the Applicant to subdivide and sell any contiguous areas of LUC class 1-5 land included in any acquisition completed under the Standing Consent. As shown in the LUC Maps attached at Appendix 3, the Balance Land is predominantly LUC Class 6, but the Retention Land includes approximately 100 hectares of LUC Class 3 land.

In terms of the Balance Land, which will be retained by the Applicant, the advertising that has been carried out has given New Zealanders a genuine opportunity to buy all of the land that will be owned and controlled by an overseas person.

With reference to the Ministerial Directive Letter, and the (non-exhaustive) examples set out in the Annex it is submitted that:

- there has been substantial compliance with the farmland advertising requirements, as they have been satisfied in respect of the Balance Land; and
- there is effectively only one natural "Buyer" of the Retention Land, being the Vendor, who will at all times retain beneficial ownership of the Retention Land.

It is also acknowledged that there is public interest in the acquisition of land by overseas persons, especially the conversion of farmland to another purpose. In these circumstances, the relevant land will ultimately be transferred back to New Zealand ownership, and is not being converted from its current farming use.

The Applicant's legal advisers wrote to the OIO in February 2022, and then again in March 2023, to enquire whether this type of scenario might qualify for an exemption from the farm land advertising requirements. The OIO response indicated that it may well be a situation which could be considered for an exemption. A copy of that email correspondence is attached at Appendix 13.

Explain any other factors that may be relevant to the circumstances, and to whether an exemption from the farm land offer criterion should be granted.

None

Has an advertising exemption already been granted for this farm land?

No

Land

Land table: complete for each property (use + to add details of another property)

- Property address and name: 599 Longbush Road, Martinborough (Springrock)
Record of Title(s): 777359 (part - subject to subdivision)
Current owner(s): Roderick William Cameron and Tod Hamish Lewis Barrell (as trustees of the Remcam Trust)
Legal description(s): Lot 2 DP 509455
Total land area (ha): 486.682
Type of interest: Freehold Interest
Interest type details: Record of Title 777359 comprises a total of 526.6069 ha, but an area of 39.9249 ha (Lots 1 & 3 DP 466405) will be subdivided prior to settlement of the Agreement.
Land district: Wellington
Land/Property category: Pastoral

Land sensitivity

Includes - Non-urban land over 5 ha

Upload for all land

- [Appendix 01 - Record of Title.pdf](#) (313.75 KB)
- [Appendix 02 - Sensitive Land Certificate.pdf](#) (166.65 KB)
- [Appendix 03 - Maps and Photos.pdf](#) (4.03 MB)
- [Appendix 04 - Subdivision Plan.pdf](#) (225.88 KB)

Sale information

Tell us the reasons for sale of the assets

The Vendor is selling the Balance Land as the Vendor has determined that it is better land to plant pine trees on. The Subdivision boundary has been designed so that the Vendor will retain the good, productive rolling livestock land, whilst the steep land will be converted to forestry. The Vendor intends to retain the Retention Land, but has agreed to transfer legal title to the Applicant pending completion of the Subdivision of the Land. The early settlement is beneficial to the Vendor as it enables them to receive the purchase price ahead of the Subdivision being completed, while also giving the Applicant secure access to the Balance Land to make arrangements for the 2024 winter planting season.

Has the sensitive asset been subject of an application for consent before?

No

Ownership

Tell us about Ownership and Control

Due to the limited partnership structure of the Applicant, the control of the Applicant is distinctly separate from its ownership.

Ownership:

The ownership of the Applicant is held by its limited partners. The limited partners of the Applicant are [s 9(2)(b)(ii)]

The limited partnership units and voting rights of the limited partners are calculated based on their total committed capital, while their entitlement to distributions from the Applicant is based on the capital contributions (i.e. capital that has actually been called/drawn by the Applicant) which can vary from time to time.

The ownership percentages provided in the Beneficial Ownership table are based on the entitlement to distributions as at the date of this application. A table showing the total committed capital and limited partnership units of each limited partner as at the date of this application is attached at Appendix 6.

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

Control:

Because of the Applicant's limited partnership structure, control of the Applicant is exercised by the General Partner and the Investment Manager. The General Partner carries out the management of the Applicant. The General Partner is controlled and ultimately 77.3% owned by non-overseas persons. The Applicant's investment mandate is discretionary and does not need to be ratified by the limited partners. The General Partner has full discretion on the acquisition of investments, development of investments, management of the land, and the ultimate divestment of investments. This is the case even if a single limited partner has a significant level of equity in the Applicant.

The General Partner of the Applicant may delegate its authority and powers to one or more managers.

The General Partner has appointed the Investment Manager to manage the Limited Partnership in accordance with the Investment Management Agreement and Limited Partnership Agreement and its business and assets on a sole and exclusive basis. [s 9(2)(b)(ii)]

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

The General Partner must monitor and review the actions of the Investment Manager, and is responsible for the acts of the Investment Manager. The General Partner remains responsible and liable for the performance of its obligations under the Limited Partnership Agreement and the Limited Partnerships Act.

The Applicant may terminate the appointment of the Investment Manager in certain limited circumstances (including insolvency/liquidation) or on 18 months prior notice on or after 20 February 2021. The Investment Manager may resign with the consent of the Limited Partnership by giving not less than 12 months prior written notice.

The following are attached as appendices to this Application:

1. Structure and Ownership Diagram - Craigmore Sustainables Group (Appendix 5)
2. Structure Diagram and Ownership Table - Kauri Forestry LP (Appendix 6)
3. Limited Partnership Agreement and Investment Management Agreement (Appendix 7)
4. Summary of Limited Partnerships Act provisions relevant to the control of the Applicant (Appendix 8)

Provide incorporation, shareholder and director information for the entities the exemption will cover and persons who have a more than 25% beneficial or legal interest in them (or equivalent information if the relevant entity is not a company) The Applicant is a New Zealand limited partnership registered pursuant to the Limited Partnerships Act 2008 under registered number 2695031. The Certificate of Incorporation and NZ Limited Partnerships extract for the Applicant are attached at Appendix 9.

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

General Partner:

The General Partner is a New Zealand company incorporated with registered number 6685533. The General Partner is a 100% subsidiary of Craigmores Sustainable Group Limited Partnership (New Zealand registered limited partnership 2555977).

Craigmores Sustainable Group LP:

Craigmores Sustainable Group Limited Partnership is 77.3% owned by non-overseas persons. The directors of the General Partner are Che Charteris and John Holland.

The general partner of Craigmores Sustainable Group Limited Partnership is Craigmores Group GP Limited (New Zealand registered company 4519081), which is 100% owned by Forbes Elworthy. The board of Craigmores Group GP Limited comprises Forbes Elworthy, Che Charteris, John Holland and Nicholas Tapp (UK citizen).

CSG LP is owned by its limited partners. The 14 limited partners of CSG LP include [s 9(2)(b)(ii)], along with some high-net worth individuals and family offices. The percentages provided below reflect the voting rights held by the relevant limited partners as at 31 March 2023 (noting that voting rights are calculated differently from equity rights, but the equity entitlement percentages only vary nominally from the percentage voting rights).

The six limited partners that hold >5% of the interests in CSG LP (as at 31 March 2023) are:

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

Investment Manager:

The Investment Manager is [s 9(2)(b)(ii)]

- [Appendix 05 - Craigmores Group Structure Chart.pdf](#) (130.79 KB)
- [Appendix 06 - Kauri Forestry LP ownership and control diagram.pdf](#) (579.79 KB)
- [Appendix 07 - Kauri Forestry LPA IMA signed Feb 2018.pdf](#) (1.76 MB)
- [Appendix 08 - LPA references re ownership vs control.pdf](#) (259.45 KB)
- [Appendix 09 - Corporate Register Extracts.pdf](#) (7.67 MB)

Beneficial Ownership Table

- Name of entity to which exemption will apply: Kauri Forestry LP

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

Ownership by Country Table

- Name of entity to which exemption will apply: Kauri Forestry LP
Description: Ownership by country:
Switzerland - 71.76%
Germany - 28.24%

Vendor ownership

Is the vendor an individual or an entity
Entity

Does the vendor have 100% legal and beneficial ownership and control of the assets?
No

Tell us who the vendor holds the land on behalf of or for the benefit of
The Land is owned by the Remcam Trust – the trustees being Roderick William Cameron and Tod Hamish Lewis Barrell – for the benefit of the beneficiaries, being Roderick William Cameron, Benjamin William Cameron, Charlie Michael Cameron, any Trust of which the above beneficiaries is a beneficiary, with a hold over on vesting should none survive on vesting to any person related to Roderick William Cameron by blood

Tell us the incorporation, shareholder, and director information for the vendor, or equivalent information if vendor is not a company, such as trustees and beneficiaries for a trust.

Roderick William Cameron and Tod Hamish Lewis Barrell are the trustees of Remcam Trust, with beneficiaries being Roderick William Cameron, Benjamin William Cameron, Charlie Michael Cameron, any Trust of which the above beneficiaries is a beneficiary, with a hold over on vesting should none survive on vesting to any person related to Roderick William Cameron by blood

Beneficial ownership table

- Owner: Roderick William Cameron, Benjamin William Cameron, Charlie Michael Cameron, any Trust of which the above beneficiaries is a beneficiary, with a hold over on vesting should none survive on vesting to any person related to Roderick William Cameron by blood
Percentage (must total 100%): 100
Description: As discretionary beneficiaries of the Remcam Trust

Ownership by country table

- Country: New Zealand
Percentage (must total 100%): 100

Is the vendor an overseas person under the Act?

No

Tell us why the vendor is or is not an over seas person under the Act
All trustees and beneficiaries are New Zealand citizens

Upload documents

Supporting Information upload

- [Appendix 10 - Agreement for Sale and Purchase.pdf](#) (14.62 MB)
- [Appendix 11 - Advertising Details.pdf](#) (4.27 MB)
- [Appendix 12 - Letter from Vendor.pdf](#) (61.57 KB)
- [Appendix 13 - Correspondence with OIO.pdf](#) (164.54 KB)
- [Appendix 14 - Signed Declaration.pdf](#) (460.1 KB)
- [Appendix 15 - Statutory Declaration.pdf](#) (439.22 KB)

Appendices

- Appendix reference: Appendix 01
Name of document: Record of Title
- Appendix reference: Appendix 02
Name of document: Sensitive Land Certificate
- Appendix reference: Appendix 03
Name of document: Maps and photos
- Appendix reference: Appendix 04
Name of document: Subdivision Plan
- Appendix reference: Appendix 05
Name of document: Craigmore Group Structure Chart
- Appendix reference: Appendix 06
Name of document: Kauri Forestry LP ownership and control diagram
- Appendix reference: Appendix 07
Name of document: Kauri Forestry LPA and IMA
- Appendix reference: Appendix 08
Name of document: LPA references re ownership vs control

- Appendix reference: Appendix 09
Name of document: Corporate register extracts
- Appendix reference: Appendix 10
Name of document: Agreement for Sale and Purchase
- Appendix reference: Appendix 11
Name of document: Advertising details
- Appendix reference: Appendix 12
Name of document: Letter from Vendor
- Appendix reference: Appendix 13
Name of document: Email correspondence with OIO
- Appendix reference: Appendix 14
Name of document: Applicant Declaration
- Appendix reference: Appendix 15
Name of document: Statutory Declaration

Declaration

Who is submitting the application?

I am the Applicant's advisor/external representative (lawyer acting on behalf of a client, other external advisors)

Name of person submitting application and declaring below

Christina Lefever

I have read, understood, and agree to the privacy notice.

Yes

I have uploaded all documentation relevant to the claims made in this application and in support of the application.

Yes

I solemnly declare to the best of my knowledge, that all the information in this application form is true and correct.

Yes

True and correct

Yes

I have uploaded the signed applicant declaration.

Yes

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