



## Decision required under the Overseas Investment Act 2005: OneFortyOne Plantations Holdings Pty Ltd

<b>Date</b>	16 July 2018
<b>Security Level</b>	Commercial: In Confidence
<b>Priority</b>	High
<b>Report/Case Number</b>	1417 / 201720119
<b>Decision Required By</b>	10 August 2018. Applicant has requested urgent consideration by this date to enable settlement to occur on 3 September

### Instructions

	<b>Action Sought</b>	<b>Suggested Deadline</b>
<b>Minister for Land Information</b>	1. Sign the attached memorandum 2. Forward the memorandum and annexure to the Associate Minister of Finance	6 August 2018
<b>Associate Minister of Finance</b>	1. Sign the attached memorandum 2. Forward the memorandum and annexure to the Overseas Investment Office	6 August 2018

### Contact for Telephone Discussion

<b>Name</b>	<b>Position</b>	<b>Telephone (wk)</b>	<b>Cellphone</b>	<b>First Contact</b>
Lizzie Barone	Manager Applications	[ s 9(2)(a) ]	[ s 9(2)(a) ]	✓
[ s 9(2)(a) ]	Senior Solicitor	[ s 9(2)(a) ]		

## Executive Summary:

1. OneFortyOne Plantations Holdings Pty Ltd (**Applicant**) seeks consent to acquire 100% of the shares in Nelson Forests Limited (**NFL**), through an indirect wholly owned subsidiary called OneFortyOne NZ Holdings Limited, being an overseas investment in sensitive land and significant business assets.
2. The Applicant is an Australian incorporated company that is around 62% Australian owned. It owns forestry assets in South Australia and Victoria.
3. NFL is a forest products business with assets including a mature, sustainable yield plantation forest of approximately 77,000 hectares (**Forest Estate**), and the Kaituna sawmill in Blenheim (**Kaituna Mill**). Of the 77,000 hectares, approximately 51,999 hectares are Crown Forestry Licenses and forestry rights not requiring consent under the Overseas Investment Act 2005 (**Act**). NFL owns approximately 25,119 hectares of freehold land (**Land**), which is sensitive land requiring consent. NFL also owns a log trading business called External Resources and 100% of the shares in Nelson Management Limited, which manages the day-to-day operations of NFL and employs all the employees in the Kaituna Mill and External Resources.

### Vendor

4. The vendor of the shares is Nelson Properties Limited. It is an investment vehicle owned by an investment fund (**Fund**), and advised by Global Forest Partners LP (**GFP**). The Vendor is selling the shares as part of its investment cycle as the term of the Fund has expired and it needs to return value to its investors.

### Counterfactual

5. We consider that if the Investment does not proceed, there is unlikely to be a single alternative New Zealand purchaser for the entire NFL business. We therefore consider it likely that the Forest Estate including the Land and the Kaituna Mill will be marketed and sold to various alternative New Zealand purchasers.
6. Although the Forest Estate would still be operated as forestry assets, existing log supply arrangements, memoranda of understanding and other commitments by NFL in relation to processing, access and environmental protection may cease.

### Investment Plan

7. The Applicant's plans for the Investment include:
  - (a) Commitments to processing in New Zealand, including exploring long-term supply arrangements and offering uncommitted harvest volumes to New Zealand-based processors;
  - (b) Support for industry and Government policies in New Zealand, including the Government's goal to plant 1 Billion trees.
  - (c) Supporting job growth through graduate and school leaver programmes;
  - (d) [ s 9(2)(b)(ii) ]  
[REDACTED]
  - (e) Investments into environmental protection and practices, including improvement of water and waste treatment at Kaituna Mill, support for wilding conifer eradication, Kea conservation and establishment of research programmes to reduce sediment movement into waterways;
  - (f) Introduction of the Applicant's best practice techniques from its Australian business, including in fir management and [ s 9(2)(b)(ii) ] ;

- (g) Community investment through community, environmental and education causes and access opportunities such as support for the Great Taste Trail, and potential mountain biking opportunities in parts of the Forest Estate.

### Benefit to New Zealand

8. We consider that the Investment is likely to result in substantial and identifiable benefit to New Zealand. We acknowledge that this assessment is finely balanced in the context of an investment in approximately 25,119 hectares of land including freehold and beneficial interests.
9. In particular, we are satisfied that a benefit to New Zealand is likely to result from the advancement of the One Billion Trees Programme, a significant Government strategy. We consider that overseas investment into the forestry industry (including the purchase of existing forestry blocks by overseas investors) can help ensure that the forestry industry continues to be viable and economic in New Zealand. It helps encourage forestry investors to continue to invest in their operations by ensuring that there is a continued market for forestry land.
10. We also consider that the Investment is likely to lead to an increase in processing of logs at mills in the Nelson/Marlborough region through:
  - (a) long-term supply agreements;
  - (b) later harvest of some high quality stands to supply for [ s 9(2)(b)(ii) ] [REDACTED];
  - (c) forecast of wood available to local processors prior to harvest;
  - (d) a feasibility study into [ s 9(2)(b)(ii) ] [REDACTED]; and
  - (e) [ s 9(2)(b)(ii) ] [REDACTED]
11. Other economic benefits likely to result include job creation of 4 FTE roles for school leavers and graduates, a small level of additional investment for development purposes and some increased productivity through [ s 9(2)(b)(ii) ] [REDACTED]
12. In addition the Investment is likely to result in mechanisms to protect and enhance significant areas of indigenous vegetation including conservation covenants, research programmes aimed at the reduction of sedimentation of waterways, which is likely to provide protection for significant areas of habitats of trout and salmon and the creation of enduring public access in one particular location on the Land and potential further public access in other areas.
13. Other benefits include measures to control wilding trees, donations and community sponsorship, the Applicant being a key person in the forestry industry in Australia and the advancement of New Zealand's economic interests.
14. We consider that the criteria for consent in sections 16 and 18 have been met.  
**Accordingly, we recommend that consent is granted.**

### Third party submission

15. We received a third party submission in relation to this application. A summary of this submission, the Applicant's response to it and our analysis is set out at Appendix 4.

## Instructions

16. Please see **Appendix 2** for instructions on how to make a decision and guidance on the relevant factors and criteria for consent.

## Recommendations:

17. I recommend that you:

- (a) determine that:

- (i) the '**relevant overseas person**' is (collectively):

Entity	Relationship
OneFortyOne Plantations Holdings Pty Ltd	Applicant
Future Fund Investment Company No.3 Pty Ltd	50% shareholder of the Applicant
Pension Reserves Investment Management Board	32% shareholder of the Applicant
Campbell Global, LLC	Provides property management services and investment advisory services

- (ii) the '**individuals with control of the relevant overseas person**' are:

Individual	Role
Stanley George Renecker	Director of the Applicant and Campbell Global executive
Johnny Slade Gilleland	Director of the Applicant and Campbell Global executive
Angela Marie Davis	Director of the Applicant and Campbell Global executive
David Christopher Rumker	Director of the Applicant and Campbell Global executive
Raphael Henry Arndt	Director of the Applicant and Chief Investment Officer of Future Fund No.3
James Gregory White	Director of the Applicant and Future Fund No.3 executive
Linda Kay Sewell	CEO of the Applicant
Glen Moody Rivers	Chief Forester of the Applicant
Andy David Anthony Giles Knopp	CFO of the Applicant



Cameron Alastair MacDonald	Executive General Manager, Forests of the Applicant
David Andrew Keenan	Executive General Manager, Wood Products of the Applicant
Michael Glenn Trotsky	Executive Director and Chief Investment Officer of PRIM
Timothy Schlitzer	Senior Investment Officer of PRIM, Director of Real Estate and Timberland
Wendy Anne Norris	Head of Infrastructure and Timberlands Future Fund No.3
Robert John van Rossen	Director of Acquisitions, Australasia of Campbell Global

- (iii) the individuals with control of the relevant overseas person collectively have business experience and acumen relevant to the overseas investment; and
- (iv) the relevant overseas person has demonstrated financial commitment to the overseas investment; and
- (v) the individuals with control of the relevant overseas person are of good character; and
- (vi) each individual with control of the relevant overseas person is not an individual of the kind referred to in section 15 or 16 of the Immigration Act 2009; and
- (vii) the overseas investment will, or is likely to, benefit New Zealand (or any part of it or group of New Zealanders); and
- (viii) the benefit will be, or is likely to be, substantial and identifiable; and
- (b) determine that you are satisfied that the criteria for consent in sections 16 and 18 have been met; and
- (c) grant consent to the overseas investment in the form of the Proposed Decision in Appendix 1 and subject to the conditions set out in the Proposed Decision.

[ s 9(2)(a) ]

Lizzie Barone – Manager Applications

Date 16/07/2018

## Decision:

18. I am satisfied that the criteria for consent in sections 16 and 18 have been met; and

Associate Minister of Finance:

Satisfied

☐  
☐

Not Satisfied

Minister for Land Information:

Satisfied

☒  
☐

Not Satisfied

19. Consent is granted to the overseas investment in the form of the Proposed Decision in Appendix 1 and subject to the conditions set out in the Proposed Decision.

Associate Minister of Finance:

Consent Granted

☐  
☐

Consent Declined

Minister for Land Information:

Consent Granted

☒  
☐

Consent Declined

Associate Minister of Finance

*4th page*

Minister for Land Information

Date

Date

*11/8/15*

*Subject to special additional condition to provide vegetated riparian setbacks along waterways that are maintained during harvest and protect waterway health and avoid sediment runoff*

**Decision:**

18. I am satisfied that the criteria for consent in sections 16 and 18 have been met; and

Associate Minister of Finance:

Minister for Land Information:

Satisfied

☐  
☐

Satisfied

☒  
☐

Not Satisfied

Not Satisfied

19. Consent is granted to the overseas investment in the form of the Proposed Decision in Appendix 1 and subject to the conditions set out in the Proposed Decision.

Associate Minister of Finance:

Minister for Land Information:

Consent Granted

☐  
☐

Consent Granted

☒  
☐

Consent Declined

Consent Declined



Associate Minister of Finance

Minister for Land Information

Date

Date

Released under the Official Information Act 1982

**Decision:**

18. I am satisfied that the criteria for consent in sections 16 and 18 have been met; and

Associate Minister of Finance:      Minister for Land Information:

Satisfied

☒  
☐

Satisfied

☐  
☐

Not Satisfied

Not Satisfied

19. Consent is granted to the overseas investment in the form of the Proposed Decision in Appendix 1 and subject to the conditions set out in the Proposed Decision.

Associate Minister of Finance:      Minister for Land Information:

Consent Granted

☒  
☐

Consent Granted

☐  
☐

Consent Declined

Consent Declined



Associate Minister of Finance

Date

15/8/18



Minister for Land Information

Date

Released under the Official Information Act 1982

Report of the Overseas Investment Office  
on the application for consent by  
OneFortyOne Plantations Holdings Pty Ltd  
Case: 201720119

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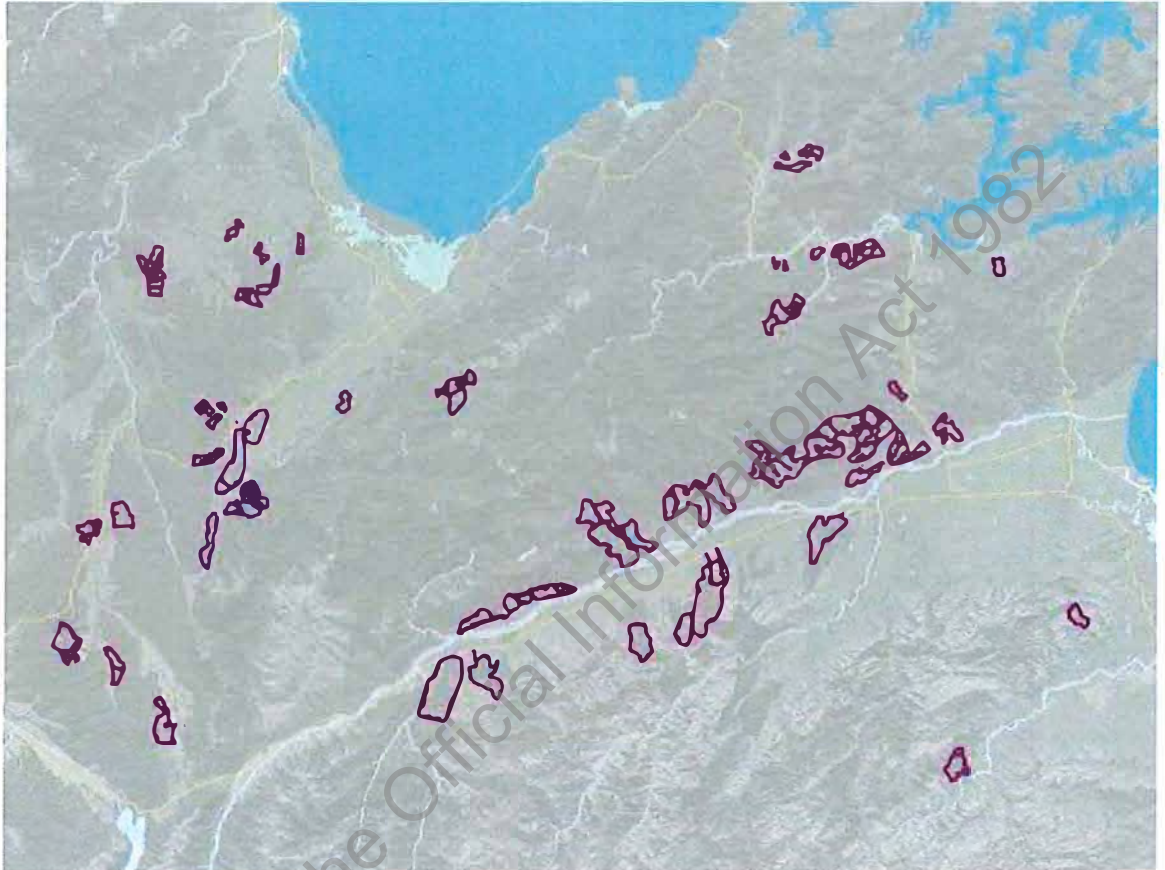
## What is the Investment?

<b>Applicant</b>	<b>OneFortyOne Plantations Holdings Pty Ltd</b> (Australia 62.%, United States of America 33.2558%, Switzerland 2.9652%, Luxembourg 1.779%)
<b>Vendor</b>	<b>Nelson Properties Limited</b> (United States of America 48.8%, Australia 13.9%, Denmark 9.7%, United Kingdom 8.7%, Cayman Islands 8.3%, Sweden 3.4%, Canada 3.3%, New Zealand 3.3%, Various 0.6%)
<b>Consideration</b>	\$1,101,774,050
<b>Recommendation</b>	Grant Consent

## Description of the Investment

- OneFortyOne Plantations Holdings Pty Ltd (**Applicant**) seeks consent to acquire 100% of the shares in Nelson Forests Limited (**NFL**), through an indirect wholly owned subsidiary called OneFortyOne NZ Holdings Limited, being an overseas investment in sensitive land and significant business assets.
- The target company NFL was registered as an overseas company on the New Zealand Companies Office Registry in October 2007. It was incorporated in the Cayman Islands in July 2007.
- NFL is a forest products business with assets including a mature, sustainable yield plantation forest of approximately 77,000 hectares (**Forest Estate**), and the Kaituna sawmill in Blenheim (**Kaituna Mill**). Of the 77,000 hectares, approximately 51,999 hectares are Crown Forestry Licenses and forestry rights not requiring consent under the Overseas Investment Act 2005 (**Act**). NFL owns or has a beneficial interest in approximately 25,119 hectares of freehold land, which is sensitive land requiring consent (**Land**).
- NFL also owns a log trading business called External Resources and 100% of the shares in Nelson Management Limited, a New Zealand incorporated company which manages the day-to-day operations of NFL and employs all the employees in the Kaituna Mill and External Resources.
- External Resources procures logs to provide additional scale to logs produced from the Forest Estate where necessary (largely for export sales). It also sources and supplied quality pruned logs for the Kaituna Mill. The Kaituna Mill has recently been upgraded and has a processing capacity of approximately [ s 9(2)(b)(ii) ]<sup>3</sup> per year.
- NFL currently produces a sustainable harvest of approximately 1.2 million m<sup>3</sup> of logs per year, which is expected to increase to [ s 9(2)(b)(ii) ] next ten years as further stands mature. [ s 9(2)(b)(ii) ]  
[ s 9(2)(b)(ii) ]  
[ s 9(2)(b)(ii) ] NFL also exports logs, including to China and South Korea.
- Consideration for the transaction is approximately US\$815,000,000 (around [ s 9(2)(b)(ii) ]

8. The image below shows the approximate locations of the approximately 25,119 hectares which NFL owns, or has a beneficial interest in:



9. Further aerial images of the Land are included at **Appendix 3**.

10. The image below has been taken from the investment memorandum used in marketing the NFL business. It shows the approximate location of all the locations of NFL's forests (including those where NFL does not have an interest in the underlying land):

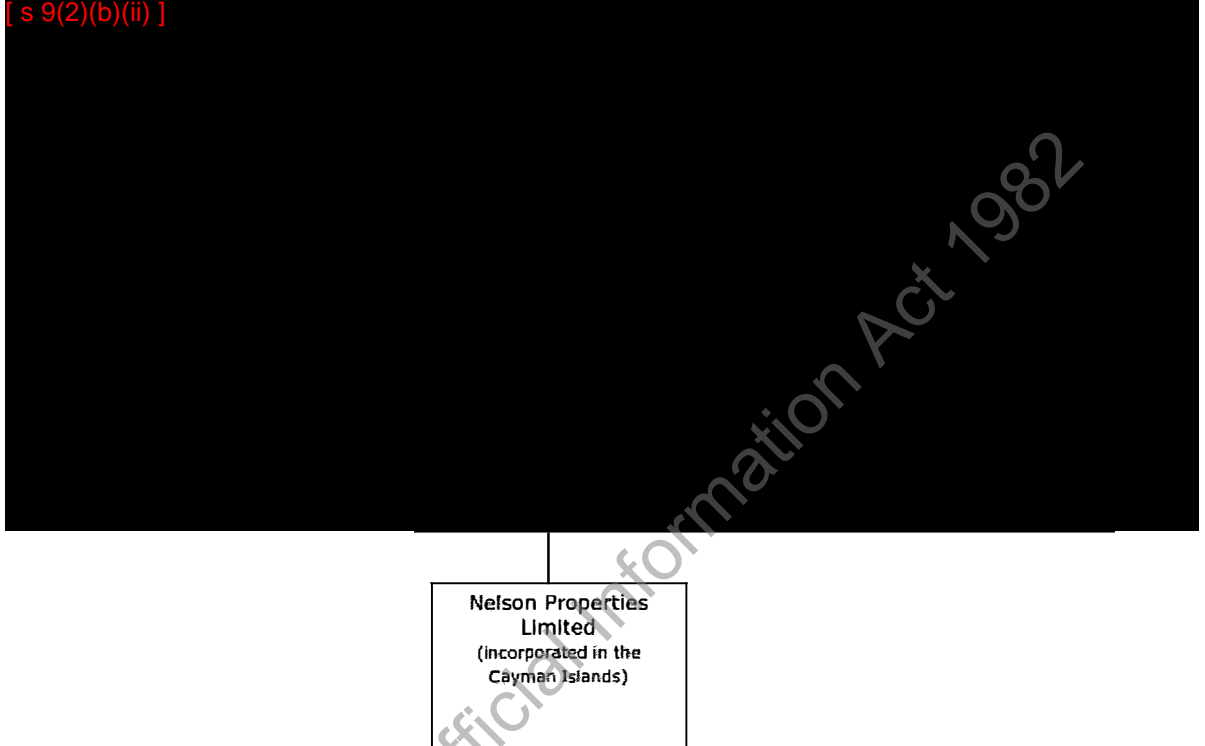


### Vendors

11. The vendor of the shares in NFL is Nelson Properties Limited (**Vendor**), which was incorporated in the Cayman Islands in September 2007. It is an investment vehicle owned by an investment fund (**Fund**), and advised by Global Forest Partners LP (**GFP**). The Vendor is an overseas person.

12. There are four shareholders in the Vendor, each incorporated in the Cayman Islands and owned by various investors. A structure diagram setting out the Vendor's ownership is included below:

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



13. The Vendor and / or NFL has previously obtained consent under the Act to acquire the sensitive assets that NFL owns. The initial acquisition of the forest estate was approved in October 2007 (see applications 200720053 and 20070052).<sup>1</sup> The size of the freehold estate owned was subsequently increased through application 201510035 (approximately 224.0947 hectares) and application 201610039 (approximately 9454 hectares).

### Reasons for Sale

14. The business model of the Vendor and its advisor GFP is to acquire, develop and then sell forest plantations to return value to its investors. The Vendor and GFP have developed NFL and its assets, and the Vendor is now selling the shares in NFL as part of its investment cycle as the term of the Fund has expired.

### Sensitive Assets

15. The target company has interests in sensitive land. See **Appendix 3**.
16. The Land is 'forest land' as defined in the Ministerial Directive Letter issued by the Minister of Finance on 28 November 2017 (**Ministerial Directive Letter**).
17. Therefore:
- (a) we have treated the 'increased processing of primary products' and the 'advance significant government policy or strategy' factors as being of high relative importance.

<sup>1</sup> These initial acquisitions included acquisition of the Crown Forestry Licences. We note that Crown Forestry Licences are not interests in sensitive land under the Act, so are only part of this application insofar as they comprise the 'significant business assets' being acquired..



- (b) to the extent that the 'consequential benefit' factor relates to the sponsorship of community projects and donations, we have treated this factor as being of low relative importance.

## Who is making the Investment

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### Applicant

#### *Who the Applicant is*

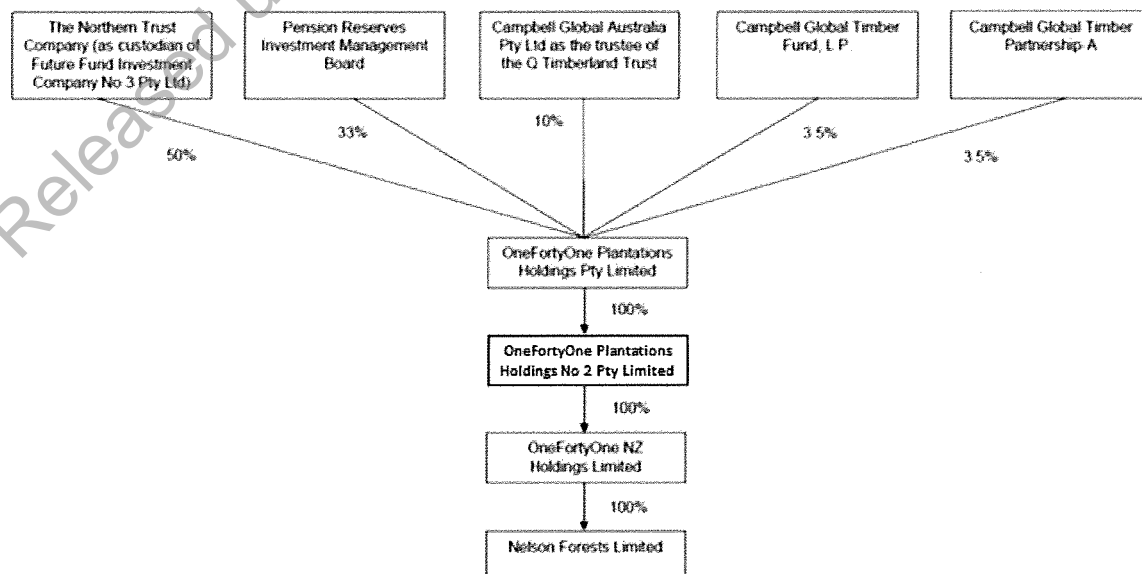
18. The Applicant is a proprietary company incorporated in Australia in July 2012, under the Corporations Act 2001. As outlined below, it is primarily owned by large, reputable, retirement fund investors.
19. The Applicant intends to incorporate two new wholly owned subsidiaries to complete the transaction. It will incorporate a company in New Zealand to complete the acquisition, named OneFortyOne NZ Holdings Limited (**OneFortyOne NZ**). It will also incorporate a subsidiary in Australia to hold the shares in the New Zealand subsidiary, called OneFortyOne Plantations Holdings No.2 Pty Ltd.
20. The Applicant has advised that the directors of OneFortyOne NZ will be any three or more of the following persons:
  - (a) Stanley George Renecker;
  - (b) Johnny Slade Gilleland;
  - (c) Angela Marie Davis;
  - (d) David Christopher Rumker;
  - (e) Raphael Henry Arndt;
  - (f) James Gregory White;
  - (g) Wendy Anne Norris;
  - (h) Linda Kay Sewell;
  - (i) Andy Giles Knopp; and
  - (j) Robert John van Rossen.
21. With the exception of Mr van Rossen, the individuals identified above are also either directors or senior executives of the Applicant.
22. The Applicant states that both OneFortyOne NZ and OneFortyOne Plantations Holdings No.2 Pty Ltd will be passive holding companies.

#### *Who owns the Applicant*

23. The Applicant is owned by the following shareholders:
  - (a) Future Fund Investment Company No.3 Pty Ltd (**Future Fund No.3**) as to 50% of the shares in the Applicant. Future Fund No.3 is a wholly owned subsidiary of the "Future Fund". The sovereign wealth fund of the Commonwealth of Australia. The Future Fund was established by the Australian Government in 2006 to accumulate financial assets to offset the Australian Government's unfunded superannuation liability from 2020;



- (b) Pension Reserves Investment Management Board (**PRIM**) as to 32% of the shares in the Applicant. PRIM has charge of the general supervisions of the Pension Reserves Investment Trust Fund (**PRIT**). PRIT was created to assist the Commonwealth of Massachusetts in reducing its unfunded pension liability and assist local participating retirement systems in meeting pension obligations. Contributors to PRIT include the Massachusetts Teachers; and State Employees' Retirement Systems and county, authority, district and municipal retirement systems;
- (c) Q Timberland Trust (**QTT**) as to 12% of the shares in the Applicant. QTT is owned by Qantas Superannuation Limited as trustee for Qantas Superannuation Plan (**Qantas Super**). Qantas Super was set up in 1939 for the benefit of employees of Qantas Airways Limited and its subsidiaries; and
- (d) Campbell Global Timber Fund, L.P. (**CGTF**) as to 6% of the shares in the Applicant. This shareholding will reduce to 3% in early June 2018, following a sale of shares outlined in the next paragraph. CGTF is a Cayman Islands limited partnership, whose general partner is Campbell Global Timber Fund GP, LLC, a Cayman Islands limited liability company. CGTF is a fund that invests in forestry assets. The general partner is ultimately owned by Campbell Global, LLC which provides fully integrated timberland and natural resource investment management services.
- (e) Campbell Global Timber Partnership – A (**CGTP-A**) currently owns no shares, but during June 2018 will acquire 3% of the share in the Applicant from CGTF. CGTP-A is an Australian investment partnership. The managing partner of CGTP-A is Campbell Global Timber Fund GP, LLC.
24. The shareholdings in the Applicant will change slightly as a result of equity funding provided in connection with the transaction. QTT's shareholding will reduce to 10%, while PRIM will increase to 33% and CGTF and CGTP-A will each increase to 3.5% shareholding in the Applicant. This restructure will occur immediately prior to the Investment.
25. A structure diagram setting out the structure of the Applicant, its shareholding and subsidiaries at the time of the Investment is set out below:



*Who controls the Applicant*

26. Decision making authority concerning the management of the Applicant and its business rests with the Applicant's board of directors. The board made the decision to enter into the Investment, and if the Applicant later chose to divest NFL, the board would be responsible for this decision.
27. The Applicant's board has formally delegated day-to-day management of its affairs to its senior executives, Linda Sewell (CEO), Glen Rivers (Chief Forester), Andy Knopp (CFO), Cameron MacDonald (Executive General Manager, Forests) and David Keenan (Executive General Manager, Wood Products).
28. [ s 9(2)(b)(ii) ]
- 29.

**Relevant Overseas Person**

30. We have determined that the '**relevant overseas person**' is (collectively):
- (a) The Applicant;
  - (b) Future Fund No.3;
  - (c) PRIM; and
  - (d) Campbell Global, LLC.

**Individuals with Control**

31. We have determined that the '**individuals with control of the relevant overseas person**' are:

Individual	Role
Stanley George Renecker	Director of the Applicant and Campbell Global, LLC executive
Johnny Slade Gilleland	Director of the Applicant and Campbell Global executive
Angela Marie Davis	Director of the Applicant and Campbell Global executive
David Christopher Rumker	Director of the Applicant and Campbell Global executive
Raphael Henry Arndt	Director of the Applicant and Chief Investment Officer of Future Fund No.3
James Gregory White	Director of the Applicant and Future Fund No.3 executive
Linda Kay Sewell	CEO of the Applicant
Glen Moody Rivers	Chief Forester of the Applicant

Individual	Role
Andy David Anthony Giles Knopp	CFO of the Applicant
Cameron Alastair MacDonald	Executive General Manager, Forests of the Applicant
David Andrew Keenan	Executive General Manager, Wood Products of the Applicant
Michael Glenn Trotsky	Executive Director and Chief Investment Officer of PRIM
Timothy Schlitzer	Senior Investment Officer of PRIM, Director of Real Estate and Timberland
Wendy Anne Norris	Head of Infrastructure and Timberlands Future Fund No.3
Robert John van Rossen	Director of Acquisitions, Australasia of Campbell Global

32. In relation to the individuals with control provided in relation to Future Fund No.3 and PRIM, the Applicant submits that these persons have authority regarding the investment in the Applicant. While there are more senior persons at both Future Fund No.3 and PRIM, those persons are not responsible for the investment in the Applicant.
33. The board of managers of Campbell Global, LLC includes individuals in addition to those persons listed above. However, Stanley Renecker, Johnny Gilleland, Angela Davis and David Rumker are the individuals who serve on the Applicant's board of Directors and make decisions relating to the Applicant.
34. Robert John van Rossen is Campbell Global's Director of Acquisitions, Australasia and has been advising the Applicant in relation to the Investment. He may also become a director of OneFortyOne NZ. The Applicant states that the other individuals on the board of managers of Campbell Global, LLC do not have authority regarding the Investment.

### Business Activities

#### Applicant

35. The Applicant was established to invest in plantations and other timber operations in Australia. In October 2012, the Applicant acquired the harvesting rights of the Green Triangle plantation estate from the Government of South Australia.

36. The Applicant's current forestry holdings (**OneFortyOne Estate**) comprise approximately 80,000 hectares of radiata pine, predominantly in South Australia, with some area in Victoria as well. The Applicant has approximately 65 staff members and more than 500 contractors employed around its forest estate.

37. The Applicant states that its core goals are:

- (a) On-shore processing: since acquiring the OneFortyOne Estate in Australia the Applicant states that it has expanded supply to major local mills and increased supply to domestic customers by more than 45%. The Applicant has also recently acquired the Jubilee Highway sawmill in Mount Gambier, South Australia and the woodchip operations at Portland Victoria from Carter Holt Harvey.

- (b) Sustainable forests: through Australian Forest Certification Standards, and preservation of cultural heritage through working with Australian aboriginal groups to protect important sites and artefacts. The Applicant has also partnered with the Nature Glenelg Trust to preserve local wetlands and supports Country Fire Service brigades in South Australia and Victoria.
  - (c) Sustainable communities: through support for community organisations and growing the local pool of forestry employees through graduate programmes.
38. The Applicant's forestry business includes divisions for log sales (including domestic Australian and international sales), log processing (through the Jubilee Highway sawmill, which processes softwood sawlogs into structural timber products) and tree nurseries growing replacement trees.
39. The Applicant does not currently have any business activities in New Zealand.
- Campbell Global, LLC*
40. Campbell Global, LLC currently manages around 1.1 million hectares of forests worldwide, representing around \$6 billion in assets for various funds and clients. The Applicant states that it is the world's second largest forestry manager.

## Investment Plan

41. The Applicant states that it is making the Investment to continue the growth of its business into a large-scale trans-Tasman forestry and forest products company. It considers the acquisition of NFL a key step in this process. It intends to acquire NFL for long term investment, as a cornerstone of its business. It considers NFL is likely to be compatible with its Australian business in terms of quality and scale, as well as offering growth, diversification and synergy opportunities.
42. The Applicant's plans for the Investment include:
- (a) Commitments to processing in New Zealand, including exploring long-term supply arrangements and offering uncommitted harvest volumes to New Zealand-based processors;
  - (b) Support for industry and Government policies in New Zealand, including the Government's goal to plant 1 Billion trees.
  - (c) Supporting job growth through graduate and school leaver programmes;
  - (d) [ s 9(2)(b)(ii) ]  
[REDACTED]  
[REDACTED]
  - (e) Investments into environmental protection and practices, including improvement of water and waste treatment at Kaituna Mill, support for wilding conifer eradication, Kea conservation and establishment of research programmes to reduce sediment movement into waterways;
  - (f) Introduction of the Applicant's best practice techniques from its Australian business, including in fir management and [ s 9(2)(b)(ii) ] ;
  - (g) Community investment through community, environmental and education causes and access opportunities such as support for the Great Taste Trail, and potential mountain biking opportunities in parts of the Forest Estate.



### *Australian track record*

43. The Applicant submits that is an established forestry company in South Australia and Victoria with reputable investors. It has an experienced board and management team with a reputation for industry collaboration and promotion of the forestry industry. It submits that, using their Australian experience and connections, the leadership team will bring significant experience and contributions to the New Zealand forestry industry. The Applicant has included a letter from the CEO of the Australian Forest Products Association endorsing its community and industry contributions in Australia.
44. The Applicant states that since it acquired the OneFortyOne Estate in 2012 it has:
  - (a) Grown its domestic processing and sales market by 45%;
  - (b) Increased its employment from 6 to 64 (as well as the recent addition of around 300 employees through acquisition of the sawmill and woodchip plant);
  - (c) Increased the number of trees planted;
  - (d) Provided forest fires response, management and prevention training to all employees;
  - (e) Increased carbon sequestration by approximately 200,000 tonnes and
  - (f) Invested more than AU\$1 million in local community partnerships.
45. The Applicant submits its track record in Australia shows that it believes its growth as a company is linked to the domestic forestry sector and it aims to ensure its actions have a positive influence on job creation, establishment of new markets, community investment, the environment and the future of the forestry industry. It submits that its track record and its plans for the Investment are directly in line with the Forest Land Directive.

## **What is likely to happen without the Investment**

### **Counterfactual**

As a result of *Tiroa E and Te Hape B Trusts v Chief Executive of Land Information* [2012] NZHC 147 ("Tiroa E"), the OIO and relevant Ministers must apply a "counterfactual test" when assessing whether an overseas investment will, or is likely to benefit New Zealand. This test, which was described by the Court as a "with and without" test, requires a comparison of what is likely to happen with the investment, and what is likely to happen without the investment (the counterfactual).

46. The Vendor is selling the shares as part of the ordinary course of its investment cycle. The term of the Fund has expired, meaning that the Vendor is committed to selling the NFL business and returning funds to its investors.
47. The shares in NFL were advertised globally by UBS New Zealand Limited through a two stage sale process. Stage 1 involved indicative non-binding bids, and Stage 2 involved a smaller number of short listed-bidders. 178 parties were contacted to determine potential interest, including potential New Zealand parties, including investment funds and iwi. Of the 178 parties contacted, 13 parties made indicative bids. No New Zealand persons made indicative bids.



48. The Vendor will remarket the NFL business if the Investment does not proceed, so the Applicant submits that an alternative New Zealand purchaser may eventually be found. The Applicant submits that the pool of potential purchasers for NFL is likely to be limited to entities that have industry experience and a strong financial position. The Forest Estate comprises one of the largest *pinus radiata* plantations in New Zealand. We note that the majority of large forestry owners in New Zealand are overseas persons.<sup>2</sup>
49. If no New Zealand purchaser is found for the shares in NFL, the Applicant submits that [ s 9(2)(b)(ii) ]
50. If the Vendor is unable to find a buyer for the entire NFL business, the Applicant submits that it may eventually advertise and sell the assets separately to more than one alternative New Zealand purchaser. The Forest Estate would be broken up and sold in parcels, and the Kaituna Mill would likely also be sold separately from most or all of the Forest Estate.
51. The Applicant submits that if the Forest Estate is broken up and sold, a number of the benefits associated with the Investment would not be realised, and existing beneficial elements (such as current processing commitments NFL has, or current arrangements with DOC and other entities) may be lost.

#### **Our Assessment of the likely Counterfactual**

52. We consider that if the Investment does not proceed the size and value of the NFL business and Forest Estate means that there is a very limited pool of potential alternative New Zealand purchasers.
53. As continued ownership by the Vendor is unlikely to be possible without a further application for consent under the Act to allow restructuring, we have determined that the NFL business, the Forest Estate including the Land and the Kaituna Mill would be sold to multiple alternative New Zealand purchasers.
54. Breaking up the Land for sale in individual parcels would mean that existing commitments in relation to the Land or wood processing by NFL would no longer apply. We consider that it may also impact the viability of the Kaituna Mill as without the ownership of the Forest Estate and the mill being in the same hands, there may be less certainty of supply for processing.

### **Does the Applicant meet the Investor Test criteria?**

#### **Business Experience s16(1)(a) and 18(1)(a)**

The relevant overseas person, or the individuals with control of the relevant overseas person, must have business experience and acumen relevant to the overseas investment. There is considerable flexibility in determining what is relevant and more or less specific expertise may be required depending on the nature of the investment. Business experience and acumen that contributes to an investment's success may be treated as relevant even though the investor may have to supplement its experience and acumen by utilising the experience and acumen of others to ensure the investment succeeds.

55. In this case, the Investment can be described as the acquisition and management of a forestry business comprising a large forest estate, processing facility and log trading business.
56. We have reviewed the biographical information provided by the Applicant for each of the individuals with control and note:

<sup>2</sup> As at April 2016, 9 of the 10 largest forestry estates in New Zealand were overseas owned.

- The Applicant's board collectively has considerable experience in the management of forestry assets, including mills and retailing of logs. The majority of the Applicant's board members are also executives or board members of Campbell Global, LLC, which manages around 1.1 million hectares of plantation forestry globally. The other board members also have considerable general business experience and acumen in investment portfolios including investment in forestry.
  - The Applicant's senior executives who will manage the Investment on a day-to-day basis also have considerable experience in the forestry industry. Linda Sewell has been the Applicant's CEO since 2013, and prior to that had experience with HVP Plantations and Carter Holt Harvey. Glen Rivers also joined the Applicant's board in 2013 and has prior experience with HVP Plantations.
  - In addition, Ms Sewell is a member of the Australian Government advisory body (Forest Industry Advisory Council - FIAC) and inaugural Chair of the national industry association (Australian Forest Products Association - AFPA). Glen Rivers, the Applicant's Chief Forester, is currently on the board of Directors of AFPA (Australian Forest Products Association), the board of STBA (Southern Tree Breeders Association - the major tree breeding and genetics body), and is on the forest growers advisory committee of Forest and Wood Products Australia (the national forest industry research body).
57. Having regard to the above, we are satisfied that the individuals with control of the relevant overseas persons collectively have business experience and acumen relevant to the overseas investment.

#### **Financial Commitment s16(1)(b) and 18(1)(b)**

The financial commitment criterion requires the relevant overseas person to have taken actions that demonstrate financial commitment to the overseas investment.

58. The 'financial commitment' criterion requires the relevant overseas person to have taken actions that demonstrate financial commitment to the Investment (intentions are not sufficient).
59. In this case we are satisfied that the relevant overseas person has demonstrated financial commitment by:
- entering into an agreement for sale and purchase of the shares in NFL;
  - [ s 9(2)(b)(ii) ] and
  - engaging professional advisers.

#### **Good Character s16(1)(c) and 18(1)(c)**

The decision maker must be satisfied that the individuals with control are of good character. Section 19 of the Act specifies that the decision maker must take the following factors into account (without limitation):

- (a) offences or contraventions of the law by A, or by any person in which A has, or had at the time of the offence or contravention, a 25% or more ownership or control interest (whether convicted or not);
- (b) any other matter that reflects adversely on the person's fitness to have the particular overseas investment.

60. The Applicant has provided a statutory declaration stating that the individuals with control are of good character, have not committed an offence or contravened the law as described above and know of no other matter that reflects adversely on their fitness to have the Investment. We are satisfied that the statutory declaration can be relied on as it complies with the requirements of the Oaths and Declarations Act 1957.
61. We have also conducted open source background checks on the individuals with control and found that the Applicant and Future Fund No.3 have both been named by the Australian Tax Office (**ATO**) as corporations that paid no tax in the 2014-15 and 2013-14 financial years respectively.
62. The Applicant has stated that is has complied with Australian taxation law in the relevant calendar year (and each prior and subsequent year). [ s 9(2)(b)(ii) ]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]
63. The ATO has stated that just because a company appears on its list, this does not mean that they are guilty of avoidance. The ATO has an obligation to report high revenue earning (more than AU\$100 million) Australian companies that pay no corporate tax in a relevant financial year. The ATO has not undertaken further inquiry into the tax returns filed. In these circumstances, we do not consider that appearance in the reports produced by the ATO reflects adversely on the character of the individuals with control.
64. Therefore, we are satisfied that the individuals with control are of good character.

#### **Immigration Act s16(1)(d) and 18(1)(d)**

Section 15 of the Immigration Act specifies that certain convicted or deported persons are not eligible for a visa or permission to enter or be in New Zealand. Section 16 provides a power to deny a visa or permission to enter New Zealand for other specified reasons, such as if the individual is likely to be a threat or risk to security or public order.

65. The Applicant has provided a statutory declaration stating that none of the individuals with control of the relevant overseas person are individuals of the kind referred to in section 15 or 16 of the Immigration Act 2009. We are satisfied that the statutory declaration can be relied on as it complies with the requirements of the Oaths and Declarations Act 1957. We have also conducted open source background checks on those individuals and found nothing relevant to this criterion.
66. Therefore, we are satisfied that none of the individuals with control of the relevant overseas person are individuals of the kind referred to in section 15 or 16 of the Immigration Act 2009.

## Benefits that are likely to occur with the Investment

67. We **are satisfied** that the Investment is likely to benefit New Zealand in regard to the **following factors**:

### Advance significant government policy or strategy – r28(f) - high relative importance

There are three key elements to this factor:

- The overseas investment **must give effect to or advance** a specific **Government policy or strategy**.
- The Government policy or strategy must be **significant**.
- The effect or advancement that is **likely to result** from the overseas investment must be **additional** to that which is likely to occur **without the overseas investment**.

#### *One Billion Trees*

68. The Government's One Billion Trees programme has the goal of planting one billion trees over ten years through both new planting and replanting. This programme is one of the Government's forestry-related strategies which the Ministerial Directive Letter notes the Government wishes to encourage the advancement of.
69. We understand that the objectives of the policy include to:
- (a) promote regional economic growth;
  - (b) provide jobs and opportunities for Māori to utilise their land and other resources;
  - (c) help meet New Zealand's climate change commitments;
  - (d) support more sustainable use of land, water and other natural resources; and
  - (e) build a more resilient forestry and wood processing industry.
70. In order for the One Billion Trees programme to be successful, it is reliant on New Zealand continuing to have a viable, sustainable and economic forestry industry at all levels including nurseries, plantations and processing operations.

#### *Role of overseas investment in advancing the One Billion Trees strategy*

71. Ensuring high quality overseas investment is crucial to achieving the One Billion Trees programme. Research suggests that up to 70 per cent of plantation forest trees are in overseas ownership therefore overseas capital will be important to helping the Government advance this strategy.
72. Not all overseas investment in forestry advances the One Billion Trees strategy. When assessing whether an investment advances the strategy it is a matter of weighing up whether it advances or detracts from the strategy's objectives.

#### *OIO assessment*

73. We consider that the acquisition of an existing forestry operation by an overseas person can advance the One Billion Trees programme where the intended continued operation of the land aligns with objectives of the programme (including not having any negative effect on any of the programme's objectives).



74. One of the objectives of the strategy is helping New Zealand meet its climate change targets. This includes the goal of becoming carbon neutral by 2050. Forestry operations help meet these targets through carbon sequestration. In the case of this Investment, the Applicant intends to harvest the trees at maturity (which will ensure the trees absorb the maximum level of carbon prior to harvest)<sup>3</sup>, replant the land within a reasonable period after harvest and to increase the density of planting where possible for new and recently planted stands.
75. The Investment is likely to result in a constant volume of logs continuing to be processed domestically in the Nelson/ Marlborough region. Therefore there is unlikely to be any detrimental effect on the domestic processing industry or regional economic growth. The Applicant has also made a number of claims in relation to the domestic processing factor, some of which are likely to result in increased processing in the Nelson/ Marlborough region, as discussed below in relation to that factor.
76. Overseas investment into the forestry industry (including the purchase of existing forestry blocks by overseas investors) can help ensure that the forestry industry continues to be viable and economic in New Zealand. It helps encourage forestry investors to continue to invest in their operations by ensuring that there is a continued market for forestry land.
77. We consider that the Investment is also unlikely to have any detrimental effect on the other objectives of the One Billion Trees strategy.
78. Therefore we consider that the One Billion Trees strategy will be advanced by this Investment.

*Support for re-establishment of a New Zealand Forestry Service*

79. The Applicant has also submitted that it will support the establishment of the New Zealand Forestry Service (Te Uru Rakau) and is willing to provide resources to Te Uru Rakau in the form of participation in advisory boards, secondment of employees, access to NFL's resources and so on.
80. We consider that these commitments are unlikely to advance the Government's establishment of Te Uru Rakau. We do not consider that the Applicant's claims in relation to Te Uru Rakau meet this factor.

*Claims in regard to CER and CPTPP*

81. For completeness we note that the Applicant submits that the Investment is consistent with trading agreements entered with Australia, being Closer Economic Relations Trade Agreement (**CER**) and the Comprehensive and Progressive Agreement for Trans Pacific Partnership (**CPTPP**).
82. Although the Investment may be consistent with trade agreements, we do not consider that this in itself is sufficient to advance any particular Government policy or strategy.

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<sup>3</sup> Other than around 150 hectares the Applicant has identified as being at risk of spreading wilding trees into the Mount Richmond Forest Park, and some underperforming stands which the Applicant intends to



**Increased processing of primary products – s17(2)(a)(vi) - high relative importance**

There are four key elements to this factor:

- Processing of primary products must be likely to increase.
- The increased processing of primary products must occur in New Zealand.
- The increased processing must be of New Zealand's primary products.
- The increased processing that is likely to result from the overseas investment must be additional to that which is likely to occur without the overseas investment.

83. The Applicant submits that the Investment is likely to lead to increased processing of logs in New Zealand. The Applicant states that it is committed to domestic processing. It states that it has grown its domestic processing and sales market in Australia by 45% since 2012, when it acquired its forestry assets there. It has identified a number of ways in which it intends to commit to domestic processing in New Zealand and to explore options for [ s 9(2)(b)(ii) ] [ s 9(2)(b)(ii) ]. The Applicant's specific claims are addressed in turn below.

*Longer term supply contracts*

84. NFL has already entered some long-term supply contracts with several local wood processors and has annual supply contracts with others. These are listed in the table below:

Customer	Product	NFL Annual Minimum Supply 2017 (m3 per anum)	NFL % of Customer Intake 2017	Term of Agreement	Right of Renewal
[ s 9(2)(b)(ii) ]					

85. The Applicant submits that it will [ s 9(2)(b)(ii) ]. It submits that this would assist [ s 9(2)(b)(ii) ]. To provide a specific example, the Applicant intends [ s 9(2)(b)(ii) ].
86. The Applicant states that [ s 9(2)(b)(ii) ] with an expected annual volume of wood fibre being supplied of around [ s 9(2)(b)(ii) ]<sup>3</sup> per year. The contract would also include a [ s 9(2)(b)(ii) ].
87. The Applicant states that [ s 9(2)(b)(ii) ] have previously engaged in an annual negotiation to determine the supply for the coming year of [ s 9(2)(b)(ii) ].
88. [ s 9(2)(b)(ii) ] to see if it would be agreeable to [ s 9(2)(b)(ii) ].

*What would occur without the Investment*

89. The potential [ s 9(2)(b)(ii) ] would be unlikely to be entered if the Investment does not proceed, as the Land would likely be sold to multiple alternative New Zealand purchasers.
90. Depending on the age classes and sizes of the forests owned by alternative New Zealand purchasers, it is uncertain whether any one New Zealand purchaser would [ s 9(2)(b)(ii) ].
91. We also note that if the Investment does not proceed, the Land is likely to be sold to multiple alternative New Zealand purchasers. If NFL does not retain the Forest Estate, this could result in [ s 9(2)(b)(ii) ] set out above. It would also make entry into other [ s 9(2)(b)(ii) ].

*Hold high quality stands back*

92. The Applicant submits that a number of higher quality stands on the Forest Estate could be held [ s 9(2)(b)(ii) ]. It states that this would result in higher quality logs available [ s 9(2)(b)(ii) ].
93. The Applicant has not identified the locations of potential stands to be held back, but anticipates that its plans could add between [ s 9(2)(b)(ii) ]<sup>3</sup> per year to supply [ s 9(2)(b)(ii) ], in addition to the [ s 9(2)(b)(ii) ] already supplied. The Applicant submits that this would lead to increased processing to produce more high value products in New Zealand for the construction of wooden buildings.

*Without the Investment*

94. If the Investment does not proceed, we consider that alternative New Zealand purchasers are less likely to [ s 9(2)(b)(ii) ] although it is possible they would do so.

95. Although some alternative New Zealand purchasers may elect to hold some stands back, we consider it more likely that the majority of the alternative New Zealand purchasers would [ s 9(2)(b)(ii) ] currently planned by NFL.

*Offer of uncommitted harvest to New Zealand processors*

96. The Applicant submits that it will ensure NFL works closely with domestic processors to provide certainty for planning. It will make sure that NFL provides domestic processors with a forward view on the uncommitted harvest volume from the Forest Estate that is available to be offered on contract.
97. By way of example, in [ s 9(2)(b)(ii) ] of the total planned harvest is planned for domestic processors, [ s 9(2)(b)(ii) ] is planned for a single long-term [ s 9(2)(b)(ii) ] and the balance of [ s 9(2)(b)(ii) ] was uncommitted as at the time of the application. To date, the Applicant submits that NFL's practice has been that the majority of the uncommitted volume would be exported.
98. The Applicant states that it will procure that a formal process is implemented by NFL so that the projected uncommitted volume of logs is communicated in advance to [ s 9(2)(b)(ii) ] [ s 9(2)(b)(ii) ] This process would allow these processors the opportunity to:
- (a) [ s 9(2)(b)(ii) ] and
  - (b) [ s 9(2)(b)(ii) ]
99. We note that the Applicant making available a forecast of upcoming uncommitted volumes may not necessarily affect the planning or behaviour of processors in the region. However, it would give processors some opportunity to [ s 9(2)(b)(ii) ]

*What would occur without the Investment*

100. We consider that alternative New Zealand purchasers would be unlikely to make these forecasts available to domestic processors through a formal process, although some purchasers may enter advance negotiations with processors prior to harvest of individual forests.

*Applicant's general commitment to processing*

101. The Applicant states that it is willing to commit to processing the majority of logs produced on the Forest Estate in New Zealand for the next 5 years following the Investment, should consent be granted, provided that there is sufficient demand commercially from local processors. The Applicant notes that since it acquired its forestry estate in South Australia in 2012, it has increased domestic processing in this region by 45%.
102. In recent years the majority of logs produced on the Forest Estate have been processed in New Zealand (around [ s 9(2)(b)(ii) ] in 2016). However there is no [ s 9(2)(b)(ii) ] NFL has contracted commitments for supply to various local sawmills (as set out in the table at paragraph 84 above), however there is no general commitment regarding proportion of wood to be processed in New Zealand. There will also be no requirement for NFL to process these minimum volumes once the relevant supply agreements expire.

103. The Applicant states that log flow from the Forest Estate will increase in the next few years due to the age profile of the trees. The Vendor's modelling in the investment memorandum for NFL had these additional logs allocated to

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

*What would occur without the Investment*

104. If the Investment does not proceed, the Applicant submits that it is difficult to predict how much alternative New Zealand purchasers would process domestically.
105. Between 2002 and 2017 an average of around 53% of logs harvested in the Nelson/ Marlborough region have been processed domestically, which may imply that alternative New Zealand purchasers would follow a similar pattern to this long term regional average.<sup>4</sup> There are several existing wood processing facilities in the region, including the Kaituna Mill, meaning there is likely to be a local market for harvested logs. But the ports of Nelson and Picton are also relatively close to the majority of the Forest Estate. We therefore consider that there is a high degree of uncertainty as to what multiple alternative New Zealand purchasers may do with the harvest if the Investment does not proceed. We also note that the viability of the Kaituna Mill may be negatively impacted by increased uncertainty of supply if the Forest Estate is sold to various alternative New Zealand purchasers. If the Kaituna Mill is negatively impacted, there is a chance that processing in the region could decrease.
106. Although it is possible that a majority of wood harvested from the Forest Estate would also be processed in New Zealand by alternative New Zealand purchasers at the Kaituna Mill and other sawmills in the Nelson/ Marlborough region we consider that it is difficult to establish whether this would be likely to occur without the Investment. The Applicant's Investment, and its willingness to commit to a majority of wood from the Forest Estate being processed in New Zealand provides a degree of certainty that would be absent if the Investment does not proceed. We recommend a condition of consent requiring the Applicant to process a majority of logs harvested from the Forest Estate in New Zealand for the 5 years following the Investment.

*Kaituna Mill and regional processing*

107. The Applicant intends to investigate development of further processing in the Nelson/ Marlborough regions. It submits that it will [ s 9(2)(b)(ii) ]

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

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

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

<sup>4</sup> Ministry for Primary Industries, log and roundwood removal statistics 2002-2017.

108. Any potential increase in domestic processing relies on the outcome of the feasibility study being positive, so it is possible that no increase in processing capacity may actually occur as a result of this feasibility study.

*What would occur without the Investment*

109. If the Investment does not proceed, we consider it likely that the Forest Estate would be sold piecemeal. There is therefore a possibility that an alternative New Zealand purchaser for the Kaituna Mill would have a smaller forestry estate than NFL and may have less certainty of supply of logs. We consider that an alternative New Zealand purchaser would therefore be unlikely to undertake a feasibility study of the nature intended by the Applicant, as they may have less incentive to expand domestic processing.

*OIO Assessment*

110. We consider that the Applicant's plans are likely to result in a degree of increased processing of wood in New Zealand in several ways.

- (a) [ s 9(2)(b)(ii) ]  
[ s 9(2)(b)(ii) ] are likely to result in increased certainty of supply to [ s 9(2)(b)(ii) ]. It is not clear whether the volumes the Applicant proposes to supply [ s 9(2)(b)(ii) ] are greater than would otherwise be processed in New Zealand by [ s 9(2)(b)(ii) ]. [ s 9(2)(b)(ii) ]. In particular, we are not aware whether [ s 9(2)(b)(ii) ].  
[ s 9(2)(b)(ii) ]. However, we consider that there is likely to be greater certainty of supply to [ s 9(2)(b)(ii) ] if the Investment proceeds and [ s 9(2)(b)(ii) ].
- (b) The Applicant's plan to hold back some high quality stands is likely to result in an increased volume of wood of an acceptable quality for [ s 9(2)(b)(ii) ] being supplied to one or more [ s 9(2)(b)(ii) ]. This is likely to result in a higher value processed wood product than if the stands were cut down at the time currently forecast by NFL;
- (c) The Applicant's commitment to provide an advanced view of forecast wood available for local processors relies on sawmill operators taking advantage of this. This means it is unclear whether this would actually result in any sawmill operators ensuring [ s 9(2)(b)(ii) ]. [ s 9(2)(b)(ii) ]. It would however provide an advantage to local processors in enabling them to [ s 9(2)(b)(ii) ]. [ s 9(2)(b)(ii) ]. The Applicant has indicated that they have undertaken this practise for their forestry assets in Australia and this has contributed to an increase in domestic processing there. We therefore consider that this practise is likely to result in some increase in domestic wood processing, although it is difficult to establish the potential degree of this;
- (d) In relation to the feasibility study the Applicant intends to undertake, we note that there is a chance that no additional processing may actually result from this so any potential benefit is uncertain;



- (e) The Applicant's general commitment to processing the majority of logs in New Zealand over the next five years may not result in an increase in volume of processing in comparison to current levels processed from the forests harvested in the Forest Estate as the majority of wood harvested from the Forest Estate is currently processed in New Zealand. However, as the Forest Estate is likely to eventually be sold piecemeal if the Investment does not proceed, it is difficult to establish what proportion of logs may be processed in New Zealand by multiple alternative New Zealand purchasers. We consider that there is more certainty regarding processing a majority of wood in New Zealand if the Investment proceeds than if it does not.
111. We note that there are a number of uncertainties regarding the level of benefit likely to result from the Applicant's proposed measures. The potential level of increase of domestic processing is unclear, and some of the measures may not result in any increase. However, the Applicant has made submissions in regard to a number of areas and demonstrated its track record of increasing domestic processing in Australia. It has stated that it intends the Investment to be a long-term investment in New Zealand forestry, and it does not have an investment horizon. We therefore consider that at least some of the Applicant's proposed measures are likely to result in increased processing of logs in New Zealand above what is likely to occur if the Investment does not take place, including processing into value added products.
112. In addition, we note that if the Investment does not proceed, the Land is likely to be sold to more than one alternative New Zealand purchaser, creating a degree of uncertainty in relation to whether existing supply contracts would be retained and existing processing levels would continue. This may also have some negative impact on the viability of the Kaituna Mill if the owner of that mill does not also own forestry assets to supply logs to the mill. We therefore consider that **this factor is met** and the benefit likely to result should be given **medium weight** in the context of the Investment.

*Third party submission in relation to supply*

113. Carter Holt Harvey (**CHH**) has lodged a third party submission in relation to this application. CHH and NFL have an existing sawlog supply agreement, which will expire in December 2021. There is a 5 year right of renewal for this agreement, provided both parties agree to renew. This agreement relates to supply of CHH's Woodproducts New Zealand Nelson mill. CHH seeks the imposition of a condition of consent requiring the Applicant to extend the sawlog supply agreement by 10 years to 31 December 2031.
114. The Applicant has indicated that it does not believe a condition of this nature should be imposed. In particular, it states:

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

(b)

(c)

(d)

115. We consider that imposition of a condition of the nature requested by CHH is not appropriate in the circumstances. The overseas investment regime is intended to ensure that overseas investors deliver benefits to New Zealand. It is not intended to impose commercial arrangements without allowing parties to undertake their own commercial negotiations. We also note that imposition of a condition of the type requested may have unintended consequences, such as [ s 9(2)(b)(ii) ]. The parties retain the ability to negotiate renewal of the supply contract at a later date.
116. A summary of the third party submission, the Applicant's response to it and our analysis are set out in further detail at **Appendix 4**.

### **Jobs – s17(2)(a)(i)**

There are three key elements to this factor:

- The "new job opportunities" must be **new**, or if existing jobs are being "retained", the existing jobs **would or might** otherwise be lost if the investment does not proceed;
- The new job opportunities or retained jobs must be **in New Zealand**;
- The new job opportunities or retained jobs that are **likely to result** from the overseas investment must be **additional** to those which are likely to occur **without the overseas investment**.

#### *Graduate recruitment programme and school leaver programme*

117. The Applicant submits that the Investment is likely to result in the creation of jobs. In particular, the Applicant intends to undertake a graduate recruitment programme and a school leaver programme to provide jobs for graduates and school leavers.
118. The Applicant intends for NFL to provide a graduate programme similar to one operated by the Applicant in Australia. This will involve:
- (a) Scholarships for 4 forestry students per year of up to [ s 9(2)(b)(i) ] each;
  - (b) Opportunities for scholarship recipients to work on the Forest Estate during the summer university holiday; and
  - (c) Offer of employment to at least one graduate annually to be trained and mentored on all aspects of the forestry business, including a secondment to the Australian business of the Applicant.
119. The Applicant has stated that it will work with universities and polytechnics that provide forestry and related courses to develop the graduate programme. It submits that the programme will be designed to provide career avenues for forestry graduates.
120. Employing a forestry graduate each year is likely to result in the addition of 1 FTE position for each year.
121. The Applicant states that it will commit to offering three school leavers per year work in its forestry or processing business in an apprentice-style system. The Applicant intends to offer these jobs through formal arrangements established with Marlborough Boys College and Marlborough Girls College.
122. The Applicant submits that its school leaver programme will provide a structured entry point for school leavers, provide training and income, and give them the opportunity to transition into the forestry industry and in time move to other roles within the industry.
123. Employing three school leavers per year is likely to result in 3 new FTE for each year.

*What would occur without the Investment*

124. If the Investment does not proceed, we consider that the Forest Estate would be likely to be sold piecemeal eventually. It is unlikely that alternative New Zealand purchasers would have programmes specifically targeting recruitment of graduates or school leavers.

*Early harvest of underperforming stock*

125. The Applicant estimates that there are around [ s 9(2)(b)(ii) ] of low performing stands on the Forest Estate that could be harvested earlier than the normal rotational length. The Applicant has defined low performing stock as that which does not meet 'stiffness' threshold for structural timber in New Zealand.
126. The Applicant states that if consent is granted it will begin to harvest these stands within [ s 9(2)(b)(ii) ] following completion of the Investment. It anticipates that this will create approximately [ s 9(2)(b)(ii) ] FTE roles for contractors over [ s 9(2)(b)(ii) ] years required to harvest and deliver these logs to market.

*What would occur without the Investment*

127. If the Investment does not proceed, it is possible that alternative New Zealand purchasers would harvest these stands early as they will not be suitable for structural grade timber. However, they may also leave them for a normal rotation length and sell them directly to export if they are unsuitable for processing in New Zealand.
128. The jobs associated with harvesting these stands would eventually be created, but this may not occur for some time. It is not clear how many jobs may eventually be created in relation to these low performing stands if the Investment does not proceed. If these stands are also harvested at the same time as other parts of the relevant forests, the number of roles created may be fewer in comparison to the Applicant's plans for early harvest, as this would be part of the normal cycle of harvesting.

*OIO Assessment*

129. We therefore consider that the Investment is likely to result in 4 FTE per year for one year's duration per FTE. Although we note that people employed through these programmes may remain employed by NFL/ the Applicant following their first year in the role, the Applicant has indicated that it anticipates these people are likely to move into established roles through the ordinary course of staff turnover, rather than each new position being established as a permanent position. We have recommended a condition of consent requiring the Applicant to create the graduate and school leavers' programmes and implement them until at least October 2023.
130. We also consider that the Investment is likely to lead to the creation of jobs in relation to the early harvest of low-performing stands of timber. Although it is unclear how many jobs would eventually be created in relation to this harvest if the Investment does not proceed, we consider that the Investment is likely to result in more jobs in relation to these stands than would occur without the Investment. We therefore consider that **this factor is met**. Due to the relatively low number of FTE likely to be created in relation to the scale of the Investment in approximately 25,119 hectares of land (4 FTE per year for 1 year each from the graduate and school leavers' programmes and [ s 9(2)(b)(ii) ] FTE for up to [ s 9(2)(b)(ii) ] years for harvesting), and the other uncertainties associated with the harvesting roles, we consider that the benefit arising under this factor should be given **low weight**.

**Added market competition, greater efficiency or productivity, enhanced domestic services – s17(2)(a)(iv)**

There are three key elements to this factor:

- The overseas investment must be likely to result in one or more of:
  - (i) **added market competition;**
  - (ii) **greater efficiency or productivity;** or
  - (iii) **enhanced domestic services.**
- The added market competition, greater efficiency or productivity, or enhanced domestic services must occur **in New Zealand.**
- The added market competition, greater efficiency or productivity, or enhanced domestic services that **is likely to result** from the overseas investment must be **additional** to that which is likely to occur without the overseas investment.

*Greater productivity - higher stocking rate per hectare*

131. The Applicant intends to alter silvicultural management systems on the Forest Estate, which would result in [ s 9(2)(b)(ii) ]. The Applicant states that it can introduce this management on new plantings and existing stands that are [ s 9(2)(b)(ii) ].<sup>5</sup> The Applicant anticipates that this could result in a [ s 9(2)(b)(ii) ] harvest volume increase per hectare where this change in management is applied, making the Forest Estate more productive.

*Greater productivity – hold back high quality stands*

132. The Applicant submits that it will hold some higher quality stands on the Forest Estate for an additional [ s 9(2)(b)(ii) ] prior to harvest. This will improve log quality [ s 9(2)(b)(ii) ].
133. The Applicant submits that holding the logs back will increase their productive capacity to be processed into a higher value end product.

*Greater productivity – early harvest of underperforming stock*

134. The Applicant estimates that there are around [ s 9(2)(b)(ii) ]<sup>3</sup> of low performing stands on the Forest Estate, which do not meet the 'stiffness' threshold for structural timber in New Zealand. If consent is granted, it intends to harvest these within [ s 9(2)(b)(ii) ] of the Investment. This would be earlier than the normal rotation length. The Applicant anticipates that early harvest of these stands would not reduce the supply of logs to domestic processors as it is only a portion of the Forest Estate.
135. Early harvest of these areas would enable the Applicant to replace stock sooner with a more productive stand, which the Applicant submits would be a more efficient use of the Land and would eventually result in higher quality logs reaching the market.

*Greater productivity - [ s 9(2)(b)(ii) ]*

136. The Applicant intends to use more advanced [ s 9(2)(b)(ii) ] to result in more efficient and productive use of the Land and produce better quality logs. The Applicant states that with [ s 9(2)(b)(ii) ] [ s 9(2)(b)(ii) ]

<sup>5</sup> We understand from the Information Memorandum for NFL provided by the Vendor that up to [ s 9(2)(b)(ii) ] hectares across the Forest Estate may be planted with trees that are under [ s 9(2)(b)(ii) ] years old. However, the Applicant has not confirmed the exact areas where it intends to introduce this higher stocking rate.



*What would occur without the Investment*

137. If the Investment does not proceed, we consider that the Forest Estate would likely be sold to more than one alternative New Zealand purchaser. As outlined above in relation to processing of primary products we consider that alternative New Zealand purchasers would be unlikely to hold back higher quality stands.
138. We also consider that alternative New Zealand purchasers would be unlikely to introduce a [ s 9(2)(b)(ii) ] within the forests. Some forests in New Zealand are doing this in order to achieve [ s 9(2)(b)(ii) ]. However, this is not common practice and it is unclear whether alternative New Zealand purchasers would be likely to adopt it.
139. In relation to the early harvest of underperforming stock, there is some chance that alternative New Zealand purchasers may harvest stands early where the wood is not likely to be of an acceptable structural quality. However, they may also let it grow for the remainder of a normal rotation and export any logs that are not of a sufficient quality to be processed in New Zealand.
140. In relation to use of better [ s 9(2)(b)(ii) ], we note that expertise on [ s 9(2)(b)(ii) ] is available in New Zealand already. However, it is unclear whether alternative New Zealand purchasers would have access to this or make use of it in the way the Applicant intends to.

*OIO Assessment*

141. We therefore consider that the Applicant's intended management of the Forest Estate is likely to result in greater productivity in relation to some parts of the Forest Estate, which would not be likely to result if the Investment does not proceed.
142. We note that it is not clear from the Applicant's submissions how much of the Forest Estate will be affected by the measures outlined above. It is therefore difficult to determine the likely level of benefit that will arise as a result of these measures. Due to this uncertainty we consider that although **this factor is met**, the benefit likely to arise under this factor is likely to be relatively **low**.

*Other claims – [ s 9(2)(b)(ii) ]*

143. For completeness we note that the Applicant has made additional submissions which we did not consider met the requirements of this factor.

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

145.



**Additional investment for development purposes – s17(2)(a)(v)**

There are four key elements to this factor.

- The investment must be **additional investment**.
- The additional investment must be **introduced into New Zealand**.
- The additional investment must be **for development purposes**.
- The additional investment that is **likely to result** from the overseas investment must be **additional** to that which is likely to occur **without the overseas investment**.

*Additional investment introduced into New Zealand*

146. The Applicant submits that the Investment is likely to result in the introduction of additional investment for development purposes. In particular the Applicant intends to invest:

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

(b)

147. The Applicant states that [ s 9(2)(b)(ii) ]  
[ s 9(2)(b)(ii) ]

*Development purposes*

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

*What would occur without the Investment*

149. If the Investment does not proceed, we consider it unlikely that an alternative New Zealand purchaser would [ s 9(2)(b)(ii) ]

*OIO Assessment*

150. We therefore consider that **this factor is met** and the Investment is likely to result in the introduction of around [ s 9(2)(b)(ii) ] additional investment for development purposes. We note that in the context of the particular Investment, the level of additional investment [ s 9(2)(b)(ii) ]. The Investment itself involves consideration of more than [ s 9(2)(b)(ii) ] and over 25,000 hectares of freehold land. We therefore consider that the benefit likely to result from the introduction of additional investment under this factor is **low**.

**Indigenous vegetation/fauna – s17(2)(b)**

There are three key elements to this factor:

- The relevant land must contain **significant existing**:
  - (i) **areas of indigenous vegetation**; or
  - (ii) **habitats of indigenous fauna**.
- There must be **adequate mechanisms** in place or proposed to **protect or enhance** the significant area or habitat.
- The protection or enhancement of the significant area or habitat that is **likely to result** from the overseas investment must be **additional** to that which is likely to occur **without the overseas investment**.

151. The Applicant states that it will ensure there are adequate mechanisms in place for protecting existing indigenous flora and fauna in the Forest Estate. It states that the Forest Estate contains approximately 9,980 hectares of set aside areas including approximately 5,340 hectares of indigenous forest. Around 1,420 hectares of this is protected under the Tasman Accord and CFL covenants. There are around 1,180 hectares of Significant Natural Areas (SNAs) in the Forest Estate. There are also approximately 1,400 hectares of retired area that is transitioning to native vegetation, approximately 550 hectares of riparian setbacks and approximately 2,700 hectares of mixed regenerating forest.
152. We note that not all of the areas of indigenous flora or fauna within the Forest Estate are on the Land which NFL owns freehold. However, there are a large number of SNAs and other areas of indigenous vegetation on the Land.
153. The Applicant states that the Forest Estate also contains habitats of New Zealand birds including weka, kaka, kakariki, falcon, bellbird, robin, fantail, tomtits, tui and kea. There have also been sightings of kereru, long tail bat, fernbird and leopard slug.

*Maintenance of existing measures*

154. NFL already has a number of measures in place to ensure adequate protections for significant indigenous vegetation and fauna including:
- (a) An MOU with the Department of Conservation (**DOC**), including in relation to the agreed management of wilding trees and managing areas of indigenous vegetation;
  - (b) Complying with the New Zealand Forest Accord and Tasman Accord;
  - (c) A comprehensive plan for weed and pest control, threatened and endangered species protection, including protection of NZ Falcon nesting sites and Kea management plans; and
  - (d) Protecting and improving walking tracks to those habitats.
155. The Applicant states that it will ensure these mechanisms remain in place following the Investment.

*What would occur without the Investment*

156. If the Investment does not proceed, it is possible that some existing protections may be removed. In particular, if the Forest Estate is broken up and sold in pieces, the MOU between NFL and DOC would no longer apply to the land and NFL's management plans regarding weed and pest control would also not be applied to the Land.

157. What measures alternative New Zealand purchasers are likely to undertake in relation to the protection of indigenous vegetation or fauna within the Land is relatively uncertain. However, we consider that areas that already have some protections would be likely to have some degree of continued protection. In particular, other forest operators might also comply with the New Zealand Forest Accord and Tasman Accord. There is however a higher degree of certainty that the same or similar environmental protection measures would continue to apply if the Investment proceeds, while some may not continue if the Land is sold to more than one alternative New Zealand purchaser.

*Potential additional protections for SNAs*

158. There are around 70 SNAs covering around 1,180 hectares in the Forest Estate. If consent is granted The Applicant is willing to investigate formal protection of these SNAs through conservation covenants. The Applicant has indicated that the location and boundaries of some SNAs are not currently clearly recorded and it will work with DOC to establish the location and boundaries of SNAs and implement covenant protections for SNAs following the Investment.
159. We have recommended a condition of consent requiring the Applicant to liaise with DOC to establish the size and location of SNAs and to protect these through covenants under the Reserves Act 1977.

*What would occur without the Investment*

160. If the Investment does not proceed there is some degree of protection for SNAs that would remain in place. However, we consider that alternative New Zealand purchasers would be relatively unlikely to increase protections for SNAs through protective covenants across the Forest Estate. Although some owners may investigate measures such as QEII covenants, where some funding is available to landowners for covenanting, it is difficult to identify where this may occur. We therefore consider an increased level of protection more likely to occur if the Investment proceeds than would occur without it.

*Indigenous fauna – Kea Conservation Trust*

161. There are kea that live in and visit the Forest Estate and interact with forestry operations and equipment. The Applicant states that NFL has a good working relationship with the Kea Conservation Trust. The Applicant understands that NFL has been proactive in working with the Trust to identify safe measures to solve kea interactions with crews and equipment.
162. The Applicant will commit to funding and in kind support for the Kea Conservation Trust to undertake pest control in kea habitat and monitor population distributions. The contributions will be to the value of [s 9(2)(b)(ii)] per year for 5 years, and include time spent reporting and providing support for improving kea management codes of best practice in the forestry industry.
163. The Applicant also understands that there is an individual planning to undertake a PhD on kea in Plantation Forests. The Applicant will work co-operatively with this person regarding their PhD, including to procure that NFL provides the student with access to the forests, as well as access to its reporting and support information relating to kea in the forest.

*Without the Investment*

164. If the Investment does not proceed, it is possible that alternative New Zealand purchasers may work with the Kea Conservation Trust as there are kea that interact with forestry operations in the Forest Estate. However we consider this to be uncertain, and the degree of protection and management planning around kea is likely to be inconsistent between different alternative New Zealand purchasers.



165. The additional support the Applicant proposes for the Kea Conservation Trust is unlikely to occur if the Investment does not take place.

*OIO Assessment*

166. We are satisfied that the Investment is likely to result in the maintenance of protections for indigenous vegetation and fauna that may not be maintained if the Investment does not proceed. We are also satisfied that the Investment is likely to result in some additional protections for SNAs within the Forest Estate and support for the Kea Conservation Trust. We therefore consider that **this factor is met**.
167. We note that there is a degree of uncertainty around the level of protection that will occur with the Investment in contrast to what may occur if the Investment does not proceed. At least some of the existing protection measures are likely to be maintained. In relation to the support for the Kea Conservation Trust, we consider that this sort of contribution is analogous to the types of donations that the Ministerial Directive Letter directs us to treat as being of low relative importance in relation to the 'consequential benefit' factor. In addition, the additional protection for SNAs relies on the Applicant and NFL working with DOC to achieve this following the Investment. The exact level of protection that may result from this future engagement is uncertain, but we consider that one or more conservation covenants or QEII covenants are likely to be created and would provide additional protection for indigenous vegetation and fauna. We consider that the level of benefit to New Zealand that is likely to result from the measures the Applicant proposes is **low to medium** in the context of the Investment.
168. We recommend conditions of consent requiring the Applicant to work with DOC to identify where covenants should be established over SNAs, and to establish these covenants and to provide the support outlined for the Kea Conservation Trust.
169. For completeness we note that the Applicant has also made submissions relating to wilding pines and neighbouring indigenous vegetation. We have considered these submissions in relation to the consequential benefit factor below as they do not directly relate to indigenous vegetation or fauna on the Land.

**Trout, salmon, wildlife and game – s17(2)(c)**

There are five key elements to this factor:

The relevant land must contain **existing areas of significant habitats** of trout, salmon, wildlife or game.

- There must be **adequate mechanisms** in place or proposed to **protect or enhance** the significant habitats and to **provide, protect or improve** walking access.

- The walking access must be to the **significant habitats**.

- The walking access must be **available to the public** or any section of the public.

- The protection or enhancement of the significant habitats and the provision, protection or improvement of walking access that are **likely to result** from the overseas investment must be **additional** to that which are likely to occur **without the overseas investment**.

Due to the walking access component, there is some overlap between this factor and the 'Walking Access' factor. A claim under this factor that has been made under another factor will only be counted once.

*Existing mechanisms*

170. The Applicant submits that it will ensure there are adequate mechanisms in place to protect or enhance existing areas of significant habitats of trout, salmon, wildlife and game.

171. The Applicant will maintain the measures that NFL already has in place including
  - (a) A programme monitoring water quality; and
  - (b) An environmental management system catering for the management and protection of rare, threatened and endangered species.
172. The Applicant will also follow the National Environmental Standards for Plantation Forestry in relation to riparian setbacks and the NFL Environmental Management System, which it states requires larger setbacks in some places than the standards do.

*What would occur without the Investment*

173. If the Investment does not proceed we consider that alternative New Zealand purchasers would be likely to employ the same or similar measures including monitoring water quality and following the National Environmental Standards for Plantation Forestry in relation to riparian setbacks.
174. Where NFL's existing Environmental Management System exceeds the standards, it is possible that alternative New Zealand purchasers may follow the standards instead, particularly where undertaking new plantings. However, where setbacks are already in place, these are likely to be maintained by alternative New Zealand purchasers. The maintenance of existing mechanisms is therefore relatively likely to occur if the Investment does not proceed.

*Measures to reduce sediment into waterways*

175. The Applicant submits that it is committed to finding long term solutions to prevent the movement of sediment into waterways, particularly from erosion prone land. Sedimentation can affect marine ecosystem health and is problematic in the Marlborough Sounds where parts of the Forest Estate are located.
176. The Applicant states that it will undertake the following measures to address this problem:
  - (a) It (through NFL) will engage with Landcare Research and by using NFL's LiDAR DTM<sup>6</sup> surface assess landslide risk and erosion risk in the NFL estate. The Applicant anticipates that this will help determine the limits of forestry and forestry practices on these steeplands and that the work will be transferable to other New Zealand locations. The Applicant states that it is committed to NFL spending \$50,000 per year for 5 years on this project; and
  - (b) It (through NFL) will engage with Landcare Research, Cawthron Institute and Tasman District Council to develop and implement a paired catchment research programme to investigate the efficacy of management practices in reducing sediment from forestry operations in the Forestry Estate. The Applicant states that it is committed to spending \$50,000 per year for 5 years on this project.
177. The Applicant submits that the paired catchment project outlined above will benefit New Zealand through the creation of a research programme aimed at finding a long-term solution to reduce the movement of sediment into our waterways, protection of erosion prone land and improvement in the quality of waterways, which it states will enhance the environment for fish. The Applicant states that the results of the study will be made available to the science community and forestry industry generally.

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<sup>6</sup> A surveying and mapping tool (LiDAR stands for light detection and ranging, while DTM stands for digital terrain model).



*What would occur without the Investment*

178. If the Investment does not proceed, it is possible that alternative New Zealand purchasers may alter some planting practices with regard to the steeplands at least. The Marlborough District Council is currently undertaking research into sedimentation, including review of the science around forestry effects on the Marlborough Sounds. This research may help alternative New Zealand purchasers alter their practises over time to help reduce sediment.
179. However, we do not consider that alternative New Zealand purchasers are likely to undertake a paired catchment study as the Applicant intends to, and they may not use the mapping technology in the same manner to determine limits of forestry on the steeplands in the Forest Estate.

*OIO Assessment*

180. We therefore consider that the Applicant's projects to reduce sediment into waterways in the Forest Estate are likely to result in some benefit to New Zealand, and may protect fish habitats in the Forest Estate and the waterbodies that the catchments within the Estate flow into. We therefore consider that **this factor is met**.
181. We note that it is not clear from the information provided by the Applicant where there are areas of significant habitats of trout, salmon, wildlife and game within the Forest Estate, or how any specific areas may be better protected. However, we consider that some protection or improvement to habitats is likely to result from the Applicant's measures. We consider that, as there is some uncertainty associated with the likely level of benefit, the benefit likely to arise under this factor should be given **low** weight in the context of the Investment.
182. We recommend conditions of consent requiring the Applicant, through NFL to undertake the projects outlined above.

**Walking access– s17(2)(e)**

There are four key elements to this factor:

- There must be **adequate mechanisms** in place or proposed to **provide, protect or improve walking access**.
- The walking access must be over the **relevant land**.
- The walking access must be **available to the public** or any section of the public.
- The provision, protection or improvement of walking access that is **likely to result** from the overseas investment must be **additional** to that which is likely to occur **without the overseas investment**.

183. There is already a range of different types of existing access to various parts of the Forest Estate including for mountain biking, tramping, hunting, fishing, horse riding, motor sport and possum trapping. Existing access arrangements include formal arrangements such as public access easements, and legal roads and marginal strips. They also include memoranda of understanding with Fish & Game and DOC, user access agreements relating to particular parts of the Forest Estate and access permits for hunters.
184. The Walking Access Commission (**WAC**) has made a number of recommendations for improved access to the Land. The Applicant is willing to implement several of these, and to work with WAC, DOC and Heritage New Zealand Pouhere Taonga regarding potential further access following the Investment.

185. The recommendations made by WAC are based on a desktop review of the Land. Due to time and resource constraints and the amount of Land involved in the Investment across the Nelson/ Marlborough Region, WAC has not been able to visit the Land or consult with interested parties in relation to access. A number of WAC's recommendations will involve further engagement between the parties following the Investment in order to determine the appropriate level of access and the mechanism for facilitating this.

*Formalisation of access*

186. WAC has recommended that the Applicant survey and create an easement over an existing track which was created to replace Wairau Forest Public Access Easement No 5 Davies Road.
187. The Applicant states that the original road was destroyed by slips. The alternative route was opened up by NFL during harvesting.
188. We understand that this route runs across land which NFL currently has only a beneficial interest in, being the Wairau Crown Forest Licensed Land which NFL was granted consent to acquire a beneficial and eventually a freehold interest in under consent 201610039. Under the conditions of that consent, NFL has until May 2022 to obtain a freehold interest in the relevant land.
189. We understand that the Applicant may need to wait until the freehold estate has transferred to NFL in order to create this easement. The Applicant states that it is willing to formalise this alternative route through creation of a new easement.
190. The map below shows the Davies Road public access easement, with the alternative informal route marked in red.





*Land adjoining rivers or lakes – marginal and esplanade strips*

191. Part 4A Conservation Act 1987 (**Part 4A**) applies to a number of the titles which comprise the Land.<sup>7</sup> Where Part 4A applies, this means that marginal strips along certain qualifying waterbodies have been reserved from the disposition of that land from the Crown.<sup>8</sup> Marginal strips exist whether or not they have been surveyed and depicted on plans. Marginal strips provide legal public access to and along waterways.
192. WAC recommends that the Applicant identify where Part 4A applies, and have marginal strips depicted on plans to enable these to be recorded in the cadastre. This provides a greater degree of certainty as to where these strips apply. It does not, however, create new forms of legal public access as marginal strips are already deemed to exist.
193. It is not clear how many titles are subject to Part 4A and have qualifying waterbodies where marginal strips have not been recorded on the cadastre. This may affect more than 20 titles.
194. The Applicant states that it will commit to an assessment being carried out after the Investment to identify where marginal strips apply. The Applicant is willing to assist and facilitate marginal strips being depicted on plans, provided the method of recording is reasonable and the cost not disproportionate.
195. WAC also recommends completion of an assessment of significant waterways to then create esplanade strips under the Resource Management Act 1991 for significant waterways where Part 4A does not apply if it is appropriate to facilitate public access there. WAC has identified three specific areas where it considers esplanade strips may be warranted to complete riparian access to Mount Richmond Forest Park, along Flaxmill Creek, Cat Creek and Bullock Hide Creek.
196. The Applicant is willing to commit to the assessment of significant waterways following the Investment. It has also indicated that in relation to Flaxmill Creek, the gap in access identified by WAC for a potential esplanade strip is likely to be impractical for physical access due to the steepness of the terrain. We consider that further engagement between the Applicant (including through NFL) and WAC following the Investment is likely to assist to resolve potential issues such as these in relation to esplanade strips. As indicated above, WAC's recommendations have been formed through a desktop review and no site visits have been carried out.

*Review of public access easements*

197. WAC has recommended that following the Investment, the Applicant in connection with WAC and DOC complete a review of all existing public access easements to improve the level and extent of public access possible, determine the most appropriate instruments to provide secure and enduring public access into the future, and to determine the extent of relevant signage on the routes and information about them.
198. The Applicant is willing to complete this review following the Investment. It is willing to improve the level of access and signage where appropriate following this review. It also notes that NFL's current practice of maintaining public access easements and keeping access unrestricted unless brief closure is necessary for safety concerns (such as fire risk or logging) will be maintained following the Investment.

<sup>7</sup> There are more than 100 separate computer freehold registers making up the Land.

<sup>8</sup> Section 24(1) of the Conservation Act sets out where marginal strips shall be deemed to be reserved from the disposition of land by the Crown. This includes along the foreshore, the normal level of the bed of a lake, or the bed of a river or stream with an average width of 3 metres or more.

199. Where members of the public have concerns regarding access, they have on occasion contacted NFL. The Applicant, NFL and WAC have discussed the possibility of a formal mechanism for reporting concerns regarding access.

*Mountain biking*

200. WAC has recommended further engagement with mountain biking groups regarding potential access. The Applicant notes that NFL already accommodates mountain biking in parts of the Forest Estate. It has committed to offering further opportunities for mountain bike access in the Wakefield and Tapawera area in either the Kainui Forest or Glenrae Forest. It has already approached the Wakefield and Tapawera Community Councils in relation to potential development of a mountain bike park. It will support the Community Councils to undertake a feasibility study of a mountain bike park including consideration of other adventure tourism and recreational pursuits (such as zip lining, tree top walkways and rafting). The Applicant, through NFL would also provide in kind assistance with construction of the mountain bike park should this go ahead.

201. The Applicant submits that a mountain bike park in this area (away from the main centres of Nelson and Blenheim which are already well-serviced for mountain biking) would be a benefit to tourism in the smaller towns of the Tasman region.

202. The public consultation process outlined below may also result in further requests for access from mountain biking groups, which would be considered as part of that process.

*Public consultation*

203. The Applicant has indicated that it is willing to engage in further public consultation regarding the type, level and location of desired public access. The Applicant intends to invite interested parties to register through a public process to engage in one to one consultation with the Applicant regarding opportunities for additional public access.

204. The Applicant states that it will meet with interested parties in association with WAC and DOC (if applicable) to listen to views expressed. It will work to implement solutions for enhanced public access, provided this is consistent with the use of the Land for forestry purposes.

*Significant Natural Areas*

205. WAC has recommended that the Applicant engage with WAC, DOC and Heritage New Zealand Pouhere Taonga (where relevant) following the Investment in relation to creation of public access to historic sites and SNAs as required.

206. The Applicant has indicated its willingness to work with these entities following the Investment to determine what access may be required and whether there should be restrictions on this (for example to cover fire risk, health and safety risk or prevent damage to SNAs).

*Access to legal roads and marginal strips*

207. WAC has also made a general recommendation that the Applicant not block public access to legal roads (formed or unformed) or marginal strips within the Land. We note that in subsequent discussion between the Applicant, WAC and the OIO it was clarified that this recommendation does not necessarily relate to the Applicant providing any new access, rather to compliance with existing law.



### *Without the Investment*

208. If the Investment does not proceed access that legally exists would still be maintained (such as easements, marginal strips, legal roads). There may be some benefit to having marginal strips recorded on the cadastre. Due to potential costs of surveys and the fact that waterways also change over time, alternative New Zealand purchasers may be unlikely to prioritise having marginal strips that are deemed to exist by virtue of Part 4A recorded on the cadastre. We also consider that alternative New Zealand purchasers would be unlikely to create new esplanade strips.
209. In practical terms, the alternative route to Wairau Forest Public Access Easement No 5 Davies Road may remain in use if the forest is purchased by an alternative New Zealand purchaser. However, it may not be formalised. Formalising this route by way of a new easement would ensure enduring legal public access.
210. Alternative New Zealand purchasers may not be willing to undertake a public consultation of the nature the Applicant intends to, which may limit the types of access they are open to considering. In addition, existing mountain biking access may be maintained or added to, but there is a possibility that new tracks or a new mountain bike park such as the one the Applicant proposes in the Wakefield and Tapawera area may not go ahead.

### *OIO Assessment*

211. We therefore consider that the Investment is likely to result in new mechanisms for walking access over the Land and that **this factor is met**.
212. We note that a number of the recommendations WAC has made will involve post-Investment consultation in order to determine what level of new access to create. Due to the size of the Land, it has not been practicable for the Applicant and WAC to finalise all aspects of potential additional public access prior to finalising the recommendation to grant consent in this instance. The Applicant has indicated a general willingness to implement recommendations for additional access and has provided comments with regard to each of WAC's recommendations. We are satisfied that, with recommended conditions in place requiring the Applicant to work with WAC following consent, the Applicant is likely to improve public access to parts of the Land.
213. There are already a range of existing access arrangements, including permanent legal public access mechanisms on various parts of the Land. There is therefore a chance that only limited new access may result from some aspects of this consultation, but it raises the potential for new or improved walking access including access to rivers through the potential creation of esplanade strips, and potential access to SNAs and historic sites. There are also specific measures such as the formalisation of the alternative route for Wairau Forest Public Access Easement No 5 Davies Road that the Applicant is willing to implement and the potential creation of a new mountain bike park if the relevant Community Councils wish to pursue this. Although there is a degree of uncertainty regarding the nature and extent of likely improvements to public access, we consider that a **medium** level of benefit is likely to arise under this factor.
214. We recommend conditions of consent requiring the Applicant to undertake the measures outlined above for the improvement of walking access. Some of these measures will require further engagement with WAC, DOC and Heritage New Zealand including to determine where esplanade strips may be warranted and the nature and extent of access to SNAs and historic sites.



### Consequential benefits – r28(a)

There are three key elements to this factor:

- There must be a **consequential benefit to New Zealand**.
- The benefit must not have been considered under another factor, it must be **another** consequential benefit.
- The consequential benefit that is **likely to result** from the overseas investment must be **additional** to that which is likely to occur **without the overseas investment**.

#### *Community programmes*

215. The Applicant states that it will support a number of community programmes or charitable organisations as it has done in Australia. There it has committed to providing AU\$150,000 over 3 years to the Stand Like Stone Foundation in South Australia to support community capacity building projects and support for schools and community events. It is willing to commit up to [s 9(2)(b)(ii)] for community capacity building in New Zealand, and to introduce a similar scheme to the Stand Like Stone Foundation here.

#### *School leavers and graduate programmes*

216. As discussed above in relation to jobs, the Applicant is committed to implementing a school leavers' programme in connection with Marlborough Boys College and Marlborough Girls College. The benefit likely to arise from this in regard to the creation of jobs has already been discussed above. It is not clear what additional benefit may result from this programme that has not already been considered.
217. In relation to the Applicant's proposed graduate programme, the Applicant states that this will involve:
- (a) Scholarships for 4 forestry students per year of up to [s 9(2)(b)(ii)] each;
  - (b) Opportunities for scholarship recipients to work on the Forest Estate during the summer university holiday; and
  - (c) Offer of employment to at least one graduate annually to be trained and mentored on all aspects of the forestry business, including a secondment to the Australian business of the Applicant.
218. The Applicant has stated that it will work with universities and polytechnics that provide forestry and related courses to develop the graduate programme. It submits that the programme will be designed to provide career avenues for forestry graduates. We have recommended a condition of consent requiring the Applicant to implement this programme until at least October 2023.
219. The benefit associated with the offer of employment to one graduate per year has already been discussed above in relation to jobs. We consider the other aspects of the graduate programme are also likely to be of benefit to New Zealand through providing funding towards the study of forestry and opportunities for some forestry students to gain work experience.

*Contributions towards the Great Taste Trail*

220. The Applicant states that it will commit cash or kind contributions towards the Great Taste Trail, which is part of the Government sponsored national cycle trail. The Applicant submits that this will be around [s 9(2)(b)(ii)] of cash and in kind contribution towards completing construction of certain sections of the trail. This will assist with their goal of creating a complete loop from Belgrove to Tapawera and then further into Motueka and eventually to the Kaiteriteri mountain bike park. The contributions are expected to be spread with [s 9(2)(b)(ii)] of contributions in 2018 towards a 14km trail extension, and [s 9(2)(b)(ii)] in 2019/2020 in relation to a further 20km extension. NFL has previously provided support for the trail. The Applicant has included a letter from the Nelson Tasman Cycle Trails Trust expressing support for the Applicant's plans;

*Wilding conifer eradication*

221. The Applicant submits that it is supportive of wilding conifer eradication projects. Its plans with regard to wilding conifer eradication include:
- (a) Early harvest of two stands of conifer on up to 150 hectares, which it has identified as being at high risk of spreading into the Mount Richmond Forest Park (MRFP);
  - (b) funding of up to [s 9(2)(b)(ii)] contractors per year for up to [s 9(2)(b)(ii)] to work on wilding conifer eradication in the MRFP, with the intent of removing a large portion of the wildings in the park (this is expected to cost [s 9(2)(b)(ii)] per year for [s 9(2)(b)(ii)] years);
  - (c) spray killing the remaining Pinus Contorta in NFL's Golden Downs West Forest, subject to obtaining a successful deforestation exemption for weeds – this is expected to cost between [s 9(2)(b)(ii)] ; and
  - (d) contribution of [s 9(2)(b)(ii)] per year for [s 9(2)(b)(ii)] years to support DOC on wilding conifer eradication in MRFP.

222. Wilding conifers are a significant pest plant in New Zealand. They can damage environmental, social, cultural and landscape values. The Applicant's proposed measures in relation to the control and eradication of wilding trees are therefore likely to be of consequential benefit to New Zealand.

*Stock-proof fence*

223. The Applicant states that it will invest in a stock proof fence to protect indigenous vegetation on around 130 hectares of land between part of the Forest Estate and a neighbouring property, subject to the agreement of the neighbouring landowner. The Applicant will also ensure hunting access for contractors' staff to assist with the eradication of pests in this area.
224. We consider that this may be of benefit in protecting indigenous vegetation neighbouring the Forest Estate. As the vegetation is on neighbouring land, we have considered this as a consequential benefit rather than in relation to the indigenous vegetation factor above.

*Commitment to work with iwi*

225. The Applicant has claimed that it will work closely with local iwi, including the landowners of some former Crown Forest Licensed land where it has forests. The Applicant states that it will work with iwi to manage and protect culturally significant sites.

*What would occur without the Investment*

226. If the Investment does not proceed we consider it likely that the Forest Estate would eventually be sold to more than one alternative New Zealand purchaser. Measures for the control of wilding conifers may be undertaken by alternative New Zealand purchasers as these are well-known pests. However, the Applicant's commitments exceed requirements that would be in place for alternative New Zealand purchasers. There is therefore a greater degree of certainty that these measures will be implemented if the Investment proceeds.
227. In relation to the stock proof fence, community programmes, scholarships, contribution towards the Great Taste Trail and financial contribution to support wilding conifer eradication, we consider that these are also more likely to occur with the Investment than if the Investment does not proceed.
228. In terms of the Applicant's commitment to work with iwi, we consider that alternative New Zealand purchasers are also likely to work with iwi where there are culturally significant sites on the Land. It is not clear from the Applicant's submissions that there is any additional benefit to the Applicant's plans to work with local iwi that would be unlikely to occur if the Investment does not proceed.

*OIO Assessment*

229. We are satisfied that the Investment is likely to result in consequential benefit to New Zealand through environmental mechanisms including measures for the eradication or control of wilding trees and stock proof fencing to protect indigenous vegetation on neighbouring land. The Applicant also intends to sponsor community projects or undertake donations as outlined above.
230. The Ministerial Directive Letter directs us to treat the aspects of this factor that relate to sponsorship of community projects and donations as being of **low relative importance**. This includes the Applicant's claims in relation to community programmes, scholarships for graduates, contributions towards the Great Taste Trail and financial contribution towards wilding conifer eradication.
231. We therefore consider that although this factor is met, the benefit likely to arise is **low** in the context of the Investment.
232. We recommend conditions of consent requiring the Applicant to undertake the measures proposed for wilding pine control and make the contributions to community projects it has specified.

*Support for Te Uru Rakau*

233. The Applicant has also submitted that it will support the establishment of the New Zealand Forestry Service (Te Uru Rakau) and is willing to provide resources to Te Uru Rakau in the form of participation in advisory boards, secondment of employees, access to NFL's resources and so on.
234. The Applicant has not provided evidence to suggest whether these commitments will be of use in the establishment of Te Uru Rakau. It is unclear what level of consequential benefit, if any, may result from the Applicant's proposed measures. We do not consider that the Applicant's claims in relation to Te Uru Rakau meet this factor.

**Key person in a key industry – r28(b)**

There are three key elements to this factor:

- The relevant overseas person is or includes a **key person** in an industry.
- The industry must be a **key industry of a country** (other than New Zealand).
- the country must be a country with which **New Zealand will**, or is likely to, **benefit from having improved relations**.

This factor is not relevant to most overseas investments and it is unusual for it to be met.

235. The Applicant submits that it is a key person in the Australian forestry industry, particularly in South Australia, and that New Zealand would benefit from having improved relations and collaboration with the Australian forestry industry.
236. The Applicant submits that it is one of Australia's largest plantation forest owners, having acquired the Forestry South Australia business from the South Australian Government. It also submits that its CEO Linda Sewell is a member of the Government advisory body (Forest Industry Advisory Council) and a director of the board of the Australian Forest Products Association (**AFPA**). Glen Rivers is also on the board of AFPA and the Southern Tree Breeders Association (the major tree breeding and genetics body). He is also on the forest growers' advisory committee of Forest and Wood Products Australia (the Australian forest industry research body).
237. The Applicant submits that there is a high degree of industry collaboration, and New Zealand would therefore benefit from having improved relations and collaboration with the Australian forestry industry.
238. We consider that there is likely to be some benefit associated with the Applicant's business presence in New Zealand as a key person in the Australian forestry industry. However, we consider that the level of benefit is relatively uncertain. Although the Applicant has in its Investment Plan identified some opportunities for collaboration (for example in relation to **s 9(2)(b)(ii) I** and the Applicant offering support to Te Uru Rakau), the level of benefit that may flow from this is relatively uncertain. We therefore consider that although **this factor is met** the benefit likely to arise should be given **very low** weight in the context of the Investment.

**Economic interests – r28(i)**

There are two key elements to this factor:

- The overseas investment must **adequately promote New Zealand's economic interests**.
- The promotion of New Zealand's economic interests that will **result** from the overseas investment must be **additional** to that which is likely to occur **without the overseas investment**.

This factor is relevant to all overseas investments in sensitive land and has a higher threshold of 'will' rather than 'is likely to' result from the overseas investment.

239. The Applicant submits that the Investment will adequately promote New Zealand's economic interests. In considering this factor, we have had regard to the matters set out in regulation 28(i)(i)-(iv).
240. Our overall assessment of this factor is that the Applicant will be a stable owner for the Forest Estate in comparison to a potential breaking up of the Land for sale to multiple purchasers. This, and the Applicant's commitments to primary processing of logs in New Zealand is likely to increase the reliability of supply of logs and wood products in the future and therefore adequately promote New Zealand's economic interests. However, we consider that any increase in reliability would be minor in the context of the size and scale of the forestry industry in New Zealand.
241. We therefore consider that the benefit arising under this factor should be given **low weight**.



*Whether New Zealand will become a more reliable supplier of primary products in the future*

242. The Applicant submits that it is committed to developing a long term sustainable business that will ensure New Zealand is a more reliable supplier of primary products (being wood products).

243. If the Investment does not proceed, the Land is likely to be sold to more than one alternative New Zealand purchaser. However, logs will still be grown and harvested from the Land. The Applicant, by contrast, will be a stable owner of the entire Forest Estate, and has stated a commitment to process the majority of logs produced in New Zealand and willingness to enter long-term supply contracts and explore further investment in processing of wood.

*Whether New Zealand's ability to supply the global economy with a product that forms an important part of New Zealand's export earnings will be less likely to be controlled by a single overseas person or its associates*

244. The Applicant is a new entrant to the New Zealand forestry sector, which will further diversify the sector as a result of the Investment.

*Whether New Zealand's strategic and security interests are or will be enhanced*

245. The Applicant submits, and we agree that this is not relevant to this application as there is no strategically important infrastructure located on the Sensitive Land.

*Whether New Zealand's key economic capacity is or will be improved*

246. The Investment is unlikely to have a material impact on New Zealand's key economic capacity.

### **Benefit to New Zealand Test - s16(1)(e)(ii) and (iii)**

247. In order for consent to be granted, the Applicant must demonstrate that the:

- (a) the overseas investment will, or is likely to, benefit New Zealand (or any part of it or group of New Zealanders); and
- (b) that benefit will be, or is likely to be, substantial and identifiable.

248. We have assessed the benefit likely to result from this investment in accordance with the forest land directive contained in the directive letter dated 28 November 2017.

249. We have undertaken our assessment having regard to the characteristics of the Land and the nature of the interest being acquired (reflecting the proportional nature of the benefit test). In this case, the Applicant proposes to acquire a freehold or beneficial interest in approximately 25,119 hectares of land used primarily for forestry, with a portion of that land comprising a sawmill.

250. Although the Forest Estate itself is approximately 77,000 hectares in total, the benefit to New Zealand test in section 16(1)(e)(ii) and (iii) relates only to the land interests being acquired and not to the Crown Forestry Licenses.

*Forestry land directive*

251. In relation to forestry land, the Ministerial Directive Letter notes that:

*The Government recognises that overseas investment in the forestry sector, and the associated downstream processing industries, has the potential to add significant value to the overall economy and the environment.*

*The Government wishes to encourage an increase in the value added processing of raw products and the advancement of its forestry related strategies.*

252. To that end, the Ministerial Directive Letter encourages value added processing of raw products and the advancement of the Government's forestry-related strategies by elevating the importance of two factors:

- (a) The 'increased processing of primary products' factor (section 17(2)(a)(vi)); and
- (b) The 'advance significant Government policy or strategy' factor (regulation 28(f)).

*Benefit to New Zealand*

253. We are satisfied that a benefit to New Zealand is likely to result from:

- (a) the advancement of the Billion Trees Programme, a significant Government strategy;
- (b) an increase in processing of logs at mills in the Nelson/Marlborough region through one or more of the measures outlined by the Applicant, including:
  - (i) entry into one or more long-term supply agreements with local processors;
  - (ii) holding back some high quality stands to supply for processing into [ s 9(2)(b)(ii) ];
  - (iii) making a forecast of wood available to local processors prior to harvest to allow them to [ s 9(2)(b)(ii) ] [redacted];
  - (iv) a feasibility study [ s 9(2)(b)(ii) ] [redacted] and [redacted];
  - (v) [ s 9(2)(b)(ii) ] [redacted] where it is uncertain how many logs would be processed in New Zealand if the Land is sold to more than one alternative New Zealand purchaser;
- (c) The creation of 4 FTE roles for school leavers and graduates, being 4 roles per year for a year's duration;
- (d) Approximately [ s 9(2)(b)(ii) ] additional investment for development purposes;
- (e) Some increased productivity on the Land through:
  - (i) [ s 9(2)(b)(ii) ] [redacted];
  - (ii) harvesting of underperforming stock to replace it with better quality trees, eventually increasing the quality of timber produced from parts of the Land.
- (f) Mechanisms to protect and enhance significant areas of indigenous vegetation or fauna on the Land including possible granting of conservation or QEII covenants over existing significant natural areas and mechanisms to assist with protection of kea;
- (g) Research programmes aimed at the reduction of sedimentation of waterways, which is likely to provide protection for significant areas of habitats of trout and salmon;

- (h) The creation of enduring public access in one particular location on the Land, further public consultation regarding mountain biking and other access mechanisms, and further engagement with WAC to improve or create public access including through esplanade strips and better information and signage for existing public access easements;
- (i) Consequential environmental benefits including measures to control wilding trees;
- (j) Donations and community sponsorship being:
  - (i) Up to [ s 9(2)(b)(ii) ] on community capacity building;
  - (ii) Scholarships for 4 forestry students of [ s 9(2)(b)(ii) ] per year with the opportunity for work experience during holiday periods;
  - (iii) In kind contribution to the expansion of the Great Taste Trail
- (k) The Applicant is a key person in the Australian forestry industry and improved relations are likely to be of benefit to New Zealand; and
- (l) The investment will also advance New Zealand's economic interests.

254. The Applicant has stated that it intends to be a long-term, stable investor in the forestry sector in New Zealand. It has a track record of large-scale forestry investment in Australia that has resulted in benefit there, including increased domestic processing of logs.

255. If the Investment does not proceed, the Land is likely to be sold to multiple alternative New Zealand purchasers. If this occurs, a number of the benefits identified above would not be realised. In addition, existing log supply arrangements, memoranda of understanding and other commitments by NFL in relation to processing, access and environmental protection may not occur

*Substantial and Identifiable Benefit*

256. In making this recommendation, we have had particular regard to the two high relative importance factors – processing of primary products and the advancement of a significant government policy or strategy.

257. In particular, we consider that the Investment is likely to advance the One Billion Trees Programme. We consider that overseas investment into the forestry industry (including the purchase of existing forestry blocks by overseas investors) can help ensure that the forestry industry continues to be viable and economic in New Zealand. It helps encourage forestry investors to continue to invest in their operations by ensuring that there is a continued market for forestry land.

258. We consider that the Applicant's proposed measures in relation to holding back high quality stands for later harvest, entry into long term supply contracts, forecasting available log supply for New Zealand processors, [ s 9(2)(b)(ii) ]

[REDACTED] We also note the Applicant's track record of increasing domestic processing of logs in relation to its forests in Australia since it acquired them in 2012.

259. When examined together, we consider that the likely benefits are **substantial and identifiable**. However we acknowledge that this assessment is finely balanced in the context of an investment in approximately 25,119 hectares of land.

## Benefits not likely to occur

260. We considered that the factors below were either not relevant to the Investment or a benefit to New Zealand was unlikely to arise with regard to those factors. The Applicant made submissions in relation to some of these factors. However, we were **not** satisfied that the evidence provided showed that these benefits were likely to result from the Investment.

261. The following factors were therefore not met:

Factor	Reason not met / not relevant
New technology or business skills – s17(2)(a)(ii)	The Applicant submits it will introduce new technology or business skills in health and safety systems, fire management and the transfer of best practice from its management team between Australia and New Zealand. We do not consider that sufficient information has been supplied regarding the type of technologies and skills to be introduced and how these differ from health and safety systems and fire management systems already present in New Zealand. We therefore consider that <b>this factor is not met.</b>
Increased export receipts – 17(2)(a)(iii)	The Applicant has submitted that its focus on domestic processing will see a growth in export receipts as higher value wood products are exported. It also submits that the underperforming stock it intends to harvest early is likely to be exported. The Applicant has been unable to provide any potential forecast for a growth in export receipts. Although a growth in export receipts may occur, we consider that the Applicant has provided insufficient information to demonstrate this and that <b>this factor is not met.</b>



Factor	Reason not met / not relevant
Historic heritage – 17(2)(d)	<p>The Applicant's commitments in relation to historic heritage involve compliance with existing law, the commitment to consider further protections <i>if</i> new sites are discovered, and post-consent consultation regarding increased access (in connection with WAC and DOC). There is therefore uncertainty as to whether any new protections may actually be put in place for historic heritage following the Investment. We consider that this uncertainty means that we cannot consider enhanced protection for historic heritage to be a <i>likely</i> result of the Investment. We therefore consider that <b>this factor is not met.</b></p> <p>We note that we have recommended a condition of consent requiring the Applicant to consult with Heritage New Zealand Pouhere Taonga as well as with WAC and DOC in relation to potential increased access to SNAs on the Land. The reason for this has been addressed above in relation to the walking access factor.</p>
Offer to sell seabed/foreshore/riverbed to the Crown – 17(2)(f)	<p>Although the Land includes the beds of some rivers (as detailed in Appendix 3), the Applicant is acquiring shares in NFL which owns the freehold land. There is therefore no requirement for the Vendor to offer the special land to the Crown as legal ownership of the Land is not changing.</p>
Affect image, trade or international relations – 28(c)	<p>The Applicant submits that if the Vendor is unable to dispose of NFL this would affect the willingness of overseas persons to invest in New Zealand. We consider that while there may be some deterrent effect if consent was declined, any decision to decline would be on the basis that the criteria for consent were not met. We therefore consider that refusal would not affect New Zealand's image trade or international relations.</p>
Owner to undertake other significant investment – 28(d)	<p>We understand the Vendor is selling the shares as the Fund has expired. It is not therefore likely to undertake other significant investment.</p>
Previous investments – 28(e)	<p>The Applicant does not have any previous investments in New Zealand.</p>
Enhance the viability of other investments – 28(g)	<p>The Applicant does not have any other investments in New Zealand.</p>
Strategically important infrastructure – 28(h)	<p>The Land does not include strategically important infrastructure.</p>

Factor	Reason not met / not relevant
Oversight and participation by New Zealanders – 28(j)	The Applicant submits that it will retain the existing senior management team of NFL and Nelson Management Limited. We consider that the New Zealand participation required to meet this factor should be at the ownership or control level. The Applicant is entirely overseas owned and controlled. We therefore consider that <b>this factor is not met.</b>

### Consent criteria

262. As detailed above, we are satisfied that the criteria in sections 16 and 18 are met, and therefore consent should be granted to the Investment.

### Third Party Submissions

263. A third party submissions were received from Carter Holt Harvey Limited.

264. A summary of the third party submission, the Applicant's responses and our analysis are set out in Appendix 4.

Released under the Official Information Act 1982

## Appendices

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Released under the Official Information Act 1982

## Appendix 1 - Proposed Decision

### 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 the land and/or be subject to fines or other penalties.**

#### Consent

**Decision date:** [date]

The following people have been given the following **consent**:

<b>Case</b>	201720119
<b>Consent</b>	OneFortyOne NZ Holdings Limited, a wholly-owned subsidiary of OneFortyOne Plantations Holdings Pty Ltd may acquire the Shares subject to the Conditions set out below.
<b>Consent holder/s</b>	OneFortyOne Plantations Holdings Pty Ltd OneFortyOne NZ Holdings Limited We will also refer to each Consent holder and the Consent holders together as <b>you</b> .
<b>Shares</b>	means 100% of the shares in Nelson Forests Limited, which owns or has interests in the Land.
<b>Land</b>	means the Land set out in Appendix 1 to this consent.
<b>Timeframe</b>	You have until [date] 2020 to acquire the Shares.

#### 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 you may be subject to fines or other penalties, and you may also be required to dispose of the Land.

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

#### Special conditions

You must comply with the following **special conditions**. These apply specifically to this Consent and were considerations that particularly influenced us to give consent:



Details	Required date
<b>Special condition 1:</b> [ s 9(2)(b)(ii) ]	
<p>You must [ s 9(2)(b)(ii) ]</p> <p>[ s 9(2)(b)(ii) ]</p> <p>[ s 9(2)(b)(ii) ]</p> <p>[ s 9(2)(b)(ii) ]</p> <p>[ s 9(2)(b)(ii) ]</p> <p>If you do not, Standard condition 6 will apply and we may require you to dispose of the Land.</p> <p>For the avoidance of doubt, [ s 9(2)(b)(ii) ]</p> <p>[ s 9(2)(b)(ii) ]</p> <p>[ s 9(2)(b)(ii) ]</p>	<p>[ s 9(2)(b)(ii) ]</p>
<b>Special condition 2: NZ log processing</b>	
<p>You must ensure that the majority of logs (in excess of 50%) harvested in each year from the entire Nelson Forests Limited forest estate (including the Land and the forestry rights or Crown Forestry Licences held by Nelson Forests Limited) (<b>Forest Estate</b>) are processed in New Zealand (subject to there being sufficient demand from local processors).</p> <p>If you do not, Standard condition 6 will apply and we may require you to dispose of the Land.</p> <p>For the avoidance of doubt, we will not require you to enter a security deed prior to acquisition of the Land as described in Standard condition 6.</p>	<p>Until 31 October 2023</p>
<b>Special condition 3: Forecast of logs to NZ processors</b>	
<p>You must ensure that Nelson Forests Limited creates a formal process to provide domestic wood processors in the Nelson / Marlborough region with a forecast of the uncommitted harvest volume from the Forest Estate.</p> <p>You must ensure that this process is followed once it is established.</p> <p>If you do not, Standard condition 6 will apply and we may require you to dispose of the Land.</p> <p>For the avoidance of doubt, we will not require you to enter a security deed prior to acquisition of the Land as described in Standard condition 6.</p>	<p>Creation by 31 October 2019</p> <p>Followed until 31 October 2023</p>
<b>Special condition 4:</b> [ s 9(2)(b)(ii) ]	
<p>[ s 9(2)(b)(ii) ]</p> <p>[ s 9(2)(b)(ii) ]</p>	<p>By [ s 9(2)(b)(ii) ]</p>

<p>[ s 9(2)(b)(ii) ]</p> <p>(a) [ s 9(2)(b)(ii) ],</p> <p>(b) [ s 9(2)(b)(ii) ] and</p> <p>(c) [ s 9(2)(b)(ii) ]</p> <p>If you do not, Standard condition 6 will apply and we may require you to dispose of the Land.</p> <p>For the avoidance of doubt, [ s 9(2)(b)(ii) ]</p> <p>[ ]</p> <p>[ ]</p>	
<b>Special condition 5: Graduate and school leavers' programmes</b>	
<p>You must introduce a graduate programme and a school leavers' programme in relation to the Nelson Forests Limited business.</p> <p>The graduate programme must include:</p> <ul style="list-style-type: none"> <li>a. The offer of scholarships for 4 forestry students per year,</li> <li>b. Opportunities for scholarship recipients to work on the Forest Estate during the summer university holiday period, and</li> <li>c. Offer of employment to at least one graduate annually to work in the Nelson Forest Limited business.</li> </ul> <p>The school leavers' programme must include an offer of employment to 3 school leavers per year to work in the Nelson Forest Limited business in forestry or wood processing.</p>	<p>Creation of each programme by 31 October 2019</p> <p>Followed until 31 October 2023</p>
<b>Special condition 6: Access conditions</b>	
<p>1. You must create an easement for the existing track which provides an alternative public access route to Wairau Forest Public Access Easement No 5 Davies Road.</p> <p>The form of easement must be agreed with the Walking Access Commission (<b>WAC</b>) and a survey plan registered with LINZ. The form of easement may be in the most cost effective manner possible as agreed with WAC.</p> <p>You must meet the cost of creating the easement.</p>	<p>As soon as possible and no later than by 31 October 2023</p>
<p>2. You must</p> <ul style="list-style-type: none"> <li>a. engage, or ensure that Nelson Forests Limited engages with the Wakefield and Tapawera Community Councils to assist</li> </ul>	<p>a. By 31 October 2019</p>

<p>them in undertaking a feasibility study for developing a mountain bike park in the Kainui Forest or Glenrae Forest.</p> <p>b. If the Community Councils wish to continue with creation of a mountain bike park following the feasibility study, you and/or Nelson Forests Limited must allow access (subject to consent of the relevant landowner where that is not Nelson Forests Limited) to the relevant land and provide in-kind assistance with construction of the mountain bike park to a value of not less than <b>[ s 9(2)(b)(ii) ]</b>.</p>	<p>b. By 31 October 2022</p>
<p>3. You must engage, or ensure that Nelson Forests Limited engages in public consultation with regard to access to the Land in connection with WAC. This consultation must involve:</p> <p>a. public advertising to enable parties to register their interest in being heard with regard to access;</p> <p>b. meetings with interested parties to listen to their views and identify where additional or improved public access may be appropriate.</p>	<p>By 31 October 2019</p>
<p>4. You must liaise with WAC and, where relevant, the Department of Conservation (<b>DOC</b>) and Heritage New Zealand Pouhere Taonga to agree and finalise a plan for implementing the following measures to improve or formally record public access as follows:</p> <p>a. Identification of existing marginal strips and measures to record these on the cadastre where this is possible through use of high resolution aerial imagery, LiDAR and GIS mapping (you may also agree to undertake surveys where this is required to record marginal strips on the cadastre);</p> <p>b. An assessment of significant waterways within the Land and creation of esplanade strips where public access is, in the reasonable opinion of WAC, warranted ;</p> <p>c. Review of public access easements to improve access, signage and information available about these where appropriate (having regard to safety and operational concerns), including a potential mechanism for managing complaints regarding closures;</p> <p>d. A review of significant natural areas (<b>SNAs</b>) and historic sites on the Land, to establish whether, in the reasonable opinion of WAC, DOC and Heritage New Zealand Pouhere</p>	<p>By 30 April 2020</p>

<p>Taonga, additional public access to these is warranted, and the creation of that public access (considerations regarding public access to SNAs may also be informed by the SNA Plan outlined in special condition 7.1 and must ensure that such access does not unreasonably interfere with Nelson Forests Limited's use of the surrounding land or its forests in general); and</p> <p>e. Measures to implement additional public access to parts of the Land that has been identified through public consultation and agreed by WAC and Nelson Forests Limited as being warranted.</p> <p><b>(Access Plan)</b></p> <p>You must provide the Access Plan to us once it is finalised.</p>	
<p>3. If you and WAC cannot agree the Access Plan (<b>dispute</b>) you must refer the dispute to mediation. You and WAC will agree on a suitable person to act as mediator or, if you cannot agree, you will ask the Arbitrators' and Mediators' Institute of New Zealand Inc. to appoint a mediator. The mediation will be in accordance with the Mediation Protocol of the Arbitrators' and Mediators' Institute of New Zealand Inc.</p> <p>If the dispute is not resolved within 60 days after a mediator is appointed, you must refer the dispute to arbitration. You and WAC will agree on a suitable person to act as arbitrator. If you cannot agree, you will ask the President of the New Zealand Law Society to appoint an arbitrator. The arbitration will be in accordance with New Zealand Law and the Arbitration Protocol of the Arbitrators' and Mediators' Institute of New Zealand Inc.</p> <p>You must pay the costs of the mediation / arbitration.</p>	
<p>5. You must implement the Access Plan at your own cost including any reasonable ongoing maintenance costs.</p>	<p>By 31 October 2023</p>
<p>6. While the Access Plan is being implemented, you must provide WAC with updates every 6 months as to the implementation progress.</p>	<p>Every 6 months until the Access Plan is fully implemented</p>
<p>7. You must not obstruct and ensure that Nelson Forests Limited does not obstruct public access to any legal road that adjoins or intersects the Land, except as allowed by law.</p>	



### Special condition 7: Protections for significant natural areas

1. You must liaise with DOC to agree and finalise a plan for protection of SNAs on the Land as identified in RMA plans. The plan may include (without limitation):

By 30 April 2020

- a. Measures to establish the size and location of the SNAs where this is not currently clear;
- b. Creation of a protective covenant under the Reserves Act 1977, once the size and location of each SNA is established to ensure that the values of that SNA are protected in perpetuity and that the protected area does not include exotic forests owned by Nelson Forests Limited; and
- c. For each area to be covered by a protective covenant:
  - i. whether the covenant needs to allow reasonable access across the covenanted area where that is necessary to allow forestry operations to be undertaken on adjacent land,
  - ii. conditions relating to other activities that may affect the values of the covenanted area,
  - iii. conditions requiring management of threats (such as pests and weeds) to maintain the values of the covenanted area, and
  - iv. conditions requiring monitoring to measure the effectiveness of the management and protection work.

#### (SNA Plan)

You must provide the SNA Plan to us once it is finalised.

2. If you and DOC cannot agree the SNA Plan (**dispute**) you must refer the dispute to mediation. You and DOC will agree on a suitable person to act as mediator or, if you cannot agree, you will ask the Arbitrators' and Mediators' Institute of New Zealand Inc. to appoint a mediator. The mediation will be in accordance with the Mediation Protocol of the Arbitrators' and Mediators' Institute of New Zealand Inc.

If the dispute is not resolved within 60 days after a mediator is appointed, you must refer the dispute to arbitration. You and DOC will agree on a suitable person to act as arbitrator. If you cannot agree, you

will ask the President of the Arbitrators' and Mediators' Institute of New Zealand Inc. to appoint an arbitrator. The arbitration will be in accordance with New Zealand Law and the Arbitration Protocol of the Arbitrators' and Mediators' Institute of New Zealand Inc.	
You must pay the costs of the mediation / arbitration.	
3. You must implement the SNA Plan at your own cost.	By 31 October 2023
4. Where covenants are created under the SNA Plan, you must engage an independent provider (to be agreed with DOC) to carry out a baseline survey to establish the values and condition of each covenanted area within six months of the establishment of each covenant and, after that, every five years from that date (or such other date as agreed with DOC). The results are to be shared with DOC.	
5. While the SNA Plan is being implemented, you must provide DOC with updates every 6 months as to the implementation progress.	Every 6 months until the SNA Plan is fully implemented
<b>Special condition 8: Wilding trees</b>	
<p>You must undertake the following measures aimed at reduction of spread of wilding trees from the Nelson Forests Limited forest estate, and eradication of wilding trees in the Mount Richmond Forest Park (<b>MRFP</b>):</p> <p>a. Early harvest of two stands of conifer (as identified in your application for consent), being up to 150 hectares of forest that is at risk of spread into the MRFP;</p> <p>b. Make available at your own cost <span style="background-color: black; color: white;">s 9(2)(b)(ii)</span> contractors for up to <span style="background-color: black; color: white;">s 9(2)(b)(ii)</span> each year (at a minimum of <span style="background-color: black; color: white;">s 9(2)(b)(ii)</span> person days) to work on wilding conifer control that benefits the MRFP and agreed by the MRFP Wilding Conifer Stakeholder Group;</p> <p>c. Contribution of <span style="background-color: black; color: white;">s 9(2)(b)(ii)</span> per year for <span style="background-color: black; color: white;">s 9</span> years to support DOC's work on wilding conifer eradication in the MRFP;</p> <p>d. Application for a deforestation exemption for weeds and (if an exemption is granted), killing of Pinus Contorta in the Golden Downs West Forest; and</p> <p>e. Continued active participation in the MRFP Wilding Conifer Stakeholder Group.</p>	<p>a. By 31 October 2021</p> <p>b. Until 31 October 2023</p> <p>c. Until 31 October 2023</p> <p>d. By 31 October 2021</p> <p>e. Until 31 October 2023</p>

<b>Special condition 9: Sediment reduction research</b>	
<p>You must undertake the following projects aimed at preventing the movement of sediment into waterways:</p> <ol style="list-style-type: none"> <li>With Landcare Research and using LiDAR DTM assess landslide risk and erosion risk in the Nelson Forests Limited Forest Estate; and</li> <li>Engage with Landcare Research, Cawthron Institute and the Tasman District Council to develop and implement a paired catchment research programme to investigate the efficacy of management practices in reducing suspended sediment from forestry operations in the Forest Estate.</li> </ol>	<p>Following completion of the Investment until 31 October 2023</p>
<b>Special condition 10: Riparian setbacks</b>	
<p>You must comply with the the minimum standards set out in the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017 in relation to riparian setbacks.</p> <p>Where Nelson Forests Limited has existing environmental management practices that include a higher standard of riparian setback in the Forest Estate, you must continue to comply with Nelson Forests Limited's existing environmental management practices.</p>	

### 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:

<b>Details</b>	<b>Required date</b>
<b>Standard condition 1: acquire the Shares</b>	
<p>You must acquire the Shares:</p> <ol style="list-style-type: none"> <li>by the date stated in the Consent. If you do not, your Consent will lapse or become invalid and you must not acquire the Shares, and</li> <li>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 Shares, not your subsidiary, trust or other entity.</p>	<p>As stated in the Consent</p>

<b>Standard condition 2: tell us when you acquire the Shares</b>	
<p>You must tell us in writing when you have acquired the Shares.</p> <p>Include details of:</p> <ol style="list-style-type: none"> <li>1. the date you acquired the Shares (<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 Shares, 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>
<b>Standard condition 3: 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 required.</li> </ol> </li> </ol> <p>During an Inspection:</p> <ol style="list-style-type: none"> <li>(a) we will not compel you and your employees,</li> </ol>	<p>At all times</p>



<p>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>	
<b>Standard condition 4: remain of good character</b>	
<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 prevent 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</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>
<b>Standard condition 5: tell us about changes that affect you, the people who control you, or people you control</b>	
<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</li> </ol>	<p>Within 20 working days after the change</p>

<p>their fitness to have the Land; or becomes an individual of the kind referred to in <a href="#">section 15</a> or <a href="#">16</a> of the Immigration Act 2009 (see standard condition 4).</p> <p>3. You cease to be an overseas person or dispose of all or any part of the 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> <ul 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> </ul>	
<p><b>Standard condition 6: dispose of the Land if you do not comply with key 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>We may also require you to execute a security deed before you may acquire the Land. The security deed:</p> <ul style="list-style-type: none"> <li>1. must be in the form we require,</li> <li>2. must be executed and delivered to us before you acquire the Land,</li> <li>3. gives us power to appoint a receiver to dispose of the Land if you do not do that as required by this Standard condition 6,</li> <li>4. will provide, among other things, that if we appoint a receiver, the receiver may dispose of the Land, deduct his or her costs from the proceeds of sale, and pay the remainder to you.</li> </ul> <p>If all or part of this Standard condition 6 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>1. <b>Value the Land:</b> obtain and send us a copy of a market valuation of the Land from a New Zealand registered valuer.</p>	<p>Within twelve weeks of the date of our notice.</p>
<p>2. <b>Market the Land:</b> instruct a licensed real estate agent to actively market the Land for sale on the</p>	<p>Within twelve weeks of the date of our notice.</p>

open market.	
3. <b>Dispose of the Land:</b> dispose of the Land to a third party who is not your associate.	Within eighteen months of our notice.
4. <b>Offer without reserve:</b> offer the Land for sale by auction or tender without a reserve price or minimum bid and dispose of the Land.	Within twenty-four months of our notice.
5. <b>Report to us about marketing:</b> tell us in writing about marketing activities undertaken and offers received for the Land.	By the last day of every March, June, September and December after our notice or at any other time we require.
6. <b>Report disposal to us:</b> send us, in writing, evidence: <ul style="list-style-type: none"> <li>(a) that you have disposed of the Land,</li> <li>(a) of disposal (including copies of sale and purchase agreements, settlement statements and titles showing the purchaser as registered proprietor),</li> <li>(b) the purchaser is not your associate.</li> </ul>	Within one month after the Land has been disposed of.

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## Reporting conditions

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We need information from you about how your Investment Plan is tracking so we can monitor your progress against the Conditions and so we can measure the benefits you have brought to New Zealand through your investment.

Every year, you must lodge an **annual report**. It must:

1. be sent to **oiomonitoring@linz.govt.nz** by these dates:
  - (a) Year one: 30 November 2019
  - (b) Year two: 30 November 2020
  - (c) Year three: 30 November 2021
  - (d) Year four: 30 November 2022
  - (e) Year five: 30 November 2023
2. contain information about:
  - (a) your progress in implementing the special conditions,
  - (b) the volume of logs from the Nelson Forests Limited Forest Estate processed in New Zealand in each year, including as a proportion of the total harvest,
  - (c) the volume of logs supplied from the Nelson Forests Limited Forest Estate for laminated veneer lumber processing,
  - (d) expenditure undertaken to upgrade the water and waste treatment at Kaituna Mill if undertaken in that year,
  - (e) whether any length of stock proof fence has been built to protect indigenous vegetation on land neighbouring the Forest Estate in that year, and
  - (f) the nature and extent of community sponsorship or donations in any year, including to:
    - (i) the Kea Conservation Trust,
    - (ii) construction of the Great Taste Trail, and
    - (iii) community capacity building projects and / or the establishment of a foundation focused on community capacity building in the Nelson/Marlborough region.
3. follow the format of the template annual report published on our website at <https://www.linz.govt.nz/overseas-investment/enforcement/how-we-take-action>.



## Appendix 1 – Land

### 1. Awatere Forest

<b>Land Interest</b>	<b>Freehold Interest</b> (approximately 663.4130 hectares)
<b>CFRs</b>	407479, 407512 (Marlborough)

### 2. Brightwater Forest

<b>Land Interest</b>	<b>Freehold Interest</b> (approximately 163.0320 hectares)
<b>CFRs</b>	407478 (Nelson)

### 3. Kainui Forest

<b>Land Interest</b>	<b>Freehold Interest</b> (approximately 2917.0551 hectares)
<b>CFRs</b>	407476, 407477, 407521, 407522, 407524, 407525, 407526, 407527, 407528, 407529, 407530, 407531, 407532, 407547, 407548, 407549, 407550, 407551, 407552, 407553, 407554, 407566, 407575, 461818, 593977 (Nelson)

### 4. Kaituna Sawmill

<b>Land Interest</b>	<b>Freehold Interest</b> (approximately 32.9150 hectares)
<b>CFRs</b>	407519 (Marlborough)

### 5. Korere Forest

<b>Land Interest</b>	<b>Freehold Interest</b> (approximately 715.7914 hectares)
<b>CFRs</b>	407533, 407534, 407535, 407536, 407537, 407538, 407539 (Nelson)

### 6. Linkwater Forest

<b>Land Interest</b>	<b>Freehold Interest</b> (approximately 145.0798 hectares)
<b>CFRs</b>	407480 (Nelson)

### 7. Moutere Forest

<b>Land Interest</b>	<b>Freehold Interest</b> (approximately 686.1586 hectares)
<b>CFRs</b>	NL1B/732, 407540, 407541, 407542, 407543, 407546, 407579, 407580, NL1B/736, NL4B/790, NL6A/613, 407544 (Nelson)

### 8. Opouri Forest

<b>Land Interest</b>	<b>Freehold Interest</b> (approximately 350.7699 hectares)
<b>CFRs</b>	134529, 407481, 407482, 407483, 407484, 407485, 407486, 53058 (Marlborough)

9. Rainy River Forest

<b>Land Interest</b>	<b>Freehold Interest</b> (approximately 1451.3789 hectares)
<b>CFRs</b>	407561, 407562, 407563, 407564, 407565, 407576, 407577 (Nelson)

10. Serpentine Forest

<b>Land Interest</b>	<b>Freehold Interest</b> (approximately 634.1668 hectares)
<b>CFRs</b>	407555, 407556, 407557, 407558, 407559, 407560 (Nelson)

11. Te Hepe Forest

<b>Land Interest</b>	<b>Freehold Interest</b> (approximately 650.2967 hectares)
<b>CFRs</b>	407568, 407567, 407569, 407570, 407571, 407572, 407573, 407574, 407581 (Nelson)

12. Wairau Crown Forestry Licenced Land

<b>Land Interest</b>	<b>Beneficial Freehold Interest</b> (approximately 9454.0191 hectares)
<b>Legal Description</b>	<p>Land described in computer interest register MB4D/1110 (Marlborough) being:</p> <p>Lot 2 Deposited Plan 4009; Lot 1 Deposited Plan 4230; Lot 1 Deposited Plan 4598; Lot 1 Deposited Plan 5103; Lot 1-2 Deposited Plan 5636; Lot 2 Deposited Plan 5750; Lot 1 Deposited Plan 6633; Lot 1 Deposited Plan 6966; Lot 1 Deposited Plan 6968; Lot 1 Deposited Plan 6969; Lot 1 Deposited Plan 6997; Lot 1 Deposited Plan 7000; Lot 1 Deposited Plan 7107; Lot 1 Deposited Plan 7195; Lot 1-4 Deposited Plan 7797; Lot 1-4 Deposited Plan 7852; Lot 1-2 Deposited Plan 7855; Lot 1-7 Deposited Plan 7880; Lot 1-2 Deposited Plan 7923; Lot 1 Deposited Plan 7927; Lot 1-3 Deposited Plan 7947; Lot 1-5 Deposited Plan 7948; Lot 1-12 Deposited Plan 7949; Lot 1-8 Deposited Plan 7995; Lot 1-6 Deposited Plan 8077; Lot 1 Deposited Plan 8078; Lot 1 Deposited Plan 8079; Lot 1 Deposited Plan 8080; Lot 1-2 Deposited Plan 8081; Lot 1-2 Deposited Plan 8082; Lot 1-2 Deposited Plan 8083; Lot 1 Deposited Plan 8084; Lot 1 Deposited Plan 8085; Lot 1 Deposited Plan 8086; Lot 1 Deposited Plan 8118; Lot 1-2 Deposited Plan 8120</p>

13. Wairau South Forest

<b>Land Interest</b>	<b>Freehold Interest</b> (approximately 5815.3867 hectares)
<b>CFRs</b>	125112, 407487, 407489, 407490, 407513, 407514, 407515, 407517 (Marlborough)

14. Wakamarina Forest

Land Interest	Freehold Interest (approximately 1435.1485 hectares)
CFRs	23887, 23890, 407491, 407492, 407493, 407494, 407495, 407496, 407497, 407498, 407499, 407500, 407501, 407502, 407503, 407504, 407505, 407506, 407507, 407508, 407509, 407510, 407511, 407516, 407520 (Marlborough)

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## Appendix 2 - Instructions

1. Ministers must grant consent to this overseas investment if they are satisfied that all of the criteria in sections 16 and 18 of the Overseas Investment Act 2005 ("the Act") are met. They must decline to grant consent if they are not satisfied that all of the criteria in sections 16 and 18 are met. Ministers must not take into account any criteria or factors other than those identified in sections 16, 17 and 18, and regulation 28 of the Overseas Investment Regulations 2005 ("the Regulations").
2. Where the criteria under sections 16 and 18 are the same, Ministers need only consider each criterion once.
3. In the attached Report the Overseas Investment Office identifies each of the criteria and factors under sections 16, 17 and 18, and regulation 28 that Ministers are required to consider in this case.

### "Benefit to New Zealand criteria"

4. In this case, section 16 requires Ministers to decide, among other things, whether they are satisfied in relation to the following "benefit to New Zealand" criteria:
  - (a) the overseas investment will, or is likely to, benefit New Zealand (or any part of it or group of New Zealanders), as determined under section 17 (section 16(1)(e)(ii)); and
  - (b) that benefit will be, or is likely to be, substantial and identifiable (section 16(1)(e)(iii)).
5. The application of the benefit to New Zealand criteria involves the exercise of Ministerial judgement. The fact that responsibility for making this decision has been conferred on Ministers confirms that this is a high-level decision with significant policy content. That is also apparent from the language and content of the factors that must be considered, many of which require a high degree of evaluative judgement, and are not capable of quantification or calculation.
6. In applying the benefit to New Zealand criteria, Ministers are required to consider each of the factors in section 17(2), determine which of the factors are relevant to the investment, and have regard to the relevant section 17(2) factors. The relative importance to be given to each factor is a matter to be determined by Ministers. In particular, the Act does not require economic factors to be given more weight than non-economic factors, or vice versa. It is a matter for you, in carrying out your overall evaluation, to decide what weight to give to each factor.
7. The decision concerning whether the benefit to New Zealand, or any part of it or group of New Zealanders, is substantial and identifiable under section 16(1)(e)(iii), involves a collective assessment of the relevant factors.

### Justice Miller's "with and without test"

#### *Economic factors*

8. The High Court in *Tiroa E and Te Hape B Trusts v Chief Executive of Land Information* [2012] NZHC 147 ("*Tiroa E*") requires the "economic benefit" factors in section 17(2)(a) to be assessed on the basis of a "counterfactual test". That is, Ministers must consider with respect to each section 17(2)(a) factor whether the overseas investment is likely to result in a benefit to New Zealand over and above any benefit that will or is likely to result even if the investment does not proceed. It is only the additional benefit from the overseas investment that is relevant when applying the "benefit to New Zealand" criteria.



*Non- economic factors*

9. Although the position is not free from doubt, the better view is that the same question – will this benefit be achieved even if the overseas investment does not occur – should be asked in relation to the other “non-economic” factors listed in section 17(2)(b)-(e). The High Court judgment suggested<sup>9</sup> that there could be a benefit in respect of the non-economic factors even if the same benefit would be achieved in the absence of the investment. But as the Court noted<sup>10</sup>, it is not easy to see how a benefit that will happen anyway could be regarded as substantial for the purposes of section 16(1)(e)(iii). We consider that Ministers should not treat benefits that are likely to be achieved in any event as contributing to the “substantial and identifiable benefit” criterion.

*Regulation 28 factors*

10. With regard to the factors in regulation 28 of the Overseas Investment Regulations 2005, Miller J noted that:

The criteria listed in reg 28 deal, for the most part, with benefits that only an overseas buyer could provide or what may be loosely described as strategic considerations, so they do not require a counterfactual analysis.<sup>11</sup>

11. Many of the factors in regulation 28 are incapable of having a counterfactual analysis applied to them. However, as recognised by Miller J, there are some factors that may require a counterfactual analysis. The Overseas Investment Office has applied a counterfactual analysis where appropriate.

**“Forest Land” Directive**

12. The overseas investment involves the acquisition of ‘forest land’ being land that is non-urban and over 5 hectares in size (excluding any associated land), but where the existing principal use of the land is forestry. Therefore, in accordance with directions from Ministers, we have treated the following factors as being of high relative importance:<sup>12</sup>
- (a) the “increased processing of primary products” factor (section 17(2)(a)(vi)); and
  - (b) the ‘advance significant Government policy or strategy’ factor (regulation 28(f)).

**Conditions**

13. Conditions may be imposed on any consent that is granted, under section 25. The attached Report recommends some conditions that Ministers may wish to consider imposing in this case.
14. If you wish to make any changes to the conditions of consent, those changes should be discussed with the Overseas Investment Office, and the other Minister, before being finalised.

**Decision**

15. The decision that you are required to make should be based on information available to you that you consider is sufficiently reliable for that purpose. The information that the Overseas Investment Office has taken into account in making its recommendation is summarised in the attached Report.

<sup>9</sup> *Tiroa E* at [36].

<sup>10</sup> *Tiroa E* at [38].

<sup>11</sup> *Tiroa E* at [36].

<sup>12</sup> Ministerial Directive letter date 28 November 2017, paras 18-20.

16. If you propose to disagree with the decision of the other Minister, you should discuss your proposed decision with the Overseas Investment Office and the other Minister.
17. If required, staff from the Overseas Investment Office are available to brief you on the Office's recommendations.

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## Appendix 3 - Sensitive Land

### 1. Awatere Forest

<b>Land Interest</b>	<b>Freehold Interest</b> (approximately 663.4130 hectares)
<b>CTs</b>	407479, 407512 (Marlborough)
<b>Sensitivity</b>	Is more than 5 hectares of non-urban land
	Includes land that is held for conservation purposes under the Conservation Act 1987
	Adjoins the bed of a lake
	Adjoins land that is over 0.4 hectares and is listed, or in a class listed, as a reserve, a public park, or other sensitive area by the regulator under s37

### 2. Brightwater Forest

<b>Land Interest</b>	<b>Freehold Interest</b> (approximately 163.0320 hectares)
<b>CTs</b>	407478 (Nelson)
<b>Sensitivity</b>	Is more than 5 hectares of non-urban land

### 3. Kainui Forest

<b>Land Interest</b>	<b>Freehold Interest</b> (approximately 2917.0551 hectares)
<b>CTs</b>	407476, 407477, 407521, 407522, 407524, 407525, 407526, 407527, 407528, 407529, 407530, 407531, 407532, 407547, 407548, 407549, 407550, 407551, 407552, 407553, 407554, 407566, 407575, 461818, 593977 (Nelson)
<b>Sensitivity</b>	Is more than 5 hectares of non-urban land
	Includes land that is held for conservation purposes under the Conservation Act 1987
	Includes land that a district plan or proposed district plan under the Resource Management Act 1991 provides is to be used as a reserve, as a public park, for recreation purposes, or as open space
	Adjoins land that is over 0.4 hectares and is held for conservation purposes under the Conservation Act 1987
	Adjoins land that is over 0.4 hectares and is listed, or in a class listed, as a reserve, a public park, or other sensitive area by the regulator under s37

### 4. Kaituna Sawmill

<b>Land Interest</b>	<b>Freehold Interest</b> (approximately 32.9150 hectares)
<b>CTs</b>	407519 (Marlborough)
<b>Sensitivity</b>	Is more than 5 hectares of non-urban land

## 5. Korere Forest

<b>Land Interest</b>	<b>Freehold Interest</b> (approximately 715.7914 hectares)
<b>CTs</b>	407533, 407534, 407535, 407536, 407537, 407538, 407539 (Nelson)
<b>Sensitivity</b>	Is more than 5 hectares of non-urban land
	Adjoins land that is over 0.4 hectares and is held for conservation purposes under the Conservation Act 1987

## 6. Linkwater Forest

<b>Land Interest</b>	<b>Freehold Interest</b> (approximately 145.0798 hectares)
<b>CTs</b>	407480 (Nelson)
<b>Sensitivity</b>	Is more than 5 hectares of non-urban land
	Includes land that is held for conservation purposes under the Conservation Act 1987
	Adjoins land that is over 0.4 hectares and is held for conservation purposes under the Conservation Act 1987
	Adjoins land that is over 0.4 hectares and is listed, or in a class listed, as a reserve, a public park, or other sensitive area by the regulator under s37

## 7. Moure Forest

<b>Land Interest</b>	<b>Freehold Interest</b> (approximately 686.1586 hectares)
<b>CTs</b>	NL1B/732, 407540, 407541, 407542, 407543, 407546, 407579, 407580, NL1B/736, NL4B/790, NL6A/613, 407544 (Nelson)
<b>Sensitivity</b>	Is more than 5 hectares of non-urban land

## 8. Opouri Forest

<b>Land Interest</b>	<b>Freehold Interest</b> (approximately 350.7699 hectares)
<b>CTs</b>	134529, 407481, 407482, 407483, 407484, 407485, 407486, 53058 (Marlborough)
<b>Sensitivity</b>	Is more than 5 hectares of non-urban land
	Includes land that is held for conservation purposes under the Conservation Act 1987
	Adjoins land that is over 0.4 hectares and is held for conservation purposes under the Conservation Act 1987
	Adjoins land that is over 0.4 hectares and is listed, or in a class listed, as a reserve, a public park, or other sensitive area by the regulator under s37



## 9. Rainy River Forest

<b>Land Interest</b>	<b>Freehold Interest</b> (approximately 1451.3789 hectares)
<b>CTs</b>	407561, 407562, 407563, 407564, 407565, 407576, 407577 (Nelson)
<b>Sensitivity</b>	Is more than 5 hectares of non-urban land
	Includes land that is held for conservation purposes under the Conservation Act 1987
	Adjoins land that is over 0.4 hectares and is held for conservation purposes under the Conservation Act 1987
	Adjoins land that is over 0.4 hectares and is listed, or in a class listed, as a reserve, a public park, or other sensitive area by the regulator under s37

## 10. Serpentine Forest

<b>Land Interest</b>	<b>Freehold Interest</b> (approximately 634.1668 hectares)
<b>CTs</b>	407555, 407556, 407557, 407558, 407559, 407560 (Nelson)
<b>Sensitivity</b>	Is more than 5 hectares of non-urban land
	Includes land that is held for conservation purposes under the Conservation Act 1987
	Adjoins land that is over 0.4 hectares and is held for conservation purposes under the Conservation Act 1987
	Adjoins land that is over 0.4 hectares and is listed, or in a class listed, as a reserve, a public park, or other sensitive area by the regulator under s37

## 11. Te Hepe Forest

<b>Land Interest</b>	<b>Freehold Interest</b> (approximately 650.2967 hectares)
<b>CTs</b>	407568, 407567, 407569, 407570, 407571, 407572, 407573, 407574, 407581 (Nelson)
<b>Sensitivity</b>	Is more than 5 hectares of non-urban land
	Includes land that is held for conservation purposes under the Conservation Act 1987
	Adjoins land that is over 0.4 hectares and is held for conservation purposes under the Conservation Act 1987

## 12. Wairau Crown Forestry Licenced Land - (a) Adams Block

<b>Land Interest</b>	<b>Beneficial Freehold Interest</b> (approximately 427.0760 hectares)
<b>Legal Description</b>	Lot 1 DP 6966, Lot 1 DP 6968, Lot 1 DP 6969, Lot 1-2 DP 7923, Lot 1-3 DP 7947, Lot 1 DP 8084, Lot 1-2 DP 8120, Lot 3 DP 7948 (Marlborough)
<b>Sensitivity</b>	Is more than 5 hectares of non-urban land

	Includes land that is held for conservation purposes under the Conservation Act 1987
	Adjoins land that is over 0.4 hectares and is held for conservation purposes under the Conservation Act 1987
	Adjoins land that is over 0.4 hectares and is a scientific, scenic, historic, or nature reserve under the Reserves Act 1977 that is administered by the Department of Conservation
	Adjoins land that is over 0.4 hectares and is listed, or in a class listed, as a reserve, a public park, or other sensitive area by the regulator under s37

## 13. Wairau Crown Forestry Licenced Land - (b) Bartletts I Briggs Block

<b>Land Interest</b>	<b>Beneficial Freehold Interest</b> (approximately 2719.0185 hectares)
<b>Legal Description</b>	Lot 1 DP 5103, Lot 1-2 DP 5636, Lot 1 DP 6633, Lot 1 DP 6997, Lot 1-10 and 12 DP 7949, Lot 1-8 DP 7995, Lot 1 DP 8080, Lot 2 DP 5750, (Marlborough)
<b>Sensitivity</b>	Is more than 5 hectares of non-urban land
	Includes land that is held for conservation purposes under the Conservation Act 1987
	Includes land that a district plan or proposed district plan under the Resource Management Act 1991 provides is to be used as a reserve, as a public park, for recreation purposes, or as open space
	Adjoins land that is over 0.4 hectares and is held for conservation purposes under the Conservation Act 1987
	Adjoins land that is over 0.4 hectares and is listed, or in a class listed, as a reserve, a public park, or other sensitive area by the regulator under s37

## 14. Wairau Crown Forestry Licenced Land - (c) Bookers Block

<b>Land Interest</b>	<b>Beneficial Freehold Interest</b> (approximately 509.9270 hectares)
<b>Legal Description</b>	Lot 1 DP 7195, Lot 1-2 DP 8081, Lot 1 DP 8082, Lot 1 DP 8118 (Marlborough)
<b>Sensitivity</b>	Is more than 5 hectares of non-urban land
	Includes land that is held for conservation purposes under the Conservation Act 1987
	Includes land that a district plan or proposed district plan under the Resource Management Act 1991 provides is to be used as a reserve, as a public park, for recreation purposes, or as open space
	Adjoins land that is over 0.4 hectares and is held for conservation purposes under the Conservation Act 1987
	Adjoins land that is over 0.4 hectares and is listed, or in a class listed, as a reserve, a public park, or other sensitive area by the regulator under s37

## 15. Wairau Crown Forestry Licenced Land - (d) Cat Creek/Pine Valley Block

<b>Land Interest</b>	<b>Beneficial Freehold Interest</b> (approximately 1552.7199 hectares)
<b>Legal Description</b>	Lot 1 DP 4230, Lot 1-4 DP 7797, Lot 1 DP 8078 (Marlborough)
<b>Sensitivity</b>	Is more than 5 hectares of non-urban land
	Includes land that is held for conservation purposes under the Conservation Act 1987
	Includes land that a district plan or proposed district plan under the Resource Management Act 1991 provides is to be used as a reserve, as a public park, for recreation purposes, or as open space
	Adjoins land that is over 0.4 hectares and is held for conservation purposes under the Conservation Act 1987
	Adjoins land that is over 0.4 hectares and is listed, or in a class listed, as a reserve, a public park, or other sensitive area by the regulator under s37

## 16. Wairau Crown Forestry Licenced Land - (e) Davies Block

<b>Land Interest</b>	<b>Beneficial Freehold Interest</b> (approximately 493.8444 hectares)
<b>Legal Description</b>	Lot 1-2 and 4-5 DP 7948, Lot 1 DP 8079, Lot 1-2 DP 8083, Lot 1 DP 8085, Lot 11 DP 7949, Lot 2 DP 8082 (Marlborough)
<b>Sensitivity</b>	Is more than 5 hectares of non-urban land
	Includes land that is held for conservation purposes under the Conservation Act 1987
	Adjoins land that is over 0.4 hectares and is held for conservation purposes under the Conservation Act 1987
	Adjoins land that is over 0.4 hectares and is listed, or in a class listed, as a reserve, a public park, or other sensitive area by the regulator under s37

## 17. Wairau Crown Forestry Licenced Land - (f) Glengyle Block

<b>Land Interest</b>	<b>Beneficial Freehold Interest</b> (approximately 691.7300 hectares)
<b>Legal Description</b>	Lot 1-7 DP 7880 (Marlborough)
<b>Sensitivity</b>	Is more than 5 hectares of non-urban land
	Includes land that is held for conservation purposes under the Conservation Act 1987
	Includes land that a district plan or proposed district plan under the Resource Management Act 1991 provides is to be used as a reserve, as a public park, for recreation purposes, or as open space
	Adjoins land that is over 0.4 hectares and is held for conservation purposes under the Conservation Act 1987

	Adjoins land that is over 0.4 hectares and is listed, or in a class listed, as a reserve, a public park, or other sensitive area by the regulator under s37
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## 18. Wairau Crown Forestry Licenced Land - (g) Langley Dale Block

<b>Land Interest</b>	<b>Beneficial Freehold Interest</b> (approximately 305.2080 hectares)
<b>Legal Description</b>	Lot 1 DP 7000, Lot 1 DP 7107 (Marlborough)
<b>Sensitivity</b>	Is more than 5 hectares of non-urban land
	Includes land that is held for conservation purposes under the Conservation Act 1987
	Includes land that a district plan or proposed district plan under the Resource Management Act 1991 provides is to be used as a reserve, as a public park, for recreation purposes, or as open space
	Adjoins land that is over 0.4 hectares that includes a historic place, historic area, wahi tapu, or wahi tapu area that is entered on the New Zealand Heritage List/Rarangi Korero or for which there is an application that is notified under section 67(4) or 68(4) of the Heritage New Zealand Pouhere Taonga Act 2014

## 19. Wairau Crown Forestry Licenced Land - (h) Okaramio Block

<b>Land Interest</b>	<b>Beneficial Freehold Interest</b> (approximately 123.5443 hectares)
<b>Legal Description</b>	Lot 1 DP 8086, Lot 2 DP 4009 (Marlborough)
<b>Sensitivity</b>	Is more than 5 hectares of non-urban land
	Includes land that is held for conservation purposes under the Conservation Act 1987
	Adjoins land that is over 0.4 hectares and is held for conservation purposes under the Conservation Act 1987

## 20. Wairau Crown Forestry Licenced Land (i) Patriarchs Block

<b>Land Interest</b>	<b>Beneficial Freehold Interest</b> (approximately 329.8000 hectares)
<b>Legal Description</b>	Lot 1 DP 7927 (Wellington)
<b>Sensitivity</b>	Is more than 5 hectares of non-urban land
	Includes land that is held for conservation purposes under the Conservation Act 1987
	Adjoins land that is over 0.4 hectares and is held for conservation purposes under the Conservation Act 1987
	Adjoins land that is over 0.4 hectares and is listed, or in a class listed, as a reserve, a public park, or other sensitive area by the regulator under s37

## 21. Wairau Crown Forestry Licenced Land - (j) Storeys Creek Block

<b>Land Interest</b>	<b>Beneficial Freehold Interest</b> (approximately 305.4100 hectares)
<b>Legal Description</b>	Lot 1 DP 4598, Lot 1-2 DP 7855 (Marlborough)
<b>Sensitivity</b>	Is more than 5 hectares of non-urban land
	Includes land that is held for conservation purposes under the Conservation Act 1987
	Includes land that a district plan or proposed district plan under the Resource Management Act 1991 provides is to be used as a reserve, as a public park, for recreation purposes, or as open space
	Adjoins land that is over 0.4 hectares and is held for conservation purposes under the Conservation Act 1987
	Adjoins land that is over 0.4 hectares and is listed, or in a class listed, as a reserve, a public park, or other sensitive area by the regulator under s37

## 22. Wairau Crown Forestry Licenced Land - (k) Top Valley Block

<b>Land Interest</b>	<b>Beneficial Freehold Interest</b> (approximately 1995.7410 hectares)
<b>Legal Description</b>	Lot 1-4 DP 7852, Lot 1-6 DP 8077 (Marlborough)
<b>Sensitivity</b>	Is more than 5 hectares of non-urban land
	Includes land that is held for conservation purposes under the Conservation Act 1987
	Includes land that a district plan or proposed district plan under the Resource Management Act 1991 provides is to be used as a reserve, as a public park, for recreation purposes, or as open space
	Adjoins land that is over 0.4 hectares and is held for conservation purposes under the Conservation Act 1987
	Adjoins land that is over 0.4 hectares and is listed, or in a class listed, as a reserve, a public park, or other sensitive area by the regulator under s37

## 23. Wairau South Forest

<b>Land Interest</b>	<b>Freehold Interest</b> (approximately 5815.3867 hectares)
<b>CTs</b>	125112, 407487, 407489, 407490, 407513, 407514, 407515, 407517 (Marlborough)
<b>Sensitivity</b>	Is more than 5 hectares of non-urban land
	Includes land that is held for conservation purposes under the Conservation Act 1987
	Adjoins the bed of a lake
	Adjoins land that is over 0.4 hectares and is held for conservation purposes under the Conservation Act 1987



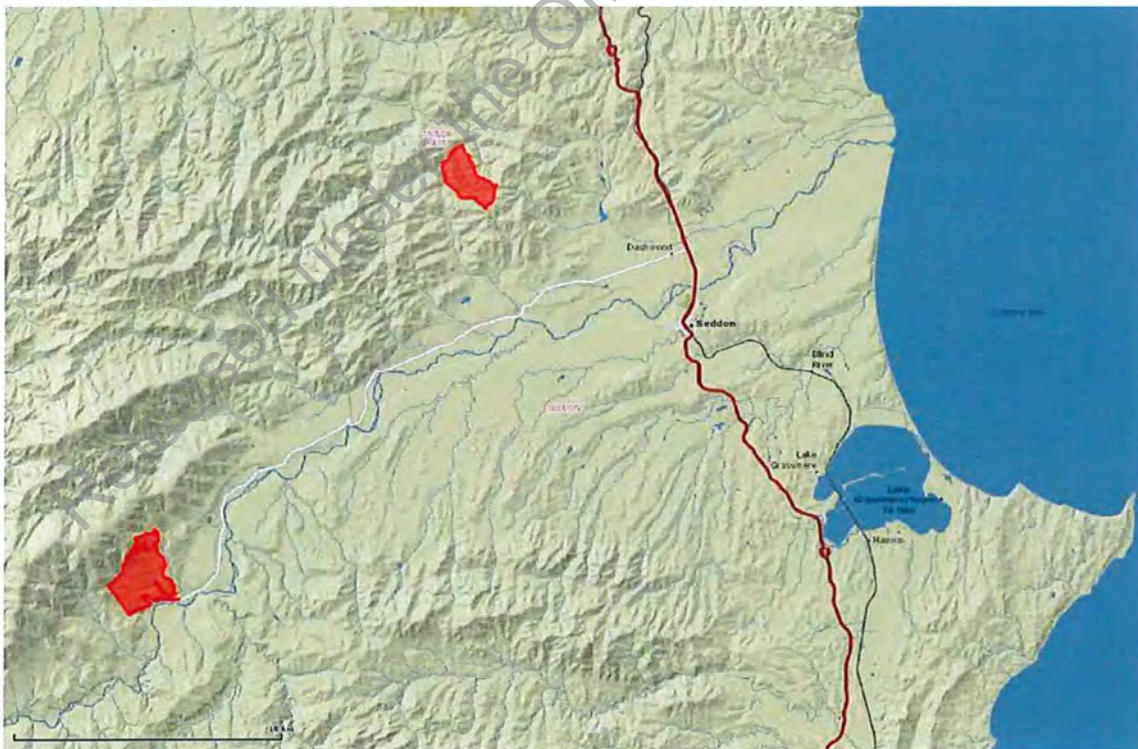
	Adjoins land that is over 0.4 hectares and is listed, or in a class listed, as a reserve, a public park, or other sensitive area by the regulator under s37
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## 24. Wakamarina Forest

Land Interest	Freehold Interest (approximately 1435.1485 hectares)
CTs	23887, 23890, 407491, 407492, 407493, 407494, 407495, 407496, 407497, 407498, 407499, 407500, 407501, 407502, 407503, 407504, 407505, 407506, 407507, 407508, 407509, 407510, 407511, 407516, 407520 (Marlborough)
Sensitivity	Is more than 5 hectares of non-urban land
	Includes land that is held for conservation purposes under the Conservation Act 1987
	Adjoins land that is over 0.4 hectares and is held for conservation purposes under the Conservation Act 1987
	Adjoins land that is over 0.4 hectares and is listed, or in a class listed, as a reserve, a public park, or other sensitive area by the regulator under s37

Images showing the approximate location of each of the forests referred to above (and the Kaituna Sawmill) are set out below with the relevant land shown in red.

## Awatere Forest

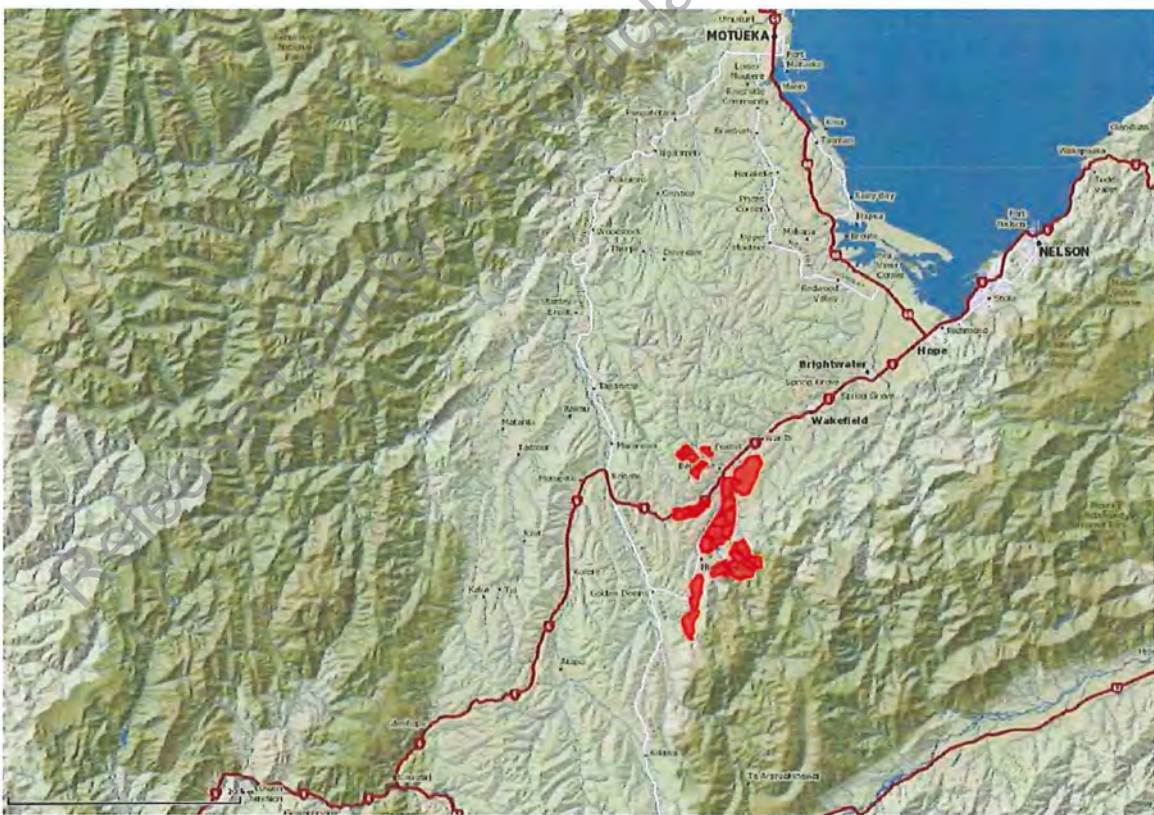




## Brightwater Forest



## Kainui Forest





Kaituna Sawmill



Korere Forest





## Linkwater Forest





## Moutere Forest

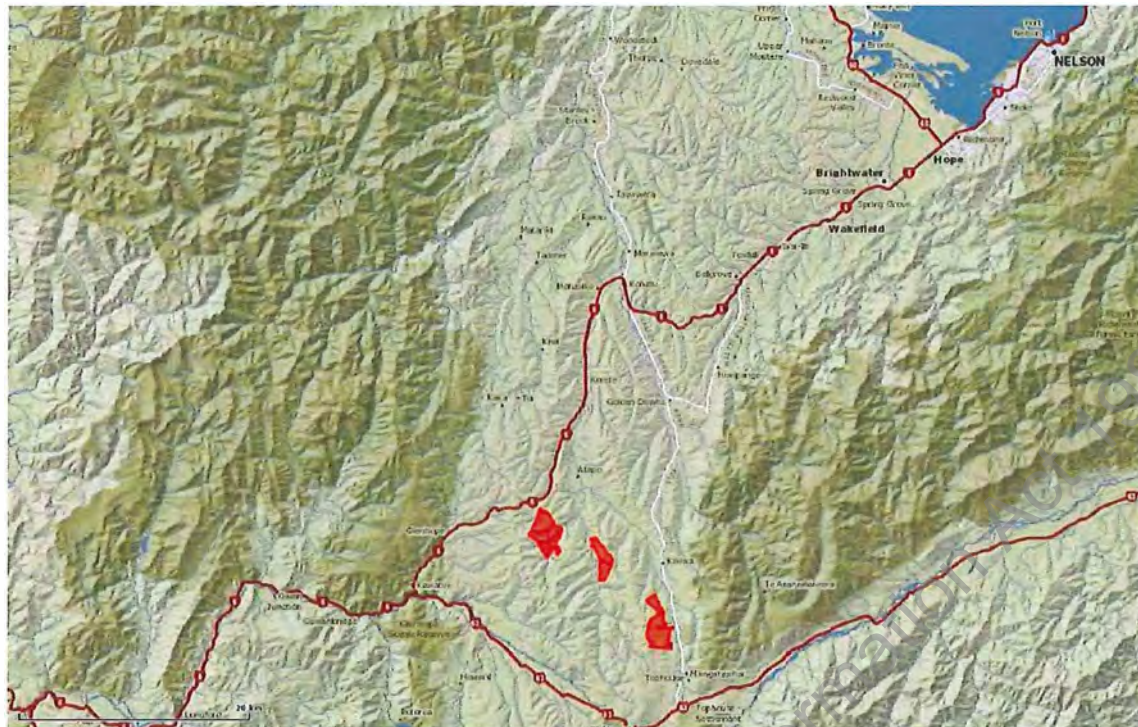


## Opouri Forest





## Rainy River Forest



## Serpentine Forest



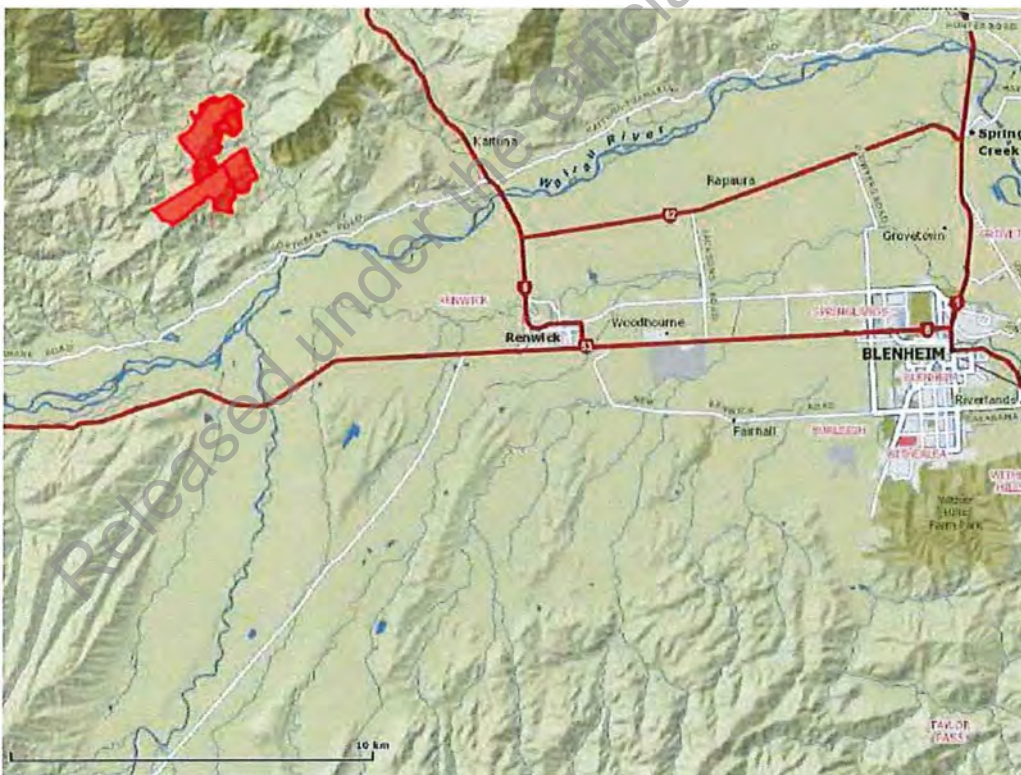


## Te Hepe Forest



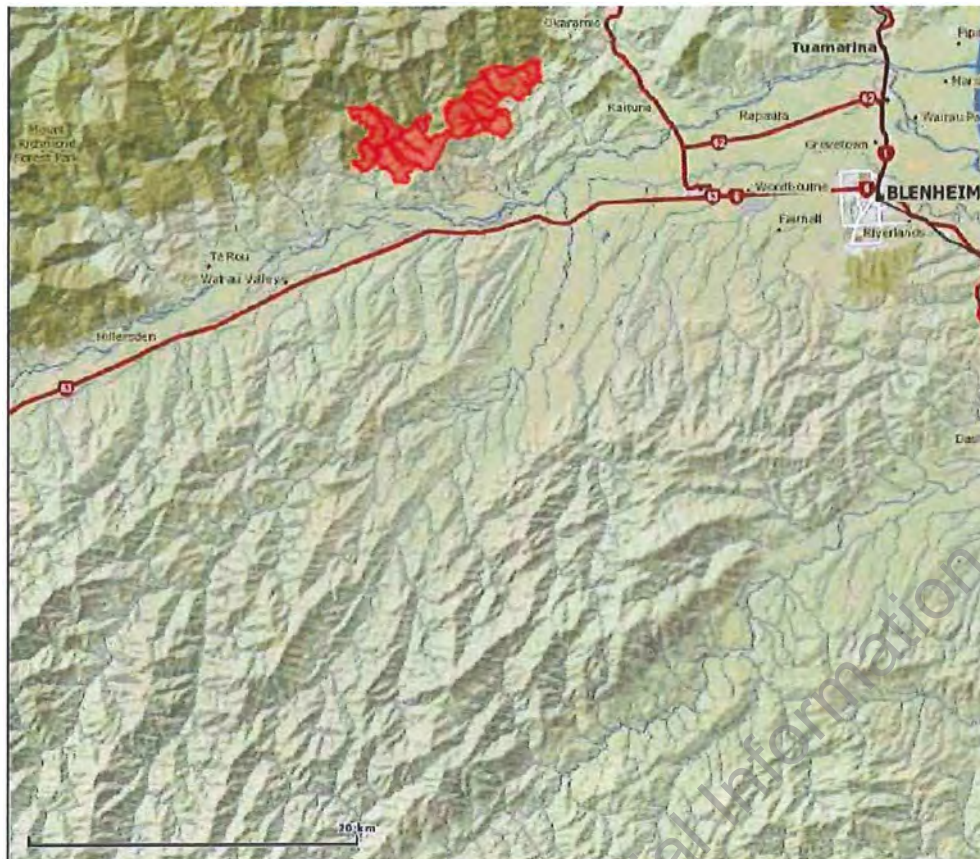
## Wairau Crown Forestry Licence

Adams Block

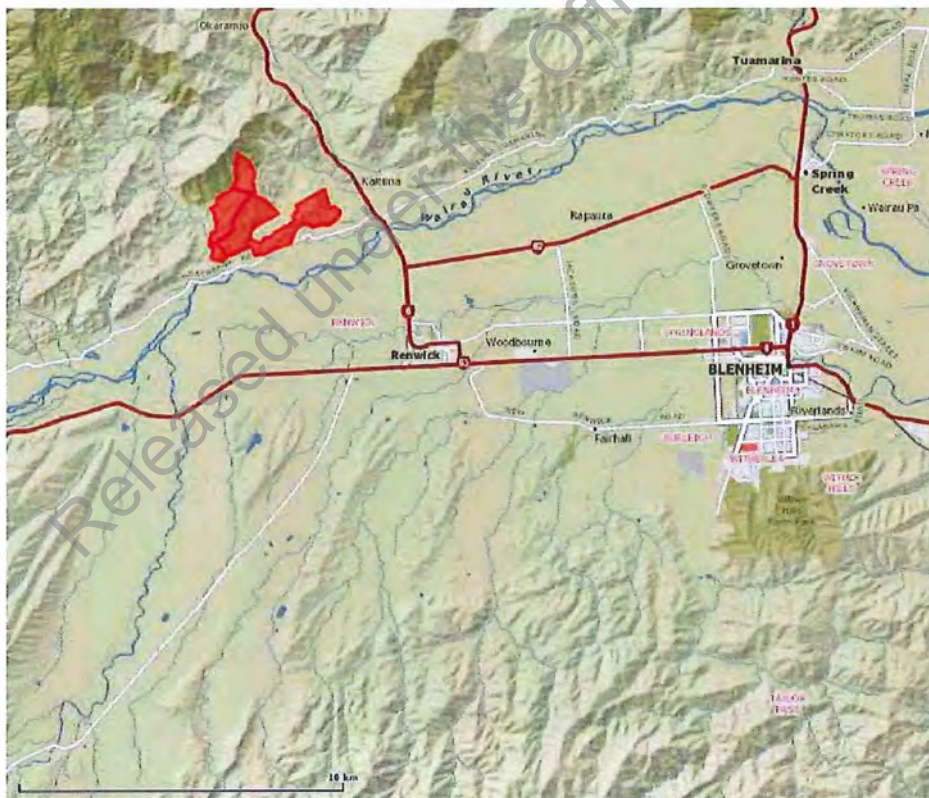




*Bartletts/ Briggs Block*

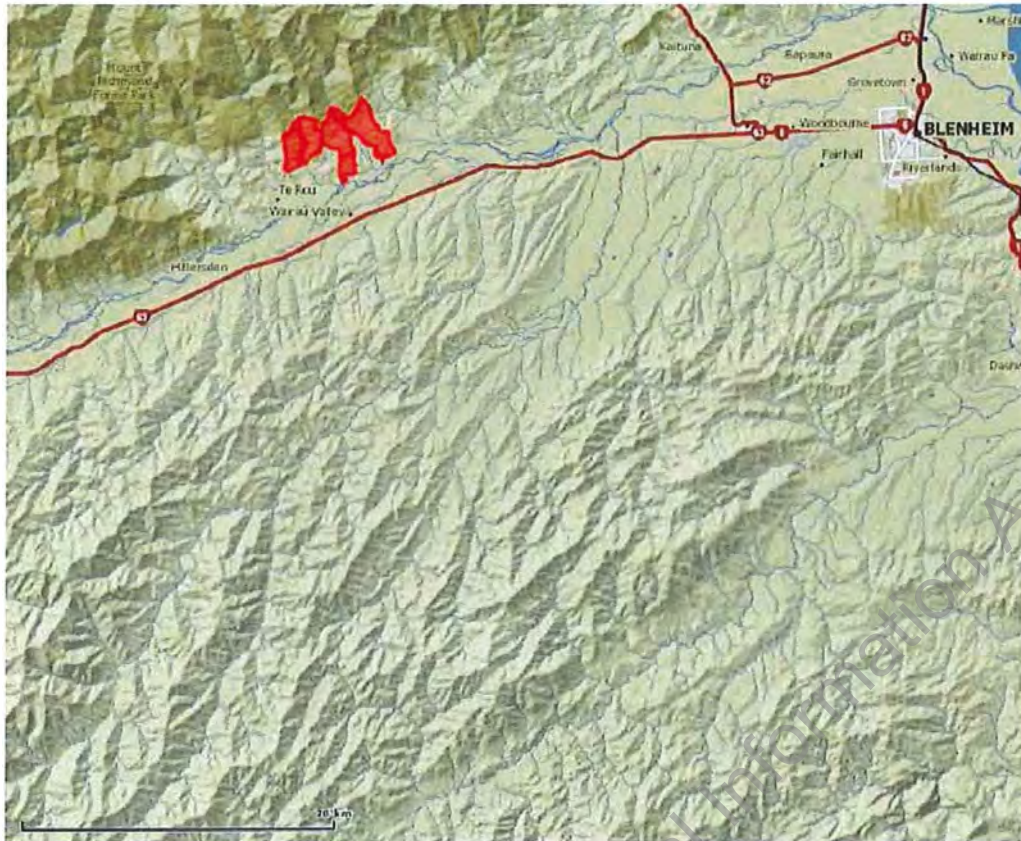


*Bookers Block*

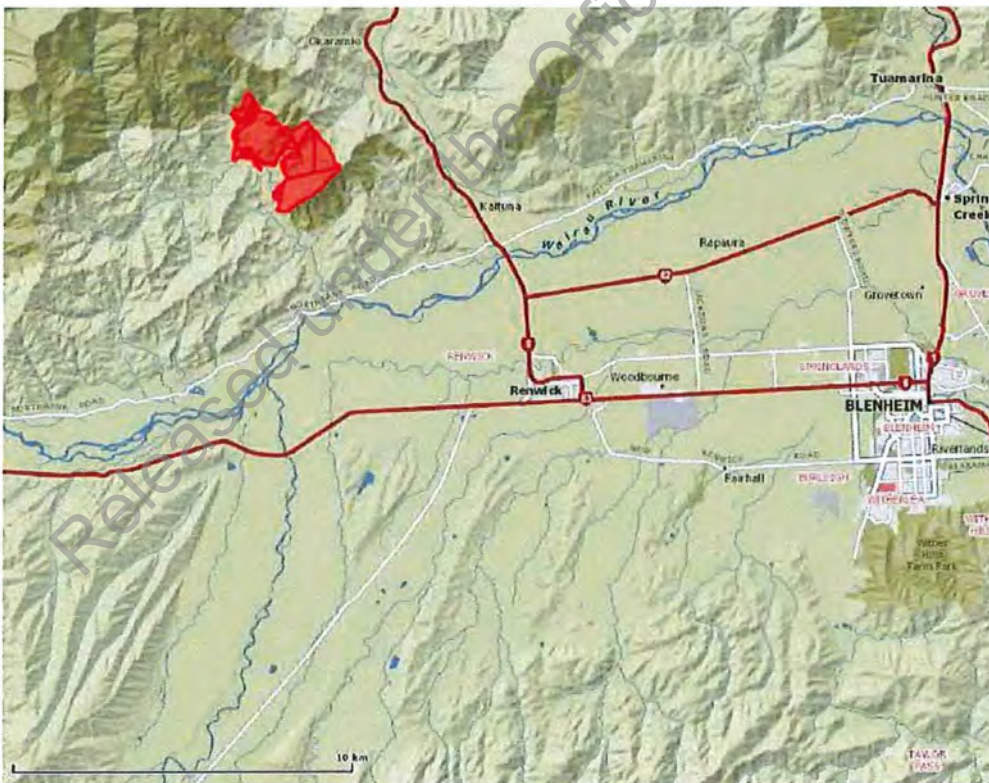




Cat Creek/ Pine Valley Block

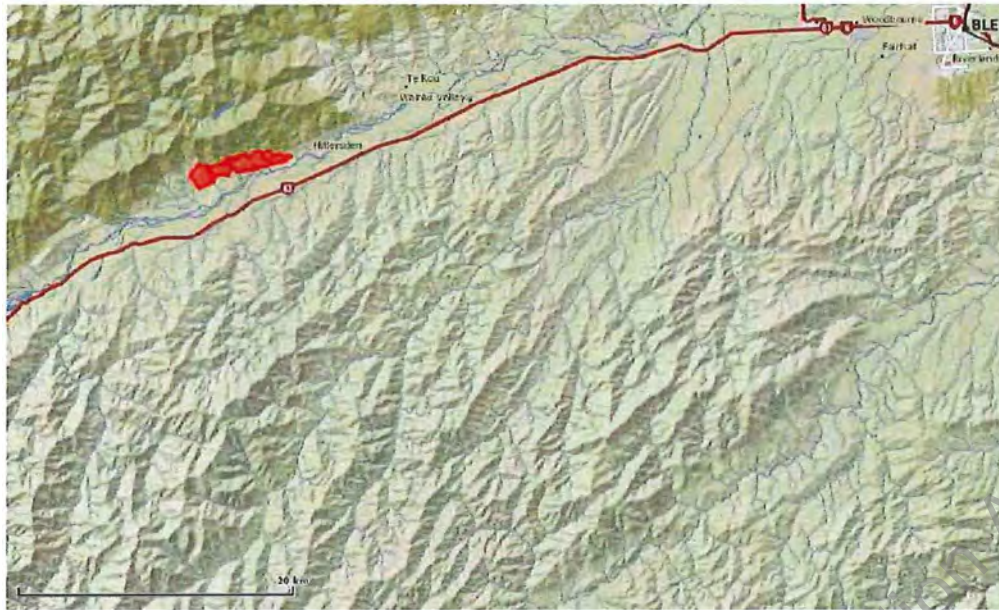


Davies Block

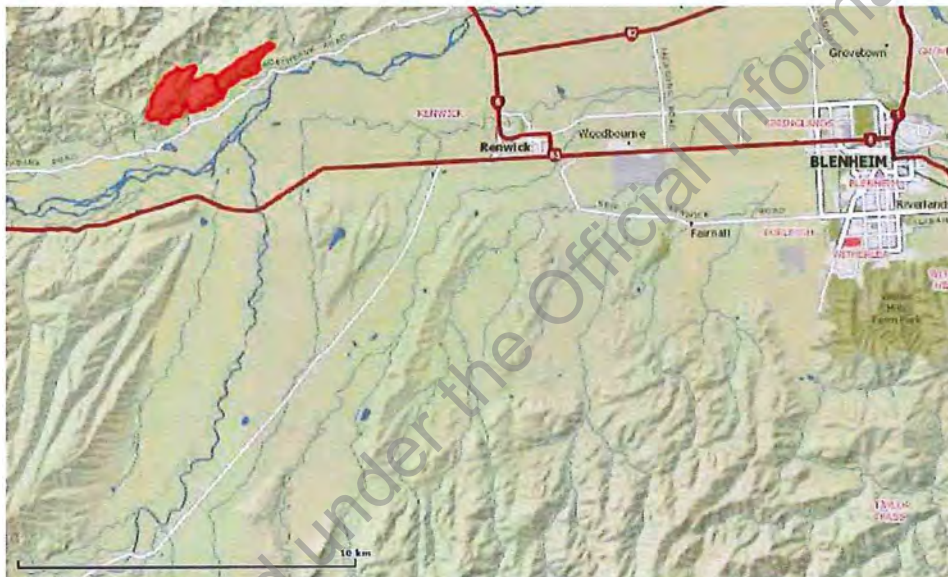




Glengyle Block

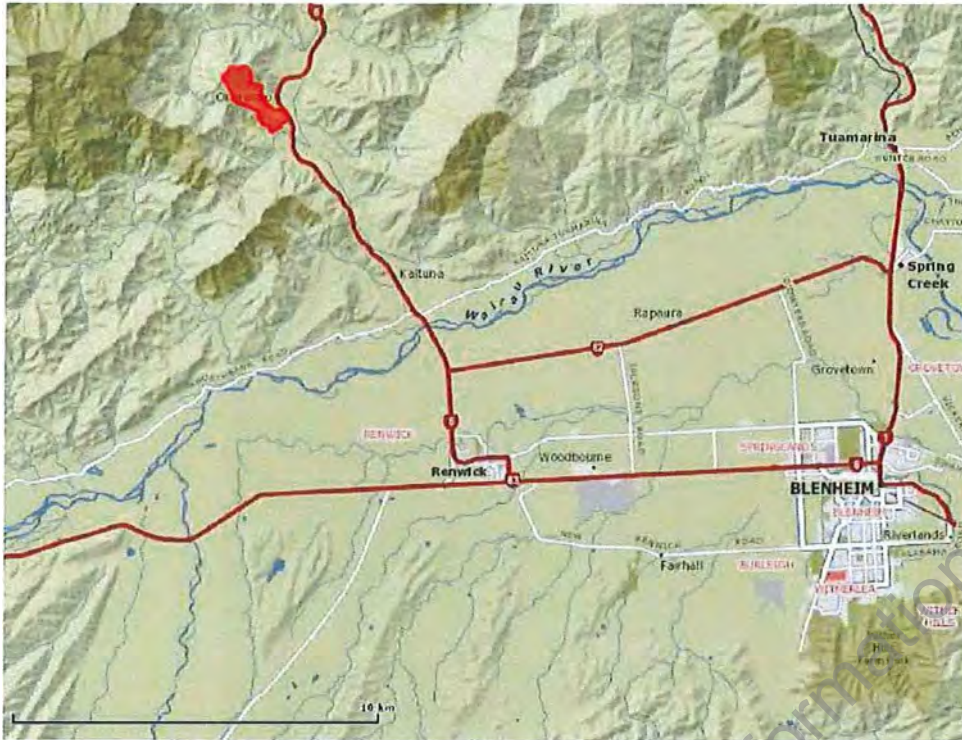


Langley Dale Block



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Okaramio Block

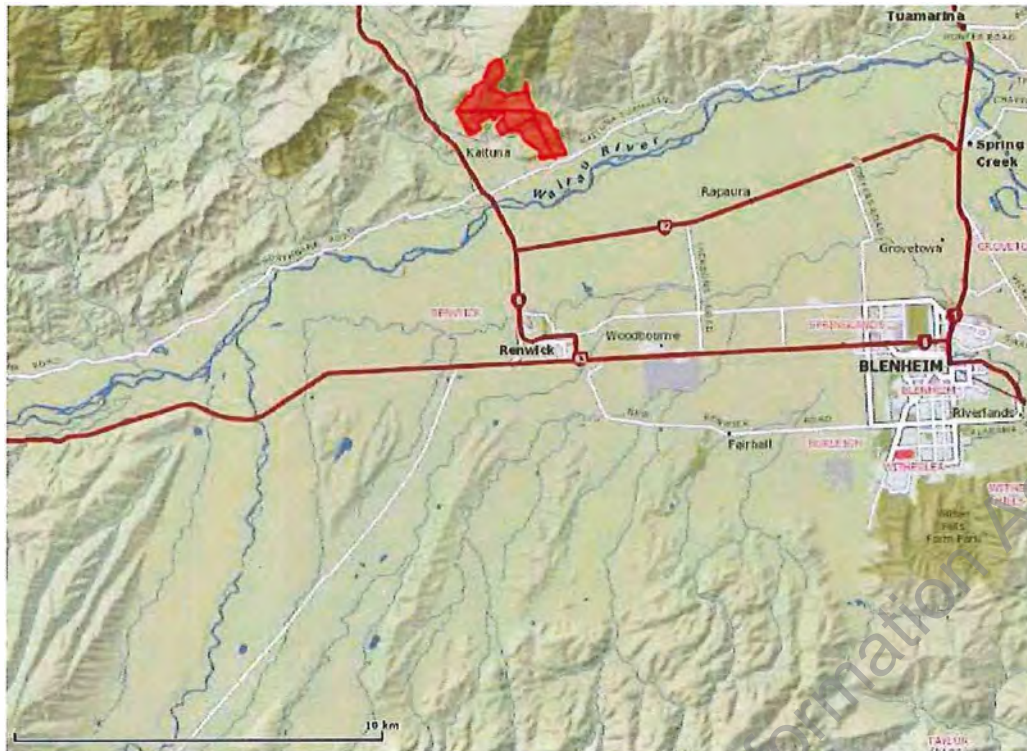


Patriarchs Block





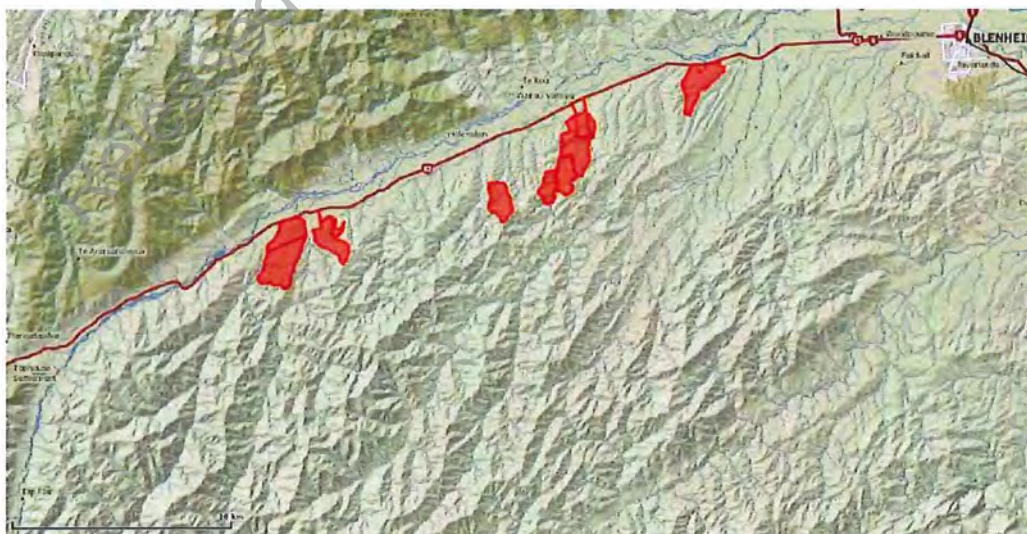
Storeys Creek Block



Top Valley Block



Wairau South Forest



## Wakamarina Forest



Released under the Official Information Act 1982



## Appendix 4 - Third Party Submission

### 1. Carter Holt Harvey Limited;

#### Summary of Third Party's Comments:

Carter Holt Harvey Limited (**CHH**) proposing to make a third party submission regarding the Applicant's application for consent to acquire NFL, currently owned by Global Forest Partners LP.

NFL is a major supplier of sawlogs to CHH Woodproducts New Zealand's (**WPNZ**) Nelson sawmill. WPNZ is reliant on ongoing supply of those sawlogs to continue its operations at the mill. NFL currently supplies about 50% of the Nelson mill's log requirements pursuant to a sawlog supply agreement (**Sawlog Agreement**) which expires on 31 December 2021. While the sawlog agreement can be renewed for a further five years, it requires both parties to agree to this. Since NFL has complete discretion to renew the sawlog agreement or not, any term beyond 31 December 2021 is entirely uncertain. This means there is only 45 more months of supply that is contracted for the Nelson mill. Without NFL's log supply to the Nelson mill production capacity will reduce by approximately 50% and the operation will no longer be economically viable. No Nelson mill means no timber processing, no jobs, no structural timber output.

The OIO is bound by the terms of the Ministerial Directive letter dated 28 November 2017. WPNZ submits that the OIO should impose a consent condition on the Applicant requiring it to extend the term of the Sawlog Agreement, consistent with paragraphs 18-20 of the Directive Letter.

#### Summary of Applicant's Comments:

The Applicant states that it is committed to supporting a wide range of domestic processing initiatives and this is shown by its track record in Australia which has resulted in increased supply to domestic customers by 45%. The Applicant states that it invests in the forestry industry for the long term.

The Applicant does not agree with CHH's submission and submits that no condition should be imposed for the following reasons:

- (a) The existing agreement was recently entered (early 2017) for a 5 year term, with a 5 year right of renewal by mutual agreement. The Applicant submits that the current term is sufficient as it was what the parties agreed at the time. It replaced a previous arrangement where supply was negotiated on an annual basis.

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

- (c) The Applicant submits that its application already sets out substantial and identifiable benefits in relation to domestic processing. [ s 9(2)(b)(ii) ]

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

OIO Assessment:

CHH's submission requests that we impose a condition of consent and submits that this would be consistent with the Ministerial Directive Letter as increasing domestic processing of logs in New Zealand. We note that there is an existing long-term supply arrangement in place between NFL and WPNZ. An extension to this contract or a replacement contract may be negotiated by the parties at the relevant time. NFL also has supply arrangements with other domestic processors in the Nelson/Marlborough region, some of which are long term.

The Ministerial Directive Letter directs us to treat the 'increased processing of primary products' factor as being of high relative importance. The Applicant has made a number of claims in relation to domestic processing which have been considered in relation to that factor. As outlined in the report, we consider that this factor has been met and the benefit arising should be given medium weight in the assessment of the application for consent. We consider that the Applicant's investment plan demonstrates substantial and identifiable benefit to New Zealand as set out in the report.

We do not consider that imposition of the condition requested in CHH's submission is appropriate in the circumstances. The overseas investment regime is intended to ensure that overseas investors deliver benefits to New Zealand. It is not intended to impose commercial arrangements without allowing parties to undertake their own commercial negotiations. We also note that imposition of a condition of the type requested may have unintended consequences, such as [ s 9(2)(b)(ii) ]

[REDACTED]

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