

To: Kirsty Hulena, Principal Customer Regulatory Specialist – Overseas Investment

ASSESSMENT REPORT: Coca-Cola Europacific Partners New Zealand Limited

Date	26 February 2024	Classification	IN CONFIDENCE: Commercially sensitive
LINZ reference	202400007	Suggested deadline	5 April 2024

Purpose

We seek your decision on an application for consent to acquire an interest in residential (but not otherwise) sensitive land under the Non-residential use test in the Overseas Investment Act 2005 (Act).

This decision has been delegated to Toitū Te Whenua Land Information New Zealand.¹

Action sought

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

Key information

Applicant	Coca-Cola Europacific Partners New Zealand Limited (United States of America (41.5%, Spain 36.9%, United Kingdom 6.6%, Various 14.9%))
Vendor(s)	XYX Investment Ltd (New Zealand 100%)
Land	A freehold interest in approximately 0.0736 hectares of land at 11 Carbine Road, Mt Wellington, Auckland
Consideration	\$2,450,000
Application type	Sensitive land – Non-residential use test
Relevant tests	Investor test: s 16(1)(a) and s 18A Non-residential use test: s 16(1)(b)(i)(C)

¹ All decisions where the land is residential but not otherwise sensitive are delegated to LINZ under Table A, row C, item 1 of the Designation and Delegation letter dated 24 November 2021.

Timing

4. The Overseas Investment Regulations 2005 specify the total assessment timeframe for this application is 55 working days. This application is currently on day 24, therefore a decision is due to the applicant by 10 April 2024.

A. Decision

Investor test

5. I determine that:

5.1 The 'relevant overseas person' is (collectively):

Relevant overseas person	Role
Olive Partners S.A.	A body corporate incorporated outside New Zealand with over 25% ownership of the Applicant
Coca-Cola Europacific Partners plc	100% owner of the Applicant
Coca-Cola Europacific Partners New Zealand Limited	Applicant

5.2 the 'individuals with control of the relevant overseas person' are:

Individuals with control	Role
Christopher Jon Litchfield Elizabeth Clare O'Neil Wendy Clare Rayner	Directors of the Applicant

5.3 None of the relevant overseas persons and individuals with control of the relevant overseas person have established any of the factors contained in section 18A(4) of the Act.

6. I am satisfied that the investor test in section 18A has been met.

Non-residential use test

7. I determine that the Relevant Business is the manufacture and distribution of ready-to-drink beverages (the **Relevant Business**).

8. I am satisfied that:

- 8.1 although the Land may be used for residential purposes once the overseas investment is given effect to, after 28 April 2027 the Land—
- a) is not likely to be used, nor held for future use, for any residential purposes; and
 - b) the non-occupation outcome applies².

² As defined in the Schedule 3, Clause 17 of the Act.

Transaction of national interest

9. I note that the overseas investment in sensitive land is not a transaction of national interest under section 20A of the Act and the Minister of Finance has not notified it is a transaction of national interest under section 20B of the Act.

Decision

10. I am satisfied that the criteria for consent have been met (set out above). I **grant** consent to the Investment in the form of the Proposed Decision in **Attachment 1**.

s9(2)(a)



Kirsty Hulena

Principal Customer Regulatory Specialist (Overseas Investment – L NZ)

Date: 27 / 02 / 2024

Released under the
Official Information Act 1982

B. Background and proposed transaction

11. Coca-Cola Europacific Partners New Zealand Limited (**the Applicant**), seeks consent to acquire a freehold interest in approximately 0.0736 hectares of residential land at 11 Carbine Road, Mt. Wellington, Auckland (**the Land**).
12. The Vendor is XYX Investment Limited.
13. Consent is required as the Applicant is an overseas person and the proposed transaction involves acquiring residential (but not otherwise sensitive) land under the Act.
14. The Land adjoins the Applicant's New Zealand head office at 19 Carbine Road, Mt. Wellington, Auckland, from where the Applicant and its predecessor companies have operated its business since 1963. The acquisition will enable the Applicant to increase the size of its operating site and upgrade its existing offices and other facilities on site (**The Oasis Site**).
15. The Applicant does not intend using the Land for its own residential purposes. There will be incidental residential use of the Land while the Applicant prepares the Land for development.
16. Below is an aerial photograph of The Land, identified by a blue outline containing a red circle and its proximity to The Oasis Site containing the Applicant's existing offices, manufacturing and distribution centre being the largest buildings in the image:



Figure 1 – The Land in proximity to the Oasis Site

C. Application of the Act

17. The Land is sensitive because it is residential (but not otherwise sensitive) land,³ so consent is required.⁴ Because the application is being made under the Non-residential use test the following criteria apply to this application:⁵
 - 17.1 The investor test must be met.⁶
 - 17.2 The Non-residential use test must be met.⁷

³ Table 1, Part 1, Schedule 1 of the Act.

⁴ Under sections 10(1)(a) and 12(a)(i) of the Act.

⁵ Set out in sections 16(1) of the Act.

⁶ Section 16(1)(a) and 18A of the Act.

⁷ Section 16(1)(b)(i)(C) of the Act.

- 17.3 You must also note whether the investment is a transaction of national interest and, if so, whether the Minister of Finance has decided that the investment is contrary to New Zealand's national interest.⁸
18. In order to satisfy the Non-residential use test, the decision-maker must be satisfied that the following outcomes are met:⁹
- 18.1 the Relevant Business is likely to continue for a reasonable period of time;
 - 18.2 the land will be used for non-residential purposes in the ordinary course of business for the Relevant Business
 - 18.3 will not be used, nor held for future use, for any residential purposes
19. We assess the investor test in Part D, the Non-residential use test in Part E, and discuss national interest matters in Part F.

D. Applicant and investor test

Relevant overseas person

20. The Applicant is, via intermediary companies, wholly owned by Coca-Cola Europacific Partners plc (**CEPP**), which is incorporated in England and Wales and manufactures and sells non-alcoholic and alcoholic ready to drink beverages across Western Europe and the Asia Pacific Indonesia region.
21. CEPP is owned by Olive Partners S.A (36.19%) (**Olive**), European Refreshments (19.16%) and various public shareholders on multiple stock exchanges (44.65%).
22. Olive is incorporated in Spain and is a holding company through which former shareholders of a company called Coca-Cola Iberian Partners S.A., which is now a subsidiary of CEPP, hold their shares in CEPP.
23. Olive is a relevant overseas person as it is a more than 25% subsidiary of a body corporate incorporated outside New Zealand.
24. CEPP is a relevant overseas person as it is the 100% owner of the Applicant.
25. The Applicant is a relevant overseas person as it is a wholly owned subsidiary of CEPP and is the acquiring entity of the asset.
26. A diagram of the Applicant's ownership structure is in **Attachment 1**.
27. For these reasons, we recommend that the 'relevant overseas person' is collectively:

Relevant overseas person	Role
Olive Partners S.A.	A body corporate incorporated outside New Zealand with over 25% ownership of the Applicant
Coca-Cola Europacific Partners plc	100% owner of the Applicant
Coca-Cola Europacific Partners New Zealand Limited	Applicant

Control

28. Decision making delegations are in place within the Applicant's ownership structure.

⁸ Section 16(1)(g) of the Act.

⁹ Schedule 2, Part 3 of the Act.

29. s9(2)(b)(ii) Some matters reserved to the board need s9(2)(b)(ii) to vote in favour so the matter can be passed.
30. CCEP's articles of association require the s9(2)(b)(ii)
31. CCEP operates as an independent business from Olive. The CCEP board of directors and management make all decisions regarding CCEP's business including its operations, financing and strategy. CCEP does not rely on Olive for any financing, external revenue or supply.
32. The Chief Executive Officer of CCEP and its Executive Leadership Team (ELT) manage the day-to-day business of the CCEP group, which encompasses the Asia Pacific Indonesia region and the wholly owned subsidiaries located there, including the Applicant.
33. s9(2)(b)(ii) The s9(2)(b)(ii) were responsible for approving the proposed transaction and they will also be responsible for the post-acquisition management of the asset.
34. The personnel of CCEP and Olive are not considered to be Individuals with Control as they have no decision-making involvement concerning the acquisition nor on-going management of the asset as it involves one residential parcel of land from a private vendor s9(2)(b)(ii).
35. The Applicant's Directors exercise control over the Applicant, they approved entry into the investment and will be responsible for ongoing management of the investment once purchased.

Thus, we recommend that the 'individuals with control of the relevant overseas person' (IWC)¹⁰ are:

Individuals with control	Role
Christopher Jon Litchfield Elizabeth Clare O'Neil Wendy Clare Rayner	Directors of the Applicant

Summary of investor test

36. The relevant overseas persons and individuals with control established none of the factors contained in section 18A(4) of the Act.
37. For the reasons set out above our conclusion is that **the investor test has been met.**

E. Investment plan and Non-residential use test

38. This section describes the proposed investment and our assessment of whether it is likely to meet the Non-residential use test criteria in the Act.

¹⁰ Section 15.

Investment

Land

39. The Applicant is one of the largest manufacturers and distributors of ready-to-drink beverages in New Zealand, including non-alcoholic and alcoholic ready to drink beverages, energy drinks and coffee.
40. The Applicant seeks consent based on the non-residential use test.
41. The Applicant already owns the adjoining land at 19 Carbine Road (the **Oasis Site**) where it carries out its manufacturing and distribution activities. The Oasis Site is the Applicant's head office and contains office facilities for the Applicant's sale and marketing staff, and other corporate functions such as finance, human resources, IT and legal.
42. s9(2)(b)(ii) [REDACTED]
43. As part of its expansion plans the Applicant needs to acquire adjacent properties and incorporate them into the Oasis Site to expand the footprint size so it can upgrade its office and other facilities to include additional manufacturing capability and house its sales and corporate functions staff.
44. The Applicant considered alternative locations but expanding the Oasis Site will secure the Applicant's future operations at one cohesive site. Future-proofing the Oasis Site is fundamental to the continued investment on site and employment across the full range of functions currently located at the Oasis Site.
45. The Applicant has s9(2)(b)(ii) [REDACTED] and now owns 25 Carbine Road, which was previously owned by the Dilworth Trust Board until December 2022 and numbers 7 and 9 Carbine Road, for which OIO consent was granted in March 2023.¹¹ Numbers 7 and 9 Carbine Road were acquired by the Applicant on 28 April 2023.
46. If consent is granted under this application, s9(2)(b)(ii) [REDACTED]
47. The Applicant will not use the Land for its own residential purposes and has no intention of selling the Land. The primary purpose is to use the Land for non-residential purposes to further the Applicant's existing business activities. The Land is zoned as mixed-use commercial land, thereby allowing for the erection of buildings for commercial purposes.
48. The Land is currently occupied under a tenancy agreement and will continue to be rented out in its current state under this agreement pending redevelopment of the Oasis Site or at latest 4 years from the purchase date of numbers 7 and 9 Carbine Road, as this is a condition of the OIO consents granted to acquire numbers 7 and 9 Carbine Road.¹² Numbers 7 and 9 Carbine Road were purchased on 28 April 2023 so the outside date for using numbers 7 and 9 Carbine Road for residential use, is 28 April 2027. The Applicant has aligned the outside date for residential use of the Land to coincide with this date.
49. A sale and purchase agreement to acquire the Land was entered into on 11 December 2023 and is subject to the Applicant obtaining consent under the Overseas Investment Act 2005.

¹¹ Consent numbers 202200545 and 202200546

¹² Special Condition 1 – The Land must be used for non-residential purposes in the ordinary course of business for the Relevant Business and must not be used or held for any residential purposes within 4 years of acquiring the Land.

Relevant Business

50. We consider the Relevant Business of the Applicant is the manufacture and distribution of ready-to-drink beverages (**Relevant Business**).
51. The Applicant and its predecessor companies have been operating from the Oasis Site since 1963. We are satisfied the business is likely to continue for a reasonable period of time.

Submissions

52. No third-party submissions were sought or received in relation to this application.

Non-residential use test

53. This section considers whether the residential land will be, or is likely to be (or will, or is likely to be):
 - 53.1 used for non-residential purposes in the ordinary course of business for the Relevant Business; and
 - 53.2 not be used or held for residential purposes;together referred to as the **non-residential use outcome**.

Non-residential purpose

54. The Applicant intends using the Land to expand its operations at the Oasis Site.
55. The Applicant has secured the adjacent properties at numbers 7,9 and 25 Carbine Road, s9(2)(b)(ii) .
56. The Applicant is currently considering how to best utilise the Oasis Site as its operations at the Oasis Site are multi-faceted and complex. This includes production lines, a distribution centre, national contact centre, sales staff, office facilities spread across various buildings and an average of s9(2)(b)(ii) cases of beverages being produced per day and over s9(2)(b)(ii) coming to the Oasis Site daily.
57. The Applicant also has an Equipment Services part of the business at leased premises in Tamaki, Auckland, which deals with coolers, vending machines and coffee machines. It is undetermined if this part of the business will move to the Oasis Site as there are limitations on how to organise such activities with the flow of inward and outward equipment and parts. The Applicant also has a coffee roastery operation in Avondale, Auckland and it is still undetermined if this will be relocated to the Oasis Site.
58. The Applicant is working on a plan to determine how its full activities can be best organised at the Oasis Site. The Applicant anticipates the planning and design phase will take a s9(2)(b)(ii)

Land not to be used or held for residential purposes

59. The Applicant confirms no ROP, no overseas person who has more than 25% ownership or control interest in any ROP, no overseas person who occupies the land otherwise than on arm's-length terms, no overseas person with a beneficial interest in or entitlement to the relevant interest in the Land, or if the ROP is a trust, no person who may directly or indirect benefit under the trust at the discretion of the trustees, will occupy the Land.
60. Until the Applicant can begin developing the Land to meet its business needs the Land will remain occupied on an arms-length basis under the current tenancy agreements.

Timeframe for non-residential use outcome

61. [REDACTED] the Applicant must convert the Land from residential purposes by 28 April 2027, at the latest.

Conclusion

62. We are satisfied that **the non-residential use outcome is met**.
63. The Act requires condition(s) be imposed on any consent granted where the non-residential use outcome is met (clause 18, Schedule 2). Proposed Special Condition 1 meets this requirement by requiring the Applicant to use the Land for non-residential purposes in the ordinary course of business relating to the manufacture and distribution of ready-to-drink beverages until no later than 28 April 2027.
64. Given the timeframe for the non-residential use outcome to be met, proposed Special Condition 2 includes the non-occupation outcome.

F. Not a transaction of national interest

65. The transaction is **not** a transaction of national interest as the residential (but not otherwise sensitive) land exemption under regulation 3D(2)(a) of the Overseas Investment Amendment Regulations 2020 applies.
66. We also consider that this should not be a discretionary national interest call up, as the proposed investment:
- will not pose a risk to NZ's national security or public order;
 - will not grant the relevant overseas person significant market power within an industry or result in vertical integration of a supply chain;
 - does not involve a non-NZ government investor which would gain disproportionate access to or control of the sensitive assets;
 - will not have outcomes that are significantly inconsistent with or would hinder the delivery of other Government objectives.

G. Conclusion and recommendation

67. We recommend you grant consent to the Investment as we consider all of the relevant criteria have been met.
68. The conditions we recommend are set out in the Proposed Decision (**Attachment 2**). These conditions include all required mandatory conditions and additional discretionary conditions.

s9(2)(a)

Martin Carter
Advisor
Overseas Investment -LINZ

Date: 24 /02/2024

H. List of Attachments

1. Ownership Structure
2. Proposed Decision and Conditions

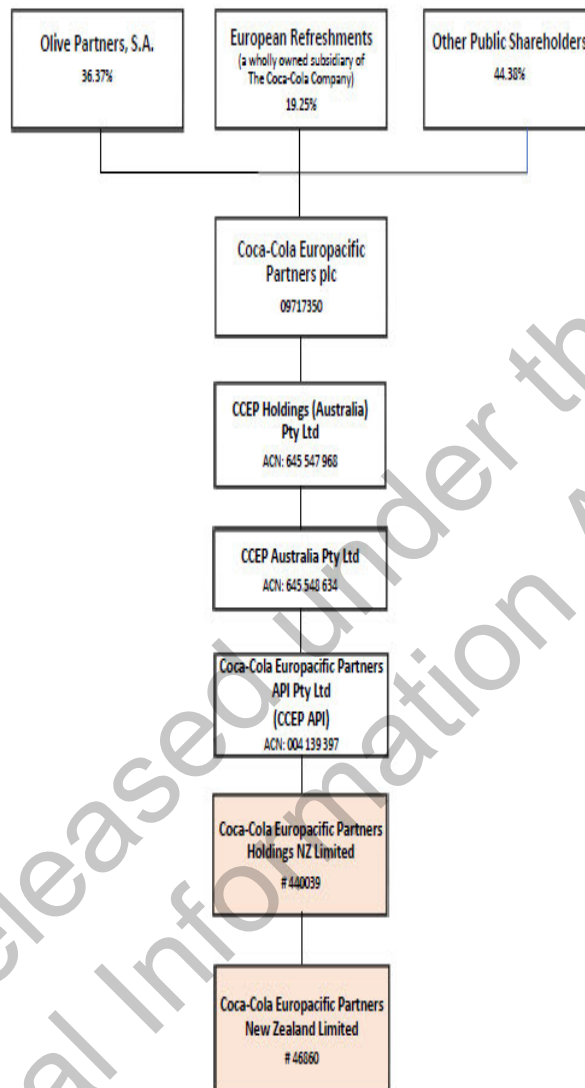
Released under the
Official Information Act 1982


Attachment 1: Ownership Structure



CCEP NZ ENTITY STRUCTURE CHART

Confidential & Restricted
CURRENT AS AT: 28.02.2022



NOTES	
Shareholdings are 100% unless otherwise indicated	
	New Zealand

Attachment 2: 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: 27 February 2024

The following people have been given the following consent:

Case	202400007
Consent	Coca-Cola Europacific Partners New Zealand Limited may acquire the Land subject to the Conditions set out below.
Consent holder/s	Coca-Cola Europacific Partners New Zealand Limited (company number 46860) We will also refer to each Consent holder and the Consent holders together as you.
Land	A freehold interest in approximately 0.0736 hectares of residential land at 11 Carbine Road, Mt Wellington, Auckland, Record of Title NA6A/1087 (North Auckland)
Timeframe	You have until 28 February 2025 to acquire the Land.

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 Toitū Te Whenua Land Information New Zealand as LINZ, us or we.

Definitions

Act means Overseas Investment Act 2005

Regulations means Overseas Investment Regulations 2005

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

Special conditions

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

Details	Required date
Special Condition 1: use the Land for non-residential purposes	
<p>(a) You must use the Land for non-residential purposes in the ordinary course of business for the Relevant Business.</p> <p>(b) You must not use or hold the Land for any residential purposes.</p> <p>If you do not comply with this condition, Standard Condition 6 will apply and we may require you to dispose of the Land.</p>	<p>1(a). no later than 28 April 2027</p> <p>1(b). After 28 April 2027</p>
Special Condition 2: Non-occupation outcome	
<p>None of the following people may occupy the Land acquired under this Consent:</p> <p>(a) You.</p> <p>(b) Any overseas person with a more than 25% ownership or control interest in any of the people in (a).</p> <p>(c) Any overseas person who occupies the Land other than on arm's length terms¹³.</p> <p>(d) Any overseas person who has a beneficial interest in, or beneficial entitlement to, the relevant interest in the Land.</p> <p>(e) If (a) is a trust, any beneficiary (direct or indirect) who may benefit under the trust at the trustees' discretion.</p> <p>If you do not comply with this condition, Standard Condition 6 will apply, and we may require you to dispose of the Land.</p>	At all times

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:

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:

¹³ At arms length terms' has the meaning in clause 17, Part 5, Schedule 2 of the Overseas Act 2005. In summary it means terms, for example under a lease (or other contract), that are on a reasonable commercial basis.

Details	Required date
Standard Condition 1: Acquire the Land and Assets	
<p>You must acquire the Land and Assets:</p> <ol style="list-style-type: none"> 1. by the date stated in the Consent. If you do not, your Consent will lapse or become invalid and you must not acquire the Land and Assets, and 2. using the acquisition, ownership, and control structure you described in your application. Note, only you - the named Consent Holder - may acquire the Land and Assets, not your subsidiary, trust, or other entity. 	As stated in the Consent
Standard Condition 2: Tell us when you acquire the Land and Assets	
<p>You must tell us in writing when you have acquired the Land and Assets. Include details of:</p> <ol style="list-style-type: none"> 1. the date you acquired the Land and Assets (Settlement), 2. consideration paid (plus GST if any), 3. the structure by which the acquisition was made and who acquired the Land and Assets, and 4. copies of any transfer documents and Settlement statements. 	As soon as you can, and no later than two months after Settlement
Standard Condition 3: Allow us to inspect the Land	
<p>Sometimes it will be helpful for us to visit the Land so we can monitor your compliance with the Conditions. We will give you at least two weeks' written notice if we want to do this. You must then:</p> <ol style="list-style-type: none"> 1. Allow a person we appoint (Inspector) to: <ol style="list-style-type: none"> a. enter onto the Land, including any building on it, other than a dwelling, for the purpose of monitoring your compliance with the Conditions (Inspection), b. remain there as long as is reasonably required to conduct the inspection, c. gather information, d. conduct surveys, inquiries, tests, and measurements, e. take photographs and video records, and f. do all other things reasonably necessary to carry out the Inspection. 2. Take all reasonable steps to facilitate an Inspection including: 	At all times

Details	Required date
<p>a. directing your employees, agents, tenants, or other occupiers to permit an Inspector to conduct an Inspection,</p> <p>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.</p> <p>During an Inspection:</p> <p>a. we will not compel you and your employees, agents, tenants, or other occupiers to answer our questions or to let us look at, copy or take away documents,</p> <p>b. our Inspector will comply with any reasonable instruction and co-operate with any reasonable health and safety policy or procedure you notify to us before the Inspection.</p>	
Standard Condition 4: Remain not unsuitable to Invest in New Zealand	
<p>You, and to the extent that you are not an individual, the Individuals Who Control You must remain not unsuitable to own or control the Assets in accordance with section 18A(1) of the Act.</p> <p>The Individuals Who Control You are individuals who:</p> <p>a. are members of your governing body</p> <p>b. directly or indirectly, own or control more than 25% of you or of a person who itself owns or controls more than 25% of you, and</p> <p>c. are members of the governing body of the people referred to in paragraph (b) above.</p>	At all times
Standard Condition 5: Tell us about changes that affect you, the people who control you, or people you control	
<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"> 1. You become aware that you and/or any Individual Who Controls you establishes any of the investor test factors listed in section 18A(4) of the Act. 2. You cease to be an overseas person or dispose of all or any part of the Asset. 3. Your New Zealand Service Address changes. This is the address you provided us in your application as 	Within 20 working days after the change

Details	Required date
the address which we will send any legal document we need to serve on you.	
Standard Condition 6: Dispose of the Land if you do not comply with key Special Conditions	
<p>If all or part of this Standard Condition 6 applies to a Special Condition, we have said so in that Special Condition.</p> <p>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 will give you written notice if we require you to dispose of the Land. After we have given you notice, you must:</p>	
Value the Land: obtain and send us a copy of a market valuation of the Land from a New Zealand registered valuer.	Within six weeks of the date of our notice
Market the Land: instruct a licensed real estate agent to actively market the Land for sale on the open market.	Within six weeks of the date of our notice
Dispose of the Land: dispose of the Land to a third party who is not your associate.	Within six months of our notice
Offer without reserve: if you have not disposed of the Land within six months of our notice, offer the Land for sale by auction or tender without a reserve price or minimum bid and dispose of the Land.	Within nine months of our notice
Report to us about marketing: tel 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
<p>Report disposal to us: send us, in writing, evidence of the following:</p> <p>a. that you have disposed of the Land (including copies of sale and purchase agreements, settlement statements and titles showing the purchaser as registered proprietor), and</p> <p>b. that the purchaser is not your associate.</p>	Within one month after the Land has been disposed of

Reporting conditions

We need information from you about how your investment plan is tracking so we can monitor your progress against the Conditions.

In addition to Settlement reporting (as set out in Standard Condition 2), you must provide the OIO with reports detailing the progress of the investment. The reports must:

1. be submitted via our Webform by these dates:
 - a. **30 April 2027**
2. contain information about:
 - a. your progress in implementing the Special Conditions (which can include photographs, maps or aerial imagery as evidence of compliance with relevant conditions)
3. follow the format of the template annual report published on our website

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

- a. the representations and plans made or submitted in support of the application and notified by the regulator as having been taken into account when the Consent was granted, or
- b. the conditions of this Consent

Power to vary reporting date

The dates on which reports are due to be provided may be changed by agreement between the regulator and the consent holder, provided that this power may not be used to give a time extension for an individual report.

Power to narrow scope of reports

The regulator may temporarily or permanently waive the requirement to report on a particular matter.

Power not to require further reporting

The regulator may waive the requirement to submit a report and may waive the requirement for future reporting.