

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

## ASSESSMENT REPORT: Shanghai Yuehua-Kangjian Investment & Management Co. Ltd and Gui Guojie

<b>Date</b>	17 May 2021	<b>Classification</b>	IN CONFIDENCE: Commercially sensitive
<b>OIO reference (Report reference)</b>	202000423 (ref #) BRF 21-503	<b>Suggested deadline</b>	28 June 2021

### Purpose

We seek your decision on a retrospective application for consent to acquire sensitive land under the Overseas Investment Act 2005 (**the Act**).

### Action sought

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

### Key information

For the reasons set out in this report, our recommendation is to **grant consent** on the basis of the conditions in this report.

### OIO Contacts

Name	Position	Contact number	First contact
Anneke Turton	Manager Applications	+64 4 830 2513	<input checked="" type="checkbox"/>
Will McGrath	Senior Solicitor	+64 4 462 4435	<input type="checkbox"/>
Sherlene Ho	Solicitor	+64 4 474 1017	<input type="checkbox"/>

## A. Summary

1. Shanghai Yuehua-Kangjian Investment & Management Co. Ltd (**Shanghai Yuehua**), a Chinese-incorporated company, and Gui Guojie, a Chinese citizen, seek retrospective consent for offshore changes in shareholding in Shanghai CRED Real Estate Development Co. Ltd. (**Shanghai CRED**). The shareholding changes, which occurred in November 2017, effectively resulted in Mr Gui increasing his indirect shareholding in Shanghai CRED from approximately 39.92% to 83.34%. Shanghai CRED ultimately holds interests in approximately 1,119 hectares of sensitive land in Karikari Peninsula, Northland (**the Carrington Land**).
2. These transactions resulted in an increase of interests in sensitive land for which consent under the Act was required and was, inadvertently, not sought.
3. Mr Gui intends to continue to operate the luxury resort on the land, and develop the golf course, winery and vineyard, and clay target shooting club on the land with the increased ownership and control of Shanghai CRED and access to capital.
4. For the reasons set out in this report, while finely balanced, our recommendation is to **grant consent**.

### Key information

Applicant	<b>Shanghai Yuehua-Kangjian Investment &amp; Management Co., Ltd.</b> (100% China, People's Republic of) <b>Gui Guojie</b> (China, People's Republic of)
Vendors	<b>Shanghai Juyuan Real Estate Development Co., Ltd.</b> (100% China, People's Republic of) <b>Pei Zhan, Hui Kang Zhang, Huan Hao Zhong, Jian Wei Tang, Shao Qiang Qu, Pu Lie Xu, Yu Zheng, Xi Bao Shen, Wen Yu, Ping Zhuang</b> (All China, People's Republic of)
Land	Approximately 1,118.75 ha of land, plus 9/14ths of 8630m <sup>2</sup> in Karikari Peninsula, Northland.
Consideration	In total, approximately RMB 264 million or approximately NZD 56.4 million.
Sensitivities	<u>Contains:</u> non-urban land of over 5 hectares, residential land, marine and coastal area, land larger than 0.4 hectares being the bed of a lake, special land, land that is greater than 0.2 hectares and adjoins marine and coastal area <u>Land that adjoins:</u> the bed of a lake, land held for conservation purposes under the Conservation Act 1987, and a reserve under the Reserves Act 1977 that is administered by Department of Conservation.
Relevant tests	Investor test - (s16(1)(a) and s16(2) of the Act) Benefits test – substantial and identifiable benefits (s16(1)(c)(ii) and s16A of the Act) Farm land advertising (s16(1)(f)) National Interest (s16(1)(g)) Residential land outcome (s16B)

### Timing

5. As this application relates to retrospective consent, there is no specific commercial deadline by which consent is sought. Nevertheless, we consider it would be helpful for the Applicant's development plans to receive consent prior to 28 June 2021.
6. Processing days for the application are set out in the table below. The OIO's processing time was longer than usual due to an investigation into historic compliance

issues with Shanghai CRED's previous consents under the Act. Following this investigation, the OIO had high-level correspondence with the Applicants as to possible conditions for a consent to ensure that the developments in the application could be effectively conditioned which, too, delayed the assessment of the application.

7. Nevertheless, we note that there is no Standard Performance Expectation relating to retrospective applications, and there is therefore no timeframe in which the OIO is expected to complete assessment of these types of applications.

Quality Assurance	OIO Processing	Waiting for Applicant / Vendor	Third party consultation
12	90	87	-

Released under the Official Information Act 1982

## B. Decision

### Core tests

8. I determine that:

8.1 the 'relevant overseas person' is (collectively):

ROP	Role
Shanghai Yuehua-Kangjian Investment Management Co. Ltd (Shanghai Yuehua)	Applicant, and the entity that underwent shareholding change in Shanghai CRED Real Estate Co. Ltd
Gui Guojie	Applicant, and the individual with shareholding change in Shanghai Bao Yang Asset Management Co., Ltd.

8.2 the 'individual with control of the relevant overseas person' is:

IWC	Role
Gui Guojie	99.5% owner of Shanghai Yuehua, and 83.34% ultimate beneficial owner of Shanghai CRED Real Estate Co. Ltd and therefore the majority ultimate owner of the sensitive land.

8.3 the individuals with control of the relevant overseas person collectively have business experience and acumen relevant to the overseas investment;

8.4 the relevant overseas person has demonstrated financial commitment to the overseas investment;

8.5 all the individuals with control of the relevant overseas person are of good character notwithstanding the identified breach of the Act; and

8.6 the 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 (which sections list certain persons not eligible for visas or entry permission under the Immigration Act); and

9. I am satisfied that the investor test in section 16(2)(a)-(d), as outlined in paragraph 9 above, has been met; and

**Hon Dr Megan Woods**

Agree

Disagree

**Hon Damien O'Connor**

Agree

Disagree

10. I am satisfied, in relation to the benefits test, that:
- 10.1 the criteria for consent in sections 16 and 16A have been met;
  - 10.2 the overseas investment will, or is likely to, benefit New Zealand (or any part of it or group of New Zealanders); and
  - 10.3 the benefit will be, or is likely to be, substantial and identifiable.

**Hon Dr Megan Woods**

**Hon Damien O'Connor**

Agree

Agree

Disagree

Disagree

11. I am satisfied, in relation to farm land advertising, that the criteria need not be met by reason of the circumstances relating to the particular overseas investment, as set out in the Report.

**Hon Dr Megan Woods**

**Hon Damien O'Connor**

Agree

Agree

Disagree

Disagree

*National interest assessment*

12. 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.

**Hon Dr Megan Woods**

**Hon Damien O'Connor**

Noted

Noted

Decision about whether to grant or decline consent

13. Consent is granted to the investment in the form of the Proposed Decision in Attachment 1

**Hon Dr Megan Woods**

Grant consent subject to the conditions in the Proposed Decision

Grant consent with amended conditions provided on:

Consent declined



Hon Dr Megan Woods

Date: 7 / 7 / 21

**Hon Damien O'Connor**

Grant consent subject to the conditions in the Proposed Decision

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Consent declined

Hon Damien O'Connor

Date: / /

Released under the Official Information Act 1982

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8.4 the relevant overseas person has demonstrated financial commitment to the overseas investment;

8.5 all the individuals with control of the relevant overseas person are of good character notwithstanding the identified breach of the Act; and

8.6 the 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 (which sections list certain persons not eligible for visas or entry permission under the Immigration Act); and

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**Hon Dr Megan Woods**

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**Hon Damien O'Connor**

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Agree

Disagree

Disagree

*National interest assessment*

12. 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.

**Hon Dr Megan Woods**

**Hon Damien O'Connor**

Noted

Noted



*Decision about whether to grant or decline consent*

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Consent declined

**Hon Damien O'Connor**

Grant consent subject to the conditions in the Proposed Decision

Grant consent with amended conditions provided on:

Consent declined

**Hon Dr Megan Woods**

Date: / /

**Hon Damien O'Connor**

Date: 18/5/21

Released under the Official Information Act 1982

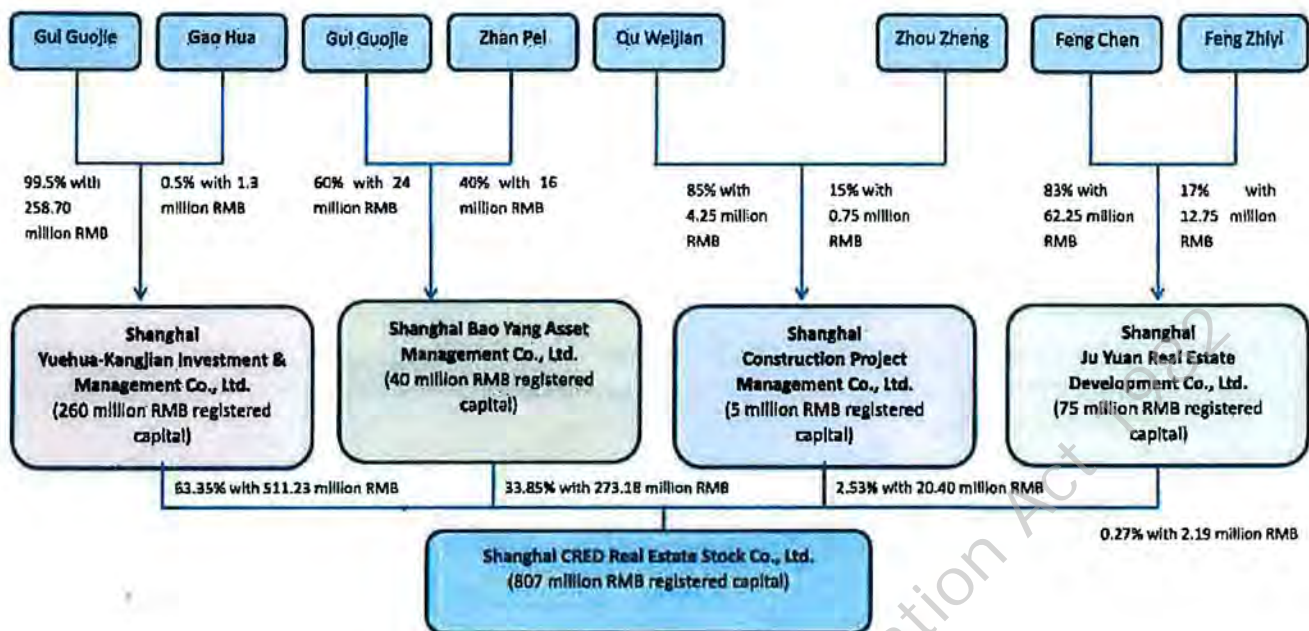
## C. Background to transaction

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14. Shanghai Yuehua is a China-incorporated company providing a range of business, finance, and consulting services. It is 99.5% owned by Gui Guojie, a Chinese citizen who has over 40 years experience in real estate development, construction, demolition and surveying.
15. Gui Guojie is the chairperson of Shanghai CRED (which indirectly owns the Carrington Land) and, prior to November 2017, directly and indirectly owned approximately 39.92% of this company.
16. Shanghai CRED is a large real estate developer in Shanghai, China that focuses on integrated property development (including residential homes, offices, resort properties, golf courses etc).
17. In June 2013, Shanghai CRED obtained consent under the Act to obtain approximately 1,116 ha of land at Karikari Peninsula, Northland, which is commonly known as Carrington Resort (the **2013 Consent**). The vendor, an American, sought to sell because there was a downturn in the profitability of various businesses in the region as a result of the impact from the Global Financial Crisis in 2009. The vendor developed a strategy to target the Chinese tourism market which, at the time, was the fastest growing source of tourists which aligned with Shanghai CRED's business.
18. In March 2015, an entity ultimately 100% owned and controlled by Shanghai CRED obtained a further consent under the Act. This consent related to approximately 2.5 ha of land nearby at Karikari Peninsula which consists of the Whatuwhiwhi Top 10 Holiday Park (the **2014 Consent**).
19. In July 2018, Shanghai CRED notified the OIO that changes in its ownership occurred in November 2017 in breach of the Act, namely:
  - Shanghai Yuehua increased its shareholding in Shanghai CRED from 40.13% to 63.35%; and
  - Mr Gui Guojie increased his shareholding in Shanghai Bao Yang Asset Management Co Ltd (**Shanghai Bao Yang**) from 33.85% to 60%, which itself had interests in Shanghai CRED.<sup>1</sup>
20. The net effect of these transactions is that Mr Gui Guojie has increased his interest in Shanghai CRED, and the sensitive land, from 39.92% to 83.34%. We detail a structure diagram over the page showing the current corporate structure following the transactions, and a larger version at **Attachment 3**.

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<sup>1</sup> These changes in ownership required consent under the Act because Shanghai CRED has a beneficial interest in the Carrington Land, and: Shanghai Yuehua increased a 25% or more interest in sensitive land (through its 40.13% shareholding in Shanghai CRED) in breach of section 12(b)(ii) of the Act; and Mr Gui Guojie acquired a more than 25% interest in an entity (Shanghai Bao Yang) that has an interest in sensitive land (through its 33.85% interest in Shanghai CRED) in breach of section 12(b)(i) of the Act.



21. Shanghai CRED is an established real estate development company in the Asia-Pacific region and this Investment is likely to comprise a small part of its portfolio.<sup>2</sup>
22. The shareholding changes were therefore unlikely to have been solely driven by increasing the investment in the Carrington Land. This is supported by the explanation from the Applicants that legal advice was not sought from its New Zealand counsel in relation to the New Zealand assets or compliance with New Zealand's overseas investment regime.

#### *The Carrington Land*

23. The Carrington Land consists of approximately 1,119 hectares of sensitive land in Karikari Peninsula, Northland. It is comprised of approximately:
  - 208ha of resort and golf course land (Carrington Resort);
  - 188 hectares of vineyard and winery (known as Karikari Estate) – with only a small part of this land actually currently planted in vines;
  - 223 hectares of wetlands;
  - 14 hectares of residential land comprising an accommodation facility;
  - 10 hectares of quarry (which we understand to be disused); and
  - 490 hectares of land being held for further development or is non-productive land.

<sup>2</sup> The financial statements provided as part of its 2013 and 2014 Consents recorded Shanghai CRED's total assets of approximately RMB 5 billion (approximately NZD 1 billion at the time).



Figure 1 shows the approximate location of the Carrington land on Karikari Peninsula acquired by Shanghai CRED in 2013 and 2014. See a larger map at Attachment 2.



Figure 2 shows the location of Karikari Peninsula in New Zealand

24. On obtaining the 2013 Consent, Shanghai CRED planned to continue to operate the resort on the land in a similar fashion to the vendors, and to further develop it pursuant to a long term business plan.
25. Shanghai CRED's investment plan, submitted in relation to the 2013 Consent, anticipated:
  - the construction of approximately 50 accommodation units at a cost of approximately \$4 million,
  - establishing a training/conference centre, creating time-share type accommodation (subject to market demand, with an estimated spend of approximately [ s 9(2)(b)(ii) ]
  - improving management of the on-site vineyard and purchase of approximately \$1 million worth of equipment,
  - building 10 new accommodation units for wine tasters visiting the resort (at a cost of approximately [ s 9(2)(b) ]
  - establishing a small-scale Manuka oil processing factory, and
  - developing Edgewater Developments (subject to market demand, and with an estimated spend of approximately [ s 9(2)(b)(ii) ]
26. Shanghai CRED then obtained consent in 2014 to acquire a further 2.5 hectares of sensitive land in Karikari Peninsula consisting of the Whatuwhiwhi Holiday Park. The plan for this investment was to replace the existing accommodation to provide a lower-cost alternative to the luxury resort, spending approximately [ s 9(2)(b)(ii) ] in total.

#### D. Investment completed to date

27. We provide this information for context. It is necessary background but is outside the benefits able to be considered for this decision, and relates to Shanghai CRED's compliance and investment activities.
28. After acquiring the Carrington Land, Shanghai CRED has maintained the activities, businesses and/or services operated by the vendor, and developed certain aspects of the business.

29. While Shanghai CRED's investment plan contained a number of reasonably bold intentions, Ministers did not impose conditions under the 2013 Consent and 2014 Consent to specifically require those developments to be completed but, rather, required that endeavours be used to obtain necessary consents.
30. This approach aligned with the economic conditions and political settings at the time the consents were granted.

#### *2018 site visit*

31. Shanghai CRED's annual reporting made it difficult to clearly understand what investment had been undertaken on the land, and the OIO decided to carry out a site visit. The purpose of the visit was to better understand the compliance to date and potential proposals to expand the resort and holiday park on the Carrington Land.
32. The OIO left without any serious concerns about the activities that had been undertaken at the time. It was clear that, while in some areas, Shanghai CRED had under-delivered on its investment plan, in others it had over-delivered.
33. For example, by 2018, Shanghai CRED had spent approximately [s 9(2)(b)(ii)] on developing new accommodation units instead of the proposed [s 9(2)(b)] but spent [s 9(2)(b)] instead of [s 9(2)(b)] on conference and training facilities.

#### *2021 site visit*

34. In 2020, Shanghai CRED notified the OIO that it would not be feasible to obtain resource consents to complete the original development.
35. In particular, the resource consent required a cultural impact assessment, which 'documents Māori cultural values, interests and associations with an area or a resource, and the potential impacts of a proposed activity on these'.<sup>3</sup>
36. Shanghai CRED submits that a rejection notice was received from the local marae which has shut down prospects of obtaining resource consent for this development, meaning it is now at a standstill and is not likely to proceed. This rejection notice was received after the shareholding changes occurred that are the subject of this application.
37. In February 2021, as part of considering what (if any) steps the OIO should take, the OIO carried out a second site visit to learn about the context of the investment, including the proposals contained in this application for consent.
38. The site visit largely confirmed the OIO's 2018 views, and the OIO's view is summarised immediately below.

#### *Overall impressions on progress*

39. The OIO considers that Shanghai CRED has endeavoured to deliver on its investment plan and, while that has unfolded differently than originally presented, the OIO considers that Shanghai CRED has made reasonable attempts to progress what is collectively a complex and complicated land estate. Shanghai CRED remains a large employer in the area.
40. Shanghai CRED also submits that approximately [s 9(2)(b)(i)] has been invested in the business since October 2013 in progressing this development after its acquisition, with [s 9(2)(b)] directly on the preparatory works required for expansion of the resort.

## **E. Retrospective consent**

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### *Current retrospective application*

<sup>3</sup> <https://qualityplanning.org.nz/node/991> accessed on 18 January 2021.

41. Shanghai Yuehua and Mr Gui submit that its shareholding changes occurred entirely offshore and that advice on the New Zealand legal implications of the changes in shareholding was not sought. However, ultimate responsibility for legal compliance rests with the parties who must obtain consent.<sup>4</sup>

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

43. The November 2017 changes in the shareholding of Shanghai CRED are expected to result in continued access to capital and contacts, and a more streamlined process to complete projects for the Carrington Land investment as well as other investments. The net effect of these changes is that Mr Gui's effective shareholding in Shanghai CRED has increased from 39.92% to 83.34%.

44. Following discussions with the OIO, Shanghai Yuehua and Mr Gui have submitted this retrospective consent for the purpose of remedying the breaches of the Act.

#### *Retrospective penalty*

45. Section 25 of the Overseas Investment Act 2005 provides that consent may be granted retrospectively to transactions that breach the Act. We understand that this is to accommodate investors who inadvertently fail to comply with the Act but could otherwise meet the criteria set out in the Act.<sup>5</sup>

46. The OIO, as the regulator, may require an applicant to pay an administrative penalty before any retrospective consent is granted.<sup>6</sup> In setting any penalty the OIO must consider whether requiring the applicant to pay that amount would be unduly harsh or oppressive given the value of the consideration paid for the asset and the reasons for the retrospective consent. We have determined that the maximum administrative penalty available of \$20,000 is appropriate and have secured a payment of this amount in the event Ministers wish to grant consent to the retrospective component of this investment.

47. The OIO considers that this retrospective consent application provides an opportunity to ensure that strong conditions of consent are imposed to ensure that the consent holders' obligations are clearly understood..

48. Please refer to paragraph 93-94 for information about what may happen if you decide not to grant retrospective consent.

## **F. Application of the Act**

49. The Land is sensitive for a number of reasons, including because it is non-urban land over 5 ha in size<sup>7</sup> so consent is required.<sup>8</sup> A full list of the sensitivities included are set out in the **Supplement to Appendix 1** to this consent. The following criteria for an investment in sensitive land apply to this application:<sup>9</sup>

- The investor test must be met.<sup>10</sup>

<sup>4</sup> This is important principle was recognised by the High Court in *Chief Executive of Land Information New Zealand v Carbon Conscious NZ Ltd* [2016] NZHC 558.

<sup>5</sup> Finance and Expenditure Select Committee Report on the Overseas Investment Bill 2005 (May 2005), para 12

<sup>6</sup> Section 53 Overseas Investment Act 2005

<sup>7</sup> Table 1, Part 1, Schedule 1 of the Act.

<sup>8</sup> Under sections 10(1)(a) and 12(a)(i) of the Act.

<sup>9</sup> Set out in section 16(1) of the Act.

<sup>10</sup> Section 16(1)(a) of the Act.

- The benefit to New Zealand test must be met.<sup>11</sup>
- The farm land must have been offered for sale on the open market<sup>12</sup>
- You must also note whether the investment is a transaction of national interest and, if so, whether the Minister of Finance has decided that the investment is contrary to New Zealand's national interest.<sup>13</sup>

50. In order to satisfy the benefit to New Zealand test, the decision-maker must:
- determine that the overseas investment will, or is likely to, benefit NZ;<sup>14</sup> and
  - determine that benefit will be, or is likely to be, substantial and identifiable;<sup>15</sup> and
  - because the Land is residential:
    - 50.1 determine a residential land outcome;<sup>16</sup>
    - 50.2 apply conditions of consent for the residential outcome; and
    - 50.3 be satisfied that those conditions are likely to be met.<sup>17</sup>
51. We assess the investor test in Part F, the benefit to New Zealand test in Part G, the farm land offer criterion in Part H and discuss national interest matters in Part I.

## G. Applicant and investor test

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

### Relevant overseas person

53. Shanghai Yuehua is an overseas person, as it is more than 25% owned by overseas persons (being 99.5% owned by Mr Gui, a Chinese citizen). A structure diagram of the ownership of Shanghai Yuehua and Shanghai CRED pre- and post-transaction, and ownership of the Carrington Land, is set out at **Attachment 3**.
54. Shanghai Yuehua and Mr Gui are the entities acquiring increased interests in Shanghai CRED. We, therefore, recommend that the '**relevant overseas person**' is collectively:

ROP	Role
Shanghai Yuehua-Kangjian Investment Management Co. Ltd ( <b>Shanghai Yuehua</b> )	Applicant, and entity that underwent shareholding change in Shanghai CRED Real Estate Co. Ltd
Gui Guojie	Applicant, and individual with shareholding change in Shanghai Bao Yang Asset Management Co., Ltd.

### Control and experience

55. Shanghai Yuehua is nearly entirely owned and controlled by Mr Gui (99.5%). Following the transactions for which retrospective consent is sought, Shanghai CRED is, too, nearly entirely owned and controlled by Mr Gui (83.34%).

<sup>11</sup> Section 16(1)(c)(ii). The alternative is the relevant overseas person or each of the individuals with control is a NZ citizen or resident, which is not applicable to the proposed investment.

<sup>12</sup> Section 16(1)(f) of the Act.

<sup>13</sup> Section 16(1)(g) of the Act.

<sup>14</sup> Section 16A(1)(a) of the Act.

<sup>15</sup> Section 16A(1)(b) of the Act. This criterion applies because the Land is non-urban land over 5 ha in size.

<sup>16</sup> Section 16B(3)(a). The Act specifies a range of outcomes to choose from in clause 19, Schedule 2 of the Act.

<sup>17</sup> Section 16A(1)(c) of the Act.

56. As such, we consider the sole 'individual with control' to be:

IWC	Role
Gui Guojie	99.5% owner of Shanghai Yuehua, and 83.34% ultimate beneficial owner of Shanghai CRED Real Estate Co. Ltd and therefore the sensitive land.

57. Mr Gui, as well as being the majority owner, is also Chairman of Shanghai CRED. Individually, he is a well-known property investor, being most famously associated with an (ultimately unsuccessful) offer to acquire S Kidman & Co, one of Australia's largest beef producers, with pastoral leases covering over 10 million hectares.

#### Good character

58. We note that the shareholding changes by Shanghai Yuehua and Mr Gui's are a breach of the Act. However, because the breach is considered to be inadvertent we do not consider that this matter, in itself, precludes a finding of good character on the part of Mr Gui.

59. We have also identified a matter relevant to character relating to a subsidiary of Shanghai CRED in Australia, comprising of unauthorised clearing of bushland. Our consideration of this matter is set out in **Attachment 4**, however in summary we consider that Mr Gui was not personally involved in the matter, and that it was an operational decision which, following legal advice at the time, was considered to be within the law. We consider this matter does not prevent a finding that the relevant overseas persons and individual with control are of good character because Mr Gui had no direct involvement in the matters. We are satisfied that the statutory declaration as to good character can be relied on.

#### Summary of investor test

60. For the reasons set out above and summarised in the table below, our conclusion is that **the investor test has been met**.

Investor test criteria	OIO assessment	
	Risk	Summary
Collectively have business experience and acumen relevant to the investment. Section 16(2)(a)	Test met	We understand Mr Gui is an experienced property developer, who has an intimate knowledge of the Carrington Land having been involved in its development since Shanghai CRED acquired the land in 2013.
Relevant overseas person demonstrated financial commitment. Section 16(2)(b)	Test met	This aspect of the investor test is met as Mr Gui and Shanghai Yuehua have already transferred the relevant compensation for the acquisition of shares in Shanghai Bao Yang (RMB24,000,000) and Shanghai CRED (RMB240,000,000) respectively.
Is of good character. Section 16(2)(c)	Some concerns	As well as the breach of the Act, we identified compliance matters relevant to the assessment of good character. Having considered these matters, ultimately we are satisfied the IWCs are of good character. See <b>Attachment 4</b> for a discussion of the most relevant matter.
Not an individual of the kind ineligible for a visa or entry permission under ss 15 or 16 of the Immigration Act 2009. Section 16(2)(d)	Test met	Statutory declarations have been provided confirming that each IWC is not of the kind referred to in ss 15 or 16 of the Immigration Act 2009.



## H. Investment plan and benefit to NZ test

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61. This section describes the proposed investment and our assessment of whether it is likely to meet the benefit criteria in the Act.

### Investment plan

62. As this is a retrospective application, the relevant benefits to be assessed are those resulting from the transaction including those that have arisen since the transactions occurred, as well as benefits likely to arise from planned future investments. These are compared to what would have otherwise occurred from the time the shareholding changes occurred.

#### *Investment plan completed since the shareholding changes, and future investment plan*

63. Shanghai Yuehua, through its major shareholder Mr Gui, intends to fund diversifying of the offerings at the Carrington Land away from the focus on the resort development. Mr Gui submits that he always maintained that the investment in the luxury resort would go ahead, but faced resistance from the other shareholders.

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

65. In addition, Mr Gui and Shanghai Yuehua submit that due to Mr Gui's commitment to the investment, the resort retained over 70 jobs during the COVID-19 lockdown periods and did not proceed with any redundancies in its operations for the whole period of lockdown to the date of the application.

66. There are additional investments planned for Carrington Estate as a result of the shareholding changes, including:
- fitting-out a new golf gear retail shop and recruiting a team to improve services at the golf course as well as purchasing new equipment for its greenkeepers;
  - planting an additional 9 hectares of vines at Karikari Estate, and creating additional fulltime and seasonal roles on the land;
  - creating a dedicated maintenance team for all businesses on the Carrington Land; and
  - setting up a clay target shooting club, expanding the shooting field, and adding more clay machines to meet national/Olympic clay shooting standards.

67. The Applicants estimate approximately [ s 9(2)(b)(ii) ] will be spent on these projects prior to the end of 2023, and creating approximately 19 full-time equivalent (FTE) jobs on the land.

68. Given the matters identified above in relation to Shanghai CRED's investment progress, the OIO has ensured that Mr Gui and Shanghai Yuehua have committed to complying with conditions relating to the above developments. These conditions have clear, enforceable requirements, to which serious non-compliance can result in forced disposal of the land.

### **What is likely to happen without the investment (Counterfactual)**

69. The counterfactual, this being a retrospective application, must be considered from November 2017 when Shanghai Yuehua and Mr Gui (**the Applicants**) acquired their increased interests in Shanghai CRED.
70. We consider from the information provided that the most likely state of affairs in the short to medium term without the transaction occurring is that the Carrington Land would have been retained by Shanghai CRED in its shareholder structure existing at that time.
71. While Shanghai Yuehua and Mr Gui submit there was a reluctance from other Shanghai CRED shareholders to invest in the Carrington Land prior to the shareholding changes occurring, we consider there was no indication that shareholders wished to sell their interests in the business.
72. At the time of the shareholding changes, we note that the rejection notice from the tangata whenua had not yet been received, so the reluctance to invest in the Carrington Land likely related to the uncertainty of the pending cultural impact assessment (rather than with any knowledge that it would eventually be rejected).
73. We consider that, should the investment not have occurred, the developments envisaged by Shanghai Yuehua and Mr Gui would, also, be unlikely to occur. The shareholders are likely to have been reluctant to invest further money into the Carrington Land where they had already invested substantial amounts with little to show for it. Little development had progressed on the Carrington Land due to the wait on the cultural impact assessment, but the operations on the Carrington Land continued pending further decisions. We consider it is likely the resort would likely have continued to operate as long as it was profitable.
74. We therefore consider the appropriate counterfactual to apply to the investment to be the status quo as of November 2017, with the resort continuing to operate but no further capital investment occurring into the Land.

### **Assessment of key benefits**

75. We consider the key point of difference in this investment is the increased access to capital, and increased willingness to invest, of Mr Gui as compared to the shareholder group of Shanghai CRED when the transactions occurred in 2017. Mr Gui has shown he is willing to invest money into developments on the Carrington Land, and we therefore consider it more likely that benefit will occur with the investment, than without. The imposition of enforceable, clear conditions will assist in identifying any potential breach early on.

### **Summary of benefits**

76. The benefits to New Zealand that have, or are likely to, result from this investment and our assessment of the relative weight to be given to each are set out in the table below.
77. Factors that we considered were either not relevant to the investment, or the benefit to New Zealand was not sufficient to be relied on, are noted in **Attachment 5**.

78. In applying the benefit to New Zealand criteria, you are required to consider each of the benefit factors and determine which of them are relevant. The weight and relative importance to be given to each factor is a matter to be determined by you as the decision-maker. This report sets out our assessment to guide your consideration, however it is not determinative.
79. Under the terms of the Ministerial directive letter,<sup>18</sup> the 'rural land directive' applies to this investment.<sup>19</sup> The benefit factors Ministers have directed should be given high relative importance are noted in the table below.<sup>20</sup>

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<sup>18</sup> Dated 28 November 2017, paragraphs 13-17.

<sup>19</sup> Because the investment involves the acquisition of non-urban land over 5 hectares in size (excluding any associated land) and excludes 'forest land'.

<sup>20</sup> The factors that we have given high relative importance are jobs, new technology or business skills, increased export receipts, increased processing of primary products, and oversight and participation by New Zealanders.

## Summary assessment: benefit to NZ test

80. This table assesses the benefits to NZ likely to result from the investment and the relative weight to be given to each.

Relevant benefit factors	Applicant's claims: what they intend to do	Without the investment (Counterfactual)	OIO analysis: strength/weakness		Proposed special conditions
			Indicative strength	Summary	
<b>Job opportunities</b> <i>(high relative importance)</i>	The proposed improvements to the golf course, the expansion of the vineyard, the new maintenance department, and the creation of the clay target shooting club will create, in total, approximately 19 new FTE roles on the Carrington Land.	No increase in jobs would be expected to have occurred since the shareholding changes in 2017, particularly as shareholders were reluctant to invest in the business.	<b>Medium</b>	<p>We consider the Applicant's submissions to be overly optimistic.</p> <p>Nevertheless, the existing golf course is proven as a profitable business, and the addition of a pro shop will likely result in additional jobs. The planting of a further ~10 hectares of vineyard will also require a number of new full- and part-time seasonal roles<sup>21</sup>, as will the expansion of the clay target shooting club and the new maintenance department.</p> <p>We consider approximately 10 roles is a more likely figure to eventuate from the investments, and have assessed the benefit under this factor, and propose conditions, accordingly.</p> <p>We note Northland is a relatively economically deprived area of New Zealand, and, therefore, full-time permanent jobs in this area are valuable. We also note, for context, the Applicant's retention of 70 roles on the Land over the COVID-19 lockdown, a number that reflects the Applicant's increased financial capacity over and above the counterfactual.</p>	<p>Our proposed conditions reflect the level of benefit we consider is likely to occur and are a realistic approach, rather than imposing stringent conditions that we expect are unlikely to be achievable:</p> <ul style="list-style-type: none"> <li>• Create at least 3 permanent FTE roles in the new golf gear retail shop and 3 permanent FTE maintenance/greenkeeping roles for the golf course on the Land.</li> <li>• Create at least 2 permanent FTE roles in the vineyard and/or winery</li> <li>• Create at least 2 new permanent FTE roles at the clay target shooting club.</li> </ul> <p>We note that a higher level of benefit may occur if the Applicant's submissions are fully borne out.</p>

<sup>21</sup> MPI's Vineyard Benchmarking Report 2020 suggests (in relation to a Marlborough vineyard, but conservatively assuming that a Northland vineyard is similarly profitable) that labour costs are approximately \$12,200 per hectare which incorporates both seasonal and permanent roles. The Applicant's claims of 4 new full-time ongoing roles and 12 part-time seasonal roles on the land, therefore, appear optimistic.

Relevant benefit factors	Applicant's claims: what they intend to do	Without the investment (Counterfactual)	OIO analysis: strength/weakness		Proposed special conditions
			Indicative strength	Summary	
<b>Additional investment for development purposes</b>	In addition to the approximately [s 9(2)(b)(ii)] invested into the business on the Carrington Land since 2017, there is likely to be approximately [s 9(2)(b)] invested into the business within the next 12-18 months to complete the golf course, clay target shooting club, and an upgrade and refurbishment of the pool at the luxury resort.	No investment capital (other than that envisaged by the 2013 Consent) is likely to have been in introduced into the business, or planned to be introduced.	Medium	We consider that the investment spending that has occurred to date, and the proposed investment likely to occur in the near future, has produced benefit in the form of continued operation of the businesses on the Land (and related employment) and enabling tourism activities to continue in the Northland region. Notwithstanding economic conditions for tourism businesses in New Zealand, the Applicant appears willing to expand and diversify its tourism offerings.	The Applicant has already spent approximately [s 9(2)(b)] on the Carrington Land since the transactions, we therefore consider the following conditions will ensure benefit under this factor: <ul style="list-style-type: none"> <li>• Introduce at least [s 9(2)(b)] to spend on the vineyard and winery by 31 December 2022.</li> <li>• Introduce sufficient funds to complete the infrastructure upgrade of the golf course.</li> <li>• Introduce sufficient funds to plant 9 hectares of vines on the Land.</li> <li>• Introduce sufficient funds to complete construction and/or earthworks for development of a clay target shooting club.</li> </ul>
<b>Previous investments</b>	The investment in acquiring the Carrington Land, and subsequent investment, have created job opportunities, resulted in investment spending, increased export receipts, improved efficiency and productivity, and increased the processing of primary products (being wine).	NA	Medium	The Applicant has made a significant investment in Northland, a relatively economically deprived region. While there have been matters identified by the OIO relating to the Applicant's compliance with conditions, the OIO has not identified any specific breaches of the Act requiring enforcement action. In all, we consider the Applicant's investment in Northland has been of benefit and has resulted in the continued operation of a large employer in an area with relatively few other job opportunities.	We consider this benefit factor is not appropriate for conditions.

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Relevant benefit factors	Applicant's claims: what they intend to do	Without the investment (Counterfactual)	OIO analysis: strength/weakness		Proposed special conditions
			Indicative strength	Summary	
<b>Increased processing of primary products</b> <i>(high relative importance)</i>	The planting of an additional 9.5 hectares of vines is expected to produce and increase of approximately ~5-5.6 tonnes of grapes per year, <sup>22</sup> and therefore 3,600-4000 litres of wine per year from 2023. This is expected to produce (in total) an increase per annum of approximately 28,000-30,000 litres of wine by 2026.	The yield from the vineyard in 2019 was approximately 31 tonnes of grapes, while 2020's yield was only 19 tonnes. We would expect yield would continue to be ~30 tonnes per annum in the counterfactual.	<b>Low</b>	In 2019, Northland's total wine producing area was 71.7 hectares producing 319 tonnes of grapes. <sup>23</sup> Even partially completing the Applicants' proposed increase in planting (9.5 ha) will therefore represent a significant increase in the size of the Applicant's vineyard, and given its size, Northland's wine industry. This increased size of vineyard will result in an increase in production, and therefore increased processing of grapes.	We consider conditions requiring a certain level of vineyard development be completed will sufficiently ensure benefit is delivered under this factor. Imposing conditions requiring a certain level of wine output would rely too heavily on external factors, and we consider is therefore not appropriate for conditions.
<b>Increased export receipts</b> <i>(high relative importance)</i>	There have been no significant changes regarding export receipts since the shareholding changes occurred, but it is likely that the vineyard expansion and golf course enhancements will generate additional export receipts.	With no planned developments, and not expanding the resort as initially planned in the 2013 Consent, it appears unlikely that export receipts would increase.	<b>Low</b>	The developments anticipated at the Carrington Land are likely to have a positive effect on the export receipts (especially once international travel to New Zealand resumes), but detailed submissions as to the magnitude of this increase have not been provided.	As export receipts rely primarily on external factors, we do not consider export receipts are appropriate for conditions.

<sup>22</sup> Using average NZ wine yield figures of approximately 72% sourced from the United States Department of Agriculture Foreign Agricultural Service New Zealand Wine Sector Report 2020 [https://apps.fas.usda.gov/newgainapi/api/Report/DownloadReportByFileName?fileName=New%20Zealand%20Wine%20Sector%20Report%202020\\_Wellington\\_New%20Zealand\\_04-22-2020#:~:text=The%20vineyard%20productive%20area%20in,10.6%20MT%2Fha%20in%202019](https://apps.fas.usda.gov/newgainapi/api/Report/DownloadReportByFileName?fileName=New%20Zealand%20Wine%20Sector%20Report%202020_Wellington_New%20Zealand_04-22-2020#:~:text=The%20vineyard%20productive%20area%20in,10.6%20MT%2Fha%20in%202019)

<sup>23</sup> NZ Wine Vintage Indicators 2019 [https://www.nzwine.com/media/13034/nz-wine-vintage-indicators-2019\\_regions.pdf](https://www.nzwine.com/media/13034/nz-wine-vintage-indicators-2019_regions.pdf)

Relevant benefit factors	Applicant's claims: what they intend to do	Without the investment (Counterfactual)	OIO analysis: strength/weakness		Proposed special conditions
			Indicative strength	Summary	
Greater efficiency or productivity	The development at the vineyard and winery, and investment in expert assistance will result in efficiencies in the wine-making business, and establishing an internal maintenance department at the Carrington Land is likely to result in increases in efficiency in the operations of the businesses on the Carrington land.	No additional investment in the business at the Carrington Land is expected, and therefore no efficiency gains are expected.	Low	We consider that while the level of efficiencies likely to eventuate from each aspect of the investments is small, when considered in the round we consider there is likely to be an increase in efficiency sufficient to meet a minimum level under this benefit factor.	We consider that the conditions requiring completion of the investments (detailed above) will ensure efficiencies are delivered under this factor.

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## Consultation and submissions about the investment

81. No third-party submissions were sought or received in relation to this application.
82. Consultation was undertaken with Department of Conservation (**DOC**) and Walking Access Commission (**WAC**) when the land was originally purchased pursuant to the 2013 Consent and the 2014 Consent.
83. Conditions were imposed requiring:
- consultation with DOC as to protection of flora and fauna on the land and implementation of any reasonable formal protection recommended by DOC to be funded by Shanghai CRED; and
  - consultation with WAC as to additional public access and implementation of any reasonably public walking access recommended by WAC.
84. The Applicant complied with its conditions following consultation with DOC and WAC as far as possible, other than matters for which consent was required from, and declined by, the local iwi. Shanghai CRED submits in its latest annual report relating to the 2013 and 2014 Consents that it has variously:
- completed fencing of riparian margins of drains and salt marshlands,
  - fenced off and retired from grazing four water courses which drain into the Wairahoraho stream
  - completed (and continues to complete) on-going maintenance of the walkway
  - erected conspicuous signage
  - retained irrigation dam upper catchments in the state existing as of the acquisition of the land
  - ongoing weed and predator control
  - protecting gumland remnants in the forestry block when identified
  - undertook freshwater fish and lizard and invertebrate surveys to determine species present, and
  - drafted management plans for consultation with DOC, Environmental Defence Society, local councils and iwi (which have been put on hold given the resource consent has been declined).
85. We consider that, given the transactions at issue represent an upstream change in shareholding rather than a change in the registered owner of the land, further consultation with DOC and WAC was not necessary for the purposes of this application.

## Proposed conditions and rationale

86. We consider that imposing conditions for this consent is an opportunity for the OIO to set clear expectations as to the proposed use of the Carrington Land, and the conditions by which the Applicants hold their interest in sensitive land. We consider it also provides an opportunity to derive clear benefit from the investment, and for Shanghai CRED to return to clear compliance with the Act.
87. In the assessment of this application, the OIO reviewed the compliance history of Shanghai CRED in relation to the 2013 and 2014 Consents. The conditions imposed at



the time required only that Shanghai CRED use 'endeavours' to complete a substantial portion of the investments promised. As a result, the current investment progress is not inconsistent with the conditions of consent but the overall state of compliance is uncertain for both the OIO and Shanghai CRED.

88. In the drafting of the conditions relating to the present application, effort has gone towards ensuring that these conditions are specific, relevant, clear, and enforceable. We have liaised with the Applicants to consult on the wording and general tone of these conditions, and the Applicants have agreed to the OIO's proposals.
89. Granting consent to this application will therefore assist in ensuring ongoing compliance relating to this property, with the ability to enforce disposal of the asset if conditions are not met.

### **Residential land outcome**

90. A total of 43 parcels of land on separate Records of Title that make up part of the resort on the Carrington Land are zoned 'residential' on the District Plan Zoning and are, therefore, residential land for the purposes of the Act.
91. The most appropriate residential land outcome for the residential land on the Carrington Land is the 'use for non-residential purposes'.<sup>24</sup> Conditions must be imposed that require that the residential land will be, or is likely to be (or will, or is likely to, continue to be), used for non-residential purposes in the ordinary course of business for the relevant business and not used, nor held for future use, for any residential purposes.
92. The continuous operation of the resort on the land as guest accommodation will satisfy the elements of the condition, and because the Applicant is seeking to make profit from operating guest accommodation.
93. We also consider we should impose a non-occupation condition on the residential land, which aligns with the purpose of the provisions relating to residential land that is not otherwise sensitive in Schedule 2 of the Act.

### **Conclusion – benefit to NZ test**

94. 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 to NZ test. Here, effectively Mr Gui is increasing his existing ultimate interest by approximately 44% in Shanghai CRED (and the Carrington Land), from approximately 39% to approximately 83%. The transactions were not openly marketed sales, and reflected the restricted financial position of the shareholders at the date of sale.
95. The size of the land is relatively significant, being approximately 1,119 hectares of land in the Far North, being land with a wide range of sensitivities including non-urban land of over 5 hectares.
96. We note that Shanghai CRED is an established real estate development company in its own right. This investment is likely to relate to only a small part of its Asia-Pacific portfolio.
97. We also note that the shareholding changes have resulted in ownership and control of Shanghai CRED becoming concentrated in a smaller, seemingly more well-funded (or more motivated) pool of investors. This is supported by the Applicants' proposals to invest further capital into the businesses on the Carrington Land, and to pivot away from the focus on the accommodation business rather than just sell the land. This

<sup>24</sup> Clause 13, Schedule 2 of the Act.

ability to invest capital more freely in New Zealand may assist in further development of the Carrington Land.

98. Prior to the transactions at issue, it is also possible that the Applicant informally held a certain level of control over the Applicant, given Mr Gui is a wealthy and influential property investor and held the largest individual share in Shanghai CRED. As such, the transaction may not consist of a substantive change in control, and will be unrestricted by unwillingness of other shareholders, allowing the level of financial contribution necessary to realise the plans of the Applicant.

#### *Conclusion on benefits*

99. We consider the investments proposed are likely to realistically result in approximately 10 FTE roles on the Carrington Land, despite the Applicant's submissions that more are likely to result. The investments are also likely to result, and have resulted, in the introduction of additional investment into New Zealand. Approximately [s 9(2)(b)(ii)] has already been spent since the transactions occurred, and at least [s 9(2)(b)(ii)] if not more, is likely to result from the proposed investments.
100. The investments are also likely to result in an increase efficiency and productivity in the operations on the Carrington Land, and in turn a higher level of processing of wine on the Carrington Land and subsequent export receipts resulting from sales of wine, and other activities on the Carrington Land.
101. We consider that given the nature of the transaction identified above, being a change in shareholding upstream of the sensitive land, and the benefits likely to occur as a result of the planned investments, that when considered proportionately the investment is likely to result in a substantial and identifiable level of benefit, and therefore consent should be **granted**. Nevertheless, we note that this is a finely balanced assessment given the size and nature of the land involved in the transactions.

#### *Impact of declining consent*

102. If you decline retrospective consent, Shanghai Yuehua and Mr Gui will remain in breach of the Act by reason of the shareholding changes described above breaching the Act.
103. The OIO will then consider what enforcement action is appropriate given all of the circumstances. Options include seeking disposal of the assets (being the shares in Shanghai CRED and Shanghai Bao Yang), seeking civil pecuniary penalties from the investors, or to use another enforcement tool (such as a warning letter).

### **I. Farm land offer test**

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104. In the 2013 Consent, Ministers considered that around 200 hectares of grazing land used between the golf course/resort and the beach was not 'farm land' for the purposes of assessing the application, as its 'principal purpose' was to act as buffer land rather than for agricultural purposes.
105. In relation to approximately 50 hectares set aside as vineyard, Ministers considered that this was 'farm land' but that due to the unusual circumstances of the investment, this should be exempt from the farm land advertising requirements. Partly, this was because the vineyard land was incorporated into the overall Carrington Land, and spread between two titles comprising more than 216 ha, and would not be possible to sell separately without subdividing this land from its parent titles (assuming this was permitted).
106. The purpose of the farm land advertising regulations is to ensure that persons who are not overseas persons but who wish to acquire the farm land or farm land securities

have reasonable notice that they are available for acquisition. We consider this is where the farm land (or the farm land securities) is genuinely available for sale.

107. We consider that the circumstances of this application mean that it should be exempt from the farm land advertising requirements:

- the same reasons above still apply, namely that the farm land on the Carrington Land is incorporated into the parent titles, and this land would not genuinely be for sale separately to the remainder of the land;
- this is a retrospective application, and there is no possible way the farm land offer test could be met (i.e., the land could not be advertised prior to giving effect to the transaction);
- the transaction related to an increase in shareholding and not an outright sale. There was no intention to sell the interest in farm land separate the resort.
- the acquirer of the securities (i.e., Shanghai Yuehua) was an existing shareholder in the entity that indirectly owned the farm land (Shanghai CRED); and
- the registered owner of the farm land has not changed.

108. We, therefore, consider this investment should be exempt from the farm land advertising criterion.

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

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109. The investment does not involve a transaction of national interest under the mandatory criteria of the Act.<sup>25</sup> This is because the investment does not involve a non-NZ government investor, or an investment in a strategically important business (as defined in the Act).

110. We have not referred this transaction to the Minister of Finance for him to call it in for a national interest assessment on a discretionary basis.<sup>26</sup> He has therefore not declined consent to the transaction.

111. We are directed<sup>27</sup> that the starting point is the assumption that overseas investment is in New Zealand's national interest and that we should only seek the Minister of Finance to exercise his discretion for a national interest assessment if the proposed investment:

- could pose risks to New Zealand's national security or public order
- would grant an investor significant market power within an industry or result in vertical integration of a supply chain
- has foreign government or associated involvement that was below the 10 per cent threshold for automatic application of the national interest test, but granted that government (and/or its associates) disproportionate levels of access to or control of sensitive New Zealand assets or
- would have outcomes that were significantly inconsistent with or would hinder the delivery of other Government objectives.

112. We do not consider that this investment engages any of these risk factors.

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<sup>25</sup> Under s 20A of the Act.

<sup>26</sup> Section 20B of the Act

<sup>27</sup> Supplementary Ministerial Directive Letter (8 June 2020).

## K. Conclusion

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113. After considering the application, given the nature of the property and the interests being acquired, our view is that:
- the investor test has been met; and
  - the overseas investment will, or is likely to, benefit New Zealand (or any part of it or group of New Zealanders); and
  - the benefit will be, or is likely to be, substantial and identifiable; and
  - the conditions relating to residential land to be imposed on the consent will be, or are likely to be, met;
  - the farm land is exempt from the farm land offer test by reason of the particular circumstances of the overseas investment;
  - the transaction is not considered to be a transaction of national interest.
114. Therefore, we consider that the criteria for consent in section 16 have been met and our recommendation is to **grant consent**.
115. If you agree, we refer you to **Attachment 1** to review the Proposed Decision (including consent conditions), and from page 3 of this Assessment Report to record your decision.



Anneke Turton  
Manager, Applications  
**Overseas Investment Office**

Date: 17/05/2021

## L. List of Attachments

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1. Proposed Decision and Conditions
2. Map
3. Post-transaction ownership structure
4. Good character assessment
5. Other benefit factors

## ATTACHMENT 1 - PROPOSED DECISION

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

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

#### Consent

Decision date: [date]

The following people have been given the following consent:

<b>Case</b>	202000423
<b>Consent Holders</b>	Shanghai Yuehua-Kangjian Investment & Management Co. Ltd (License number 15000000201512100134) Gui Guojie We will also refer to the Consent Holders together as <b>you</b> .
<b>Consent</b>	You may complete the Transactions subject to the Conditions set out below.
<b>Transactions</b>	<ol style="list-style-type: none"><li>1. Shanghai Yuehua-Kangjian Investment &amp; Management Co. Ltd may acquire approximately 23.22% of Shanghai CRED Real Estate Co., Limited which has an indirect interest in the Land.</li><li>2. Gui Guojie may acquire approximately 60% of Shanghai Bao Yang Asset Management Co., Limited which has an indirect interest in the Land.</li></ol>
<b>Land</b>	Means the land listed in the Supplement to the Consent.
<b>Timeframe</b>	This is a retrospective application and the Transactions have already occurred.

## Conditions

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

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

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

## Definitions

**The Golf Course** means the 18-hole golf course located at 109 Matai Bay Road, Karikari Peninsula, Northland.

**The Residential Land** means the land contained within records of title 35238, 35240, 35241, 35242, 35243, 35244, 35245, 35246, 252344, 287837, 343723, 343724, 343726, 343727, 343731, 343738, 343739, 343753, 343763, 343766, NA115D/665, NA24C/1272, NA32C/33, NA93C/300, 35247, 467763, 467764, 561867, 561868, 561869, 561870, 561871, 561872, NA10A/1024, NA10B/805, NA11D/777, NA16D/674, NA16D/675, NA26A/200, NA7B/1184, NA7C/1260, NA8A/1424, and NA4C/6.

Details	Required date
<b>Special condition 1: Complete the golf course upgrade and establish the golf pro-shop</b>	
You must:	
(a) complete the infrastructure upgrade of the Golf Course including: <ul style="list-style-type: none"><li>i. the water dam upgrade and water system upgrade;</li><li>ii. build a new drainage system within the golf course;</li><li>iii. constructing more concrete golf cart tracks and paths, and extending current tracks and paths; and</li><li>iv. reconstructing, reshaping, removing and adding to bunkers, as necessary.</li></ul>	By 31 July 2023
(b) construct and begin operation of a golf gear retail shop on the Land.	By 31 July 2023
If you do not comply with any one of the conditions listed above by the required date, standard condition 4 will apply and we may require you to dispose of the Land.	
<b>Special condition 2: Expand the vineyard and winery</b>	

You must:	
(a) plant at least 9 hectares of vines on the Land (additional to those existing on the Land as of 31 December 2020);	By 31 December 2022
(b) introduce into New Zealand: <ul style="list-style-type: none"> <li>i. at least [ s 9(2)(b) ] to be spent on developments on the vineyard and/or winery;</li> <li>ii. at least [ s 9(2)(b)(ii) ] to be spent on the vineyard and/or winery</li> </ul>	<ul style="list-style-type: none"> <li>i. By 31 December 2021</li> <li>ii. By 31 December 2022</li> </ul>
If you do not comply with any one of the conditions listed above by the required date, standard condition 4 will apply and we may require you to dispose of the Land.	
<b>Special condition 3: Develop a clay target shooting club</b>	
You must complete any construction and/or earthworks required for the development of a clay target shooting club on the Land.	By 31 December 2022
If you do not comply with the condition listed above by the required date, standard condition 4 will apply and we may require you to dispose of the Land.	
<b>Special condition 4: Create new job opportunities</b>	
<p>You must create at least ten permanent FTE roles across the business functions described below.</p> <p>To be counted towards the total of ten permanent FTE roles, the roles must be created and filled by the dates listed below.</p>	
(a) permanent roles on the Land in relation to the vineyard and/or winery;	By 31 December 2022
(b) permanent roles in the new golf gear retail shop	By 31 July 2023
(c) permanent maintenance/greenkeeping roles for the Golf Course	By 31 July 2023
(d) permanent roles at the clay target shooting club.	By 31 December 2023

If you do not comply with any the condition listed above by the required date, standard condition 4 will apply and we may require you to dispose of the Land.

**Special condition 5: Residential land conditions**

The primary use of the residential land is as accommodation.

1. You must use the Residential Land for non-residential purposes.
2. For so long as you have an interest in the residential land, none of the following may occupy the Residential Land:
  - a. Guojie Gui
  - b. any overseas person (A) who occupies the land otherwise than on arm's-length terms (for example, a relative who occupies rent-free), where arm's length terms mean terms that
    - i. would be reasonable in the circumstances if the owner of the land (including their property agent) and A (including their associates) were connected or related only by the transaction in question, each acting independently, and each acting in its own best interests; or
    - ii. are less favourable to A than the terms referred to in the above subparagraph
  - c. any overseas person who has a benefit interest in, or beneficial entitlement to, the relevant interest in the Residential Land.

If you do not, standard condition 4 will apply and we may require you to dispose of the Land.

Details	Required date
<b>Standard condition 1: 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> </ol> </li> </ol>	<p>At all times</p>



<p>(d) conduct surveys, inquiries, tests and measurements,</p> <p>(e) take photographs and video records, and</p> <p>(f) do all other things reasonably necessary to carry out the Inspection.</p> <p>2. Take all reasonable steps to facilitate an Inspection including:</p> <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>3. During an Inspection:</p> <p>(a) we will not compel you and your employees, agents, tenants or other occupiers to answer our questions or to let us look at, copy or take away documents,</p> <p>(b) our Inspector will comply with any reasonable instruction and co-operate with any reasonable health and safety policy or procedure you notify to us before the Inspection.</p>	
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**Standard condition 2: remain of good character**

<p>You and the Individuals Who Control You:</p> <p>1. must continue to be of good character, and</p> <p>2. must not become an individual of the kind referred to in <u>section 15</u> or <u>section 16</u> of the Immigration Act 2009. These sections describe convicted or deported people who are not eligible for visa or entry permission to enter or be in New Zealand and people who are considered likely to commit an offence or to be a threat or risk to security, public order or the public interest.</p> <p>The <b>Individuals Who Control You</b> are individuals who:</p> <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. To avoid doubt, this includes the members of your governing body.</p>	<p>At all times</p>
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**Standard condition 3: tell us about changes that affect you, the people who control you, or people you control**

You must tell us in writing if any of the following events happens to any of the Consent holders:

Within 20 working days after the change

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 more than 25% 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 offences or contraventions that you are charged with or sued over and any investigation by enforcement or regulatory agencies or professional standard bodies.
2. An Individual Who Controls You ceases to be of good character; commits an offence or contravenes the law (whether they were convicted or not); becomes aware of any other matter that reflects adversely on their fitness to have the Assets; or becomes an individual of the kind referred to in [section 15](#) or [16](#) of the Immigration Act 2009 (see standard condition 3).
3. You cease to be an overseas person or dispose of all or any part of the Assets.
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 more than 25% ownership or control interest:
  - (a) becomes bankrupt or insolvent
  - (b) has an administrator, receiver, liquidator, statutory manager, mortgagee's or chargee's agent appointed, or
  - (c) becomes subject to any form of external administration.

**Standard condition 4: dispose of the Assets if you do not comply with key special conditions**

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 Assets.

If all or part of this standard condition 6 applies to a special condition, we have said so in that condition.

We will give you written notice if we require you to dispose of the Assets. After we have given you notice, you must:

<b>Value the Assets:</b> obtain and send us a copy of a market valuation of the Assets from an independent advisor.	Within six weeks of the date of our notice.
<b>Market the Assets:</b> instruct a licensed agent to actively market the Assets for sale on the open market.	Within six weeks of the date of our notice.
<b>Dispose of the Assets:</b> dispose of the Assets to a third party who is not your associate.	Within six months of our notice.
<b>Offer without reserve:</b> if you have not disposed of the Assets within six months of our notice, offer the Assets for sale by auction or tender without a reserve price or minimum bid and dispose of the Assets.	Within nine months of our notice.
<b>Report to us about marketing:</b> tell us in writing about marketing activities undertaken and offers received for the Assets.	By the last day of every March, June, September and December after our notice or at any other time we require.
<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 Assets,</li> <li>(b) of disposal (including copies of sale and purchase agreements, and settlement statements),</li> <li>(c) the purchaser is not your associate.</li> </ul>	Within one month after the Assets have 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 and so we can measure the benefits you have brought to New Zealand through your investment.

1. You must report to the OIO (by email to [oiomonitoring@linz.govt.nz](mailto:oiomonitoring@linz.govt.nz)) each year on 31 July until 31 July 2024. Your report must include:
  - (a) Your progress on completing the upgrade of the Golf Course and pro golf shop development including:
    - (i) the infrastructure upgrades you have completed in the last 12 months;
    - (ii) progress on any remaining infrastructure upgrades; and
    - (iii) how many new FTE roles are present relating to the golf course and pro golf shop with details of FTE roles at the beginning and end of 12 months of the report, and when the new roles started.
  - (b) Your progress on completing the vineyard and winery development including:

- (i) the number of hectares of vines planted within the preceding 12 months additional to those existing on the Land as of 31 December 2020;
    - (ii) how many new FTE roles are present relating to the vineyard and winery;
    - (iii) investment spending on the vineyard and winery within the preceding 12 months with details of this spending.
  - (c) Your progress on completing the clay target shooting club development including:
    - (i) the construction and earthworks required in the preceding 12 months, and any plans to complete additional construction and earthworks;
    - (ii) how many new FTE roles are present relating to the clay target shooting club.
  - (d) The amount of grapes processed in the preceding 12 months including details of:
    - (i) the weight in tonnes of grapes picked and processed in the last 12 months;
    - (ii) the amount in litres of wine produced from grapes grown and processed on the Land;
    - (iii) the number of bottles of wine produced and sold from grapes on the Land.
  - (e) The amount of revenue generated from the various businesses on the Land with details of the relevant business, and the revenue created from each business as compared to the preceding year.
  - (f) The occupancy rate of the accommodation on the Land, along with evidence supporting this information.
2. Your reports must follow the format of the template annual report published on our website, and must include:
- (a) details of the total number of staff on the Land, job titles and locations, salaries of the new jobs created, and any disestablished roles since the last report;
  - (b) photographs of earthworks, construction of the clay target shooting club, planting of vines, maintenance and upgrades of the Golf Course, and wine produced from the Land, as well as photos of any other developments occurring on the Land.
3. If requested in writing by the OIO, 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 content was granted or
  - (b) the conditions of this consent.

## SUPPLEMENT TO THE CONSENT

Address	Registered proprietor	Legal Description	Area (ha)	Record of Title	Sensitivity
1 79 Matai Bay Rd	Carrington Farms Jade LP	Unit 14 Deposited Plan 309052	See plan	35247	Adjoins marine and coastal area (adjoins) Bed of a lake (adjoins) Conservation purposes (adjoins) Reserve under Reserves Act (adjoins) Residential land Non-urban land over 5 ha (adjoins)
2 Inland Road, Matai Bay Rd	Carrington Farms Jade LP	Lot 1 Deposited Plan 413387	491.008	449903	Residential land Marine and coastal area Special land Non-urban land >5ha
3 Matai Bay Road	Carrington Farms Jade LP	Lot 2 Deposited Plan 413387	1.039	561867	Residential land Non-urban land over 5 ha (adjoins) Marine and coastal area (adjoins) Bed of a lake (adjoins) Land held for conservation purposes (adjoins) Reserve under Reserves Act (adjoins)
4 Whatuwhiwhi Rd	Carrington Farms Jade LP	Lot 1 Deposited Plan 417562	0.416	467763	Residential land Non-urban land over 5 ha (adjoins)
5 Whatuwhiwhi Rd	Carrington Farms Jade LP	Lot 2 Deposited Plan 417562	0.4074	467764	Residential land Non-urban land over 5 ha (adjoins)
6 37 Whatuwhiwhi Rd	Carrington Farms Jade LP	Lot 6 Deposited Plan 417562	41.3432	467768	Non-urban land over 5 ha
7 104 Matai Bay Road	Carrington Farms Jade LP	Lot 10 Deposited Plan 201677 and Section 2	115.8025	58578	Non-urban land over 5 ha

Address	Registered proprietor	Legal Description	Area (ha)	Record of Title	Sensitivity
		Survey Office Plan 70093			
8 9 Matai Bay Road	Carrington Farms Jade LP	Lot 14 Deposited Plan 47841	0.0822	NA10A/1024	Residential land Non-urban land over 5 ha (adjoins) Marine and coastal area (adjoins) Bed of a lake (adjoins) Land held for conservation purposes (adjoins) Reserve under Reserves Act (adjoins)
9 48 Tuitonga Rd	Carrington Farms Jade LP	Lot 24 Deposited Plan 44044	0.131	NA10B/805	Residential land
10 2 Inland Rd	Carrington Farms Jade LP	Lot 19 Deposited Plan 47481	0.0809	NA11D/777	Residential land Non-urban land over 5 ha (adjoins) Marine and coastal area (adjoins) Bed of a lake (adjoins) Land held for conservation purposes (adjoins) Reserve under Reserves Act (adjoins)
11 Matai Bay Rd	Carrington Farms Jade LP	Lot 9 Deposited Plan 201677 (Part cancelled)	101.232	NA130B/335	Non-urban land over 5 ha
12 11 Matai Bay Rd	Carrington Farms Jade LP	Lot 13 Deposited Plan 47841	0.0809	NA16D/674	Residential land Non-urban land over 5 ha (adjoins) Marine and coastal area (adjoins) Bed of a lake (adjoins) Land held for conservation purposes (adjoins) Reserve under Reserves Act (adjoins)

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Address	Registered proprietor	Legal Description	Area (ha)	Record of Title	Sensitivity
13 7 Matai Bay Rd	Carrington Farms Jade LP	Lot 15 Deposited Plan 47841	0.0696	NA16D/675	Residential land Non-urban land over 5 ha (adjoins) Marine and coastal area (adjoins) Bed of a lake (adjoins) Land held for conservation purposes (adjoins) Reserve under Reserves Act (adjoins)
14 1 Matai Bay Rd	Carrington Farms Jade LP	Lot 18 Deposited Plan 47841	0.1095	NA26A/200	Residential land Non-urban land over 5 ha (adjoins) Marine and coastal area (adjoins) Bed of a lake (adjoins) Land held for conservation purposes (adjoins) Reserve under Reserves Act (adjoins)
15 172 Matai Bay Rd	Carrington Farms Jade LP	Part Lot 1 Deposited Plan 82178	9.7968	NA38D/551	Non-urban land over 5 ha
16 47 Tuitonga Rd	Carrington Farms Jade LP	Lot 26 Deposited Plan 44044	0.0921	NA7B/1184	Residential land
17 50 Tuitonga Rd	Carrington Farms Jade LP	Lot 25 Deposited Plan 44044	0.1217	NA7C/1260	Residential land
18 45 Tuitonga Rd	Carrington Farms Jade LP	Lot 27 Deposited Plan 44044	0.0827	NA8A/1424	Residential land
19 33 Brooke Rd	Carrington Estate Jade LP	Lot 101 Deposited Plan 361931	0.0671	252344	Residential land
20 12 Lindsey Way	Carrington Estate Jade LP	Lot 221 Deposited Plan 371114	0.1093	287837	Residential land
21 19 Banyan Rd	Carrington Estate Jade LP	Lot 157 Deposited Plan 385838	0.0607	343723	Residential land
22 21 Banyan Rd	Carrington Estate Jade LP	Lot 158 Deposited Plan 385838	0.0662	343724	Residential land
23 25 Banyan Rd	Carrington Estate Jade LP	Lot 160 Deposited Plan 385838	0.0698	343726	Residential land
24 27 Banyan Rd	Carrington Estate	Lot 161 Deposited Plan	0.0796	343727	Residential land

Address	Registered proprietor	Legal Description	Area (ha)	Record of Title	Sensitivity
	Jade LP	385838			
25 35 Banyan Rd	Carrington Estate Jade LP	Lot 165 Deposited Plan 385838	0.1155	343731	Residential land
26 49 Banyan Rd	Carrington Estate Jade LP	Lot 172 Deposited Plan 385838	0.1537	343738	Residential land
27 53 Banyan Rd	Carrington Estate Jade LP	Lot 173 Deposited Plan 385838	0.098	343739	Residential land
28 52 Banyan Rd	Carrington Estate Jade LP	Lot 188 Deposited Plan 385838	0.0616	343753	Residential land
29 30 Banyan Rd	Carrington Estate Jade LP	Lot 199 Deposited Plan 385838	0.0611	343763	Residential land
30 24 Banyan Rd	Carrington Estate Jade LP	Lot 202 Deposited Plan 285838	0.0794	343766	Residential land
31 Matai Bay Rd, Doubtless Bay Dr, de Surville Rd	Carrington Estate Jade LP	Part Lot 1 Deposited Plan 67692	38.5550	NA115D/665	Residential land Non-urban land over 5 ha
32 79 Matai Bay Rd	Carrington Estate Jade LP	Unit 5 Deposited Plan 309052	See plan	35238	Residential land Non-urban land over 5 ha (adjoins) Marine and coastal area (adjoins) Bed of a lake (adjoins) Land held for conservation purposes (adjoins) Reserve under Reserves Act (adjoins)
33 79 Matai Bay Rd	Carrington Estate Jade LP	Unit 7 Deposited Plan 309052	See plan	35240	Residential land Non-urban land over 5 ha (adjoins) Marine and coastal area (adjoins) Bed of a lake (adjoins) Land held for conservation purposes (adjoins) Reserve under Reserves Act (adjoins)



Address	Registered proprietor	Legal Description	Area (ha)	Record of Title	Sensitivity
34 79 Matai Bay Rd	Carrington Estate Jade LP	Unit 8 Deposited Plan 309052	See plan	35241	Residential land Non-urban land over 5 ha (adjoins) Marine and coastal area (adjoins) Bed of a lake (adjoins) Land held for conservation purposes (adjoins) Reserve under Reserves Act (adjoins)
35 79 Matai Bay Rd	Carrington Estate Jade LP	Unit 9 Deposited Plan 309052	See plan	35242	Residential land Non-urban land over 5 ha (adjoins) Marine and coastal area (adjoins) Bed of a lake (adjoins) Land held for conservation purposes (adjoins) Reserve under Reserves Act (adjoins)
36 79 Matai Bay Rd	Carrington Estate Jade LP	Unit 10 Deposited Plan 309052	See plan	35243	Residential land Non-urban land over 5 ha (adjoins) Marine and coastal area (adjoins) Bed of a lake (adjoins) Land held for conservation purposes (adjoins) Reserve under Reserves Act (adjoins)
37 79 Matai Bay Rd	Carrington Estate Jade LP	Unit 11 Deposited Plan 309052	See plan	35244	Residential land Non-urban land over 5 ha (adjoins) Marine and coastal area (adjoins) Bed of a lake (adjoins) Land held for conservation purposes (adjoins) Reserve under Reserves Act (adjoins)

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Address	Registered proprietor	Legal Description	Area (ha)	Record of Title	Sensitivity
38 79 Matai Bay Rd	Carrington Estate Jade LP	Unit 12 Deposited Plan 309052	See plan	35245	Residential land Non-urban land over 5 ha (adjoins) Marine and coastal area (adjoins) Bed of a lake (adjoins) Land held for conservation purposes (adjoins) Reserve under Reserves Act (adjoins)
39 79 Matai Bay Rd	Carrington Estate Jade LP	Unit 13 Deposited Plan 309052	See plan	35246	Residential land Non-urban land over 5 ha (adjoins) Marine and coastal area (adjoins) Bed of a lake (adjoins) Land held for conservation purposes (adjoins) Reserve under Reserves Act (adjoins)
40 -	Carrington Estate Jade LP	Lot 32 Deposited Plan 54644	0.0809	NA24C/1272	Residential land
41 -	Carrington Estate Jade LP	Lot 67 Deposited Plan 76023	0.0806	NA32C/33	Residential land
42 -	Carrington Estate Jade LP	Lot 140-141 Deposited Plan 76023	0.1497	NA93C/300	Residential land
43 Matai Bay Road	Carrington Farms Jade LP	Lot 2 Deposited Plan 446205	1.0305	561868	Residential land Non-urban land over 5 ha (adjoins) Marine and coastal area (adjoins) Bed of a lake (adjoins) Land held for conservation purposes (adjoins) Reserve under Reserves Act (adjoins)

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Address	Registered proprietor	Legal Description	Area (ha)	Record of Title	Sensitivity
44 Matai Bay Rd	Carrington Farms Jade LP	Lot 3 Deposited Plan 446205	1.0775	561869	Residential land Non-urban land over 5 ha (adjoins) Marine and coastal area (adjoins) Bed of a lake (adjoins) Land held for conservation purposes (adjoins) Reserve under Reserves Act (adjoins)
45 Matai Bay Road	Carrington Farms Jade LP	Lot 4 Deposited Plan 446205	1.0395	561870	Residential land Non-urban land over 5 ha (adjoins) Marine and coastal area (adjoins) Bed of a lake (adjoins) Land held for conservation purposes (adjoins) Reserve under Reserves Act (adjoins)
46 Matai Bay Road	Carrington Farms Jade LP	Lot 5 Deposited Plan 446205	1.019	561871	Residential land Non-urban land over 5 ha (adjoins) Marine and coastal area (adjoins) Bed of a lake (adjoins) Land held for conservation purposes (adjoins) Reserve under Reserves Act (adjoins)
47 Matai Bay Road	Carrington Farms Jade LP	Lot 6 Deposited Plan 446205	1.0155	561872	Residential land Non-urban land over 5 ha (adjoins) Marine and coastal area (adjoins) Bed of a lake (adjoins) Land held for conservation purposes (adjoins) Reserve under Reserves Act (adjoins)

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Address	Registered proprietor	Legal Description	Area (ha)	Record of Title	Sensitivity
48 Matai Bay Road	Carrington Farms Jade LP	Lot 7 Deposited Plan 446205	309.6634	561873	Non-urban land over 5 ha Marine and coastal area (adjoins) Bed of a lake (adjoins) Land held for conservation purposes (adjoins) Reserve under Reserves Act (adjoins)
49 Matai Bay Road	Carrington Holiday Park Jade LP	Lot 5 Deposited Plan 167396	2.4348	NA101C/463	Non-sensitive land
50 Whatuwhiwhi Road	Carrington Holiday Park Jade LP	Lot 3 Deposited Plan 44395	0.107	NA4C/6	Residential land

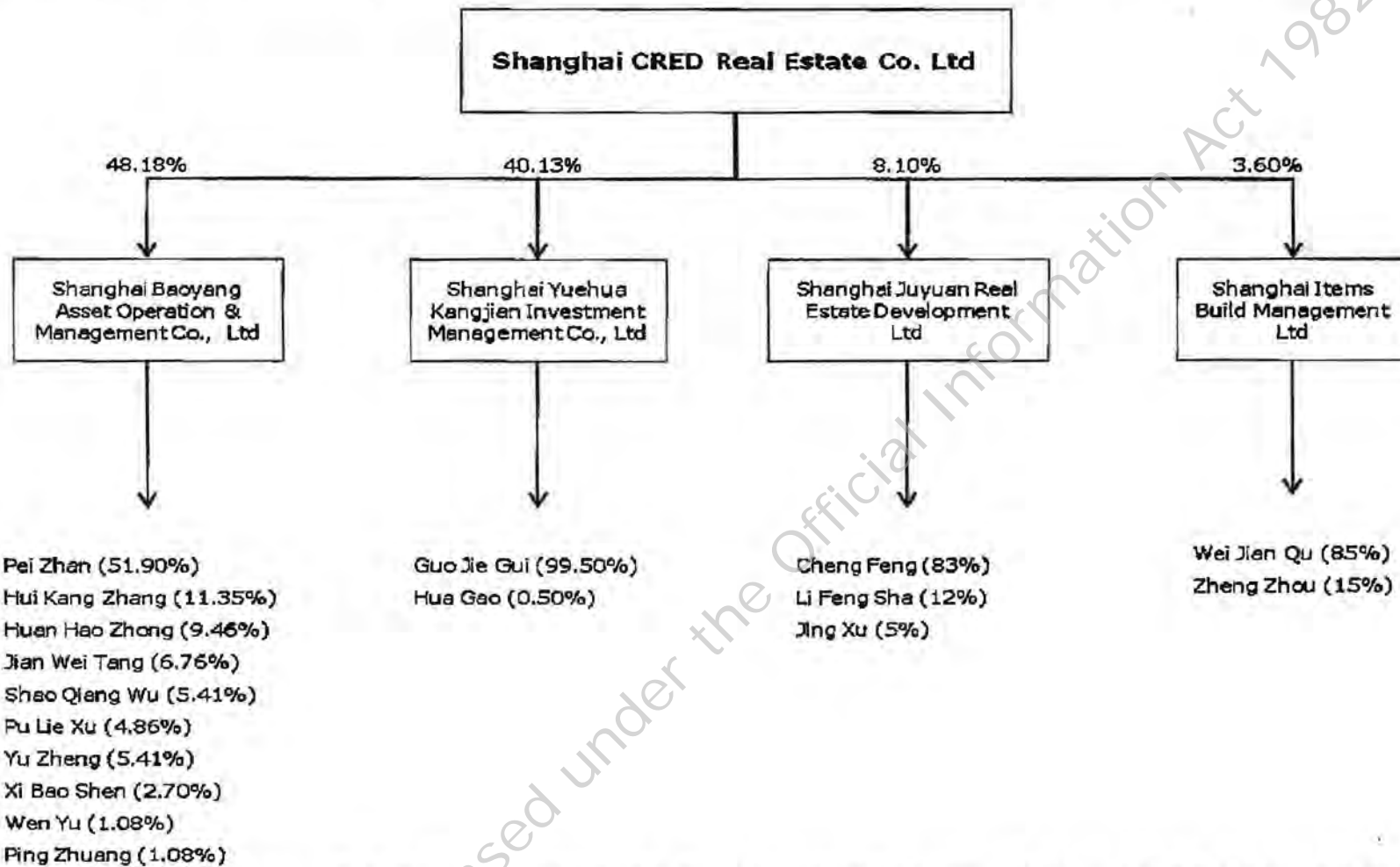
Released under the Official Information Act 2000

**ATTACHMENT 3 OWNERSHIP STRUCTURES**

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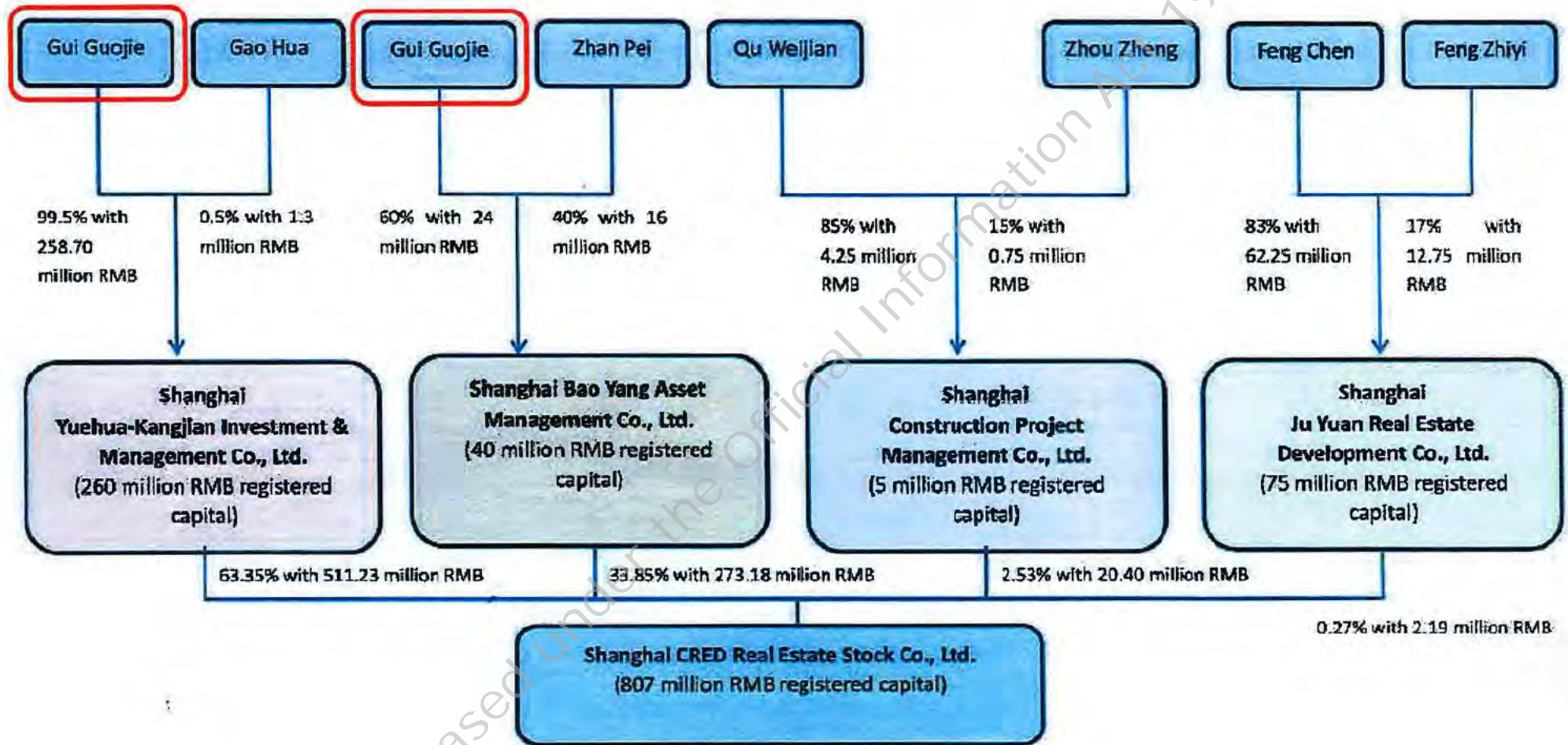
Released under the Official Information Act 1982

Structure diagram submitted as part of the 2013 and 2014 Consents (prior to November 2017 transactions)

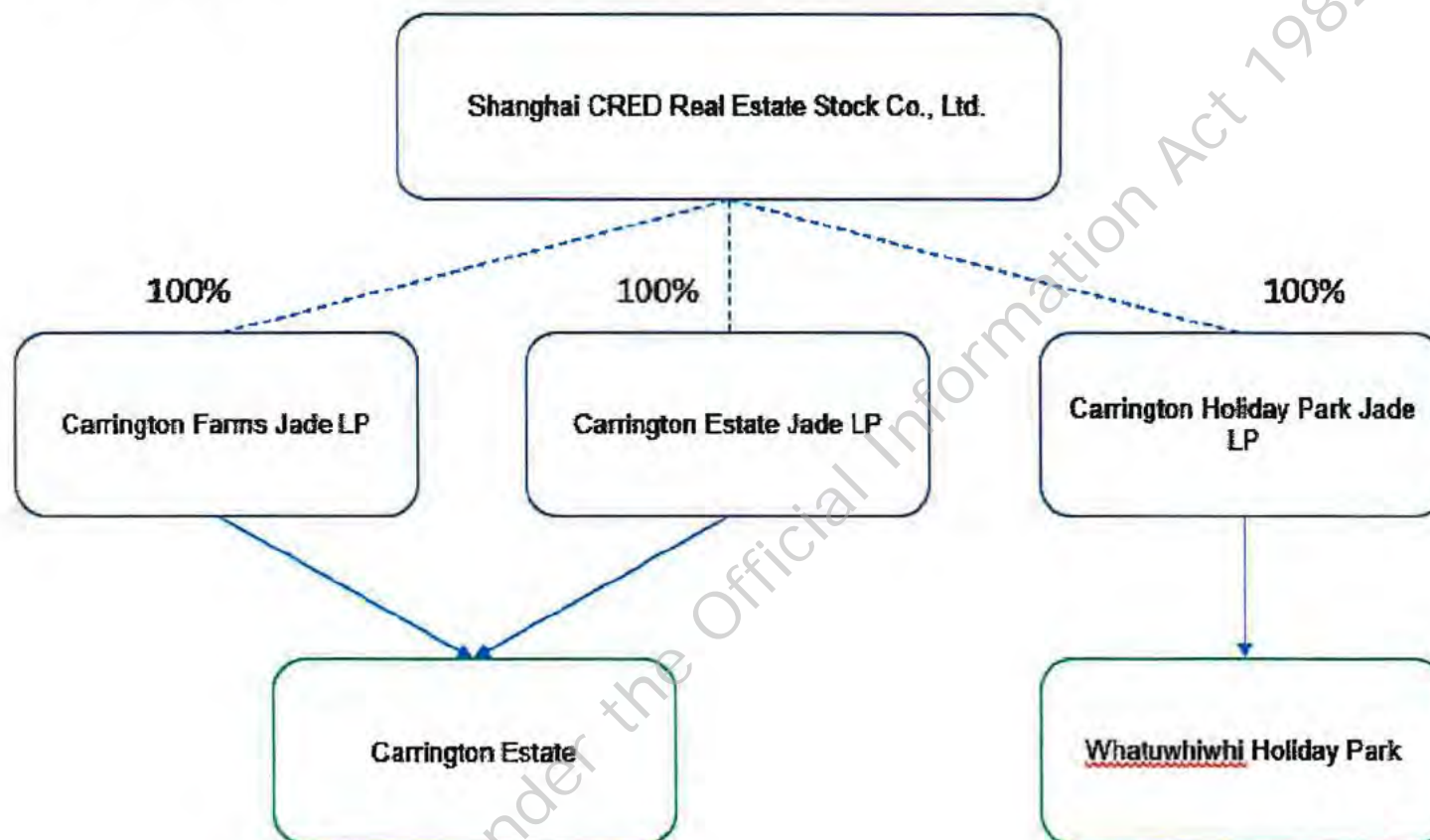


We note that 'Shanghai Items Build Management Limited' in the above structure diagram, is referred to in the diagram over the page as 'Shanghai Construction Project Management Co., Ltd'.

Structure diagram submitted as part of the present application (the structure following the November 2017 transactions)



Ownership of the Carrington Land



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## ATTACHMENT 4 - GOOD CHARACTER ASSESSMENT

The OIO undertook an open-source search of the relevant overseas persons (ROPs) and individuals with control (IWCs). The table below summarises the matters we identified.

				Matter	Mitigating factors	Assessment
1. Civil proceedings				<p>Zenith Australia (<b>Zenith</b>) is a subsidiary of Shanghai CRED, of which Gui Guojie is the General Manager and Chairman. In 2016, Zenith acquired pastoral lease for Yakka Munga Station, Kimberley. In 2019, Zenith was investigated for allegations of illegal wasteland exploration and reclamation. It was alleged that 120 hectares of sacred bushland was allegedly destroyed without consulting the local Aboriginal group, Nyikina Mangala. The Department of Water and Environmental Regulation issued Zenith with a "stop-work" order, which Zenith appealed. The investigation concluded with Western Australia's Pastoral Land Board issuing a notice that the company carry out remediation work of the 120 hectares of land.</p>	<p>The Applicant confirms that Gui Guojie was not involved in the decision to clear the land. The land clearing project was carried out by Zenith's management team. Prior to the land clearing, Zenith sought legal advice and was advised that the land clearing fell within the scope of s 109(1) of the Land Administration Act 1997 (Australia). Zenith complied with the notice to carry out remediation work and no further penalty was imposed. The Applicant confirms that Mr Gui was notified of the initial decision to clear the land due to his role as the General Manager and Chairman of Shanghai CRED. Additionally, Mr Gui was not involved in the appeal process, but merely notified of it.</p>	<p><b>Low concerns</b></p> <p>We consider the issue of illegal clearing of native land to be a serious issue. However, we consider that aside from being notified, Gui Guojie had no direct involvement in the decision to clear the land nor was he involved in the investigation and appeal process. Mr Gui was notified as he is the General Manager and Chairman of Shanghai CRED. We consider the land clearing decision to be an operational matter, not involving Gui Guojie. We also consider that this incident as being of low relevance to the current investment which involves holiday accommodations.</p>
Proximity	Low	Med	High			
Credibility	Low	Med	High			
Timing	Old	<10yrs	<3yrs			
Mitigation	High	Med	Low			

## ATTACHMENT 5 - OTHER BENEFIT FACTORS

The table **below** lists other factors in the Act and regulations for assessing the benefit of overseas investments.

We considered that the factors below were either not relevant to the investment, or the benefit to New Zealand was not likely or sufficient to be relied on for the purposes of our assessment.

Factor	Reason not relevant or insufficient
New technology or business skills – s17(2)(a)(ii) (high relative importance factor)	We agree with the Applicants' submission that these factors are not applicable to this application.
Key person in a key industry – reg 28(b)	
Indigenous vegetation/fauna – s17(2)(b)	There are no relevant areas of indigenous vegetation, fauna, trout, salmon or wildlife habitats, or strategically important infrastructure on the Carrington Land.
Trout, salmon, wildlife and game – s17(2)(c)	
Strategically important infrastructure – reg 28(h)	
Historic heritage – 17(2)(d)	Continuation of current mechanisms provided for in the 2013 Consent and later consents likely provide sufficient protections, but do not establish benefit under this application.
Walking access – s17(2)(e)	Arrangements for walking access were put in place under the 2013 Consent.
Offer to sell seabed/foreshore/riverbed to the Crown – s17(2)(f)	The special land on the Carrington Land was offered to the Crown for the 2013 Consent.
Consequential benefits – reg 28(a)	We consider the Applicant's submissions do not create sufficient relevant benefit under this factor.
Affect image, trade or international relations – reg 28(c)	The Applicant submits, and we agree, that declining this application would not adversely affect New Zealand's image overseas or its international relations.
Owner to undertake other significant investment – reg 28(d)	The Applicant refers only to the development on the Carrington Land, which is not an 'other' investment for the purposes of this factor.
Advance significant government policy or strategy – reg 28(f)	We are not satisfied that the New Zealand International Golf Tourism Strategy identified by the Applicant is 'significant' for the purposes of this factor, or that the Applicant's investments are likely to create benefit under this, or the New Zealand-Aotearoa Government Tourism Strategy identified by the Applicant.
Enhance the viability of other investments – r28(g)	The Applicants' submission relates to the Carrington Land investment itself, and so does not come within the scope of this benefit factor.
Economic interests – reg 28(i)	The investment is not likely to promote New Zealand's economic interests at a level to show benefit under this factor.
Oversight and participation by New Zealanders – reg 28(j) (high relative importance factor)	Engaging New Zealand-based managers to oversee and manage the Carrington Land is not sufficient control to show benefit under this factor.

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