

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

## ASSESSMENT REPORT: **Fletcher Residential Limited**

<b>Date</b>	9 December 2020	<b>Classification</b>	IN CONFIDENCE: Commercially sensitive
<b>OIO reference (Report reference)</b>	202000481 BRF 21-224	<b>Suggested deadline</b>	23 December 2020 Commercial deadline

### Purpose

We seek your decision on an application for consent to acquire an interest in 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 from page 3.

### OIO Contacts

Name	Position	Contact	First contact
Anneke Turton	Manager, Applications, OIO	04 830 2513	<input checked="" type="checkbox"/>
Craig Mundy-Smith	Senior Solicitor, OIO	04 462 4467	<input type="checkbox"/>

## A. Summary

1. Fletcher Residential Limited (**Applicant**) develops residential land and builds new dwellings.
2. It is acquiring a freehold interest in about 20 ha of rural land in Riverhead northwest of Auckland. The Land is zoned Future Urban under the Auckland Council Plan.
3. The Applicant proposes to develop [s 9(2)(b)(ii)] residential houses on the land.
4. For the reasons set out in this report, our recommendation is to **grant consent**.

### Key information

Applicant	<b>Fletcher Residential Limited</b> (Australia 49.10%; New Zealand 19.90%; United States of America 15.80%; Various 7.90%; United Kingdom 7.30%)
Vendors	[ s 9(2)(a) ] (New Zealand 100%)
Land	20 [s 9(2)(a)] hectares of farm land in Riverhead, Auckland
Consideration	[ s 9(2)(b)(ii) ]
Sensitivity	Sensitive land: non-urban land of over 5 ha
Relevant tests	Investor test (s16(1)(a) & 2) Benefit to NZ test – substantial and identifiable benefit, and residential land outcome (s16(1)(d)(ii) and s16A(1) and s16B) Farm land offer test (s16(1)(f)) National interest test (s16(1)(g))

### Timing

5. The deadline of 23 December 2020 is a commercial deadline. It is an extension from the original settlement date, and was agreed to by the Vendors in late November on the basis that the application would be going to Ministers shortly.
6. Processing days for the application are set out in the table below. The OIO's processing time fell comfortably within the 65-day target.

Quality Assurance	OIO Processing	Waiting for Applicant / Vendor	Third party consultation
11	49	10	9

## B. Decision

### Core tests

7. I determine that:

7.1. The 'relevant overseas person' is:

ROP	Role
Fletcher Residential Limited	Applicant
Fletcher Building Limited	Parent company of Applicant

7.2. The 'individuals with control of the relevant overseas person' are:

IWC	Role
Ross Harold Taylor	CEO of Fletcher Building Ltd
Steven Trevor Evans	Director of Fletcher Residential Ltd
Bevan John McKenzie	Director of Fletcher Residential Ltd
Martin Brydon	Director of Fletcher Building Ltd
Barbara Joan Chapman	Director of Fletcher Building Ltd
Peter Charles Crowley	Director of Fletcher Building Ltd
Bruce Ronald Hassal	Director (and Chairman) of Fletcher Building Ltd
Robert Stuart McDonald	Director of Fletcher Building Ltd
Douglas Alexander McKay	Director of Fletcher Building Ltd
Catherine Agnes Quinn	Director of Fletcher Building Ltd

7.3. The individuals with control of the relevant overseas person collectively have business experience and acumen relevant to the overseas investment.

7.4. The relevant overseas person has demonstrated financial commitment to the overseas investment.

7.5. All the individuals with control of the relevant overseas person are of good character.

7.6. Each individual with control of the relevant overseas person is not an individual of the kind referred to in sections 15 or 16 of the Immigration Act 2009 (which list certain persons not eligible for visas or entry permission under the Immigration Act).

8. I am satisfied that the investor test in section 16(2)(a)-(d) of the Act, as outlined in paragraphs 7.3 to 7.6 above, has been met.

**Hon Damien O'Connor**

Agree

Disagree

**Hon Dr Megan Woods**

Agree

Disagree

9. I am satisfied, in relation to the benefit to New Zealand test, that:
- 9.1. the criteria for consent in sections 16 and 16A of the Act have been met; and
  - 9.2. the overseas investment will, or is likely to, benefit New Zealand (or any part of it or group of New Zealanders);
  - 9.3. the benefit will be, or is likely to be, substantial and identifiable;
  - 9.4. the conditions relating to residential land to be imposed on the consent in accordance with section 16B of the Act will be, or are likely to be, met.

**Hon Damien O'Connor**

Agree

Disagree



**Hon Dr Megan Woods**

Agree

Disagree



10. I am satisfied, in relation to farm land advertising, that the criteria have been met, as set out in the report.

**Hon Damien O'Connor**

Agree

Disagree



**Dr Megan Woods**

Agree

Disagree



*National interest assessment*

11. 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 Damien O'Connor**

Noted

**Hon Dr Megan Woods**

Noted

Released under the Official Information Act 1982

*Decision about whether to grant or decline consent*

12. My ultimate decision is to:

**Hon Damien O'Connor**

Grant consent subject to the conditions in the Proposed Decision in **Attachment 1**

Grant consent with amended conditions provided on:

Decline consent



Hon Damien O'Connor

Date: 10 / 12 / 20

**Hon Dr Megan Woods**

Grant consent subject to the conditions in the Proposed Decision in **Attachment 1**

Grant consent with amended conditions provided on:

Decline consent

Hon Dr Megan Woods

Date: / /

Released under the Official Information Act 1982

## B. Decision

### Core tests

7. I determine that:

7.1. The 'relevant overseas person' is:

ROP	Role
Fletcher Residential Limited	Applicant
Fletcher Building Limited	Parent company of Applicant

7.2. The 'individuals with control of the relevant overseas person' are:

IWC	Role
Ross Harold Taylor	CEO of Fletcher Building Ltd
Steven Trevor Evans	Director of Fletcher Residential Ltd
Bevan John McKenzie	Director of Fletcher Residential Ltd
Martin Brydon	Director of Fletcher Building Ltd
Barbara Joan Chapman	Director of Fletcher Building Ltd
Peter Charles Crowley	Director of Fletcher Building Ltd
Bruce Ronald Hassal	Director (and Chairman) of Fletcher Building Ltd
Robert Stuart McDonald	Director of Fletcher Building Ltd
Douglas Alexander McKay	Director of Fletcher Building Ltd
Catherine Agnes Quinn	Director of Fletcher Building Ltd

7.3. The individuals with control of the relevant overseas person collectively have business experience and acumen relevant to the overseas investment.

7.4. The relevant overseas person has demonstrated financial commitment to the overseas investment.

7.5. All the individuals with control of the relevant overseas person are of good character.

7.6. Each individual with control of the relevant overseas person is not an individual of the kind referred to in sections 15 or 16 of the Immigration Act 2009 (which list certain persons not eligible for visas or entry permission under the Immigration Act).

8. I am satisfied that the investor test in section 16(2)(a)-(d) of the Act, as outlined in paragraphs 7.3 to 7.6 above, has been met.

**Hon Damien O'Connor**

**Hon Dr Megan Woods**

Agree

Agree

Disagree

Disagree

9. I am satisfied, in relation to the benefit to New Zealand test, that:

- 9.1. the criteria for consent in sections 16 and 16A of the Act have been met; and
- 9.2. the overseas investment will, or is likely to, benefit New Zealand (or any part of it or group of New Zealanders);
- 9.3. the benefit will be, or is likely to be, substantial and identifiable;
- 9.4. the conditions relating to residential land to be imposed on the consent in accordance with section 16B of the Act will be, or are likely to be, met.

**Hon Damien O'Connor**

**Hon Dr Megan Woods**

Agree

Agree

Disagree

Disagree

10. I am satisfied, in relation to farm land advertising, that the criteria have been met, as set out in the report.

**Hon Damien O'Connor**

**Dr Megan Woods**

Agree

Agree

Disagree

Disagree

*National interest assessment*

11. 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 Damien O'Connor**

**Hon Dr Megan Woods**

Noted

Noted

*Decision about whether to grant or decline consent*

12. My ultimate decision is to:

**Hon Damien O'Connor**

Grant consent subject to the conditions in the Proposed Decision in **Attachment 1**

Grant consent with amended conditions provided on:

Decline consent

**Hon Dr Megan Woods**

Grant consent subject to the conditions in the Proposed Decision in **Attachment 1**

Grant consent with amended conditions provided on:

Decline consent

Hon Damien O'Connor

Date: / /

Hon Dr Megan Woods

Date: 16 / 12 / 20

Released under the Official Information Act 1982



## C. Background and proposed transaction

---

13. Fletcher Residential Limited (**Applicant**) develops residential land and builds new dwellings. It has entered into a conditional contract for \$ [s 9(2)(b)(ii)] to acquire a freehold interest in about 20. [s 9(2)(a)] ha of land in Riverhead northwest of Auckland (the **Land**):
- 7. [s 9(2)(a)] hectares of land at [s 9(2)(a)] Riverhead Road;
  - 0. [s 9(2)(a)] hectares of land at [s 9(2)(a)] Riverhead Road;
  - 8. [s 9(2)(a)] hectares of land at Lathrope Road; and
  - 4. [s 9(2)(a)] hectares of land in another block at Lathrope Road.
14. The Land is located northwest of Auckland near the western boundary of the existing village of Riverhead. This area has experienced significant growth in the past 10 years and the Land is zoned Future Urban. The Applicant is pursuing a plan change to enable it to commence residential housing development (the **Plan Change**). The Applicant expects the Plan Change decision by Auckland Council to take less than [s 9(2)(b)(ii)] years.
15. The Applicant proposes to develop [s 9(2)(b)(ii)] residential houses on the Land. Its proximity to Riverhead will allow it to grow an existing community and support the local economy. Construction of the development is anticipated to start in [s 9(2)(b)(ii)] contingent on Council's approval of the Plan Change and receipt of all necessary approvals. As currently forecast, the construction programme spans just over [s 9(2)(b)(ii)] years.

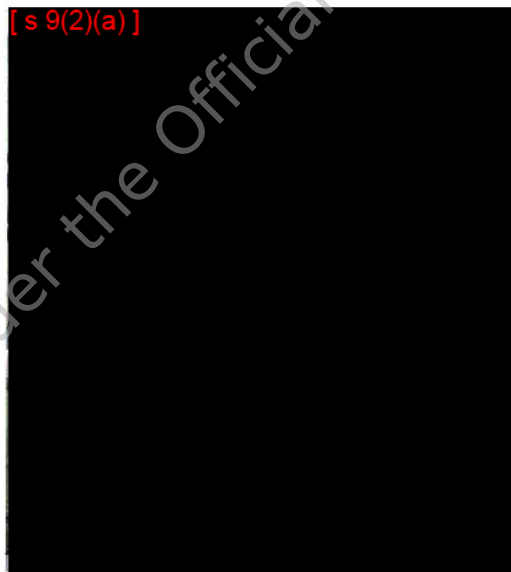


Figure 1 – Aerial view of the Land (outlined in red)

## D. Application of the Act

---

16. The land is currently used for farming and is over 5 ha in size. The land also has a residential property category in the district valuation roll. For each reason (separately), the Land is sensitive,<sup>1</sup> so consent is required.<sup>2</sup> The following criteria for an investment in sensitive land apply to this application:<sup>3</sup>

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

<sup>2</sup> Under sections 10(1)(a) and 12(a)(i) of the Act.

<sup>3</sup> Set out in section 16(1) of the Act.

- 16.1 The investor test must be met.<sup>4</sup>
- 16.2 The benefit to New Zealand test must be met.<sup>5</sup>
- 16.3 The farm land must have been offered for sale on the open market.<sup>6</sup>
- 16.4 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>7</sup>
17. In order to satisfy the benefit to New Zealand test, the decision-maker must:
  - 17.1 determine that the overseas investment will, or is likely to, benefit NZ;<sup>8</sup> and
  - 17.2 determine that benefit will be, or is likely to be, substantial and identifiable;<sup>9</sup> and
  - 17.3 because the Land is residential:
    - a. determine a residential land outcome;<sup>10</sup>
    - b. apply conditions of consent for the residential outcome;<sup>11</sup> and
    - c. be satisfied that those conditions are likely to be met.<sup>12</sup>
18. We assess the investor test in Part E, the benefit to New Zealand test in Part F, the farm land offer test in Part G, and discuss national interest matters in Part H.

## **E. Applicant and investor test**

---

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

### **Relevant overseas person**

20. Fletcher Residential is a wholly owned subsidiary of Fletcher Building Limited (**FBL**), which is a widely held company traded on the New Zealand and Australian stock exchanges. Over 80% of FBL's shares are owned by overseas persons and only 3 shareholders (Perpetual Ltd, Schroders PLC and The Vanguard Group, at 2 April 2020) hold more than 5% of its shares.
21. Although there are two layers of parent companies between Fletcher Residential and FBL,<sup>13</sup> for the purposes of the proposed transaction we are satisfied that these intermediaries function solely as holding companies.
22. Under the delegated authority that FBL's board has granted, approval for this transaction is required from FBL's Board. Otherwise, all day-to-day decision-making for the investment has been delegated to Fletcher Residential.
23. A diagram of the proposed ownership structure is in **Attachment 2**.

---

<sup>4</sup> Section 16(1)(a) of the Act.

<sup>5</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>6</sup> Section 16(1)(f) of the Act.

<sup>7</sup> Section 16(1)(g) of the Act.

<sup>8</sup> Section 16A(1)(a) of the Act.

<sup>9</sup> Section 16A(1)(b) of the Act. This criterion applies because the Land is non-urban land over 5 ha in size.

<sup>10</sup> Section 16B(3)(a) of the Act.

<sup>11</sup> Section 16B(3)(b) of the Act.

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

<sup>13</sup> First layer: Fletcher Building Holdings Ltd (80%) and Fletcher Building Industries Ltd (20%). Second layer: Fletcher Building Holdings New Zealand Ltd (100%). An ownership structure diagram for the Applicant is set out in **Figure 2** over the page.

24. For these reasons, we recommend that the 'relevant overseas person' is (collectively):

ROP	Role
Fletcher Residential Limited	Applicant
Fletcher Building Limited	Parent company of Applicant

25. We refer to the Applicant and its parent company as the **Fletcher Group**.

### Control and experience

26. Fletcher Residential is controlled by its two directors, one of whom is also its CEO and the other is FBL's chief financial officer.<sup>14</sup> FBL is controlled by its CEO and its Board.
27. Thus, we recommend that the 'individuals with control of the relevant overseas person' (IWC) are:

IWC	Role
Ross Harold Taylor	CEO of Fletcher Building Ltd
Steven Trevor Evans	Director and CEO of Fletcher Residential Ltd
Bevan John McKenzie	Director of Fletcher Residential Ltd and CFO of Fletcher Building Limited
Martin Brydon	Director of Fletcher Building Ltd
Barbara Joan Chapman	Director of Fletcher Building Ltd
Peter Charles Crowley	Director of Fletcher Building Ltd
Bruce Ronald Hassal	Director (and Chairman) of Fletcher Building Ltd
Robert Stuart McDonald	Director of Fletcher Building Ltd
Douglas Alexander McKay	Director of Fletcher Building Ltd
Catherine Agnes Quinn	Director of Fletcher Building Ltd

28. Ross Taylor has been FBL's CEO for almost 3 years. He held a number of senior leadership roles at Lend Lease in Australia over a 23-year period and more recently was CEO of two other construction sector companies.<sup>15</sup>
29. Previously, Steve Evans was the chief operating officer responsible for housing in FBL's construction division and has a long history of construction sector experience, which also included working for Lend Lease in Australia.
30. Bevan McKenzie joined FBL in early 2014 as General Manager: Group Strategy and previously worked for Boston Consulting Group.
31. The other Board members of FBL are all highly experienced business people.
32. Accordingly, we consider that the IWCs have the business experience and acumen required by the Act.<sup>16</sup>

<sup>14</sup> Fletcher Residential's third director, Charles Bolt, who was party to previous successful applications for OIO consent, resigned in September 2019 and not been replaced.

<sup>15</sup> UGL and Tenix.

<sup>16</sup> s16(2)(a) of the Act.

## Good character

33. While we have identified certain matters relevant to character<sup>17</sup> that have arisen as a result of the actions of the companies they are associated with, we consider these do not prevent a finding that the relevant overseas person is / individuals with control are of good character.
34. These matters include:
- Media criticism of the Fletcher Group accepting the Government's Covid-19 wage subsidy, whilst proposing reductions in wages for retained staff;
  - Negative publicity surrounding the Fletcher Group's ownership of land at Ihumatao;
  - Announcements of up to 1000 redundancies within the Fletcher Group due to Covid-19;
  - Workplace accidents which have been mitigated through enforceable undertakings; and
  - [ s 6(c) ]
35. While these matters have resulted in negative publicity for the Fletcher Group, there is either: no evidence of deliberate wrongdoing on the part of the IWCs; or there have been appropriate steps taken to mitigate the matter; or the IWCs were not closely connected to the matter. We are satisfied that the statutory declaration provided with the application as to good character can be relied on.
36. The matters we have identified and considered are detailed in **Attachment 3**.

## Conclusion - investor test

37. 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	
	Test	Summary
Collectively have business experience and acumen relevant to the investment Section 16(2)(a).	Test met	All IWCs are senior managers or directors in the Fletcher Group.
ROP demonstrated financial commitment. Section 16(2)(b).	Test met	Has entered into a binding agreement, incurred legal fees and undertaken a range of consultation.
Good character Section 16(2)(c).	No concerns	We are satisfied the IWCs are of good character. See <b>Attachment 3</b> .
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.

<sup>17</sup> These are new matters arising since the last assessment of the character of the Fletcher Group IWCs, which was made in case 201900654 (decided 29 September 2020).

## F. Investment plan and benefit to NZ test

---

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

### Investment plan

39. The Applicant intends to develop approximately [§ 9(2)(b)(i)] homes on the Land. It will undertake all land development, civil works and housing construction itself. This will cost [§ 9(2)(b)(i)] over [§ 9(2)(b)(i)] years.
40. The Land is currently zoned as Future Urban and can only be used for rural purposes.
41. The Applicant intends to pursue the Plan Change to enable the Land to be used for a residential housing development. It expects the Auckland Council decision on the Plan Change to take less than [§ 9(2)(b)(i)] years.
42. Construction of the development is anticipated to start in [§ 9(2)(b)(i)] contingent on Council's approval of the Plan Change and receipt of all necessary approvals. As currently forecast, the construction programme spans just over [§ 9(2)(b)(i)] years.
43. Fletcher Residential considers it is an experienced developer with sufficient financial resources which gives it a reasonable chance of being able to secure the Plan Change. The Applicant submits that those financial resources also allow it to subdivide and build speculatively<sup>18</sup>, and consequently, further reduce the time it takes to complete the development.

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

44. Because the land is zoned for future residential development in a region with high population growth, if consent is not granted the Land is likely to still be developed for housing. Accordingly, most of the economic benefits that are likely to occur as a result of the development would also occur, but at a later date and at a slower pace.
45. Currently, the Land can only be used for rural purposes. Auckland Council has scheduled its rezoning of the Land to occur at some point between 2028 and 2032.<sup>19</sup> Once the Land has been rezoned, we consider it likely that the Land would be purchased and subdivided by a competent and adequately funded alternative New Zealand developer. However, we consider it unlikely (given the cost)<sup>20</sup> that an alternative developer would apply to rezone the Land before this.

### Benefit to New Zealand Assessment

46. The key difference between the investment and the counterfactual is the pace of the development.
47. Due to the requirement for the Plan Change, it is more likely than not that any alternative developer would wait until Auckland Council amends the zoning from Future Urban to Residential in five to seven years' time.
48. It is also unlikely that another developer would develop the Land in the manner anticipated by the Applicant, which is to produce both the sections and the associated dwellings. An alternative developer would be much more likely to subdivide the Land into residential sections, carry out the necessary land and infrastructure development works and on-sell those sections for building of the residential homes by multiple third parties.

---

<sup>18</sup> Taking a calculated risk by constructing houses before the sections are sold.

<sup>19</sup> Pursuant to the Auckland Council's Future Urban Land Supply Strategy 2017.

<sup>20</sup> The Applicant estimates the cost of the Plan Change at \$[§ 9(2)(b)(i)].

49. Once the Plan Change is implemented, the Applicant has the resources to proceed with the development quickly. This is less likely to be possible for a smaller land developer who would need to obtain finance and develop and sell initial stages before proceeding with later stages, particularly with an area of land of this size.
50. The ultimate planning decision rests with Auckland Council and potentially the Environment Court, so there is some uncertainty whether Fletcher Residential can secure the Plan Change.
51. However, the Applicant is a well-resourced and experienced developer with a long history of successful subdivision developments. Furthermore, it has demonstrated that it has the capacity and ability to undertake a residential development of this scale and at this pace. Because of this history, the expertise of its staff and management, and the financial resources available to it, we consider that the Applicant is likely to be able to obtain the Plan Change it seeks.

### Benefit Factors

52. The benefits to New Zealand that 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.
53. 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 4**.
54. 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.
55. Under the terms of the Ministerial directive letter,<sup>21</sup> the 'rural land directive' applies to this investment.<sup>22</sup> The benefit factors Ministers have directed should be given high relative importance are noted in the table below.<sup>23</sup>
56. Consultation undertaken in our assessment is discussed following the table.

---

<sup>21</sup> Dated 28 November 2017, paragraphs 13-17.

<sup>22</sup> Because the investment involves the acquisition of non-urban over 5 hectares in size (excluding any associated land) and excludes 'forest land'.

<sup>23</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, oversight and participation by New Zealanders.



57. 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>Greater efficiency or productivity</b>	Due to the Applicant's actions to drive the Plan Change, construction begins 5-8 years sooner. Following the Plan change, construction of the new dwellings is completed an additional [s 9(2)(b)(ii)] sooner than under the traditional development model.	It is likely that the land will remain undeveloped until 2028 and that, once developed, pre-sales would be required, and on-sale of vacant serviced land to third parties for subsequent dwelling construction, leading to additional delays of [s 9(2)(b)(ii)]	Strong	Because of the Applicant's expertise and the financial resources available to it, we consider that the Applicant is likely to obtain the Plan Change it seeks, resulting in construction beginning up to eight years sooner. Once re-zoned, the end-to-end construction model enables faster completion (e.g. building homes before the roads & utilities are complete); and the absence of any requirement for pre-sales avoids delays as compared to the counterfactual.	Apply for rezoning of the Land. Apply for necessary resource consents. Expend [s 9(2)(b)(ii)] in capital expenditure. Construct at least [s 9(2)(b)(ii)] dwellings on the Land. The land must be on-sold.
<b>Advance significant government policy</b>	Advances the Government's goal to deliver more housing, sooner.	A similar number of new homes will be built, but at a later time and slower pace.	Medium	While no additional dwellings are likely to be built than without the investment, the [s 9(2)(b)(ii)] new dwellings are likely to be built up to eight years sooner, helping to alleviate the current undersupply of housing in the Auckland region.	Construct at least [s 9(2)(b)(ii)] dwellings on the Land.
<b>Previous investments</b>	Construction of ~4,400 new homes in Auckland over the last 15 years.	n/a	Medium	The Applicant is a well-resourced and experienced developer with a long history of successful subdivision developments.	No conditions appropriate.

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	
				<p>As one of NZ's largest home builders, the ROP has made a significant number of previous investments that have been of benefit to New Zealand.</p>	
<p><b>Oversight and participation by New Zealanders (high relative importance)</b></p>	<p>FBL is widely held, with 19.9% of the company held by New Zealanders.  FBL is traded on the NZX.  The IWCs are NZers or NZ resident.  Fletcher Residential and FBL are both NZ companies with their head offices in Auckland.</p>	n/a	Medium	<p>The NZX listing enables participation and oversight by New Zealanders in the ROP's parent company. The New Zealand owners will indirectly participate in any profits that are made from the investment.</p>	No conditions appropriate.



## Consultation and submissions about the investment

58. In undertaking our assessment, we consulted with the Walking Access Commission (**WAC**) and the Department of Conservation (**DoC**).

### *Walking Access Commission*

59. WAC carried out a high-level assessment and determined that the property offered additional public access opportunities to the pedestrian access planned by the Applicant.
60. WAC's proposed conditions consisted of a series of walkway easements and shared walk and cycle pathways on the Land.
61. The Applicant's view was that it was not appropriate to adopt any of the proposed conditions because a site plan could not be finalised until after a zoning change had been obtained.
62. We agree, and note that the appropriateness of any walking access is likely to be considered during the resource consent application process.

### *Department of Conservation*

63. DoC did not have any concerns with the application or propose any conditions of consent.

## Proposed conditions and rationale

64. Conditions may be imposed as part of a consent, to ensure that the benefits of the proposed investment are realised.
65. In this investment, the construction of new dwellings at a fast pace is the key deliverable. This construction is contingent upon whether a Plan Change can be obtained or not. To ensure that the construction proceeds on schedule, we recommend that conditions (with clear milestones) be imposed requiring the Applicant to apply to rezone the Land and to obtain any necessary resource consents within a set timeframe.
66. We also recommend that a disposal condition is imposed requiring the Applicant to dispose of its interest in the land if it fails to meet the above conditions. This is because a failure to obtain consents or rezoning will result in the failure of the overall investment plan.

## Residential land outcome

67. Where an overseas investment in sensitive land is being considered under the benefit to New Zealand test and the relevant land is or includes residential land, then Ministers must determine a residential land outcome, and make the consent subject to the conditions applying to that outcome.<sup>24</sup>
68. The most appropriate residential land outcome for this investment is 'increased residential dwellings',<sup>25</sup> for which conditions must be imposed that require: (i) either additional dwellings to be constructed or supporting roads and utilities; (ii) for the Land to be on-sold; and (iii) for the relevant overseas person not to occupy the Land. We have recommended conditions of consent of this nature are imposed on any consent granted (See Attachment 1 for the proposed conditions.).
69. The Applicant's intention to construct over new dwellings with supporting infrastructure will satisfy both elements of the first condition; and, because Fletcher

<sup>24</sup> s16B of the Act. The residential land outcomes are listed in the table in clause 19 of Schedule 2 of the Act.

<sup>25</sup> Clause 19(2), row 4, Schedule 2 of the Act.

M Who decides then?

Residential is a land developer that makes its profits from selling new dwellings to third parties, the Land is intended to be on-sold without Fletcher Residential occupying it. Therefore we consider the residential land outcome conditions are likely to be met.

### Conclusion – benefit to NZ test

70. 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. The Land that is intended to be acquired is non-urban land greater than five hectares, therefore any benefit to New Zealand that is likely to result from the Investment must be substantial and identifiable.
71. The Land is zoned for future residential development. Therefore, notwithstanding its smaller size (approximately 20 hectares), it has a substantial financial value (approximately \$ [s 9(2)(b)(ii)]). We have also considered that the Applicant's ultimate intention, under its development plan, is to on-sell the developed houses. Therefore any interest in the Land will be of a temporary nature (notwithstanding that they may have an interest in the Land for up to [s 9(2)(b)] years).
72. After assessing the application, we are satisfied that the investment is likely to result in the benefits considered above. We consider the benefit to New Zealand that is likely to occur as a result of the Investment is substantial and identifiable in the context of the Investment. This assessment takes into account the size of the Land, its value, rural characteristics and development potential and the temporary nature of the Applicant's interest.

### G. Farm land offer test

---

73. Because the Land is farm land,<sup>26</sup> we note that it was advertised for sale on the open market with the required information for a period exceeding 20 working days<sup>27</sup> on [s 9(2)(a)]
74. We are therefore satisfied the regulations requiring the farm land to be offered for acquisition on the open market have been complied with.<sup>30</sup>

### H. Not a transaction of national interest

---

75. The investment does not involve a transaction of national interest under the mandatory criteria of the Act.<sup>31</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).
76. 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>32</sup> He has therefore not declined consent to the transaction.
77. We are directed<sup>33</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;

---

<sup>26</sup> [s 9(2)(a)] (see the definition of farm land in s 6 of the Act).

<sup>27</sup>

<sup>28</sup>

<sup>29</sup>

<sup>30</sup> Regulations 5 to 10.

<sup>31</sup> Under s 20A of the Act.

<sup>32</sup> Section 20B of the Act

<sup>33</sup> Supplementary Ministerial Directive Letter (8 June 2020)

- 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.

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

## I. Conclusion

---

79. 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.
80. After considering the application, our view is that:
- 80.1 the investor test has been met; and
  - 80.2 the overseas investment will, or is likely to, benefit New Zealand (or any part of it or group of New Zealanders); and
  - 80.3 the benefit will be, or is likely to be, substantial and identifiable; and
  - 80.4 the conditions relating to residential land to be imposed on the consent will be, or are likely to be, met;
  - 80.5 the farm land offer test has been met;
  - 80.6 the transaction is not considered to be a transaction of national interest.
81. Therefore, we consider that the criteria for consent in section 16 have been met and our recommendation is to **grant consent**.
82. 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: 9 December 2020

## List of Attachments

---

1. Proposed Decision and Conditions
2. Intended ownership structure
3. Good character assessment
4. Other benefit factors

Released under the Official Information Act 1982

## ATTACHMENT 1 PROPOSED DECISION

### Consent for Overseas Person to Acquire Sensitive New Zealand Land

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

#### Consent

Decision date: [date]

The following people have been given the following consent:

<b>Case</b>	202000481
<b>Consent</b>	The Consent Holder may acquire the Land subject to the Conditions set out below.
<b>Consent Holder</b>	Fletcher Residential Limited (Company Number 613964) We will also refer to the Consent Holder as <b>you</b> .
<b>Development</b>	The construction of at least [s 9(2)(b)] houses on the Land
<b>Land</b>	Approximately 20. [s 9(2)(a)] hectares of land at [s 9(2)(a)] Riverhead Road and Lathrope Road, Auckland being all of the land currently contained in records of title [s 9(2)(a)] [s 9(2)(a)]
<b>Timeframe</b>	You have until [s 9(2)(b)(ii)] 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 Overseas Investment Office as OIO, us or we.

---

## Definitions

---

**Act** means Overseas Investment Act 2005.

**Plan Change** means an application to change to the district plan, rezoning of the Land from Future Urban to a residential use to permit the Consent Holder to commence residential housing development.

**Regulations** means Overseas Investment Regulations 2005

**Structure Plan** means a plan setting out things such as the road layout, infrastructure services and the location of public reserves, walkways and cycleways.

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 were considerations that particularly influenced us to give consent:

Details	Required date
<b>Special condition 1: Rezone the Land</b>	
You must apply to the Auckland Council to rezone the Land from Future Urban to an urban use and meet the following milestones:	
a) Prepare the Structure Plan (if required)	[ s 9(2)(b)(ii) ]
b) Submit the Plan Change	
The Land must be rezoned to urban use.	



<p>If you do not comply with this special condition, standard condition 6 will apply and we may require you to dispose of the Land.</p>	
<p><b>Special condition 2: Increased residential dwellings</b></p>	
<p>You must:</p>	
<p>a) apply for resource consent for the residential subdivision of the Land into at least [ s 9(2)(b)(ii) ] residential sections;</p>	<p>[ s 9(2)(b)(ii) ]</p>
<p>b) complete construction of the roads and utilities for the first stage of development, which must be for no less than [ s 9(2)(b)(ii) ] and complete construction of the first home;</p>	
<p>c) complete construction of at least [ s 9(2)(b)(ii) ] dwellings on the Land (with at least one dwelling per residential section). In doing so, you must meet the following milestones:</p> <ul style="list-style-type: none"> <li>i) A cumulative total of [ s 9(2)(b)(ii) ] constructed</li> <li>ii) A cumulative total of [ s 9(2)(b)(ii) ] constructed</li> </ul>	
<p>d) subdivide the Land into at least [ s 9(2)(b)(ii) ] and construct supporting roads and utilities to support those sections.</p>	
<p>If you do not satisfy each of the conditions above, standard condition 6 will apply and we may require you to dispose of the Land.</p>	
<p><b>Special condition 3: Additional investment</b></p>	
<p>You must introduce into New Zealand at least [ s 9(2)(b)(ii) ] additional investment for development purposes on the Land</p> <p>You must meet the following milestones</p> <ul style="list-style-type: none"> <li>a) A cumulative total of \$ [ s 9(2)(b)(ii) ] of additional investment</li> <li>b) A cumulative total of \$ [ s 9(2)(b)(ii) ] of additional investment</li> <li>d) A cumulative total of \$ [ s 9(2)(b)(ii) ] of additional investment</li> </ul>	<p>[ s 9(2)(b)(ii) ]</p>

<b>Special condition 4: On-sale of residential dwellings</b>	
<p>You must dispose of all interests in the Land to a third party who is not your associate (as that term is defined in section 8 of the Act).</p> <p>If you do not satisfy this condition, standard condition 6 will apply and we may require you to dispose of the Land.</p>	[ s 9(2)(b)(ii) ]
<b>Special condition 5: Non-occupation of residential dwellings</b>	
<p>None of the following people may occupy the Land acquired under this Consent:</p> <p>(a) You or Fletcher Building Limited.</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 terms (as defined in clause 17, Schedule 2 of the Act).</p> <p>(d) Any overseas person who has a beneficial interest in, or beneficial entitlement to, the relevant interest in the Land.</p> <p>If any such persons do occupy Land acquired under the Consent for residential purposes, Standard Condition 6 will apply, and we may require you to dispose of the Land.</p>	<p>Ongoing, while You, or any of the people outlined in paragraphs (a) to (d), has any relevant interest in the Land.</p>

### Standard conditions

You must also comply with the **standard conditions** set out below. These apply to all overseas people who are given consent to acquire sensitive New Zealand land, including you:

<b>Details</b>	<b>Required date</b>
<b>Standard condition 1: acquire the Land</b>	
<p>You must acquire the Land:</p> <ol style="list-style-type: none"> <li>by the date stated in the Consent. If you do not, your Consent will lapse or become invalid and you must not acquire the Land, and</li> <li>using the acquisition, ownership and control structure you described in your application.</li> </ol> <p>Note, only you – the named Consent holder - may acquire the Land, not your subsidiary, trust or other entity.</p>	As stated in the Consent



Standard condition 2: tell us when you acquire the Land	
<p>You must tell us in writing when you have acquired the Land. Include details of:</p> <ol style="list-style-type: none"> <li>1. the date you acquired the Land (<b>Settlement</b>),</li> <li>2. consideration paid (plus GST if any),</li> <li>3. the structure by which the acquisition was made and who acquired the Land, and</li> <li>4. copies of any transfer documents and Settlement statements.</li> </ol>	<p>As soon as you can, and no later than two months after Settlement</p>
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.</p> <p>We will give you at least two weeks' written notice if we want to do this.</p> <p>You must then:</p> <ol style="list-style-type: none"> <li>1. Allow a person we appoint (<b>Inspector</b>) to: <ol style="list-style-type: none"> <li>(a) enter onto the Land, including any building on it, other than a dwelling, for the purpose of monitoring your compliance with the Conditions (<b>Inspection</b>),</li> <li>(b) remain there as long as is reasonably required to conduct the inspection,</li> <li>(c) gather information,</li> <li>(d) conduct surveys, inquiries, tests and measurements,</li> <li>(e) take photographs and video records, and</li> <li>(f) do all other things reasonably necessary to carry out the Inspection.</li> </ol> </li> <li>2. Take all reasonable steps to facilitate an Inspection including: <ol style="list-style-type: none"> <li>(a) directing your employees, agents, tenants or other occupiers to permit an Inspector to conduct an Inspection,</li> <li>(b) being available, or requiring your employees, agents, tenants or other occupiers to be available, at all reasonable times during an Inspection to facilitate access onto and across the Land. This includes providing transport across the Land if reasonably required.</li> </ol> </li> <li>3. During an Inspection:</li> </ol>	<p>At all times</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>	
<b>Standard condition 4: remain of good character</b>	
<p>You and the Individuals Who Control You:</p> <ol style="list-style-type: none"> <li>1. must continue to be of good character, and</li> <li>2. must not become an individual of the kind referred to in <a href="#">section 15</a> or <a href="#">section 16</a> of the Immigration Act 2009. In summary, these sections describe convicted or deported people who are not eligible for visa or entry permission to enter or be in New Zealand and people who are considered likely to commit an offence or to be a threat or risk to security, public order or the public interest.</li> </ol> <p>The <b>Individuals Who Control You</b> are individuals who:</p> <ol style="list-style-type: none"> <li>(a) are members of your governing body,</li> <li>(b) directly or indirectly, own or control more than 25% of you or of a person who itself owns or controls more than 25% of you, and</li> <li>(c) are members of the governing body of the people referred to in paragraph (b) above.</li> </ol>	<p>At all times</p>
<b>Standard condition 5: tell us about changes that affect you, the people who control you, or people you control</b>	
<p>You must tell us in writing if any of the following events happens to any of the Consent holders:</p> <ol style="list-style-type: none"> <li>1. You, any Individual Who Controls You, or any person in which you or any individual who controls you hold (or at the time of the offence held) a 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 any offences or contraventions that you are charged with or sued over and any investigation by enforcement or regulatory agencies or professional standard bodies.</li> </ol>	<p>Within 20 working days after the change</p>

<p>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 Land; or becomes an individual of the kind referred to in <a href="#">section 15</a> or <a href="#">16</a> of the Immigration Act 2009 (see standard condition 4).</p> <p>3. You cease to be an overseas person or dispose of all or any part of the Land.</p> <p>4. You, any Individual Who Controls You, or any person in which you or any Individual Who Controls You hold (or at the time of the event held) a more than 25% ownership or control interest:</p> <p>(a) becomes bankrupt or insolvent</p> <p>(b) has an administrator, receiver, liquidator, statutory manager, mortgagee's or chargee's agent appointed, or</p> <p>(c) becomes subject to any form of external administration.</p>	
<p><b>Standard condition 6: dispose of the Land if you do not comply with key special conditions</b></p>	
<p>Some of the special conditions were key to the decision to give consent. If we consider you have failed to comply with one of those Special conditions in a material way we may require you to dispose of the Land.</p> <p>If all or part of this standard condition 6 applies to a special condition, we have said so in that condition.</p> <p>We will give you written notice if we require you to dispose of the Land. After we have given you notice, you must:</p>	
<p><b>Value the Land:</b> obtain and send us a copy of a market valuation of the Land from a New Zealand registered valuer.</p>	<p>Within six weeks of the date of our notice.</p>
<p><b>Market the Land:</b> instruct a licensed real estate agent to actively market the Land for sale on the open market.</p>	<p>Within six weeks of the date of our notice.</p>
<p><b>Dispose of the Land:</b> dispose of the Land to a third party who is not your associate.</p>	<p>Within six months of our notice.</p>
<p><b>Offer without reserve:</b> 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.</p>	<p>Within nine months of our notice.</p>

<p><b>Report to us about marketing:</b> tell us in writing about marketing activities undertaken and offers received for the Land.</p>	<p>By the last day of every March, June, September and December after our notice or at any other time we require.</p>
<p><b>Report disposal to us:</b> send us, in writing, evidence:</p> <ul style="list-style-type: none"> <li>(d) that you have disposed of the Land,</li> <li>(e) of disposal (including copies of sale and purchase agreements, settlement statements and titles showing the purchaser as registered proprietor),</li> <li>(f) the purchaser is not your associate.</li> </ul>	<p>Within one month after the Land has been disposed of.</p>

### 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.

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

1. be sent to [oiomonitoring@linz.govt.nz](mailto:oiomonitoring@linz.govt.nz) by these dates:
  - (a) Year two: 31 August 2022
  - (b) Year three: 31 August 2023
  - (c) Year six: 31 August 2025
  - (d) Year seven: 31 August 2026
  - (e) Year eight: 31 August 2027
  - (f) Year nine: 31 August 2028
  - (g) Year ten: 31 August 2029
  - (h) Year eleven: 31 August 2030
  - (i) Year twelve: 31 August 2032
  - (j) Year sixteen: 31 August 2035
  - (k) Year twenty: 31 August 2040
2. contain information about:
  - (a) your progress in implementing the special conditions,
  - (b) evidence that you are undertaking an integrated development in which you both develop the land and construct the dwellings (such as photos and evidence of financial expenditure); and

- (c) the number of FTE jobs associated with the Land, what those roles are, including any increase or decrease from the previous year and the reasons for this increase or decrease, or any change in nature of the roles and the reasons for this change. The report should include payroll or other evidence showing number of FTE employees/positions; and
- 3. follow the format of the template report published on our website.
- 4. 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 consent was granted or
  - (b) The conditions of this consent.

Released under the Official Information Act 1982

## ATTACHMENT 2 – INTENDED OWNERSHIP STRUCTURE

---

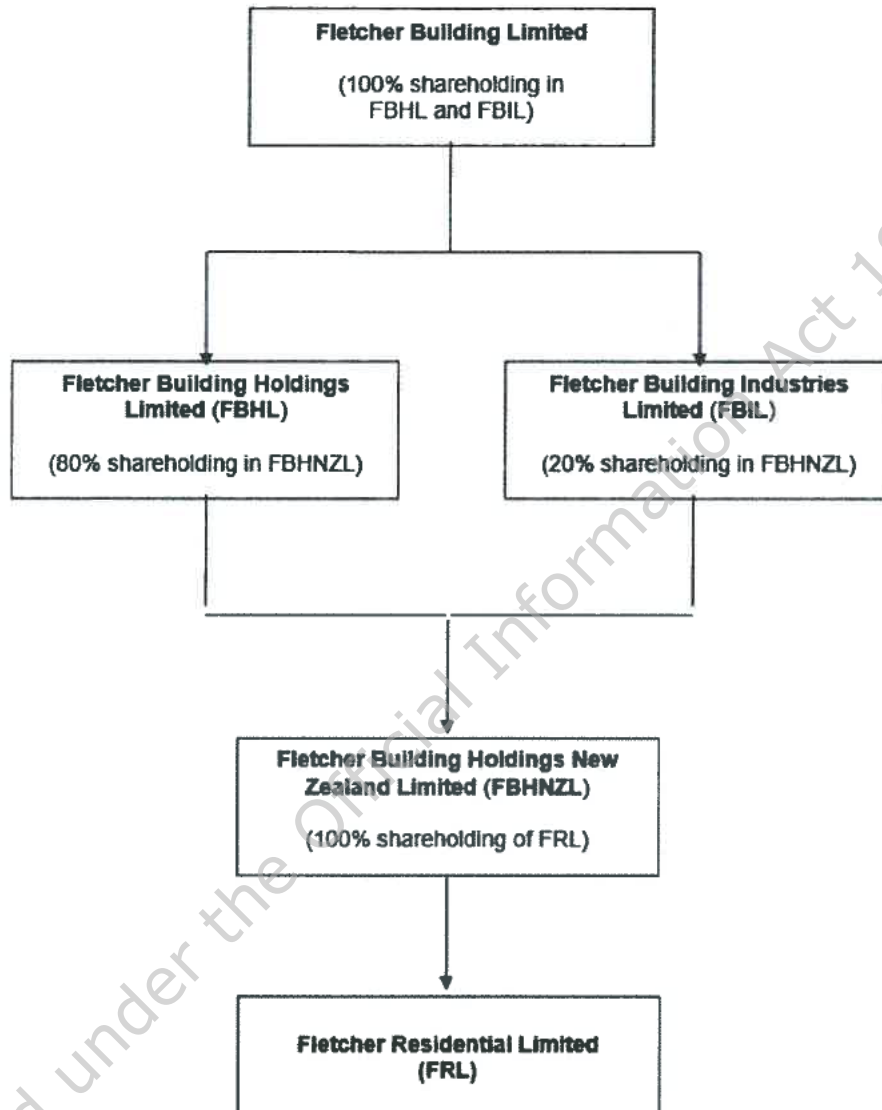


Figure 2 - Fletcher Group Structure



## ATTACHMENT 3 – 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 that have not been considered and resolved in previous applications.

Matter	Mitigating factors	Assessment																
<p><b>1. Labour relations</b></p> <table border="1"> <tr> <td>Proximity</td> <td>Low</td> <td>Med</td> <td>High</td> </tr> <tr> <td>Credibility</td> <td>Low</td> <td>Med</td> <td>High</td> </tr> <tr> <td>Timing</td> <td>Old</td> <td>&lt;10yrs</td> <td>&lt;3yrs</td> </tr> <tr> <td>Mitigation</td> <td>High</td> <td>Med</td> <td>Low</td> </tr> </table>	Proximity	Low	Med	High	Credibility	Low	Med	High	Timing	Old	<10yrs	<3yrs	Mitigation	High	Med	Low	<p>Use of subsidy legitimate.</p> <p>Applicant's statement:  <i>"Fletcher Building stands by its collection of the wage subsidy during the level 4 lockdown and its communications with its employees over the application of the subsidy funds and the bridging pay programme which was established over the 12 week period"</i>.</p>	<p><b>Low concerns</b></p> <p>Publicity about Fletchers accepting the wage subsidy led to media criticism during the lockdown.</p> <p>However, there is no evidence of any wrongdoing and the use of the subsidy was legitimate.</p>
Proximity	Low	Med	High															
Credibility	Low	Med	High															
Timing	Old	<10yrs	<3yrs															
Mitigation	High	Med	Low															
<p><b>2. Community/Social Impact</b></p> <table border="1"> <tr> <td>Proximity</td> <td>Low</td> <td>Med</td> <td>High</td> </tr> <tr> <td>Credibility</td> <td>Low</td> <td>Med</td> <td>High</td> </tr> <tr> <td>Timing</td> <td>Old</td> <td>&lt;10yrs</td> <td>&lt;3yrs</td> </tr> <tr> <td>Mitigation</td> <td>High</td> <td>Med</td> <td>Low</td> </tr> </table>	Proximity	Low	Med	High	Credibility	Low	Med	High	Timing	Old	<10yrs	<3yrs	Mitigation	High	Med	Low	<p>Fletcher Building bought the Land in good faith from the owners with full consenting rights to undertake the intended residential development.</p> <p>Fletchers, paused the development pending talks with Government and other parties.</p>	<p><b>Low concerns</b></p> <p>While there has been some criticism of Fletchers for offering to sell the land at double its price, there is no evidence of any wrongdoing.</p>
Proximity	Low	Med	High															
Credibility	Low	Med	High															
Timing	Old	<10yrs	<3yrs															
Mitigation	High	Med	Low															

<p>3. Labour relations</p> <table border="1"> <tr> <td>Proximity</td> <td>Low</td> <td>Med</td> <td>High</td> </tr> <tr> <td>Credibility</td> <td>Low</td> <td>Med</td> <td>High</td> </tr> <tr> <td>Timing</td> <td>Old</td> <td>&lt;10yrs</td> <td>&lt;3yrs</td> </tr> <tr> <td>Mitigation</td> <td>High</td> <td>Med</td> <td>Low</td> </tr> </table>	Proximity	Low	Med	High	Credibility	Low	Med	High	Timing	Old	<10yrs	<3yrs	Mitigation	High	Med	Low	<p>Fletcher Building has made 1000 people redundant because of Covid-19.</p>	<p>Commercial decision in difficult business environment.</p> <p>Applicant statement:  <i>“These decisions are commercial decisions that FBL has unfortunately had to be make as a result of the economic impact on the FBL group of companies. The applicant itself is well capitalised for this acquisition and there is no intention to move or delay its current investment strategy for the relevant property.”</i></p>	<p><b>Low concerns</b></p> <p>There is no evidence of any wrongdoing and the impact of the Covid-19 pandemic means that there is a legitimate reason for the redundancies.</p>
Proximity	Low	Med	High																
Credibility	Low	Med	High																
Timing	Old	<10yrs	<3yrs																
Mitigation	High	Med	Low																
<p>4. Health and Safety</p> <table border="1"> <tr> <td>Proximity</td> <td>Low</td> <td>Med</td> <td>High</td> </tr> <tr> <td>Credibility</td> <td>Low</td> <td>Med</td> <td>High</td> </tr> <tr> <td>Timing</td> <td>Old</td> <td>&lt;10yrs</td> <td>&lt;3yrs</td> </tr> <tr> <td>Mitigation</td> <td>High</td> <td>Med</td> <td>Low</td> </tr> </table>	Proximity	Low	Med	High	Credibility	Low	Med	High	Timing	Old	<10yrs	<3yrs	Mitigation	High	Med	Low	<p>Fletcher Construction Company Limited (FCC) and WorkSafe agreed an enforceable undertaking (EU) in March 2018 after an incident in South Auckland in May 2016.</p> <p>The incident occurred when a commonly used temporary retaining wall detail became unstable and collapsed onto a worker breaking his leg.</p>	<p>Mitigation resulting in increased safety standards.</p> <p>An EU is entered into voluntarily by the duty holder following a breach. The agreement details actions the duty holder will undertake to respond to the contravention with a view to supporting higher standards of work health and safety for the benefit of (among others) the workers.</p> <p>In this case, the EU provided FCC an opportunity to develop a new temporary works procedure for workers across the industry. FCC has complied with the EU.</p>	<p><b>Low concerns</b></p> <p>The ROP has taken appropriate steps taken in mitigation including an enforceable undertaking</p>
Proximity	Low	Med	High																
Credibility	Low	Med	High																
Timing	Old	<10yrs	<3yrs																
Mitigation	High	Med	Low																



[ s 6(c) ]

Released under the Official Information Act 1982

## ATTACHMENT 4 – 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
Jobs – s17(2)(a)(i)	<b>Not sufficient</b> – because the jobs will be created when the Land will be developed for housing anyway, the jobs do not result from this investment. The creation of jobs sooner is better considered under the 'greater efficiency or productivity' factor.
New technology or business skills – s17(2)(a)(ii)	<b>Not relevant</b> – the Applicant submits, and we agree, that this factor is not relevant.
Increased export receipts – s17(2)(a)(iii)	<b>Not relevant</b> – the Applicant submits, and we agree, that this factor is not relevant.
Additional investment – s17(2)(a)(v)	<b>Not sufficient</b> – because the Land will be developed for housing anyway, the investment is not additional to that which would be spent without the investment
Increased processing of primary products – s17(2)(a)(vi)	<b>Not relevant</b> – the Applicant submits, and we agree, that this factor is not relevant.
Indigenous vegetation/fauna – s17(2)(b)	<b>Not relevant</b> – there is no indigenous flora or fauna on the Land.
Trout, salmon, wildlife and game – s17(2)(c)	<b>Not relevant</b> – there are no trout, salmon or wildlife on the Land.
Historic heritage – 17(2)(d)	<b>Not relevant</b> – there are no historic heritage sites on the Land.
Walking access – s17(2)(e)	<b>Not sufficient</b> – The Applicant has not submitted that it intends to provide any additional walking access. The provision of walking access is likely to be considered as part of any resource consent application.
Offer to sell seabed/foreshore/riverbed to the Crown – s17(2)(f)	<b>Not relevant</b> – the Applicant submits, and we agree, that this factor is not relevant.
Consequential benefits – reg 28(a)	<b>Not sufficient</b> – No additional benefits have been identified in the submissions made by the Applicant. Some of the consequential benefits were better considered under the 'greater efficiency or productivity factor' and 'government policy' factors. The remaining submissions involve benefits that would have occurred anyway, as a consequence of the subdivision taking place under an alternative developer.
Key person in a key industry – reg 28(b)	<b>Not relevant</b> – the Applicant submits, and we agree, that this factor is not relevant.

<b>Factor</b>	<b>Reason not relevant or insufficient</b>
<b>Affect image, trade or international relations – reg 28(c)</b>	<b>Not relevant</b> – the Applicant submits, and we agree, that this factor is not relevant.
<b>Owner to undertake other significant investment – reg 28(d)</b>	<b>Not relevant</b> – the Applicant submits, and we agree, that this factor is not relevant.
<b>Enhance the viability of other investments – r28(g)</b>	<b>Not relevant</b> – the Applicant submits, and we agree, that this factor is not relevant.
<b>Strategically important infrastructure – reg 28(h)</b>	<b>Not relevant</b> – the Applicant submits, and we agree, that this factor is not relevant.
<b>Economic interests – reg 28(i)</b>	<b>Not relevant</b> – the Applicant submits, and we agree, that this factor is not relevant.

Released under the Official Information Act 1982