



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

## ASSESSMENT REPORT: CDL Land New Zealand Limited

<b>Date</b>	10 June 2021	<b>Classification</b>	IN CONFIDENCE: Commercially sensitive
<b>OIO reference</b> (Report reference)	202100016 (BRF 21-562)	<b>Suggested deadline</b>	30 July 2021

### Purpose

We seek your decision on an application for consent to acquire an interest in sensitive land under the Overseas Investment Act 2005 ("**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.

### Commercial deadline

The final contractual deadline date for satisfaction of the OIO condition in the agreement for sale and purchase is 30 July 2021. However, the Applicant has requested a decision as soon as possible in order to confirm the agreement before the deadline date is due.

### OIO Contacts

Name	Position	Contact	First contact
[ s 9(2)(g)(ii) ]	Manager Applications	[ s 9(2)(g)(ii) ]	<input checked="" type="checkbox"/>
[ s 9(2)(g)(ii) ]	Senior Solicitor	[ s 9(2)(g)(ii) ]	<input type="checkbox"/>

Can I please have some information ✓ MCD

## A. Summary

1. The Applicant is a land development company which undertakes development of land into residential subdivisions.
2. The Applicant wishes to acquire approximately 69 hectares of land in Havelock North to carry out a residential property development. The development will involve the creation of infrastructure and residential lots for sale, as well as constructing around [s] show homes and a [s] unit retirement living complex.
3. For the reasons set out in this report, our recommendation is to **grant consent**.

### Key information

Applicant	<b>CDL Land New Zealand Limited</b> Singapore (55.81%); New Zealand (43.86%); Various (0.32%)
Vendors	<b>Graeme Lowe Properties Limited</b> (New Zealand (100%)) <b>Lowe Family Holdings Limited</b> (New Zealand (100%)) <b>Andrew Graeme Lowe, Sarah Mary White &amp; Katherine Joan Stace as executors</b> (New Zealand (100%))
Land	40.9250 hectares of land located at Iona Rd, 130 Iona Road & 92, 108, 122, 135, 148 Middle Road, Havelock North 21.0756 hectares of land located at Iona Road, Lane Road and 82 Lane Road, Havelock North 7.4537 hectares of land located at 157 & 167 Middle Road, Havelock North
Consideration	[ s 9(2)(b)(ii) ]
Sensitivity	Is more than 5 hectares of non-urban land Includes land zoned as open space Includes residential land
Relevant tests	Investor test: s16(1)(a) & (2) Benefit to New Zealand test – substantial and identifiable benefit: s16(1)(e) and s16A(1)(a)&(b) Residential land outcome: s16B

### Timing

4. Processing days for the application are set out in the table below.

Quality Assurance	OIO Processing	Waiting for Applicant / Vendor	Third party consultation
1	23	74	-

## B. Decision

### Core tests

5. I determine that:

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

Relevant overseas person	Role
CDL Land New Zealand Limited	The Applicant making the investment
CDL Investments New Zealand Limited	Parent company of the Applicant

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

Individuals with control	Role
Jason Craig Adams	Director of the Applicant
Joo Boon Pua	Director of the Applicant
Boo Keng Chiu	Director of the Applicant and CDL Investments New Zealand Limited
Desleigh Jean Jameson	Director of CDL Investments New Zealand Limited
John Heath Henderson	Director of CDL Investments New Zealand Limited
Eik Sheng Kwek	Director of CDL Investments New Zealand Limited
Colin Sim	Director of CDL Investments New Zealand Limited
Vincent Wee Eng Yeo	Director of CDL Investments New Zealand Limited

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

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

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

5.6 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 that Act).

6. I am satisfied that the investor test in section 16(2)(a)-(d), as outlined in paragraphs 5.3 to 5.6 above, has been met.

**Hon Dr Megan Woods**

Agree

Disagree

**Hon Damien O'Connor**

Agree

Disagree

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

7.1 the criteria for consent in sections 16 and 16A have been met;

- 7.2 the overseas investment will, or is likely to, benefit New Zealand (or any part of it or group of New Zealanders);
- 7.3 the benefit will be, or is likely to be, substantial and identifiable; and
- 7.4 the conditions relating to residential land to be imposed on the consent in accordance with section 16B will be, or are likely to be, met.

**Hon Dr Megan Woods**

Agree

Disagree

**Hon Damien O'Connor**

Agree

Disagree

8. I am satisfied, in relation to farm land advertising, that the criteria have been met as set out in the report in paragraphs 65-66.

**Hon Damien O'Connor**

Agree

Disagree

**Dr Megan Woods**

Agree

Disagree

*National interest assessment*

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

**Hon Damien O'Connor**

Noted

**Hon Dr Megan Woods**

Noted

Decision about whether to grant or decline consent

10. My ultimate decision is to:

**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: 10 / 7 / 21

**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: / /

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### C. Background and proposed transaction

11. The Applicant undertakes residential subdivision developments throughout New Zealand. The Applicant began acquiring land in the 1990s at various sites around New Zealand, and has completed subdivision projects in Auckland, Hamilton, Tauranga, Hastings, Havelock North, Taupo, Nelson, Christchurch, Rolleston, and Queenstown.
12. The Applicant seeks consent under the Act to acquire a freehold interest in approximately 69.4543 hectares of sensitive land located at Iona Road, Lane Road & Middle Road, Havelock North ("Land") to carry out a residential property subdivision development ("Development" or "Investment"). The Development is expected to take approximately [s 9(2)] to complete and will yield between [s] and [s] residential lots.
13. The Land is located approximately 1km south west of central Havelock North. An aerial photo showing the Land, comprised of 12 records of title ("Properties") each numbered and coloured differently, is below in Figure 1. A larger aerial photo showing the wider location of the Land (outlined in red) is included in **Attachment 5**.



Figure 1 (Aerial photo provided by the Applicant, showing the records of title that comprise the Land) – Aerial photo of the Land

14. The Land is currently used for casual sheep grazing in order to maintain the grass and growing some crops to help cover outgoings. However, the Land is held by the Vendors as future residential development land as the Land has been identified as suitable for residential development.
15. Properties 1-8 (as shown in Figure 1 above and comprising approximately 41 hectares) are located within the Iona Structure Plan area, which was zoned 'urban residential'

through the streamlined planning process endorsed by the Minister for the Environment on 7 September 2018.

16. Properties 9-10 (as shown in Figure 1 above and comprising approximately 18 hectares) are located within the Plains area of the Hastings District Plan, but are identified in the Heretaunga Plains Urban Development Strategy as future urban land. The Applicant intends to obtain a plan change under the Resource Management Act 1991 to rezone this land as urban residential within a **s 9(2)(b)** timeframe.
17. Properties 11-12 (as shown in Figure 1 above and comprising approximately 9 hectares) are also located within the Plains area of the Hastings District Plan, but are part of the Iona Structure Plan area insofar as they are required for stormwater management for the Iona Structure Plan area. The amount of land required for stormwater management will be determined during the subdivision consent phases, and any land not required for stormwater management can be used for residential development.
18. Approximately 46 hectares of the Land has a Land Use Capability ("LUC") class 2 rating and approximately 24 hectares of the Land has a LUC class 4 rating.

#### D. Application of the Act

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19. The Land is sensitive because it is non-urban land over 5 hectares in size, includes Land over 0.4 hectares that is zoned as 'Open Space (Properties 1, 4, 5, and 8 as shown in Figure 1 above are zoned in the Hastings District Plan as Open Space)', and includes residential land, so consent is required<sup>1</sup> The following criteria for an investment in sensitive land apply to this application:<sup>2</sup>
  - The investor test must be met.<sup>3</sup>
  - The benefit to New Zealand test must be met.<sup>4</sup>
  - The farm land must have been offered for sale on the open market.<sup>5</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>6</sup>
20. 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 New Zealand;<sup>7</sup> and
  - determine that benefit will be, or is likely to be, substantial and identifiable;<sup>8</sup> and
  - because the Land is residential:
    - determine a residential land outcome;<sup>9</sup>
    - apply conditions of consent for the residential land outcome; and
    - be satisfied that those conditions are likely to be met.<sup>10</sup>

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

<sup>2</sup> Set out in section 16(1) of the Act.

<sup>3</sup> Section 16(1)(a) of the Act.

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

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

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

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

<sup>8</sup> Section 16A(1)(b) of the Act. This criterion applies because the Land is non urban land over 5 ha in size.

<sup>9</sup> Section 16B(3)(a) of the Act. The Act specifies a range of outcomes to choose from in clause 19, Schedule 2 of the Act.

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

21. 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

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

### Relevant overseas person

23. The Applicant is an overseas person because more than 25% of its shares are owned by overseas persons<sup>11</sup>.
24. The Applicant is wholly-owned by CDL Investments New Zealand Limited (“**CDL Investments**”), an NZX-listed company (ticker code CDI), which is itself majority owned (65.87%) by Millennium & Copthorne Hotels New Zealand Limited (“**Millennium**”), an NZX-listed company (ticker code MCK). The Applicant and its parent companies are part of the Hong Leong group of companies based in Singapore, which is widely-held via numerous entities and individual shareholders.
25. CDL Investments has 287,513,023 shares with 2,827 shareholders as at December 2020, with the largest shareholders being Millennium (65.87%) and Adrian Ho (10.02%). None of the remaining shareholders own more than 5% of CDL Investments. A diagram of the Applicant’s ownership structure is in **Attachment 2**.
26. No decision or approval has been required from any of the companies above CDL Investments New Zealand Limited. The key decision-making entity for the investment is CDL Investments New Zealand Limited and its Board of Directors.
27. For these reasons, we recommend that the ‘**relevant overseas person**’ (“**ROP**”) is (collectively):

Relevant overseas person	Role
CDL Land New Zealand Limited	The Applicant making the investment
CDL Investments New Zealand Limited	Parent company of the Applicant

### Control and experience

28. The Applicant is controlled by its three directors. The Applicant is wholly-owned by the NZX-listed CDL Investments New Zealand Limited, which is controlled by its six directors, one of whom is also one of the Applicant’s directors.
29. We therefore recommend that the ‘**individuals with control of the relevant overseas person**’ (“**IWC**”)<sup>12</sup> are:

Individuals with control	Role
Jason Craig Adams	Director of the Applicant
Joo Boon Pua	Director of the Applicant
Boo Keng Chiu	Director of the Applicant and CDL Investments New Zealand Limited
Desleigh Jean Jameson	Director of CDL Investments New Zealand Limited
John Heath Henderson	Director of CDL Investments New Zealand Limited

<sup>11</sup> Section 7(2)(c)(i) of the Act.

<sup>12</sup> Section 15 of the Act.



Individuals with control	Role
Eik Sheng Kwek	Director of CDL Investments New Zealand Limited
Colin Sim	Director of CDL Investments New Zealand Limited
Vincent Wee Eng Yeo	Director of CDL Investments New Zealand Limited

30. We are satisfied the IWCs collectively have business experience and acumen relevant to the Investment. We consider the IWCs collectively have extensive property and business management, development, and general business experience relevant to the Investment.

### Good character

31. While we have identified one matter relevant to character that has arisen as a result of the actions of the companies an IWC is associated with, we consider this does not prevent a finding that the IWCs are of good character. The matter involved a breach of ASX continuous disclosure obligations in 2015 by Living Cell Technologies (of which an IWC is Chairman) that resulted in a \$33,000 fine from the Australian Securities and Investments Commission.
32. We are satisfied that the IWCs are of good character, and we are satisfied that the statutory declaration as to good character can be relied on.

### Summary of investor test

33. 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	Extensive property and business management, development, and general business experience.
Relevant overseas person demonstrated financial commitment. Section 16(2)(b)	Test met	Applicant has entered into a binding sale and purchase agreement, paid the deposit, and engaged professional advisors in relation to due diligence and completion of this application.
Is of good character. Section 16(2)(c)	No concerns	We are satisfied the IWCs are of good character.
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.

## F. Investment plan and benefit to New Zealand test

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

### Investment plan

35. The Applicant intends to develop the Land into a residential subdivision creating between [s ] and [s ] fee simple residential sections (of sizes ranging from approximately [s 9(2)] to [s 9(2)(b)]). The Applicant intends to sell these sections on the open market.
36. The larger number of lots is based on some of the larger lots that are approximately [s 9(2)(b)] in size (being 'Comprehensive Residential Development' lots) being further subdivided into lots of approximately [s 9(2)] in size for more intensive residential development. Until the subdivision design is completed for the proposed development, the Applicant is taking a conservative approach to the total number of lots created.

### Land development

37. The Applicant expects the Development to take approximately [s ] years from when resource consent is obtained for Properties 1-8. The Applicant will apply for resource consent to develop Properties 1-8 once OIO consent is granted, and expects to obtain this within 12 months of application.
38. The Applicant will also apply to rezone and obtain resource consent for Properties 9-12, and expects to achieve this in [s 9(2)(b)]. The Development will further the National Policy Statement on Urban Development 2020 which requires that each local authority "must provide at least sufficient development capacity in its region or district to meet expected demand for housing."<sup>13</sup>
39. The Development is expected to be fully completed around the end of [s ] and will occur over [s ] consequential development stages. The completion of each stage will yield approximately [s ] new lots that will be made available to the public for purchasers to acquire and build on.
40. The Applicant's development timeframe is attached in **Attachment 3**.

### Buildings

41. The Applicant also intends to build [s ] residential dwellings on some of the subdivided sections as show homes (within various stages of the subdivision) [s ] [s 9(2)(b)(ii)]. These show homes will be a mix of standalone, duplex, and terraced units on [s 9(2)(b)(ii)] sections. An example the proposed dwelling design for the proposed show homes is below in Figure 2.

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<sup>13</sup> National Policy Statement on Urban Development – July 2020 ([https://environment.govt.nz/assets/Publications/Files/AA\\_Gazetted-NPSUD-17.07.2020-pdf.pdf](https://environment.govt.nz/assets/Publications/Files/AA_Gazetted-NPSUD-17.07.2020-pdf.pdf)).

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

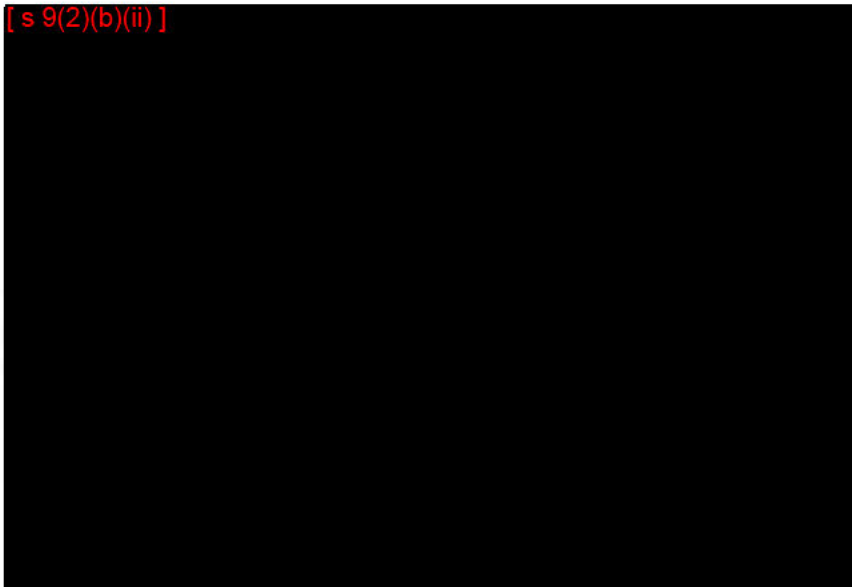


Figure 2 (Example design provided by the Applicant Example of dwelling design for the proposed show homes)

42. The Applicant submits the show homes will demonstrate [ s 9(2)(b)(ii) ] [ s 9(2) ], which are not typical in the Havelock North area where historically there have been larger single level dwellings (250 m<sup>2</sup> – 285 m<sup>2</sup>) on large (600 m<sup>2</sup> - 650 m<sup>2</sup>) sections. The [ s 9(2)(b)(ii) ] demonstrated by the show homes may help provide more diverse housing options at different price points. The Applicant will also develop lots of approximately [ s 9(2)(b)(ii) ] in size for dwellings on larger sections.
43. In addition to the proposed show homes, the Applicant proposes to build a gated retirement living complex of [ s 9(2)(b)(ii) ] standalone and duplex 1-2 bedroom units [ s 9(2)(b)(ii) ] [ s 9(2) ].
44. The Applicant also proposes to build a [ s 9(2)(b)(ii) ] on part of the Land for a [ s 9(2)(b)(ii) ] which would include a [ s 9(2)(b)(ii) ] to serve the immediate and surrounding urban areas. The Applicant intends to retain the [ s 9(2)(b)(ii) ] which will be leased out (for example, to a [ s 9(2)(b)(ii) ] [ s 9(2) ]).

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

45. We consider that if the Investment does not proceed, the Land would likely be sold to an alternative New Zealand purchaser (“ANZP”) who would undertake a residential property subdivision, because the Land is zoned for residential housing or future urban development. We consider the ANZP is likely to develop residential lots but not build houses on them, instead allowing each purchaser to separately engage a builder to construct a house on the lot.

### Assessment of key benefits

46. As any development of the Land will need to comply with the District Plan requirements, the available scope for the Applicant to demonstrate a point of difference in the proposed outcome is limited. As a result, while we consider the Investment is likely to result in benefit to New Zealand, it is finely balanced as to whether this level meets the substantial and identifiable threshold as compared to the benefits that would arise from the similar residential development that is likely to occur anyway.
47. The Applicant has a significant level of New Zealand ownership and participation, being approximately 46.9% owned by New Zealanders (via CDL Investments New Zealand Limited – ticker code CDI) and with all three of the Applicant's directors being New

Zealand citizens (and half of the parent company's directors being New Zealand citizens). The Applicant has also undertaken many residential property developments in different parts of the country, that have been of benefit to New Zealand (including many residential subdivisions that have resulted in new jobs, additional investment, and new sections to support additional housing). The construction of show homes on some of the new lots is also likely to result in more jobs and additional investment than under the counterfactual, however the level of benefit under these factors is low.

### Third party submission

48. We received a third party submission from Greenstone Land Developments Limited ("Greenstone"), a property development company based in the Hawkes Bay that was an unsuccessful tenderer for the Land. Greenstone submitted that if it acquired the Land it would complete a residential subdivision and build dwellings on 550-600 lots, as compared to s 9(2)(b) proposed by the Applicant. This suggests that the dwelling yield proposed by the Applicant is realistic, but no greater than an alternative developer.
49. While Greenstone also claimed that it could deliver the subdivision much faster than the Applicant is proposing, we have looked at recent OIO consents for residential property developments that required rezoning, each of which has required around the same time as the Applicant is proposing (from s years to develop excluding time to rezone and obtain resource consent) and resulted in about the same volume of lots or dwellings per year (from s 9(2) dwellings per year). Consequently, we consider Greenstone's proposed timeframe to be highly optimistic and likely to require more time to be completed than it has proposed, meaning we do not consider the Applicant's proposed timetable to be any longer than the most likely counterfactual. However, nor is the Applicant proposing to develop the Land any faster than could be expected from an alternative New Zealand land developer.

### Summary of benefits

50. 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.
51. 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**.
52. 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.
53. Under the terms of the Ministerial directive letter,<sup>14</sup> the 'rural land directive' applies to this investment.<sup>15</sup> The benefit factors Ministers have directed should be given high relative importance are noted in the table below.<sup>16</sup>

<sup>14</sup> Dated 28 November 2017, paragraphs 13-17.

<sup>15</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>16</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**

54. This table assesses the benefits to New Zealand 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>Oversight and participation by New Zealanders</b> <i>(high relative importance)</i>	There is oversight and participation by New Zealanders. The Applicant's directors are all New Zealanders and most of the IWCs are New Zealanders. The Applicant's parent company is listed on the New Zealand stock exchange, and about 46.9% of the Applicant is owned by New Zealanders (via CDL Investments New Zealand Limited – ticker code CDI).	Not applicable.	<b>Strong</b>	The Applicant has a significant level (over 45%) of New Zealand ownership and the majority of the IWCs are New Zealanders. The Applicant is also incorporated and based in New Zealand and is listed on the NZX with a larger number of New Zealand shareholders.	Not applicable.

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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>Previous investments</b>	The Applicant has undertaken residential property developments that have been of benefit to New Zealand.	Not applicable.	<b>Moderate</b>	The Applicant has undertaken previous investments that have been of benefit to New Zealand. For example, the Applicant's developments in Christchurch, Hastings, and Hobsonville have resulted in new jobs, additional investment, and residential lots sold to the public for housing.	Not applicable.
<b>Job opportunities</b> <i>(high relative importance)</i>	The Investment will create approximately: <ul style="list-style-type: none"> <li>• 34 full-time equivalent ("FTE") jobs to complete the subdivision</li> <li>• 12 FTE jobs to build the show homes</li> <li>• 26 FTE jobs to build the retirement complex spread over the course of the Development.</li> </ul> The Investment is also likely to retain 6 FTE administrative roles with the Applicant.	The counterfactual is likely to result in fewer new or retained FTE jobs as the ANZP is unlikely to build show homes.	<b>Weak</b>	The Investment is likely to result in more FTE jobs spread over the course of the Development than would occur under the counterfactual.	Undertake the Development and report on the number of FTE employees and contractors created or retained over the course of the Development.

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>	The Applicant invest approximately [s 9(2)(b)(ii)] to be spent on planning, subdivision, and construction of the show homes and retirement complex.	The counterfactual is likely to result in less additional investment as the ANZP is unlikely to build show homes.	<b>Weak</b>	The Investment is likely to lead to the introduction of more funds for development (that will be funded from retained earnings) than would occur under the counterfactual.	[s 9(2)] produce at least [s 9(2)] of additional investment by the end of [s 9(2)] (with appropriate milestone figures) to undertake the Development.  Report on the additional investment introduced.

Released under the Official Information Act

## Proposed conditions and rationale

55. We recommend imposing special conditions requiring the Applicant to apply for and obtain the necessary resource consents and rezoning requirements, develop and on-sell a number of new lots each year, and invest at least [s 9(2)(b)(ii)] (with cumulative milestones)<sup>17</sup> to complete the Development to ensure the proposed benefits are realised.

## Residential land outcome

56. The Land includes residential land, being Properties 1-8. When an investment requiring consent under the Act includes residential land, to the extent that the consent relates to the residential land the decision maker must determine a residential land outcome, and the consent must be made subject to the set of conditions for the applicable residential land outcome.
57. The most appropriate residential land outcome to require is 'increased residential dwellings',<sup>18</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.
58. The construction of between [s 9(2)] and [s 9(2)] new residential lots with supporting infrastructure will satisfy the first requirement; and, because the Applicant is a land developer that makes its profits from selling new dwellings to third parties, we can also be confident that the Land will be on-sold without the Applicant occupying it. We recommend imposing conditions to ensure these residential outcomes are achieved (see **Attachment 1** for the proposed conditions).

## Conclusion – benefit to New Zealand test

59. 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 New Zealand test. In this case, we have particularly considered the size and zoning of the Land and the likelihood that the Land will be used for residential property development, whether under the Investment or the counterfactual.
60. The Applicant's business plan relies on the efficient development and sale of the new residential lots in order to ensure ongoing revenue. As a result of this (and the on-sale conditions recommended for this consent), the Applicant is only likely to own the Land for approximately [s 9(2)] before it is sold. Accordingly, the level of benefit required to meet the substantial and identifiable threshold should be lower than if the Land was likely to be owned by the Applicant long-term or indefinitely.
61. After considering the application, we are satisfied that the Investment is likely to result in the benefits considered above. We consider the Applicant has a significant level of New Zealand ownership and participation (being a New Zealand based and incorporated company, NZX listed with many shareholders and mostly New Zealand directors) and has undertaken a number of previous investments that have resulted in benefit to New Zealand (including many residential subdivisions that have resulted in new jobs, additional investment, and new sections to support additional housing).
62. The Investment is likely to result in the introduction of more funds to complete the Development than under the counterfactual. The Investment is also likely to result in more jobs (relating to planning and obtaining consents, subdivision and construction of

<sup>17</sup> s17(2)(a)(v) of the Act.

<sup>18</sup> Clause 19(2), row 4, Schedule 2 of the Act.



the new residential lots, and construction of the show homes and the retirement complex) than under the counterfactual.

63. However, compliance with the District Plan requirements may impact the available scope for the Applicant to demonstrate a point of difference with the Investment. The Applicant's proposed development is likely to create the maximum number of residential lots permitted in accordance with the District Plan requirements (subject to any resource consent requirements or changes resulting from any rezoning of the Land). Although, it is possible that an ANZP would develop the Land in a similar manner. As a result, we consider the Investment is finely balanced as to whether the level of benefit meets the substantial and identifiable threshold.
64. In relation to the benefit to New Zealand test, we consider:
- the criteria for consent in sections 16 and 16A have been met;
  - 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.

## **G. Farm land offer test**

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65. The Land is predominantly farm land,<sup>19</sup> and it was advertised for sale on the open market with the required information for a period exceeding 20 working days<sup>20</sup> on the internet (Bayleys, OneRoof, and RealEstate websites<sup>21</sup>), in a local newspaper (Hawkes Bay Today<sup>22</sup>), as well as signage on the Land.
66. We are therefore satisfied the regulations requiring the farm land to be offered for acquisition on the open market have been complied with.<sup>23</sup>

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

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67. The Investment does not involve a transaction of national interest under the mandatory criteria of the Act.<sup>24</sup> This is because the investment does not involve a non-New Zealand government investor, or an investment in a strategically important business (as defined in the Act)
68. 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>25</sup> He has therefore not declined consent to the transaction.
69. We are directed<sup>26</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

<sup>19</sup> Currently being used primarily as casual sheep grazing crop growing (see the definition of farm land in s 6 of the Act).

<sup>20</sup> From 27 October 2020 to 26 November 2020.

<sup>21</sup> From 27 October 2020 to 26 November 2020.

<sup>22</sup> On 27 October 2020, 31 October 2020, 6 November 2020, 7 November 2020, and 20 November 2020.

<sup>23</sup> Regulations 5 to 10.

<sup>24</sup> Under s 20A of the Act.

<sup>25</sup> Section 20B of the Act

<sup>26</sup> Supplementary Ministerial Directive Letter (8 June 2020).

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.

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

## I. Conclusion

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71. After considering the application, 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 farm land advertising requirements has been met;
- the conditions relating to residential land to be imposed on the consent will be, or are likely to be, met; and
- the transaction is not considered to be a transaction of national interest.

72. Therefore, we consider that the criteria for consent in section 16 have been met and our recommendation is to **grant consent**.

73. 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.

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



Manager, Applications  
**Overseas Investment Office**

Date: 10 June 2021

## J. List of Attachments

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1. Proposed Decision and Conditions
2. Applicant ownership structure
3. Development timeframe
4. Other benefit factors
5. Photos

## 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>	202100016
<b>Consent</b>	The Consent Holder may acquire the Land subject to the Conditions set out below.
<b>Consent holder</b>	CDL Land New Zealand Limited (Company number 456735) We will refer to the Consent holder as <b>you</b> .
<b>Land</b>	A freehold interest in approximately 69.4543 hectares of sensitive land located at Iona Road, Lane Road & Middle Road, Havelock North contained in records of title HBV2/733, 174474, HB144/139, HBV2/734, HBV2/737, 83331, HBF2/560, HB109/190, HB200/46, HB199/54, HBC2/148, and HB82/17 (Hawkes Bay).
<b>Timeframe</b>	You have until 30 June 2022 to acquire the Land.

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**Conditions**

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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**. **Act** means the Overseas Investment Act 2005.

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**Special conditions**

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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: Obtain all necessary resource consents</b>	
<p>You must obtain all necessary resource and subdivision consents required to begin development into residential sections for those parts of the Land contained in records of title:</p> <p>174474, HB144/139, HBF2/560, and HB109/190. HBV2/733, HBV2/734, HBV2/737, and 83331</p> <p>If you do not obtain, standard condition 6 will apply and we may require you to dispose of the Land.</p>	<p>By [ s 9(2)(b)(ii) ] By [REDACTED]</p>
<b>Special condition 2: Rezone the Land</b>	
<p>You must rezone those parts of the Land contained in records of title HB200/46 and HB199/54 from Plains Production zone to an urban residential zone capable of residential development.</p> <p>You must meet the following milestones:</p> <ul style="list-style-type: none"><li>(a) Preparation of structure plan</li><li>(b) Plan changes submitted</li><li>(c) Obtaining all necessary resource and subdivision consents to allow these parts of the Land to be developed into residential lots</li></ul> <p>If you do not, standard condition 6 will apply and we may require you to dispose of the Land.</p>	<p>By [ s 9(2)(b)(ii) ] By [REDACTED] By [REDACTED]</p>

**Special condition 3: Introduce at least \$100 million in capital expenditure for development purposes**

You must introduce into New Zealand at least [ s 9(2)(b)(ii) ] that will be spent on the development of the Land into residential sections.

You must meet the following milestones:

- (a) A cumulative total of [ s 9(2)(b)(ii) ] of capital expenditure spent
- (b) A cumulative total of [ s 9(2)(b)(ii) ] of capital expenditure spent
- (c) A cumulative total of [ s 9(2)(b)(ii) ] of capital expenditure spent
- (d) A cumulative total of [ s 9(2)(b)(ii) ] of capital expenditure spent

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

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

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

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

If you do not, standard condition 6 will apply and we may require you to dispose of the Land.

**Special condition 4: Develop and sell at least 500 new lots on the Land**

You must use the Land to develop at least [ s 9(2) ] new residential lots that will each be offered for sale to the public in accordance with the milestones below:

- (a) A cumulative total of [ s 9(2) ] lots offered for sale
- (b) A cumulative total of [ s 9(2) ] lots offered for sale
- (c) A cumulative total of [ s 9(2)(b) ] lots offered for sale
- (d) A cumulative total of [ s 9(2)(ii) ] lots offered for sale
- (e) A cumulative total of [ s 9(2) ] lots offered for sale

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

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

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

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

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

If you do not, standard condition 6 will apply and we may require you to dispose of the Land.

**Special condition 5: On-sale outcome**

You must:

- (a) not retain an ownership interest in any part of the Land that is residential land, including any subsequent subdivided records of title
- (b) sell every section (except for up to [ s ] sections that may be retained for longer for use as show homes) unless agreed otherwise with the OIO
- (c) sell any sections retained for use as show homes

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

Within [ s 9(2) ] of its completion

Within [ s 9(2) ] of its completion

Note: Further to this condition, you are permitted to retain up to [ s 9(2)(b) ] of the Land as long as it is not used, nor held for future use, for residential dwellings or long-term accommodation facilities.

At all times

If you do not, standard condition 6 will apply and we may require you to dispose of the Land.	
<b>Special condition 6: Non-occupation outcome</b>	
<p>None of the following people may occupy the land acquired under this consent for residential purposes:</p> <ul style="list-style-type: none"> <li>(a) You</li> <li>(b) Any overseas person with a more than 25% ownership or control interest in any of the people in (a)</li> <li>(c) Any overseas person who occupies the Land other than on arm's length terms<sup>27</sup></li> <li>(d) Any overseas person who has a beneficial interest in, or beneficial entitlement to, the relevant interest in the Land</li> <li>(e) If (a) is a trust, any beneficiary (direct or indirect) who may benefit under the trust at the trustees' discretion</li> </ul> <p>If you do not, standard condition 6 will apply and we may require you to dispose of the Land.</p>	Ongoing

### 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:

Details	Required date
<b>Standard condition 1: acquire the Land</b>	
<p>You must acquire the Land:</p> <ol style="list-style-type: none"> <li>1. by the date stated in the Consent. If you do not, your Consent will lapse or become invalid and you must not acquire the Land, and</li> <li>2. 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

<sup>27</sup> 'At arms length terms' has the meaning in clause 17, Part 5, Schedule 2 of the Overseas Act 2005. In summary it means terms, for example under a lease (or other contract), that are on a reasonable commercial basis.

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. We will give you at least two weeks' written notice if we want to do this. You must then:</p> <ol style="list-style-type: none"> <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>	
<p><b>Standard condition 4: remain of good character</b></p>	
<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>
<p><b>Standard condition 5: tell us about changes that affect you, the people who control you, or people you control</b></p>	
<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>5. Your New Zealand Service Address changes. This is the address you provided us in your application as the address which we will send any legal document we need to serve on you.</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>(a) that you have disposed of the Land,</li> <li>(b) of disposal (including copies of sale and purchase agreements, settlement statements and titles showing the purchaser as registered proprietor),</li> <li>(c) the purchaser is not your associate.</li> </ul>	<p>Within one month after the Land has been disposed of.</p>

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## Reporting conditions

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

You must lodge **reports**. They must:

1. be sent to **oiomonitoring@linz.govt.nz** by these dates or such other dates as requested by the OIO:
  - (a) Year one: [ s 9(2)(b)(ii) ]
  - (b) Year two: [ s 9(2)(b)(ii) ]
  - (c) Year three: [ s 9(2)(b)(ii) ]
  - (d) Year four: [ s 9(2)(b)(ii) ]
  - (e) Year five: [ s 9(2)(b)(ii) ]
  - (f) Year six: [ s 9(2)(b)(ii) ]
2. contain information about:
  - (a) your progress in implementing the special conditions, and
  - (b) the number of new and retained full-time equivalent ("FTE") jobs that result from the investment.
3. follow the format of the template report published on our website at:  
<https://www.linz.govt.nz/overseas-investment/enforcement/how-we-take-action>

If requested in writing by the OIO, the Consent Holder 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.

**Schedule of Land**

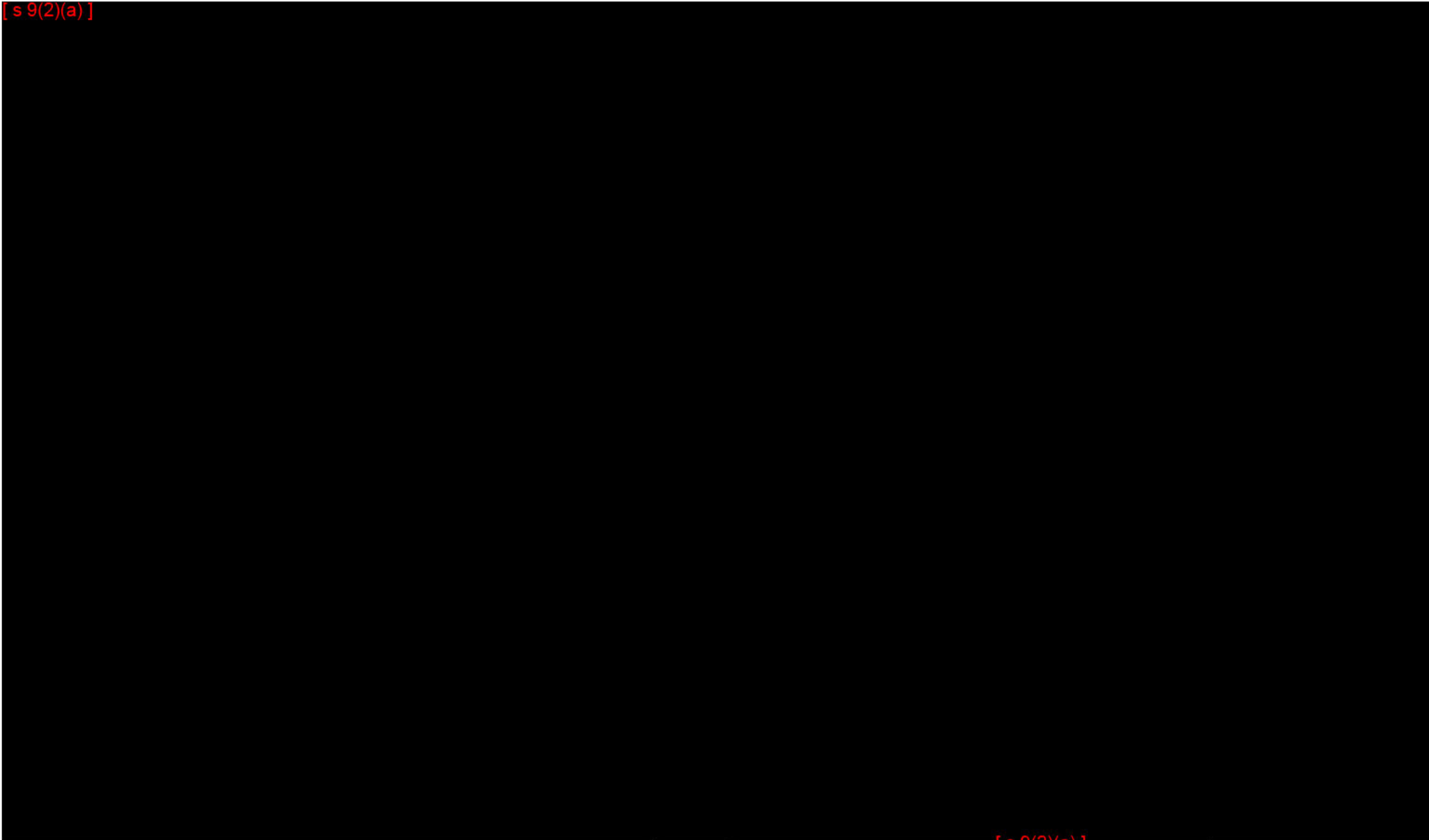


Property Number	Record of Title
1	HBV2/733
2	174474
3	HB144/139
4	HBV2/734
5	HBV2/73
6	83331
7	HBF2/560
8	HB109/190
9	HB200/46
10	HB199/54
11	HBC2/148
12	HB82/17

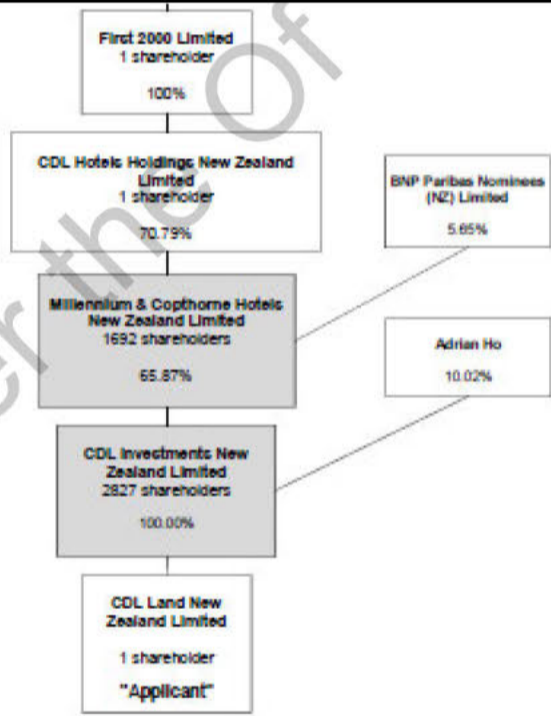
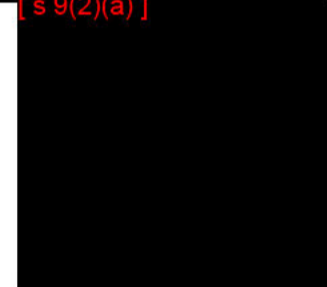
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ATTACHMENT 2 – APPLICANT OWNERSHIP STRUCTURE

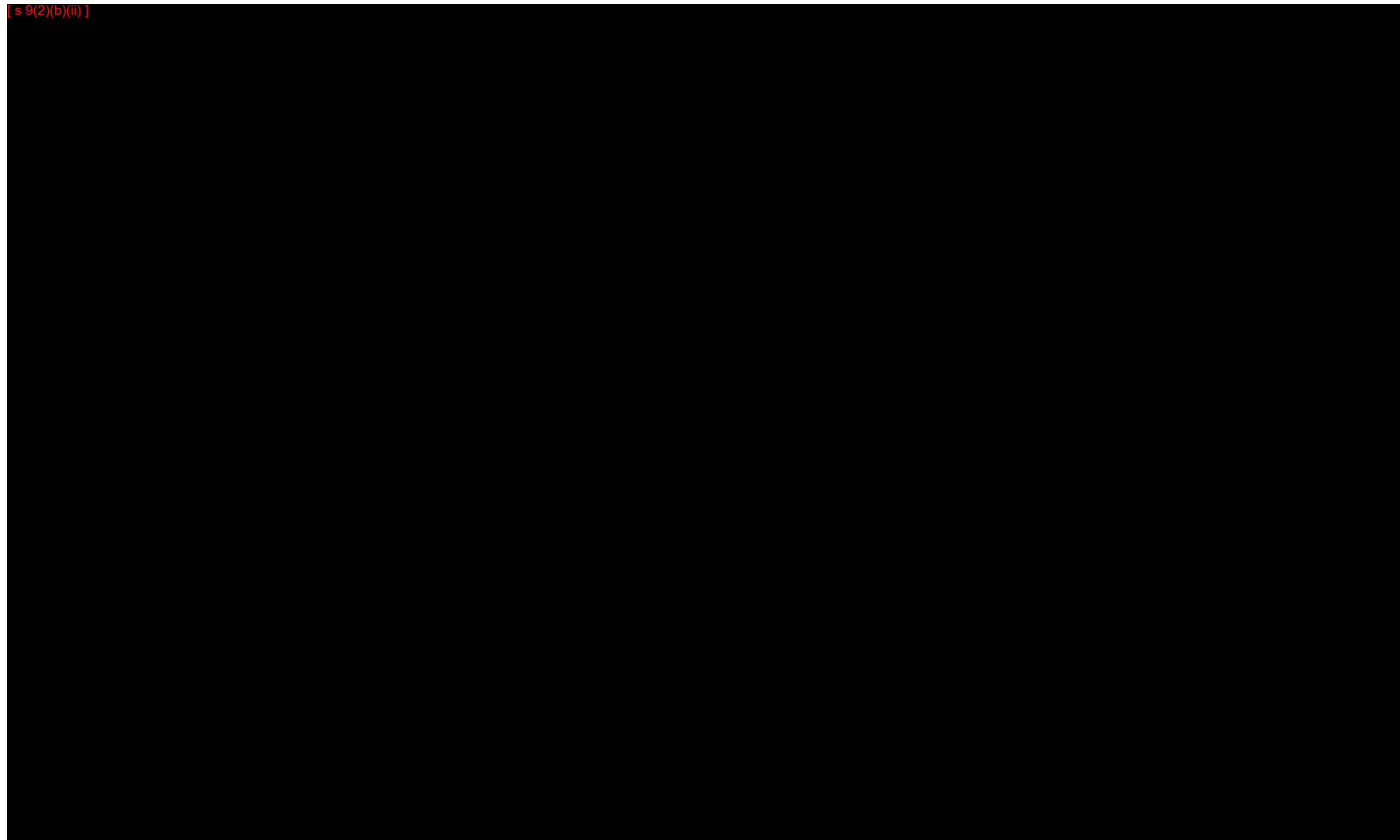
[ s 9(2)(a) ]



[ s 9(2)(a) ]



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## 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
New technology or business skills – s17(2)(a)(ii) (high relative importance factor)	<b>Not relevant</b> – The Investment is unlikely to lead to the introduction to New Zealand of new technology or business skills.
Increased export receipts – s17(2)(a)(iii) (high relative importance factor)	<b>Not relevant</b> – The Investment will not involve any increased export receipts.
Added market competition, greater efficiency or productivity, or enhanced domestic services – s17(2)(a)(iv)	<b>Not met</b> – The Investment is unlikely to result in greater efficiency or productivity as it is uncertain whether more lots would be created than would occur under the counterfactual.
Increased processing of primary products – s17(2)(a)(vi) (high relative importance factor)	<b>Not relevant</b> – The Investment will not involve any processing of primary products.
Significant Government policy or strategy – s17(2)(a)(vi) (high relative importance factor)	<b>No additional benefit</b> – The Investment is unlikely to advance the Government's policy around additional housing materially more than what would occur under the counterfactual.
Indigenous vegetation/fauna – s17(2)(b)	<b>Not relevant</b> – No areas of significant indigenous vegetation or significant habitats of indigenous fauna have been identified on the Land.
Trout, salmon, wildlife, and game – s17(2)(c)	<b>Not relevant</b> – No trout, salmon, wildlife, and game habitats have been identified on the Land.
Historic heritage – 17(2)(d)	<b>Not relevant</b> – No historic heritage sites have been identified on the Land.
Walking access – s17(2)(e)	<b>No additional benefit</b> – The Investment will involve the creation of reserves, public roads, footpaths, and cycleways that will provide public access over parts of the Land. However, this level of public access is also likely under the counterfactual.
Offer to sell seabed/foreshore/riverbed to the Crown – s17(2)(f)	<b>Not relevant</b> – The Land does not include seabed, foreshore, riverbed, or lakebed.
Consequential benefits – reg 28(a)	<b>Not relevant</b> – The Investment is unlikely to result in any consequential benefits.
Key person in a key industry – reg 28(b)	<b>Not relevant</b> – The Investment does not involve a key person in a key industry.

Factor	Reason not relevant or insufficient
Affect image, trade, or international relations – reg 28(c)	<b>Not relevant</b> – New Zealand's image would not be affected by a well-reasoned decision to decline.
Owner to undertake other significant investment – reg 28(d)	<b>Not relevant</b> – The use of the sale proceeds by the vendor of the Land is unlikely to result in a significant investment.
Enhance the viability of other investments – r28(g)	<b>Not relevant</b> – The Investment is unlikely to enhance the viability of other investments.
Strategically important infrastructure – reg 28(h)	<b>Not relevant</b> – No strategically important infrastructure has been identified on the Land.
Economic interests – reg 28(i)	<b>Not relevant</b> – The Investment is unlikely to have any material effect on New Zealand's economic interests.

Released under the Official Information Act



ATTACHMENT 5 – AERIAL PHOTOS OF THE LAND AND WIDER AREA



