

From: oi@linz.govt.nz on behalf of [Overseas Investment Office Application submission online form](#)
To: ben.paterson@russellmcveagh.com
Cc: kevin.larcombe@holcim.com
Subject: Application received – Holcim (New Zealand) Limited
Date: Friday, 2 June 2023 6:38:47 pm



Hi Holcim (New Zealand) Limited

Thank you for your application to the Overseas Investment Office. Below are the details you have submitted.

Your application will now be reviewed to check you have provided all the information we need to assess your application. We will get back to you within 12 working days.

If your application can be accepted, we will:

- contact to advise you and provide information on the process
- request payment of the application fee, and
- provide an indication of the assessment timeframe
- or, we may require further information. If we do, we will start to process your application when we receive all the information we need.

If we cannot accept your application we will give our reasons for this.

In the meantime, there is more information on our website www.linz.govt.nz/overseas-investment

Ngā mihi nui
The Overseas Investment Office team

Application submission details

Submitted on Fri, 02/06/2023 - 18:38

Submission ID: 7741

Submitted values are:

Start

Application type
Consent

Consent type
Benefit to NZ (sensitive land)

Application detail

Details

Have you attended a pre-application meeting?

Yes

Provide the OIO case number (from pre-application meeting invite)

202300174: This was a pre-application meeting in respect of a farm land advertising exemption application for an adjacent block of land. The land that is the subject of the application is not covered by this application, but is mentioned for completeness

Are you resubmitting this application?

No

Is this a [retrospective application](#)?

No

Applicant name

Holcim (New Zealand) Limited

Short description of Assets, or the Investment

The Applicant intends to purchase 100% of the business assets currently held by Mercer Sand Limited to carry out its sand quarrying business, trading as the "Mercer Sand Quarry". As part of this transaction, the Applicant will acquire what may be characterised as a leasehold interest in the land where the business is conducted.

Full legal name of the target entity (if any)

N/A (the transaction is an asset rather than share acquisition)

Applicant's address for service in New Zealand

1/1 Show Place
Addington
Christchurch
New Zealand

Requested decision date

06/09/2023

Reason for requesting this date

This is the statutory timeframe for a sensitive land application under the general pathway.

Has an Agreement for Sale and Purchase been entered into?

Yes

Date of Sale and Purchase Agreement

07/02/2023

Due date of the Overseas Investment Act condition

01/10/2023

Decision maker

Overseas Investment Office

Does any information in this application need to be kept confidential from other parties to this application?

Yes. All details in this application are confidential, and should not be disclosed to any other party. In particular, the details of the SPA and the value of the acquisition are highly confidential. The release of any of the details of the Transaction is likely to unreasonably prejudice the commercial position of the Applicant and its affiliates. The disclosure of this information could be used to the commercial advantage of competitors in a manner that unreasonably prejudices the commercial position of the Applicant.

In addition, this application (including all of the appendices) also includes details of natural persons, including the passport and other personal details of each IWC. The Applicant requests that all personal information concerning the IWCs be kept confidential from the Vendor and, pursuant to section 9(2)(a) of the Official Information Act 1982, confidential from other third parties indefinitely. Each IWC is entitled to have their privacy protected so that the information cannot be used to their detriment. If the OIO or relevant Minister(s) receives a request under the Official Information Act 1982 or otherwise for the disclosure of this application or any information contained in it, the Applicant asks that it be notified of that request in accordance with the OIO's usual policy and given an opportunity to be heard before any decision is made by the OIO regarding the release of such information.

Contact details

Applicant contact person's name

Kevin Larcombe

Applicant contact person's email

s.9(2)(a)

Applicant contact person's phone number

s.9(2)(a)

Contact person name

Ben Paterson

Contact email

benpaterson@russellmcveagh.com

Best contact phone number

+64 9 367 8334

Role in application

Legal representative

What law firm are you from (if applicable)?

Russell McVeagh

Do you want to add another contact person?

Yes

Contact person name

Jess Juby

Contact email

jess.juby@russellmcveagh.com

Best contact phone number

+64 9 367 8081

Role in application

Legal representative

What law firm are you from (if applicable)?

Russell McVeagh

Vendor/Lessor name

Gary Tetzlaff, Mercer Sand Limited

Vendor/Lessor's email

s.9(2)(a)

Vendor/Lessor's phone number

s.9(2)(a)

Vendor/Lessor's advisors' name

s.9(2)(a)

Vendor/Lessor's advisors' email

s.9(2)(a)

Vendor/Lessor's advisors' phone number

s.9(2)(a)

Invoice details

Name and company for invoice

Holcim (New Zealand) Limited

Postal address for invoice

C/- Russell McVeagh

Level 25

48 Shortland Street

PO Box 8

Auckland 1140

The application fee will be paid by direct credit after the correct amount has been confirmed by the OIO. Please send the GST receipt to ben.paterson@russellmcveagh.com

Attention (if applicable)

Ben Paterson

Defined terms

Defined terms

- **Terms: the Act**
Meaning: the Overseas Investment Act 2005
- **Terms: Applicant**
Meaning: Holcim (New Zealand) Limited
- **Terms: Business**
Meaning: the business operated by the Vendor at the Quarry, including the operation of the Mercer Sand Quarry
- **Terms: Business Assets**
Meaning: the assets to be acquired pursuant to the SPA (including the Licence)
- **Terms: Completion**
Meaning: completion of the Proposed Transaction under the SPA
- **Terms:** [REDACTED]
Meaning: s.9(2)(b)(ii)
- **Terms: Fer**
Meaning: Fernhoff Limited, a company incorporated in New Zealand which wholly owns the Applicant
- **Terms: Holcim**
Meaning: Holcim Limited, a company incorporated, and with its head quarters, in Switzerland and listed on the Swiss stock exchange (SIX:HOLN), which directly wholly owns Fernhoff and indirectly wholly owns the Applicant
- **Terms: Holcim Group**
Meaning: Holcim and its subsidiaries, including Fernhoff and the Applicant
- **Terms: IWC**
Meaning: individuals with control

- Terms: Land
Meaning: the land subject to the Licence, located at 73 Mercer Ferry Road, Mercer

s.9(2)(a)

- Terms: NBIO
Meaning: the non-binding indicative offer that was made by the Applicant in August 2022 in relation to the Business
- Terms: OIO
Meaning: the Overseas Investment Office
- Terms: Potential Expansion Area
Meaning: the land adjacent to the Land, described as Lot 2 DP 478235, Lot 2 DP 84085, Allotment 250 Parish of Maramarua, Lot 1 DPS 37323, Lot 2 DPS 37323, Part Allotment 147 Parish of Onewhero, Section 2 SO Plan 58264, Section 3 SO Plan 58264 and Section 93 Parish of Onewhero
- Terms: Proposed Transaction
Meaning: the land adjacent to the Land, described as Lot 2 DP 478235, Lot 2 DP 84085, Allotment 250 Parish of Maramarua, Lot 1 DPS 37323, Lot 2 DPS 37323, Part Allotment 147 Parish of Onewhero, Section 2 SO Plan 58264, Section 3 SO Plan 58264 and Section 93 Parish of Onewhero
- Terms: Quarry
Meaning: the sand quarry carried out at the Land
- Terms: Regulations
Meaning: the Overseas Investment Regulations 2005
- Terms: ROP
Meaning: relevant overseas person
- Terms: SPA
Meaning: the agreement for the sale and purchase of the Business Assets, provided as Appendix 2
- Terms: Vendor
Meaning: Mercer Sand Limited

Land

Land table: complete for each property (use + to add details of another property)

- Property address and name: Part of the Mercer Sand Property, Mercer Ferry Road, Mercer, Waikato
Record of Title(s): NA40B/858
Current owner(s): Ashley William Roose Thomas and FTS (Roose Trustees) Limited
Legal description(s): Part Lot 1 DP 84084
Total land area (ha): 20.3771
Type of interest: Freehold Interest
Land district: North Auckland
Land/Property category: Other
- Property address and name: Part of the Mercer Sand Property, Mercer Ferry Road, Mercer, Waikato
Record of Title(s): 311680
Current owner(s): Ashley William Roose Thomas and FTS (Roose Trustees) Limited
Legal description(s): Lot 2 DP 377644
Total land area (ha): 32.9541
Type of interest: Freehold Interest
Land district: North Auckland
Land/Property category: Other

Land sensitivity

Includes - Non-urban land over 5 ha

Are you seeking consent to acquire a freehold interest in land that is, or includes, a fresh or seawater interest

No

Does the relevant land include residential land?

No

Does the relevant land include farm land?

No

Does the Applicant own any [associated land](#)?

No

Investment

Tell us about the proposed transaction and relevant agreements and steps involved in the transaction
Transaction

The Vendor operates the Quarry at the Land, which the Applicant intends to acquire by way of an asset acquisition pursuant to the SPA. The Vendor has been owned and operated by Gary Tetzlaff for the past six years. Under the SPA, the Applicant will acquire

s.9(2)(a)

The Quarry is a fine aggregate (sand) quarry, strategically located only 50km south of Auckland and north of Hamilton, respectively. The sand from the Quarry is high quality and can be used for ready-mix concrete specialist turf and packaged bag markets among other high value applications.

A NBIO was submitted to the Vendor in

s.9(2)(a)

Applicant

The Applicant is Holcim (New Zealand) Limited (NZCN: 142904), a New Zealand incorporated company, which is wholly owned by Fernhoff Limited.

Fernhoff is a company incorporated in New Zealand (NZCN: 921721). Holcim Limited directly owns 100% of the shares in Fernhoff.

Holcim is incorporated and headquartered in Switzerland. Holcim is listed on the Swiss stock exchange and Euronext Paris. Holcim directly owns 100% of the shares in Fernhoff and so indirectly owns 100% of the shares in the Applicant.

The Holcim Group, through its operating divisions and subsidiaries, is involved in the manufacture and distribution of cement, the extraction and processing of aggregate, the manufacture of ready mixed concrete and roofing products, and the sale of each of these products. Holcim and its associated entities are one of the leading cement suppliers in New Zealand, and together create a major construction materials group, providing cement, concrete and quarry products across New Zealand.

The Applicant has been trading in New Zealand for over 134 years and has established itself as a supplier of quality products within the markets it operates in. It has cement depots in Dunedin, Lyttleton, New Plymouth, Nelson, Wellington, Napier and Onehunga; and terminals in Timaru and Auckland Central. Its head office is in Christchurch and it has one quarry in Hastings. At the Hastings quarry, the Applicant extracts and processes aggregates for supply into both the Hawkes Bay and Gisborne regional markets.

The Applicant holds an approximately 50% non-controlling interest in AML Limited, a joint venture between the Applicant and Allied Concrete Limited, which operates under the Allied Concrete brand. Allied Concrete operates over 50 ready mixed concrete plants throughout New Zealand (including the plants operated by AML Limited, which is a joint venture with the Applicant). The Applicant also has a 25% non-controlling ownership interest in Atlas Resources Limited, which is an Auckland and Northland based supplier of ready-mixed concrete, quarry aggregate, sand (sea dredged), recycled aggregates, precast concrete and building materials supplier.

The Applicant's parent company, Holcim, is one of the world's leading suppliers of cement, aggregates and concrete. The group's headquarters are in Switzerland, and it has a strong market presence in over 70 countries worldwide.

Licence

The Business consists of the Quarry, which is occupied pursuant to the Licence s.9(2)(a) The Land that is the subject of the Licence is sensitive land for the purposes of the Act, as described in the sensitive land certificate obtained from Port Glen Limited (provided as Appendix 4). Further detail about the Licence and the reason the Applicant requires consent under the Act is included later in this application.

s.9(2)(a)

Vendor

The Vendor is the owner and operator of the Mercer Sand Quarry. The Vendor is a company incorporated in New Zealand (NZCN: 5875824), and does not carry on any other business except the operation of the Quarry. The sole director of the Vendor, Gary Tetzlaff and thus intends to sell the Business. Mr Tetzlaff is

s.9(2)(a)

Rationale for the Proposed Transaction

The Proposed Transaction will enable the Applicant to better participate in the sand market for the Auckland and Waikato regions.

s.9(2)(a)

s.9(2)(a)

The Quarry has excellent connectivity to

Provide details of any pre-conditions to the completion of the acquisition other than OIO consent
In addition to being conditional on the Applicant obtaining the necessary consents under the Act, Completion is conditional upon:

s.9(2)(a)

Provide details of any pre-consent arrangements such as short-term leases, management agreements, etc
The parties are discussing interim arrangements, the Vendor will remain in control of the Business while the parties await OIO approval.

Describe the target entity/business

The Vendor currently operates the Quarry. The Quarry is a fine aggregate (sand) quarry, strategically located only 50km south of Auckland and north of Hamilton, respectively. The sand from the Quarry is high quality and can be used for concrete specialist turf and packaged bag markets, among other high value applications.

Does the Applicant have any existing interest in the sensitive assets and / or an existing relationship with the vendor / lessor?
No

Has the Applicant applied for, or is the transaction the subject of, any other regulatory consent(s)?
No

Tell us why the transaction requires consent under the Overseas Investment Act 2005, and reference the relevant sections of the Act

Consent is required under section 10(1)(a) of the Act for the Applicant (being an "overseas person") to acquire an interest in the Land, which is "sensitive land" for the purposes of the Act. This constitutes an "overseas investment in sensitive land" as defined in section 12(1)(a) of the Act. The land is sensitive on the basis it is non-urban land larger than five hectares.

s.9(2)(a)

The Applicant is an "overseas person" as it is ultimately owned by Holcim. Holcim is an overseas person, and as such overseas persons have a beneficial interest in or entitlement to more than 25% of the Applicant.

s.9(2)(a)

What is the amount being paid, or the value of the asset?
3500000

GST inclusive?
No

Comment (if any) about the amount being paid, or asset value

As is customary for an acquisition of assets, the purchase price is subject to an adjustment relating to the value of the stock as at Completion. The purchase price mechanics also include a holdback sum of 10% of the base purchase price to account for conditions relating to the resource consent and potential historical environmental liabilities that may arise in respect of the Quarry and/or the Business.

Provide details of how the transaction will be funded

The Proposed Transaction will be funded by existing cash reserves of the Applicant.

Transactions

- Transaction name: Proposed Transaction
Description: The acquisition by the Applicant of the Business Assets, including the Licence
When it is likely to occur: September 2023, after satisfaction of the OIO condition under the SPA

Applicant's ownership & structure

Does the Applicant have any current or past business operations in New Zealand?

Yes

Provide information about the Applicant's business operations, past and present, including those in New Zealand
The Applicant has operated in New Zealand since 1888, and during this time, (through its subsidiaries and joint ventures) has had a significant positive impact on the development of the infrastructure of the country through its manufacture, supply and distribution of cement, ready mixed concrete, lime and quarry products. In 1971, the Swiss-based parent company Holcim Limited first purchased shares in New Zealand Cement Holdings Limited. This shareholding was increased in 1988 to 80% and in 1998 to 100% through subsidiary company Zealhoff Holdings Limited. Zealhoff Holdings Limited was wholly owned by Fernhoff Limited. Zealhoff Holdings Limited and Fernhoff Limited were amalgamated to become Fernhoff Limited on 31 October 2005. The ownership structure of the Applicant is outlined in the diagram at Appendix 1. Holcim is a world leader with a strong market presence in over 70 countries. Holcim is a public company, and is listed on the Swiss Stock Exchange and the SWX Europe exchange (formerly the "virt-x Exchange"). Holcim Limited was formerly known as Holderbank Financiere Glaris Limited.

The Applicant has been trading in New Zealand for over 130 years and has established itself as a supplier of quality products within the markets in which it operates. It currently imports large scale bulk cement into two principal import terminals located in Auckland and Timaru. Cement imported into Timaru is redistributed domestically to port-based depots for storage by a company owned cement ship the "MV Buffalo" which is an 8,000t capacity dedicated cement carrier. The port depots are strategically situated around the country at Dunedin, Christchurch, Nelson, Wellington, New Plymouth and Napier. [REDACTED] s.9(2)(b)(ii) Holcim operates at scale and g [REDACTED] eduled for loading at an export port, traveling to NZ, or unloading in NZ. Annual demand is consistently in the range of [REDACTED] s.9(2)(b)(ii) per annum.

[REDACTED] s.9(2)(b)(ii) Applicant has non-controlling interests in ready mixed concrete. A 50% interest is held in AML Limited (formerly known as Allied Milburn Limited) which is a joint venture company. The other partner in the joint venture is Allied Concrete Limited. AML Limited operates 50 ready mixed concrete plants throughout New Zealand with 30 located in the North Island and one ready-mix plant located in Christchurch. Allied Concrete Limited operates an additional 19 sites in the South Island (separately from the AML Limited joint venture).

The Applicant also has a non-controlling 25% interest in Atlas Resources Limited, which is an Auckland and Northland based ready-mixed concrete, quarries and sand (sea dredged), recycled aggregates, precast concrete and building materials supplier.

The Applicant has operated a number of quarries across New Zealand which have over recent years been sold or, upon completion of resource, rehabilitated and sold. Most recently, in 2021 the Applicant sold its interest in Kiwi Point Quarry in Wellington back to the land owner, Wellington City Council, and the Bombay Quarry in Auckland, which was exhausted of aggregate in 2019, and sold to Envirowaste, who are now operating the site as a cleanfill. Currently the Applicant only operates the Hastings Quarry in the Hawkes Bay from which it extracts and processes aggregates for supply into both the Hawkes Bay and Gisborne regional markets.

The Applicant's parent company, Holcim, is a global company comprising 60,000 people combining a unique breadth of expertise and abilities. Holcim has the largest global footprint in the industry, with local teams operating in markets around the world. Holcim intends to build progress for people and the planet, focused on rigorous science-based targets to meet net-zero and circular construction goals. The Holcim vision is being brought to life with "Strategy 2025 – Accelerating Green Growth" [https://www.holcim.com/who-we-are/our-strategy], which has strategic pillars of accelerating growth, expanding solutions & products, leading in innovation and sustainability, and delivering superior performance. Holcim is moving to becoming a world leader in innovative and sustainable building solutions.

Has the sensitive asset, or Applicant and related entities been subject of an application for consent before?

Yes

Consent number(s) The Vendor and the Licensor are not overseas persons so did not require consent to obtain an interest in the Land. The Applicant is not aware of the land previously being the subject of a consent. The Applicant has made several applications for consent before. In 2007, the Applicant applied for and was granted consent for a land purchase

programme in respect of the proposed Weston Cement Plant development (in Oamaru). The Applicant subsequently applied for and was granted consent to purchase land in a number of transactions relating to this development. The Applicant complied with all terms of the consents, including the sale of some land as required by OIO conditions at that time.

The five most recent applications were:

- 201220010: Consent granted for investment in sensitive land – freehold interest in 196.8576 hectares of land in Otago (<https://www.linz.govt.nz/our-work/overseas-investment-regulation/decisions/2012-09/201220010>);
- 201120017: Consent granted for investment in sensitive land – leasehold interest in 2.26 hectares of land in Timaru (<https://www.linz.govt.nz/our-work/overseas-investment-regulation/decisions/2011-11/201120017>);
- 200821643: Purchase granted for investment in sensitive land – freehold interest in 90 hectares of land in North Otago (<https://www.linz.govt.nz/our-work/overseas-investment-regulation/decisions/2009-02/200821643>);
- 200821570: Consent granted for investment in sensitive land – freehold interest in 2.23 hectares of land in Palmerston (<https://www.linz.govt.nz/our-work/overseas-investment-regulation/decisions/2009-01/200821570>); and
- 200810060: Application approved for investment in sensitive land – freehold interest in 3.365 hectares of land in North Otago (<https://www.linz.govt.nz/our-work/overseas-investment-regulation/decisions/2008-06/200810060>).

Applicant's financial position

The Applicant is a member of a large global corporate group, and is in a strong financial position. The 2021 Financial Statements for Fernhoff and its controlled entities are available here: <https://app.companiesoffice.govt.nz/companies/app/service/services/documents/BC21B3CE4352B84BCF833ACA7D05B911> and the 2022 Financial Statements for Fernhoff and the Applicant are attached at Appendix 8.

The financial position of the Applicant **s.9(2)(b)(ii)** and the business **s.9(2)(b)(ii)** **s.9(2)(b)(ii)**

Fernhoff is an investment holding company, the principal business of which is **s.9(2)(b)(ii)**

The Applicant is the **s.9(2)(b)(ii)** or the Holcim Group in New Zealand.

As at 31 December 2022, Fernhoff had total assets of approximately **s.9(2)(b)(ii)** and net assets of **s.9(2)(b)(ii)** and for that period had gross revenue of **s.9(2)(b)(ii)** and net profit after tax of approximately **s.9(2)(b)(ii)**

Holcim's market capitalisation, as at 18 October 2022, was approximately \$26.37 billion CHF, or approximately NZ \$46.58 billion. Their total assets for 2021 were \$2.740 billion CHF (approximately NZ \$4.794 billion), and their net assets for 2021 were \$1.913 billion CHF (approximately NZ \$3.347 billion). It had a gross profit of \$11.536 billion CHF (approximately NZ \$20.184 billion), and a net income after tax of \$2.681 billion CHF (approximately NZ \$4.691 billion).

The 2022 annual report for the Holcim Group is available here: <https://www.holcim.com/media/media-releases/annual-and-interim-reports>

Tell us about ownership and control

The Applicant

The Applicant is a New Zealand company that was incorporated in 1888, under the name New Zealand Cement Holdings Limited. As noted, Holcim initially purchased shares in the Applicant in 1971 and had acquired all of its shares by 1998.

The Applicant was incorporated in New Zealand on 26 July 1888, under the name The Milburn Lime and Cement Company, with company number 142904. In 1963 it merged with New Zealand Cement Company Limited to form New Zealand Cement Holdings Limited. It changed its name to Milburn New Zealand Limited in 1988. Milburn New Zealand Limited changed its name to Holcim (New Zealand) Limited in September 2002.

s.9(2)(b)(ii)

Fernhoff

Fernhoff is **s.9(2)(b)(ii)** the Applicant. **s.9(2)(b)(ii)** its purpose is **s.9(2)(b)(ii)** Given this, it **s.9(2)(b)(ii)**

Holcim

Holcim is a listed company, and the ultimate owner of the Applicant. Holcim is one of the top producers of cement in Europe, North America and Asia. As Holcim is a listed company, it has a diverse and ever-changing shareholding. The Applicant understands that the only Holcim shareholder with more than five percent of the total shareholding is Thomas Schmidheiny, the former Holcim chairman and relative of the founder(s) of Holcim. Its other top shareholder is BlackRock Inc (an American investment company) with a shareholding of 4.86%.

As a listed company, Holcim has robust governance policies and procedures, as required by the listing rules of the exchanges it is listed on.

Provide incorporation, shareholder and director information for the Applicant and persons who have a more than 25% beneficial or legal interest in the Applicant (or equivalent information if the Applicant is not a company)

Holcim (New Zealand) Limited

- The Applicant was incorporated in New Zealand on 26 July 1888, under the name The Milburn Lime and Cement Company, with company number 142904. Its certificate of incorporation is attached as Appendix 7.
- Its directors are George Agriogiannis (appointed 13 March 2019), Kevin Larcombe (appointed 1 April 2019), and Gregory Manson (appointed 22 August 2016)
- It has a single class of shares and its sole shareholder is Fernhoff.

Fernhoff Limited

- Fernhoff was incorporated in New Zealand, on 17 August 1998, with company number 921721. It was amalgamated with its wholly-owned subsidiary, Zealhoff Holdings Limited, on 31 October 2005 (with Fernhoff being the surviving company). Its certificate of incorporation is attached as Appendix 7.
- The directors of Fernhoff are George Agriogiannis (appointed 13 March 2019, Holcim Group CEO for Australia and New Zealand and director of the Applicant), Kevin Larcombe (appointed 1 April 2019, Executive General Manager, New Zealand and director of the Applicant), and Gregory Manson (appointed 19 October 2016) and director of the Applicant).
- Fernhoff's shares are of a single class, and its sole shareholder is Holcim (through two share parcels of 99.93% and 0.07%).

Holcim Limited

- Holcim was incorporated in Switzerland on 4 August 1930. Its certificate of incorporation is attached as Appendix 7.
- Holcim has 12 directors, 11 of whom are independent and were not previously management of Holcim nor have any other business connection with it. Its directors are:

- o Jan Jensich (chairperson);
 - o Hanne Sørensen (vice-chairperson and lead independent director);
 - o Philippe Block;
 - o Kim Fausing;
 - o Leanne Geale;
 - o Naina Lal Kidwai;
 - o Ilias Laber;
 - o Jürg Oleas; and
 - o Claudia Sender Ramirez.
- Holcim has 615,929,059 shares on issue, which are all of a single class.

No underlying investors have a more than 25% interest in Holcim (and therefore no further information is provided in respect of any underlying investors in this section).

Are there decision making delegations in place (formal or informal)?

Yes

What are the delegations, who controls the delegations, and how do they relate to the investment?

[Redacted] responsible for the decision making
s.9(2)(ba)(i)

The Applicant

[Redacted] s.9(2)(ba)(i)

Tell us who could approve the acquisition of the investment and whether they consulted others (e.g. parent entities) before making the decision.

[Redacted] s.9(2)(ba)(i)

Who can approve the divestment of the investment?

A decision as to the divestment of the Quarry would require approval from [Redacted] s.9(2)(ba)(i)

Who is responsible for the day to day management of the investment?

[Redacted] will have responsibility for the day to day management of the investment.
[Redacted] s.9(2)(ba)(i)

[Redacted] enditure?

[Redacted] will have primary responsibility for approving significant capital
[Redacted] s.9(2)(ba)(i)

who have significant authority to approve capital and operating expenditure

s.9(2)(ba)(i)

Beneficial ownership table

- Owner: Thomas Schmidheiny
Percentage (must total 100%): 8.14
Description: Former Holcim chairman and relative of the founders of Holcim
- Owner: Other
Percentage (must total 100%): 91.86
Description: Various other shareholders each holding less than 5%

Ownership by country table

- Country: Switzerland
Percentage (must total 100%): 42
- Country: North America Region
Percentage (must total 100%): 24
- Country: Various regions
Percentage (must total 100%): 16
- Country: United Kingdom
Percentage (must total 100%): 9
- Country: Europe Region
Percentage (must total 100%): 9

Does the Applicant have any ROP individuals?

No

ROP entities

- Full legal name of entity in English: Holcim (New Zealand) Limited
Full legal name in non-English characters: N/A
Other names (e.g. trading/former names): N/A
Type of entity: Limited liability company
Jurisdiction: New Zealand
Unique identifier: 9429040323428
NZ Inland Revenue number, if held: s.9(2)(a)

Explain the rationale for your selection

For the purposes of this application, the Applicant considers that the sole ROP is the Applicant.

This entity will enter into the Proposed Transaction and will be responsible for administering and overseeing the day to day operations of the Business following Completion, including by approving significant capital and operating expenditure.

Holcim is not considered a ROP because:

- Its role in approving the Proposed Transaction is more in the nature of an internal administrative sign-off rather than a substantive assessment of the Proposed Transaction and determination as to whether or not to proceed with it.
- Its decision to approve the Proposed Transaction reflected the substantive decision made by the Applicant's directors. The Applicant was responsible for formulating and executing the commercial strategy, including identifying and assessing the Proposed Transaction.
- It does not have a substantive role in the decision to proceed with the Proposed Transaction, a potential future divestment, nor in respect of ongoing management and control of the Quarry and the Business (including material capital and operating).

Fernhoff is not included as a ROP because it is an intermediary company which is not substantially involved in the decision to enter into the Proposed Transaction. In any event, all of its directors are already identified as IWCs because they are all directors of the Applicant.

There are no intermediary companies between Fernhoff and Holcim.

No underlying investor will have a more than 25% interest in Holcim. The largest interest of a single investor is 8.14%. Therefore, no underlying investors have been identified as ROPs for the purposes of this application. Neither the Applicant nor Holcim will require approval from shareholders to authorise entry into the Proposed Transaction.

Individuals with control

Individuals with control (IWC)

- First name (in English): George
Last names (in English): Agriogiannis
s.9(2)(a)

[Redacted]

Role: CEO and Director of

Holcim (New Zealand) Limited

s.9(2)(a)

- First name (in English): Gregory
Middle names (in English): Robert
Last names (in English): Manson
s.9(2)(ba)(i)

Residing country: New Zealand

s.9(2)(ba)(i)

Role: Director of Holcim (New Zealand) Limited.

s.9(2)(ba)(i)

- First name (in English): Kevin
Last names (in English): Larcombe

s.9(2)(ba)(i)

Role: Executive General Manager and Director of Holcim (New Zealand) Limited

s.9(2)(ba)(i)

Explain the rationale for your selection

The IWCs identified are the directors of the Applicant, being the entity that is the key decision-maker in respect of the Proposed Transaction (for the reasons described above), and the intended ongoing controlling entity of the Business.

s.9(2)(ba)(i)

There are no ROP of which members of the governing body have been excluded as IWCs.

s.9(2)(ba)(i)

CVs and identity documents for all IWCs have been included as Appendices 5 and 6, respectively.

Investor test

Repeat investor information

Have any individuals or entities relevant to this application met the investor test for a previous application decided under section 18A (post-22 March 2021)?

No

Investor Test - 12 Factors under [section 18A](#) of the Overseas Investment Act 2005

18A(4)(a)(i)

No

18A(4)(a)(ii)

No

18A(4)(a)(iii)

N/A

18A(4)(a)(iv)

No

18A(4)(a)(v)

No

18A(4)(a)(vi)

No

18A(4)(a)(vii)

No

18A(4)(b)

No

18A(4)(c)

No

18A(4)(d)

No

18A(4)(e)(i)

No

18A(4)(e)(ii)

No

18A(4)(f)

No

National Interest

Does the transaction fall under [Section 20A](#) of the Act?

No, the transaction is neither of the above.

Explain why the Applicant does or does not consider that the transaction involves a strategically important business. The Proposed Transaction relates to the extraction of fine aggregate, so does not involve a "strategically important business" as defined in the Act and Regulations. The Applicant does not consider it necessary to address this in further detail.

Explain why the Applicant does or does not consider that the transaction involves a non-NZ government investor under section 20A(1)(a)-(b) of the Act.

Given Holcim is listed on the Swiss stock exchange, the (indirect) shareholders in the Applicant are a wide range of investors, comprising both institutional and retail investors from a number of countries. The shares in Holcim are constantly traded which means the shareholder base is continuously changing.

The Applicant is not aware of any significant shareholders in Holcim being non-NZ government investors, and nor is it in a position to obtain this information because it has no ability to compel the disclosure of the details of underlying investors from its shareholders that are investment/asset managers. The Applicant notes that shareholders that have a 3% or more shareholding in Holcim are required to disclose such interest to the market through the stock exchange, and

no such disclosures made appear to relate to investors that are non-NZ government investors. Such disclosures have been made by large institutional asset managers, who invest clients' money on their behalf. Holcim is not able to ascertain who these underlying clients are, but in any event the Applicant considers it extremely unlikely that there are government investors from a single country with a more than 25% ownership interest given the small number of more than 3% shareholders, and the fact that no underlying governmental investor has made such a disclosure. The Applicant therefore considers that it is not a non-NZ government investor and that the application is not subject to the national interest test on that basis.

In any event, any indirect shareholders that are non-NZ government investors (if there were any) could not influence the activities of Holcim as it is publicly listed which means it is subject to extensive regulation in terms of its governance and operations, and is accountable to a wide range of shareholders and other stakeholders. These factors would prevent any non-NZ government investor (if there are any that are indirect shareholders of Holcim) being able to influence the Holcim Group's activities in any manner that furthered strategic, rather than commercial, objectives. This removes any risk in terms of NZ's national interest.

Does the Applicant consider the transaction to be a transaction of national interest under [section 20B](#) of the Act?
No

If the Applicant considers the transaction is not a transaction of national interest under section 20B of the Act, provide submissions on why the transaction does not engage one of the scenarios outlined in the Annex of the 2021 directive letter from the Minister of Finance. Specifically, whether the transaction:

The Applicant considers that the Proposed Transaction is not a transaction of national interest under section 20B of the Act. The Applicant addresses the exhaustive list of relevant considerations from paragraph 11 of the Annex to the Ministerial Directive Letter dated 24 November 2021 as follows:

• could pose risks to New Zealand's national security or public order;

Not applicable. The Proposed Transaction concerns the underlying leasehold property interests relating to a sand quarry business.

• would grant an investor significant market power within an industry or result in vertical integration of a supply chain;

Not applicable. There are a number of competitors in the fine aggregates sector in the Waikato and Auckland regions, and the Proposed Transaction would not result in the Applicant obtaining any form of significant market power within this sector.

s.9(2)(b)(ii)

• has foreign government or associated involvement that was more than 25 per cent ownership or control interest 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;

Not applicable. No individual or group owns more than 10% of Holcim, with the largest institutional holdings being under 5%. The Applicant is not aware of any non-NZ government investors that are shareholders in Holcim.

• would have outcomes that were significantly inconsistent with or would hinder the delivery of other Government objectives;

Not applicable. No government objectives relate to the Proposed Transaction.

• raises significant Treaty of Waitangi issues;

Not applicable. No Treaty of Waitangi issues relate to the Proposed Transaction.

• relates to a site of national significance (e.g. significant historic heritage).

Not applicable. No sites of national significance relate to the Proposed Transaction.

Upload documents

Supporting Information upload

- [Appendix 1 - Holcim Structure Diagram.docx](#) (74.59 KB)
- [Appendix 2 - Transaction documents \(SPA\).pdf](#) (2.84 MB)
- [Appendix 3 - Licence Documentation \(including variation and deed of assignment\).pdf](#) (15.11 MB)
- [Appendix 4 - Sensitive Land Certificate.pdf](#) (524.18 KB)
- [Appendix 5 - IWC Information and CV.docx](#) (27.29 KB)
- [Appendix 6 - ID documents.pdf](#) (1.47 MB)
- [Appendix 7 - Certificates of Incorporation.pdf](#) (672.17 KB)
- [Appendix 8 - Financial Statements.pdf](#) (2.31 MB)
- [Project Jonesboro - Investment Plan.docx](#) (416.91 KB)
- [Signed application form.pdf](#) (311.14 KB)
- [Statutory Declarations 0.pdf](#) (249.22 KB)
- [Statutory Declaration \(1\).pdf](#) (315 KB)

Appendices

- Appendix reference: Appendix 1
Name of document: Structure Chart
- Appendix reference: Appendix 2
Name of document: Transaction Documents (SPA)
- Appendix reference: Appendix 3

- Name of document: Licence documents
- Appendix reference: Appendix 4
Name of document: Sensitive Land Certificate
- Appendix reference: Appendix 5
Name of document: IWC CVs
- Appendix reference: Appendix 6
Name of document: IWC Identity Documents
- Appendix reference: Appendix 7
Name of document: Certificates of incorporation
- Appendix reference: Appendix 8
Name of document: Financial Statements

Declaration

Who is submitting the application?

I am the Applicant's advisor/external representative (lawyer acting on behalf of a client, other external advisors)

Name of person submitting application and declaring below

Jess Juby

I have read, understood, and agreed to the privacy notice.

Yes

I have uploaded all documentation relevant to the claims made in this application and in support of the application.

Yes

I have uploaded proof of payment of the [lodgement fee](#) for this application.

No

I solemnly declare to the best of my knowledge, that all the information in this application form is true and correct.

Yes

True and correct

Yes

Investor test

Yes

Repeat investor test

No

I have uploaded the signed applicant declaration.

Yes

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