OVERSEAS INVESTMENT OFFICE | Land Information New Zealand Toitū te whenua

Decision required under the Overseas Investment Act 2005: Issoria Offshore Limited - 201900014

Date	25 July 2019
Security Level	Commercial: In Confidence
Priority	Normal
Case Number	201900014
Decision Required By	Prior to 31 July 2019. Target company has a conditional agreement to acquire the adjacent forest. The vendor of that transaction is in voluntary liquidation – see case 201720128. 31 July 2019 is the final date for assets to be sold as part of that process. The applicant wishes to acquire the target company and complete that transaction (201720128).

Contact for Telephone Discussion

Name	Position	Telephone	Cellphone	First Contact
Michael Appleyard	Manager Applications (Residential and Forestry)	04 830 3880		✓
[redacted] [s 9(2)(g)(ii)]	Senior Solicitor	04 830 3958		

Executive Summary:

1. This application is part of a set of three applications made by Issoria Offshore Limited (**Issoria**), relating to NZFI Holdings (Singapore) Pte. Ltd. (**NZFI Sing**), the Underwood, Hakahaka, and the Whataroa Forests, case numbers 201900014, 201720128, and 201900257.

2. Issoria's intended investment sequence is:

   (a) acquire NZFI Sing and an indirect interest in Underwood Forest; and
   (b) settle transactions by NZFI Sing's wholly-owned subsidiary for:
      (i) an indirect interest in Hakahaka Forest; and
      (ii) an indirect interest in Whataroa Forest.

3. This report is in respect of the transaction for NZFI Sing and Underwood Forest.

Applicant

4. Issoria Offshore Limited as trustee of the Issoria Trust (**Applicant**) seeks consent to acquire all of the shares in NZFI Sing.

5. The Applicant is ultimately wholly-owned and controlled by Mr de Putron. Mr de Putron is a high net-worth individual, based in Jersey, who is a fund manager for Bell Rock Capital Management LLP. Mr de Putron invests in a range of asset classes around the world in his personal and professional capacities.

Investment

6. The Applicant's investment is the acquisition of NZFI Sing, the parent company of New Zealand Forestry Industries Limited (**NZFI**). NZFI owns approximately 1,116 hectares of freehold land at 465 Tumbledown Bay Road, Port Underwood, Marlborough Sounds (**Land**).

7. The Land is approximately 72% afforested in pine with the rest being regenerated native bush and scrub, roading and skids, and a portion of Manuka planting. The Applicant intends to plant more pine trees and, on non-commercially viable scrubland, plant Manuka.

8. The Land also contains a homestead, which will be demolished and replaced with an office and forestry worker accommodation.

9. NZFI, being wholly-owned by Attalus Global Limited (**Attalus**), required consent to acquire the Land as an overseas investment in sensitive land in 2016.

Special forestry test

10. We have assessed the application against the requirements of the special forestry test and note:

    (a) The Land will be used nearly exclusively for forestry activities;

    (b) The trees will be replanted following harvest;

    (c) There are existing conditions of consent relating to protecting indigenous flora and fauna, allowing walking access, and protecting historic heritage;

    (d) The Land does not include any residential land and the Land, following the demolition of the homestead and construction of the office, will not be used for any residential purposes;

    (e) There are no existing arrangements that must be maintained or implemented and there are no log supply contracts to honour; and

    (f) The Land does not contain any special land.

11. **We are satisfied** that the requirements of the special forestry test are **met**.

Existing consent

12. We note that NZFI's initial consent to acquire the Land in 2016 (case number 201620028 (**Existing Consent**) has two minor and technical breaches relating to creating direct employment and inadvertently not registering a public walking easement.

13. We recognise that the Applicant would otherwise inherit the Existing Consent in a state of minor non-compliance and, because the time period for complying has recently passed, it would be unable to remedy those minor matters. Having discussed this with our Enforcement team, we have therefore agreed with the consent holder to vary these conditions upon settlement of this transaction to enable the Applicant to comply.

Recommendation

14. We recommend consent is **granted** and the Existing Consent is **varied**.

Instructions

15. Please see **Appendix 3** for instructions on how to make a decision and guidance on the criteria for consent.

Decision:

Consent 201900014

16. I have determined that:

    (a) the **'relevant overseas person'** is (collectively) Issoria Offshore Limited (as trustee of the Issoria Trust), Mr Nicholas de Putron, and the Issoria Trust;

    (b) the **'individuals with control of the relevant overseas person'** is Mr Nicholas de Putron (in his respective capacities as sole beneficiary of the Issoria Trust and sole shareholder of Issoria Offshore Limited).

17. I am satisfied that the criteria for consent in sections 16 and 16A have been met:

    (a) the individual with control of the relevant overseas person collectively have business experience and acumen relevant to the overseas investment; and

    (b) the relevant overseas person has demonstrated financial commitment to the overseas investment; and

    (c) all the individuals with control of the relevant overseas person are of good character; and

    (d) each individual with control of the relevant overseas person is not an individual of the kind referred to in section 15 or 16 of the Immigration Act 2009; and

    (e) the benefit to New Zealand test is met (by way of meeting the criteria in the special test relating to forestry activities).

18. Consent is granted to the overseas investment in the form of the Proposed Decision in **Appendix 1**.

Variation 201620028

19. Pursuant to section 27(1), the decision-maker may vary conditions of consent with the consent of the consent holder.

20. Following the settlement of Issoria's acquisition of NZFI Sing, Issoria will own and control NZFI. We have sought and obtained the consent of the consent holder to vary the conditions of consent (201620028) as outlined in this report.

21. I have therefore decided confirm that, on and from the date of settlement of Issoria's acquisition of NZFI Sing, the conditions of consent (201620028) are varied in the form of **Appendix 2**.

[s 9(2)(a)] [redacted]

Michael Appleyard – Manager Applications (Residential and Forestry)

Date 25/7/2017.

Report of the Overseas Investment Office on the application for consent by Issoria Offshore Limited Case: 2019000014

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What is the Investment?

Applicant	**Issoria Offshore Limited** (United Kingdom, 100%)
Vendor	**Attalus Global Limited** (St Kitts and Nevis, 100%)
Consideration	$12,878,204 (converted from USD 8,785,486)
Application Type	Special forestry test
Recommendation	Grant consent

Description of the Investment

1. The Applicant seeks consent to acquire 100% of the shares in NZFI Holdings (Singapore) Pte Ltd (**NZFI Sing**). NZFI Sing is the parent company of New Zealand Forestry Industries Limited (**NZFI**). NZFI owns approximately 1,116 hectares of freehold land at 465 Tumbledown Bay Road, Port Underwood, Marlborough Sounds (**Underwood Forest / Land**). The Land is depicted below:

Vendors and reasons for sale

2. The Vendor is Attalus Global Limited (**Attalus**), which obtained overseas investment consent to acquire Underwood Forest in 2016. Attalus is wholly owned by Patrick Egan, who is revising his investment portfolio. This revision requires the sale of his New Zealand forestry assets. Attalus states this transaction is at arm's length and there is no existing relationship between Attalus and Issoria.

Sensitive assets

3. The Applicant is acquiring all of NZFI Sing's shares, which provides an indirect interest in Underwood Forest. Underwood Forest comprises 1,116 hectares, used exclusively for forestry activities. The transaction requires consent because Underwood Forest is non-urban land over 5 hectares (see **Appendix 3**).

Variation to existing consent

4. NZFI obtained consent to acquire the Land in December 2016, consent no. 201620028, and continues to be obliged to comply with those conditions of consent.

Special condition 3: Employment

5. Condition 3 required NZFI to directly employ 5 full-time equivalent employees on the Land within 24 months from the date of consent. On 30 November 2018, NZFI reported it had indirectly employed 6 full-time equivalent positions for harvesting and on-going forest management. Because the wording of this condition is strict, requiring direct employment, NZFI is technically in breach of its requirements.

Special condition 9: public walking access easement

6. The Applicant also notes special condition 9 required NZFI to establish a public walkway and register an easement within 2 years of the date of consent. The walkway has been created but has inadvertently not been registered. The Applicant requests a time extension to allow it to hire a surveyor to survey the walkway and to register the easement.

Proposal to vary

7. Because of these matters, the Applicant is acquiring NZFI in a state of technical and minor non-compliance. We propose to vary this condition 3 and 9 of consent 201620028 for the reasons set out in detail at paragraph 79 onwards.

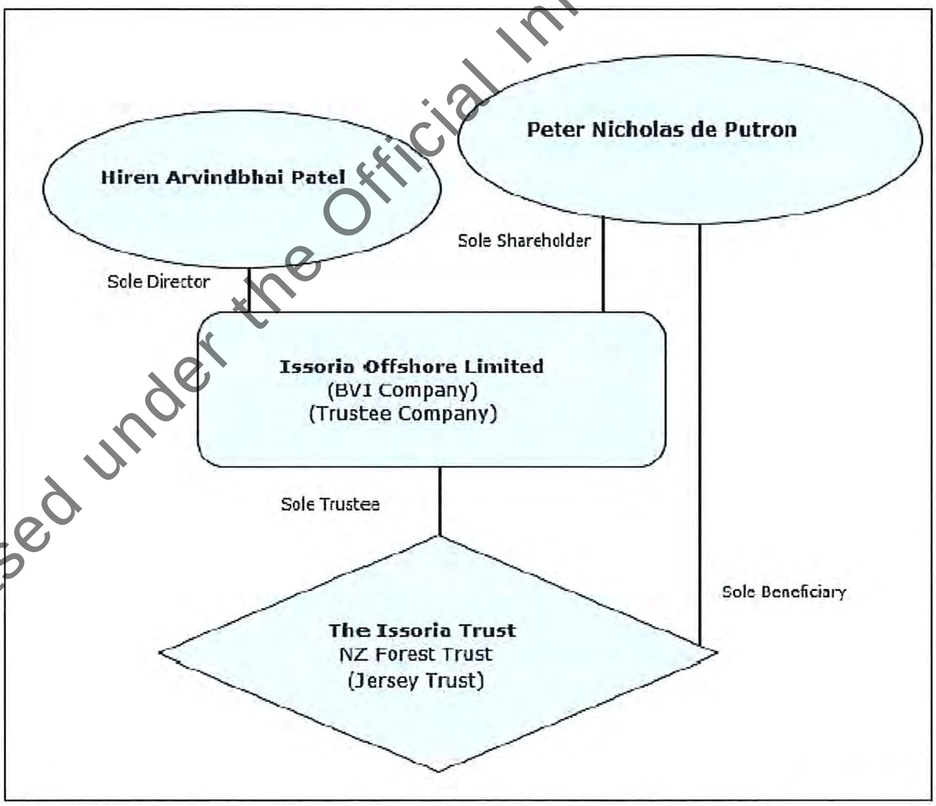
Who is making the Investment

Applicant

Who the Applicant is

8. As set out in the diagram below, the Applicant is Issoria Offshore Limited, a trustee company incorporated in the British Virgin Islands and wholly owned by Mr de Putron. The Applicant's sole director is Hiren Arvindbhai Patel, who is Mr de Putron's solicitor.

9. The Applicant is the sole trustee of the Issoria Trust, settled in Jersey. That trust was set up for this forestry acquisition. The sole beneficiary of the Issoria Trust is Mr de Putron.



Who owns and controls the Applicant

10. The Applicant and Issoria Trust are ultimately owned by Mr de Putron. Hiren Patel, as Mr de Putron's solicitor, is subject to instruction. Mr de Putron therefore has sole ownership and effective control over all entities depicted.

11. Mr de Putron provided the funds for this transaction, can approve significant capital and expenditure, and is responsible for approving the acquisition and divestment of NZFI Sing's shares.

12. Mr de Putron is a high net-worth individual, based in Jersey, who is a fund manager for Bell Rock Capital Management LLP. Mr de Putron invests in a range of asset classes around the world in his personal and professional capacities.

Relevant Overseas Person

13. We have determined that the 'relevant overseas person' is:

(a) Peter Nicholas de Putron;
(b) Issoria Offshore Limited in its capacity as trustee of the Issoria Trust; and
(c) the Issoria Trust.

Individuals with Control

14. We have determined that the 'individuals with control of the relevant overseas person' are:

(a) Peter Nicholas de Putron in his capacity as sole beneficiary of the Issoria Trust; and
(b) Peter Nicholas de Putron in his capacity as sole shareholder of Issoria Offshore Limited.

Investment Plan

15. Mr de Putron's overarching investment intention is to build a forestry-based investment portfolio of at least two rotations (50 years plus).

16. Acquiring NZFI Sing provides some exposure to the desired portfolio mix of new plantings, mid rotation, and mature plantings.

17. The investment strategy includes multiple forests for diversified revenue streams, investment in research and development for hybrid pine tree species, and investing in downstream manufacturing to develop higher value timber products, principally for structural use.

18. Underwood Forest is currently afforested and used as follows:

Underwood		
Land use	**Current (approx. hectares)**	**Proposed (approx. hectares)**
Pinus radiata	804 ha	844 ha
Planted Manuka (includes plantings along land with overhead high tension power lines)	3 ha	22 ha
Regenerated native bush and scrub land	276 ha	217 ha
Roads, skid sites, other	33.5 Ha	33.5 Ha
Total	1,116.4862 hectares	1,116.4862 hectares

19. The Applicant intends to continue the Land's existing use and to increase the planted area. Where pine cannot be planted, the Applicant has proposed to plant Manuka.

20. It is possible local bee keepers may use the Manuka areas and that the trees may be a source of Manuka oil. In the overall context of the land, this is a very minor secondary use.

21. Merrill & Ring New Zealand Limited currently provide forestry management services in respect of the Land and the Applicant will continue to contract their services.

Does the Applicant meet the Investor Test criteria?

Business Experience s16(2)(a)

The relevant overseas person, or the individuals with control of the relevant overseas person, must have business experience and acumen relevant to the overseas investment. There is considerable flexibility in determining what is relevant and more or less specific expertise may be required depending on the nature of the investment. Business experience and acumen that contributes to an investment's success may be treated as relevant even though the investor may have to supplement its experience and acumen by utilising the experience and acumen of others to ensure the investment succeeds.

22. In this case, the investment can be described as the acquisition of a forestry company that owns and manages a small forestry block.

23. We have reviewed the biographical information for the individual with control and note the following:

Mr de Putron

24. Mr de Putron:

    (a) is a fund manager and investor, and has over 20 years experience; and

    (b) holds a BA (Engineering Science) from Oxford University and an MBA in Finance and Entrepreneurial Management from Wharton Business School at the University of Pennsylvania.

Our assessment

25. Mr de Putron's investment experience is supplemented by his investment firm, which employs 850 staff, and has made investments in Western Europe and the USA. The firm's diverse portfolio covers short, medium and longer term risk managed positions across securities, commodities, and property sectors.

26. Staff of NZFI Sing and NZFI will continue on and provide their operational support to the business, including managing the contract with Merrill & Ring New Zealand Limited as the forestry manager.

27. Having regard to the above, **we are satisfied** that the individuals with control of the relevant overseas persons collectively have business experience and acumen relevant to the overseas investment.

Financial Commitment s16(2)(b)

The financial commitment criterion requires the relevant overseas person to have taken actions that demonstrate financial commitment to the overseas investment.

28. The 'financial commitment' criterion requires the relevant overseas person to have taken actions that demonstrate financial commitment to the investment (intentions are not sufficient).

29. In this case **we are satisfied** that the relevant overseas person has demonstrated financial commitment by:

    (a) entering into the share purchase agreement;
    (b) engaging professional legal and financial advisers; and
    (c) preparing an OIO application for consent (including legal fees).

Good Character s16(2)(c)

The decision maker must be satisfied that the individuals with control are of good character. Section 19 of the Act specifies that the decision maker must take the following factors into account (without limitation): (a) offences or contraventions of the law by A, or by any person in which A has, or had at the time of the offence or contravention, a 25% or more ownership or control interest (whether convicted or not): (b) any other matter that reflects adversely on the person's fitness to have the particular overseas investment.

30. The individual with control has provided statutory declarations stating that they are of good character, have not committed an offence or contravened the law as described above and know of no other matter that reflects adversely on their fitness to have the Investment. We are satisfied that the statutory declaration can be relied on as they comply with the requirements of the Oaths and Declarations Act 1957.

31. We have also conducted open source background checks on the individual with control and found one relevant matter:

Political donation

32. The information provided shows that Mr de Putron is has connections to senior ranking politician in the UK. A UK based company in which he has an interest made a donation to the political party to which his sister in law belongs. His sister in law is the UK leader of the House of Commons and in the UK Government Cabinet.

33. We do not have any information to suggest the donation was made unlawfully. Mr de Putron has made a positive statement that the donations were fully disclosed in compliance with applicable laws. Related matters published in the Guardian do not appear to be substantiated.

34. We do not consider this is a matter that affects Mr de Putron's fitness to have this investment.

View

35. Therefore, **we are satisfied** that the individuals with control are of good character.

Immigration Act s16(1)(d)

Section 15 of the Immigration Act specifies that certain convicted or deported persons are not eligible for a visa or permission to enter or be in New Zealand. Section 16 provides a power to deny a visa or permission to enter New Zealand for other specified reasons, such as if the individual is likely to be a threat or risk to security or public order.

36. The individual with control have provided statutory declarations stating that they are not individuals of the kind referred to in section 15 or 16 of the Immigration Act 2009. We are satisfied that the statutory declarations can be relied on as they comply with the requirements of the Oaths and Declarations Act 1957. We have also conducted open source background checks on those individuals and found nothing relevant to this criterion.

37. Therefore, **we are satisfied** that the individual with control of the relevant overseas person is not an individual of the kind referred to in section 15 or 16 of the Immigration Act 2009.

Does the Investment meet the special forestry test?

Special test relating to forestry activities – section 16A(4)

The benefit to New Zealand test is met if relevant Ministers are satisfied that the relevant land is likely to be used for forestry activities, the land does not include residential land and is not likely to be used for any residential purposes, that any requirements in regulations are likely to be met, that harvested crops of trees are replanted, and if special has been offered back to the Crown in accordance with regulations. These criteria are set out in detail below.

Forestry activities – section 16A(4)(a)

Will the relevant land be, or be likely to be, used exclusively, or nearly exclusively, for forestry activities? Forestry activities is defined in section 16A(9) to mean maintaining, harvesting, or establishing a crop of trees.

View

38. **We are satisfied** that the Land is likely to be used nearly exclusively for forestry activities.

Land use

39. The Applicant plans to continue to use the Land for commercial forestry. As shown in the table at paragraph 18, the Applicant's plans include planting an additional 40 hectares of pine trees, taking the total land use from 72.4% to 75.6% forested.

40. A further 217 hectares (19.4%) of the Land will remain in regenerated native bush and scrub land. A small portion of the Land, approximately 22 hectares, will be used for Manuka planting. This Land is otherwise unsuitable for planting and comprises 1.9% of the total area.

41. The Applicant also notes there is an existing old homestead building located on the Land, but that it is no longer suitable for residential habitation. The Applicant intends to demolish the structure and construct a purpose-built office with forestry worker accommodation.

42. We consider this these activities are minor in the context of the Investment and do not affect the near exclusive use of the Land for forestry activities.

Conditions

43. We have proposed a general consent condition requiring the Applicant to continue to use the Land exclusively or nearly exclusively for forestry activities.

Residential land – section 16A(4)(b)

Is the relevant residential only land or does the relevant land include residential land? If so, does the residential land adjoin other non-residential land within the relevant land?

44. The Applicant has confirmed, by way of a sensitive land certificate, that the Land does not contain any residential land.

Residential purposes – section 16A(4)(c)

Will the relevant land be, or be likely to be, used for residential purposes or will it be held for future use for any residential purposes? "Residential purposes" <u>excludes</u> where:

(a) accommodation is being provided for the purpose only of supporting forestry activities being carried out on the relevant land; and

(b) all buildings being used for that accommodation are located on land on which some or all of those forestry activities are being carried out or on land that adjoins land on which some or all of those forestry activities are being carried out.

View

45. **We are satisfied** that that the relevant land is not likely to be used or held for residential purposes and therefore that this criterion is **met**.

Analysis

46. As referred to above, the Land contains an old homestead that the Applicant intends to demolish to construct a purpose-built office with forestry worker accommodation for the purpose of carrying out forestry activities on the Land.

47. The building will not be used for any other purpose, in particular, the Applicant confirms that the new building will not be rented out to tenants, as explained above, it will only be used to accommodate forestry workers.

48. In terms of timeframes, the Applicant intends to have the new office with forestry worker accommodation built by 2021.

Conditions

49. We have proposed a general consent condition requiring the Applicant to continue to not use the Land for residential purposes.

50. We have also recommended a specific condition requiring:

    (a) the Applicant to have demolished and completed the construction of the purpose-built office with forestry worker accommodation by 2022; and

    (b) that the new building be only used for forestry worker accommodation that relates to the forestry activities being undertaken on the Land or adjoining land.

Existing arrangements & existing consent conditions – regulation 29(2)(a)/(b)

Will any existing arrangement in respect of the relevant land, or any part of the relevant land, that is for 1 or more specified purposes will be implemented and maintained, or will continue to be implemented and maintained? What do existing conditions of a consent require to be done, or prohibit from being done, in respect of the relevant land, or any part of the relevant land, for 1 or more specified purposes? Will these continue to be done or not to be done?

View

51. **We are satisfied** that the Applicant will maintain existing arrangements in respect of the relevant land and continue to give effect to all existing conditions of consent relating to the Land.

52. We have considered these factors together below and recommend imposing conditions relating to protecting indigenous flora and fauna, walking access, and historic heritage.

Analysis

53. After undertaking due diligence and consulting with the Vendor, the Applicant has identified the following matters:

Matter	Arrangements	Conditions
Indigenous vegetation / fauna	None	Yes
Trout, salmon, wildlife, and game	None	-
Public access	None	Yes
Historic heritage	Yes	Yes
Wāhi tapu	None	-
Māori reservation land	None	-

Indigenous vegetation / fauna

54. Underwood Forest contains three Significant Wetland Areas:

    (a) W1042 Hitaua Bay;

(b) W1043 Whangakoko Bay; and
(c) W1044 Opihi Bay.

55. There is a substantial existing buffer between the wetland at Hitaua Bay (W1042) and the existing plantation. Around the Opihi Bay and Whangakoko Bay wetlands, there are also substantial existing riparian buffers.

Arrangements

56. The Applicant intends to maintain these riparian buffers. However, we note there are no existing arrangements relating to them.

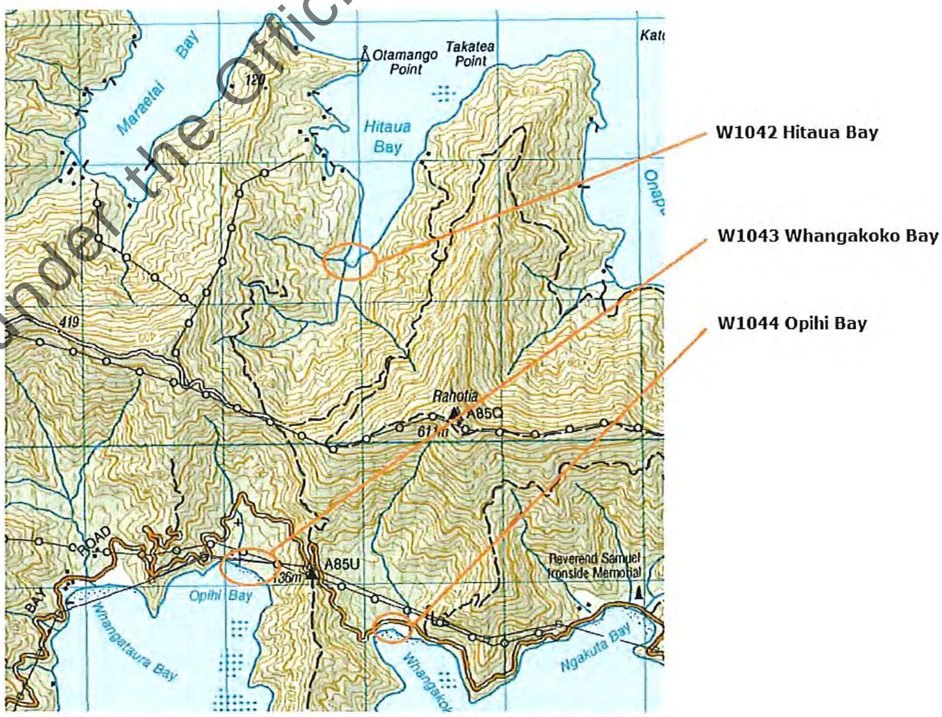
Consent conditions

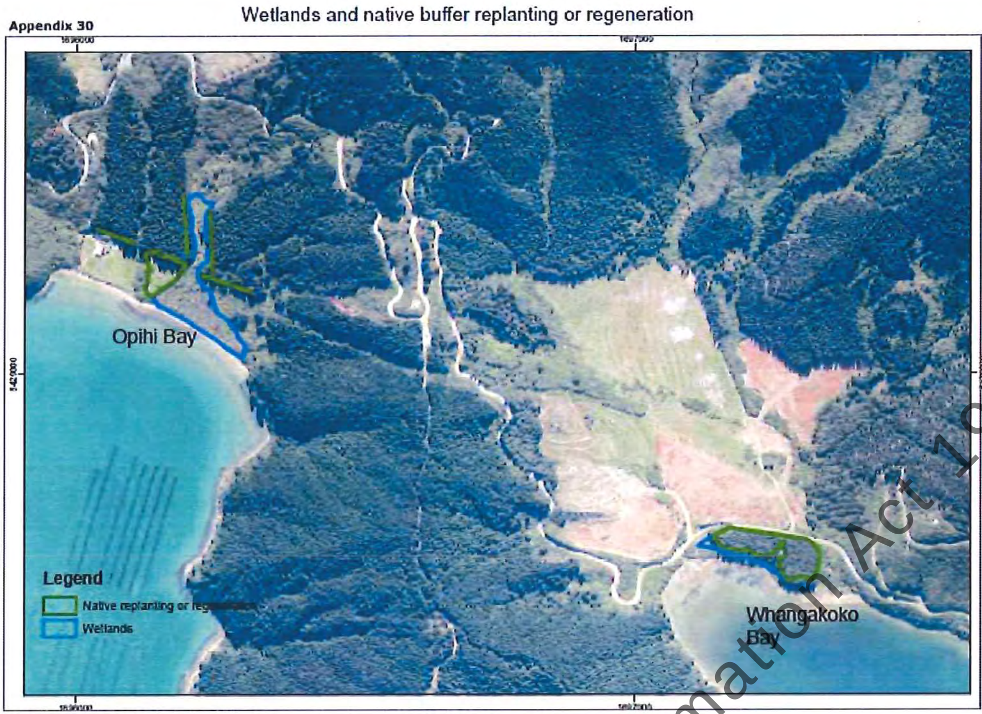
57. The Vendor was granted consent to acquire this Land in 2016 (case number 201620028). Condition 6 of that consent required the following:

> 6. *Within 2 years of the date of consent, the Consent Holder must plant a riparian buffer of at least 8 metres alongside the boundaries of the wetlands at Hitaua Bay and Whangakoko Bay which are on the Land.*
>
> *If the wetland at Opihi Bay is confirmed as a significant wetland in the MEP, then the Consent Holder must (within 2 years of such confirmation) also plant a riparian buffer of at least 8 metres alongside the boundaries of that wetland which are on the Land.*
>
> 7. *The Consent Holder must implement possum, goat, and pig control operations across the entire area of the Land.*

58. The Applicant confirms these riparian buffers have been planted for each of the three Bays. This condition is therefore satisfied.

Significant Wetland Areas



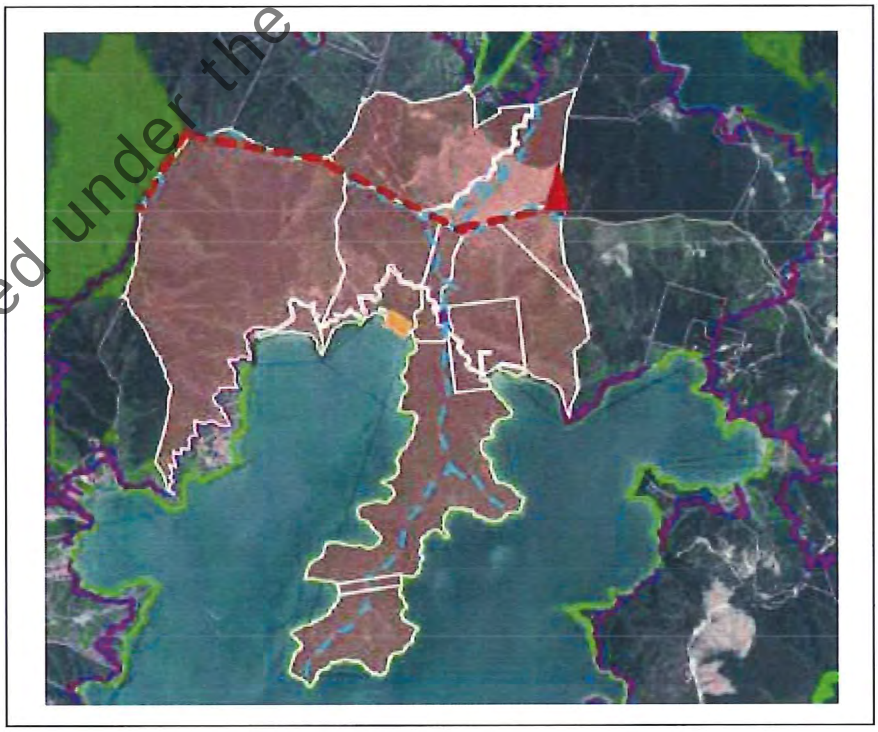


59. We note the pest control condition is an on-going obligation the conditions require to be done. Pest control serves to protect indigenous flora and fauna on the Land.

60. We recommend imposing as a condition of consent an obligation to continue to implement the possum, goat, and pig control operations on the Land, as required under the existing consent conditions.

Public access

61. There is public access on the Land, shown in red below:



62. The Vendors currently grant any reasonable access request from the public for the route marked in red on the map above and appoint a person as the point of contact and erect a notice or sign containing the contact details for the person of contact.

Arrangements

63. We note requirements relating to public access are imposed under an existing consent condition. These are considered below. There are no existing arrangements relating to public access for the Land.

Consent conditions

64. Under the existing consent conditions (case number 201620028), the Vendor is subject to several special conditions relating to:

(a) Special condition 9

This condition requires the consent holder to establish walking access and registered a public access easement along the route in red (above).

The Applicant confirms that walking access has been established, but a public access easement has not yet been registered. The Applicant understands that the non-registration was inadvertent.

We recommend special condition 9 of the existing consent be imposed because the Vendor has inadvertently not yet complied with the substantive obligation. We have also recommended that this existing condition be varied to allow the Applicant to survey and register the easement.

(b) Special condition 10

This condition requires the consent holder to procure a contact person to grant reasonable access and establishing a sign with relevant contact details.

The Applicant confirms this condition has been met:

The special condition requires the notice to be visibly displayed at entrances to the Land. This is an on-going obligation and we recommend it is imposed as a condition of consent.

(c) Special condition 11

This condition requires the consent holder to consult with the Walking Access Commission (**WAC**), and implement any reasonable WAC proposal for a pedestrian public access easement at Opihi Bay if, 5 years after the date of consent, the Vendor has not applied for, been granted, or developed a barging facility.

This means that, given this consent was granted in December 2016, the Applicant will need to give effect to this condition after December 2021. The Applicant advises that it will comply with this condition.

We recommend that this condition is imposed as a condition of consent.

Historic heritage

65. There are a number of historic heritage sites on the Land.

66. Port Underwood (Te Whanganui) was one of the earliest sites of European settlement in New Zealand. Historic heritage on the Land is associated with pakeha habitation. Full details are set out in the Archaeological Assessment of Underwood Farm Forest, commissioned by Merrill Ring in September 2018.

67. However, briefly, in 1836, approximately 18 vessels (mostly American) carried out bay whaling in Port Underwood. In 1839, reports estimate about 60 Māori inhabitants lived in Opihi Bay. From 1857, there are records of several families living in and around Port Underwood.

Arrangements

68. The Vendor has an arrangement with the forestry manager in the harvest plan. The arrangement outlines steps taken during harvest planning and operations, and includes steps to be taken if a 'known site' is located (Archaeological Authority Process) or discovered during harvest operations (Accidental Discovery Process).

69. The Applicant considers that the above documents are existing mechanisms for protecting any archaeological site and the Applicant confirms they will continue with the existing harvest plans and above processes when any archaeological site is discovered.

70. While these documents are existing arrangements, they do not relate to historic heritage entered on the New Zealand Heritage List (i.e. a specified purpose).

71. However, as below, the Applicant is required to maintain these protections under the existing conditions of consent.

Consent conditions

72. Under the existing consent conditions (case number 201620028), the Vendor is subject to several special conditions:

(a) Special condition 12

This condition required the Vendor to undertake an archaeological survey of the land to determine the nature and extent of archaeological sites on the Land. The Vendor has procured this survey and this condition is complete.

(b) Special condition 13

This condition requires the Vendor to engage with Heritage New Zealand, Te Runanga a Rangitane a Wairau, Ngati Rarua and Ngati Toa, if any archaeological site is, or has been discovered on the Land, and the Vendor intends to develop or use that part of the land.

The Vendor must ask what they can reasonably do to protect or enhance the historic heritage within that land and implement any reasonable protection measures recommended by any of the those parties at the Vendor's expense.

This condition imposes on-going obligations. We recommend that this condition is imposed as a condition of consent.

Conditions

73. In summary, we recommend that conditions relating to:

    (a) implementing pest controls;

    (b) registering a public access easement, maintaining an access contact sign, and registering a pedestrian public access easement at Opihi Bay if the barge facility is not built; and

    (c) engaging with Heritage New Zealand, Te Runanga a Rangitane a Wairau, Ngati Rarua and Ngati Toa, if any archaeological site is, or has been discovered.

    be imposed as conditions of consent for this investment.

Log supply obligations – regulation 29(2)(c)

Will logs be supplied or continue to be supplied as required by any existing supply obligation (so long as the obligation remains in place?

74. The Applicant and Vendor have confirmed that are no log supply contracts that relate to the Land.

Replanting crops – section 16A(4)(e)

Whenever a crop of trees is harvested on the relevant land, will or is it likely that a new crop will be established on the relevant land to replace the crop that is harvested?

75. The Applicant advises:

    (a) Harvesting is likely commence at a tree age of approximately 27 years, and may be staged over a few years; and

    (b) A full replant is planned for within three years (subject to considerations such as best industry practice at the time of replanting and matters including seedling and labour availability).

76. We are satisfied that the Applicant will replant the Land after harvest and that this criterion is **met**.

77. We propose as a condition of consent, that harvested crops be required to be replanted on a like-for-like basis or on any similar basis within three years of harvest. This time frame acknowledges the small size of the property and remote location and associated difficulties scheduling labour to carry out that work.

Special land – section 16A(4)(f)

If the land contains special land, has that special land been offered to the Crown in accordance with regulations? Special land means foreshore or seabed or a bed of a river or lake.

78. The Applicant has confirmed, by way of a sensitive land certificate, that the Land does not contain any special land.

Variation to consent 201620028

Existing consent

79. On 7 December 2016, NZFI was granted overseas investment consent under the 'benefit to New Zealand' pathway to acquire approximately 1,100 hectares of sensitive land at 465 Tumbledown Bay Road, Port Underwood (**Underwood Forest**). NZFI is bound by those conditions of consent as the consent holder.

Minor and technical non-compliance

Special condition 3: Employment

80. NZFI, under the ultimate ownership of the Vendor, did not technically comply with special condition 3 of that consent:

    Employment

    3. The Consent Holder must directly employ at least 5 full-time equivalent employees within 24 months of the date of consent, substantially in accordance with the representations made at pages 10 and 11 of the Application Letter.

81. Those representations were that a fully commercial scale forest would enable NZFI to establish full-time presences for operations in Marlborough and corporate/commercial in Auckland, being a forest manager, two forestry workers, a stakeholder and land management executive, and an administrator.

82. On 30 November 2018, NZFI reported it had indirectly employed 6 full-time equivalent positions for harvesting and on-going forest management. Because the wording of this condition is strict, requiring direct employment, NZFI is technically in breach of its requirements.

Analysis

83. NZFI has made reasonable efforts to comply with the condition and has achieved higher full-time equivalent positions through indirect means.

84. In any case, it is not possible for NZFI to comply with the condition because the 24 month term has expired. This also means it is not possible for the Applicant to resolve NZFI's existing state of non-compliance.

85. We further note the Office has moved away from this style of condition to avoid technical breaches of this nature.

86. Given the Applicant has satisfied the relevant test to acquire NZFI and an indirect interest in the Underwood Forest, we consider it is fair and appropriate to vary special condition 3 of consent 201620028 to acknowledge NZFI's efforts to comply and the Applicant's satisfaction, in its own right, of the requirements to acquire NZFI's shares and land interests.

87. The existing condition refers to representations in NZFI's application letter. These representations refer to direct employment. We consider this reference needs to be removed to restore the Applicant's compliance upon acquiring NZFI.

88. We have sought and received the Applicant's permission, after the NZFI acquisition occurs and the Applicant controls the Consent Holder, to vary special condition 3 as follows:

    Employment

    3. *The Consent Holder must indirectly employ at least 5 full-time equivalent employees during the first 24 months of the original date of consent~~, substantially in accordance with the representations made at pages 10 and 11 of the Application Letter~~.*

Special condition 9: Public walking access easement

89. NZFI's acquisition was also made subject to special condition 9 which required NZFI, within 2 years of the date of the original consent, to "make all reasonable endeavours to obtain all relevant third party consents in order to establish walking access and register a public access easement along the route marked in red on the map below within 2 years of the original date of consent". (This map is extracted at paragraph 61 above).

90. NZFI has established public walking access in consultation with WAC. However, the Applicant advises NZFI inadvertently failed to register an easement on the title with the required time-period.

91. During the course of this application's assessment, the Applicant advises it has instructed its solicitors upon completion of this consent process to register the easement immediately.

92. The Applicant has requested that this condition is varied to allow the Applicant time to register the easement to remedy the inadvertent and now historical non-compliance.

93. We have discussed this with the Applicant and, to accommodate time for the Applicant to hire a surveyor, we propose extending the condition to be 4 years from the original consent. This is a further 17 months. This time period acknowledges the remote location and potential difficulty in arranging for a surveyor to promptly attend and survey the walkway.

Recommendation

94. Pursuant to section 27(1), the decision-maker may vary conditions of consent with the consent of the consent holder.

95. Following the settlement of Issoria's acquisition of NZFI Sing, Issoria will own and control NZFI. We have sought and obtained the consent of the consent holder to vary the conditions of consent (201620028) as outlined in this section.

96. We therefore recommend that, immediately on settlement of the Applicant's transaction to acquire NZFI Sing, special conditions 3 and 9 of consent 201620028 be varied as follows:

Employment

3. The Consent Holder must indirectly employ at least 5 full-time equivalent employees during the first 24 months of the original date of consent.

...

Walking Access

9. The Consent Holder must make all reasonable endeavours to obtain all relevant third party consents in order to establish walking access and register a public access easement along the route marked in red on the map below within 4 years of the original date of consent.

Third Party Submissions

97. No third party submissions were received.

Appendices

APPENDIX 1 - PROPOSED DECISION - CONSENT 19
APPENDIX 2 - PROPOSED DECISION - VARIATION 19
APPENDIX 3 - GUIDANCE FOR APPLYING THE ACT 20
APPENDIX 4 - SENSITIVE LAND 21

Appendix 1 - Proposed Decision - Consent

Appendix 1 provided separately. See Objective file A3675827.

Appendix 2 - Proposed Decision - Variation

Appendix 2 provided separately. See Objective file A3702080.

Appendix 3 - Guidance for applying the Act

1. The regulator must grant consent to this overseas investment if it is satisfied that all of the relevant criteria in sections 16 and 16A(4) of the Overseas Investment Act 2005 ("the Act") are met.

2. It must decline to grant consent if it is not satisfied that all of the relevant criteria in sections 16 and 16A(4) are met. The regulator must not take into account any criteria or factors other than those identified in sections 16 and 16A(4), and regulation 29 of the Overseas Investment Regulations 2005 ("the Regulations").

3. In the attached Report the Overseas Investment Office identifies each of the relevant criteria under sections 16 and 16A(4), and regulation 29 that the regulator is required to consider in this case.

Conditions

4. Under section 16C(4), certain mandatory conditions must be imposed on any consent granted under section 16A(4).

5. Additional conditions may be imposed on any consent that is granted, under section 25A.

6. The attached Report sets out the mandatory conditions and recommends some additional conditions that you may wish to consider imposing in this case.

Decision

7. The decision that you are required to make should be based on information available to you that you consider is sufficiently reliable for that purpose. The information that the Overseas Investment Office has taken into account in making its recommendation is summarised in the attached Report.

Appendix 4 - Sensitive Land

1. Underwood Forest, 465 Tumbledown Bay Road, Port Underwood, Marlborough

Land Interest	**Freehold Interest** (approximately 1116.4862 hectares)
RTs	559947, 626384, 626385, 626386, 9958, MB34/264, MB34/265, MB3E/1150, MB3E/694, MB3E/701, MB6B/1141 (Marlborough)
Sensitivities	Is more than 5 hectares of non-urban land
	Adjoins the foreshore
	Adjoins land that is over 0.4 hectares and is a scientific, scenic, historic, or nature reserve under the Reserves Act 1977 that is administered by the Department of Conservation
	Adjoins land that is over 0.4 hectares and is listed, or in a class listed, as a reserve, a public park, or other sensitive area by the regulator under s37