Decision required under the Overseas Investment Act 2005: New Zealand Forest Industries Limited – Special Forestry Test

Date	11 October 2019
Security Level	Commercial: In Confidence
Priority	High
Case Number	201900493
Decision Required By	26 October 2019 (extended OIA condition date)

Contact for Telephone Discussion

Name	Position	Telephone	First Contact
Michael Appleyard	Manager (Residential & Forestry)	04 830 3880	✓
[s 9(2)(g)(ii)] [redacted]	Advisor – Applications	04 462 4428	

Executive Summary:

Applicant

1. New Zealand Forest Industries Limited (**Applicant**) has applied for consent to acquire 419.7007 hectares of land located at Port Underwood Road, Marlborough Sounds.
2. The Applicant is owned by NZFI Holdings (Sing) PTE Ltd which was recently acquired by Issoria Offshore Limited (case 201900014). Issoria Offshore Limited is ultimately owned by Peter de Putron, a high-net-worth individual based in Jersey.
3. The Applicant currently owns the adjoining 71.2812 hectares of land, the 'Hakahaka Bay' forest (case 201720128) and a further 1,116 hectares adjoining this, the 'Underwood Forest' (cases 201620028 and 201900014). The Applicant has also recently been granted consent to acquire a nearby 170.9200 hectares of Land, known as the 'Whataroa' forest (case 201900257).

Investment

4. The Applicant has applied for consent under the special test relating to forestry activities set out in section 16A(4) of the Overseas Investment Act 2005 (**Act**).
5. The investment would provide the Applicant with a freehold interest in a total of 419.7007 hectares of land (**Land**).
6. The Land is sensitive because it is more than 5 hectares of non-urban land and due to the land adjoining land held for conservation purposes, scientific reserve and section 37 list land (the adjoining land is zoned Conservation).
7. The Land is already a commercial forest. The Applicant's forest manager Merrill & Ring will be responsible for the day-to-day management of the Land.

Vendor

8. The Vendor is Zindia Timber Assets Limited (**Vendor**). The Vendor is not an overseas person.
9. The Vendor has decided to sell the Land to reduce its debts and enhance its working capital for its forest products export business.

Special forestry test

10. We are satisfied this investment meets the special test relating to forestry activities as set out below.
11. The Land is already used for forestry activities. The existing tree stock is mainly pinus radiata of mixed age and low quality with most of the stock being unthinned self-sown stands of trees.
12. The current use of the Land is approximately 178 hectares of forestry, a 118.6 hectare conservation covenant protecting areas of indigenous flora and fauna, 11.5 hectares of roading and skid sites and 111.6 hectares unproductive land containing bush, gorse and indigenous vegetation.
13. The Applicant plans to reduce the unproductive areas of bush, gorse and indigenous vegetation to 89.6 hectares. The Applicant will undertake significant thinning of the existing self-sown trees and spray and replant approximately 20 hectares.
14. The Applicant plans to commence harvesting the first section of the Land in 2033-2035 (approximately 15 years after thinning). The Applicant intends to replant the Land for another rotation of forestry after harvest.

15. There are no buildings on the Land and the Land does not include any residential land, special land or farmland.

16. We are satisfied that there are no existing arrangements or log supply agreements in place.

Investor test

17. We are satisfied that the relevant overseas persons and individuals with control meet the investor test; having relevant business experience and acumen, having demonstrated financial commitment to the investment, being of good character, and not being an individual of the kind referred to in section 15 or 16 of the Immigration Act 2009 (which sections list certain persons not eligible for visas or entry permission under the Immigration Act).

Recommendation

18. We recommend consent is **granted**.

Instructions

19. Please see **Appendix 2** for guidance about applying the legal requirements of the Act including guidance on the relevant factors and criteria for consent.

Decision:

20. I have determined that:

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

Entity / Person	**Relationship**
New Zealand Forest Industries Limited	Applicant/Acquiring entity
NZFI Holdings (Singapore) Pte Ltd (**NZFI Sing**)	Parent company of the Applicant
Peter Nicholas de Putron	Ultimate owner of the Applicant

(b) the 'individuals with control of the relevant overseas person' are:

Individual	**Position**
Peter Nicholas de Putron	Ultimate owner of the Applicant
Randolph Van der Burgh	Director of Applicant
Raymond Trevor Hine	Director of Applicant and of NZFI Sing
Ng Geok Lan	Director of NZFI Sing

21. I am satisfied that the criteria for consent in section 16 and section 16A(4) have been met, and in particular that:

Investor test

(a) the individuals who comprise the relevant overseas person 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) the individuals who comprise the relevant overseas person are of good character; and

(d) the individuals who comprise the relevant overseas person are not individuals of the kind referred to in section 15 or 16 of the Immigration Act 2009; and

Special forestry test

(e) the relevant land will be, or is likely to be, used exclusively, or nearly exclusively, for forestry activities; and

(f) the relevant land is not residential land only; and

(g) the relevant land will not be, or is not likely to be, used, or held for future use, for any residential purposes; and

(h) the requirements set out in regulations will be, or are likely to be, met, being:

  (i) 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:

  (ii) anything that any 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 be done or not be done, or will continue to be done or not to be done:

  (iii) logs will be supplied, or will continue to be supplied, as required by any existing supply obligation (so long as the obligation remains in place).

(i) whenever a crop of trees is harvested on the relevant land, a new crop will be, or is likely to be, established on the relevant land to replace the crop that is harvested; and

(j) the relevant land does not include special land; and

(k) the overseas investment does not need to be advertised per the regulations because there is no farm land.

22. Consent is granted to the overseas investment in the form of the Proposed Decision in **Appendix 1** and subject to the conditions set out in the Proposed Decision.

[s 9(2)(a)]

[redacted]

Michael Appleyard
Manager - Applications (Residential & Forestry)

Date 11/10/2019.

Report of the Overseas Investment Office on the application for consent by New Zealand Forest Industries Limited

Case: 201900493

Contents

What is the Investment?

Applicant	New Zealand Forest Industries Limited United Kingdom 100%
Vendor	Zindia Timber Assets Limited New Zealand 100%
Consideration	$2,900,000
Application type	Special Forestry Test
Recommendation	Grant Consent

Description of the Investment

1. New Zealand Forest Industries Limited (**Applicant**) has applied for consent under the special forestry test to acquire approximately 419.70 hectares of land located at Port Underwood Road, Marlborough Sounds known as '**Port Underwood**' (the **Land** or the **Investment**).

2. Consent is required because the Applicant is an overseas person and the proposed transaction will comprise the acquisition of sensitive land. Appendix 3 contains a full description of the Land and its sensitivities.

3. Below is an image provided by the Applicant showing the approximate location of the Land and an image from IntraMaps (a LINZ database) showing the particular parcels of the Land outlined in purple:

4. The consideration for the acquisition is $2.9 million. This will be funded by existing cash reserves of the Applicant's ultimate owner Peter Nicholas de Putron.

5. The Land is already used as a commercial forest. This will not change after the Applicant's acquisition.

Vendors and reasons for sale

6. The vendor is Zindia Timber Assets Limited (**Vendor**). The Vendor is a New Zealand registered company incorporated on 13 July 2017. The Vendor is owned by its sole director and shareholder Jacob Mannothra who is a New Zealand citizen.

7. The Vendor has advised that it is selling the Land to reduce debts and to enhance working capital for its forest products export business.

Who is making the Investment

Applicant

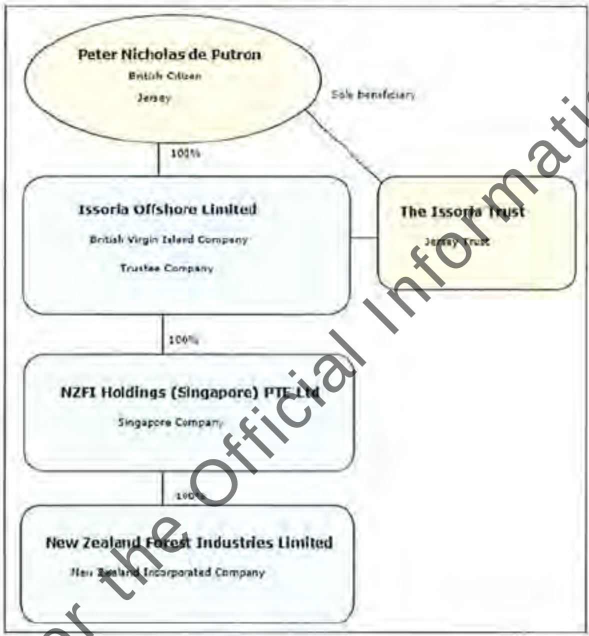
Who the Applicant is

8. The Applicant is New Zealand Forest Industries Limited (**Applicant**), a New Zealand registered company (company 5921389) incorporated in March 2016.

9. The Applicant currently operates and owns forestry estate located in Underwood, Marlborough.

Who owns and controls the Applicant

10. The ownership of the Applicant is shown in the following diagram:



11. The Applicant is 100% owned by its parent company NZFI Holdings (Sing) PTE Ltd (**NZFI Sing**). NZFI Sing was incorporated in Singapore in August 2016.

12. NZFI Sing was acquired by Issoria Offshore Limited on 17 September 2019. Issoria Offshore Limited is a trustee company incorporated in the British Virgin Islands and wholly owned by Peter de Putron. Issoria Offshore Limited's sole director is Hiren Arvindbhai Patel, who is Peter de Putron's solicitor.

13. Issoria Offshore Limited is the sole trustee of the Issoria Trust, settled in Jersey, Channel Islands. The trust was set up for this series of forestry acquisitions (being Underwood, Hakahaka, and Whataroa Forests). The sole beneficiary of the Issoria Trust is Peter de Putron.

14. Issoria Offshore Limited and Issoria Trust are ultimately owned by Peter de Putron. Hiren Patel, as Peter de Putron's solicitor, is subject to instruction. Peter de Putron therefore has sole ownership and effective control of the Applicant, NZFI Sing, Issoria Offshore and the Issoria Trust.

15. Peter de Putron can approve significant capital and expenditure and is responsible for approving the acquisition and divestment of the Land.

16. Peter 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.

Previous consents

17. The Applicant, and Issoria Offshore Limited, have previously been granted the following OIO consents:

    (a) 201620028: New Zealand Forest Industries Limited and Patrick Egan's acquisition of 'Underwood Forest' consisting of 1,116 hectares at 465 Tumbledown Bay Road. This consent was granted on 09 December 2016 (prior to Issoria Offshore acquiring NZFI Sing).

    (b) 201900014: Issoria Offshore Limited acquiring 100% of the shares in NZFI Holdings (Singapore) Pte Ltd and the indirect acquisition of the 'Underwood Forest'. Consent was granted 25 July 2019 and the transaction settled on 17 September 2019.

    (c) 201720128: New Zealand Forest Industries Limited's acquisition of 'Hakahaka Bay' consisting of 71.2812 hectares at Tumbledown Bay Road. Consent was granted 25 July 2019 and settlement occurred on 30 August 2019. (It is noted that the sequence of this settlement and that of 201900014 has been reviewed by our enforcement team who considered that no enforcement action or further steps were necessary).

    (d) 201900257: New Zealand Forest Industries Limited's acquisition of 'Whataroa' consisting of 170.9200 hectares at 1867 Tumbledown Bay Road. Consent was recently granted on 20 September 2019, settlement is expected to occur shortly.

18. We have taken a targeted relevant overseas person and individuals with control selection to focus on the ultimate owner/controller and the directors of the acquiring entity.

Relevant Overseas Person

19. For the reasons set out in the preceding paragraphs, we have determined that the 'relevant overseas person' (**ROP**) is (collectively):

Entity / Person	**Relationship**
New Zealand Forest Industries Limited	Applicant/Acquiring entity
NZFI Holdings (Singapore) Pte Ltd (**NZFI Sing**)	Parent company of the Applicant
Peter Nicholas de Putron	Ultimate owner of the Applicant

Individuals with Control

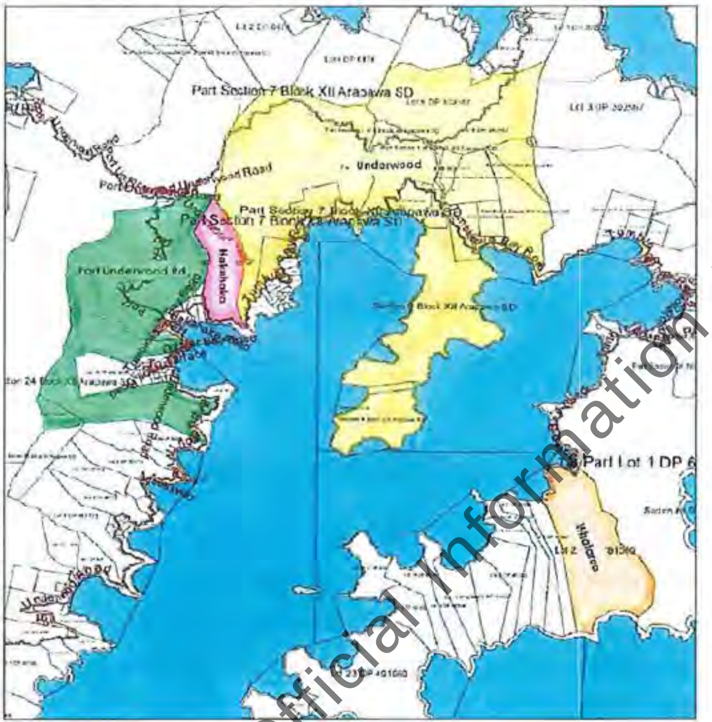
20. For the reasons set out in the preceding paragraphs, in the circumstances relating to this specific overseas investment, we have determined that the 'individuals with control of the relevant overseas person' (**IWC**) are:

Individual	**Position**
Peter Nicholas de Putron	Ultimate owner of the Applicant
Randolph Van der Burgh	Director of Applicant
Raymond Trevor Hine	Director of Applicant and of NZFI Sing
Ng Geok Lan	Director of NZFI Sing

Investment Plan

21. The Applicant wishes to acquire the Land to add to its existing forestry investment portfolio. The Land is intended as a long-term investment to be retained for at least two forestry rotations/50 years.

22. The Land will be integrated into the Applicant's existing forestry assets. The below map shows the Land shaded green and the Applicant's existing forests:



23. The Land is currently, and will continue to be, used nearly exclusively for forestry activities. The majority of the existing tree crop is pinus radiata, with 5.1 hectares of pinus muricata.

24. The Applicant will engage their existing forestry manager Merrill & Ring to manage the Land.

25. As part of the Applicant's due diligence Merrill & Ring undertook an inspection of the Land and has categorised the existing tree crop into three categories:

    (a) approximately 18 hectares of old remnant stands;

    (b) approximately 180 hectares of self-sown stands; and

    (c) approximately 20 hectares to be sprayed and replanted.

26. The Applicants plans for each of these categories of tree crop are detailed under the 'Forestry Activities' section below.

27. The Applicant intends to commence harvesting the first of the tree crop in approximately 2033 - 2035. The harvested logs will be sold to local mills and export markets. The Applicant will replant the Land after harvest for another cycle of forestry.

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.

28. In this case, the overseas investment can be described as the acquisition of an established commercial forest.

29. We have reviewed the biographical information provided by the Applicant for each of the individuals with control and note the following:

30. Peter Nicholas de Putron:
    (a) has 20 years' experience as a fund manager and investor; 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.

31. Raymond Trevor Hine:
    (a) holds degrees in pure and applied mathematics, and civil engineering;
    (b) has more than 35 years' experience in the oil and gas sector, project management, and general management for start-up, joint venture, and mature companies in sectors including oil and gas, logistics and infrastructure; and
    (c) has forestry experience as director of the NZFI and was previously a general manager for a subsidiary of Carter Holt Harvey.

32. Randolph Van der Burgh:
    (a) has a degree in commerce and is a member of Chartered Accountants Australia and New Zealand; and
    (b) has extensive experience in corporate finance, mergers and acquisitions, restructures, and international tax planning and management through positions as partner of Ernst & Young New Zealand and Australia and an employee with the firm for 20 years.

33. Ng Geok Lan:
    (a) has a bachelor of arts and social sciences; and
    (b) is an Associate Member and Practising Chartered Secretary and Trust and Estate Practitioner.

34. The Applicant plans to use their existing forest managers, Merrill & Ring, to manage the Land. Merrill & Ring has significant experience in forestry services.

35. Having regard to the experience and credentials outlined above, we are **satisfied** that the individuals with control 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.

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

37. In addition to the preparation costs of this application the Applicant has:

(a) entered into the Sale and Purchase Agreement for the Land;

(b) completed due diligence and engaged professional advisors.

38. Having regard to the above, we are **satisfied** that the relevant overseas person has demonstrated financial commitment to the overseas investment.

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.

39. The Applicant has provided a statutory declaration stating that the individuals with control 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 it complies with the requirements of the Oaths and Declarations Act 1957.

40. We have also conducted open source background checks on the individuals with control. Although several matters were identified, these have been considered by the Office for several previous applications (identified above at paragraph 17) and there have been no new matters since.

41. We are therefore **satisfied** that the individuals with control are of good character.

Immigration Act s16(2)(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.

42. The Applicant has provided a statutory declaration stating that none of the individuals with control are individuals of the kind referred to in section 15 or 16 of the Immigration Act 2009. We are satisfied that the statutory declaration can be relied on as it complies 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.

43. We have also conducted open source background checks on those individuals and found nothing relevant to this criterion.

44. We are therefore **satisfied** that the individuals with control are not individuals of the kind referred to in sections 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 (unless that residential land adjoins part of the relevant land that is not 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 are defined in section 16A(9) to mean maintaining, harvesting, or establishing a crop of trees.

View

45. We are **satisfied** that the Land will be used nearly exclusively for forestry activities.

Analysis

46. The Applicant has provided the following table outlining the current and proposed use of the Land:

Land use	Current (approximate hectares)	Proposed (approximate hectares)
Forestry	178	200
Roading and skid sites	11.5	11.5
Conservation covenant	118.6	118.6
Unproductive (bush, gorse, indigenous vegetation)	111.6	89.6
Total	**419.7**	**419.7**

47. The Land is already used for forestry purposes with 178 hectares of (virtually all) pinus radiata. A detailed map of the Land is attached as Appendix 4. The Applicant plans to increase the stocked area to 200 hectares by reducing unproductive areas of the Land.

48. The Applicant's existing forestry managers Merrill & Ring (the **Forest Manager**) will manage the forest.

49. The Forest Manager has inspected the Land and has categorised the existing tree stock into three categories:

    (a) old remnant stands: approximately 18 hectares of trees 33 years or older. These trees are low quality in areas that are difficult to access and harvest. The Forestry Manager will investigate options to harvest these areas;

    (b) self-sown stands: approximately 180 hectares self-sown stands of trees where no replanting took place and the trees have naturally regenerated from seeds dropped on the ground from the first rotation tree crop. Significant thinning of these stands is required; and

    (c) areas to be sprayed and replanted: approximately 20 hectares that is poorly stocked and requires spraying and replanting. This spraying and replanting will take place within 2 years from settlement. The areas may require a two-spray regime and potentially mechanical land preparation to remove weeds before planting can occur.

50. The remaining Land is unplantable due to an existing 118-hectare conservation covenant (explained further in paragraph 61 of this report), 11.5 hectares of roading and skid sites and 89.6 hectares of unproductive land containing bush, gorse and indigenous vegetation.

Condition(s)

51. The decision-maker must make the consent, if granted, subject to a condition for the purpose of ensuring that the relevant land be, or be likely to be, used exclusively, or nearly exclusively, for forestry activities. We confirm that this condition will be imposed on this consent.

Residential land - section 16A(4)(b)

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

View

52. We are **satisfied** that the Land does not include residential land and accordingly that this criterion is met.

Analysis

53. The Applicant confirms that Land does not include residential land; this is confirmed by the sensitive land certificate and by virtue of the Land being an established and operating commercial forest.

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 (other than permitted uses)? Although the Special Forestry Test generally restricts residential use of the Land, accommodation may be provided for the purpose only of supporting forestry activities being carried out on the relevant land if 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

54. We are **satisfied** that that the relevant land will not be used for "residential purposes" and therefore that this criterion is met.

Analysis

55. The Applicant confirms that the Land will not be used, or held for future use, for any residential purposes.

56. The Land is already being used for commercial forestry purposes and there are no buildings on the Land.

Condition(s)

57. The decision-maker must make the consent, if granted, subject to a condition for the purpose of ensuring that the relevant land will not be, or is not likely to be, used, or held for future use, for any residential purposes, except 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.

58. We confirm that this condition will be imposed on this consent.

Existing arrangements - regulation 29(2)(a)

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 be implemented and maintained, or will continue to be implemented and maintained? **arrangement**— (a) means an agreement or other arrangement or understanding, whether or not legally binding; and (b) includes (without limitation) a commitment that— (i) is given by a person to an organisation whose functions are or include the setting of standards or other requirements for 1 or more specified purposes; and (ii) is a commitment to comply with a standard or other requirement set by the organisation for 1 or more specified purposes; but

(c) does not include an agreement or other arrangement or understanding, or a commitment, that is exclusively oral.

existing, in relation to an arrangement, the conditions of a consent, or a supply obligation, means the arrangement, conditions, or supply obligation is or are in place—

(a) immediately before the overseas investment transaction is entered into; or

(b) if the application for consent for the overseas investment transaction is made before the overseas investment transaction is entered into, immediately before the application is made.

specified purpose means any of the following:

(a) protecting areas of indigenous vegetation or habitats of indigenous fauna:

(b) protecting areas of habitats of trout, salmon, wildlife protected under section 3 of the Wildlife Act 1953, or game as defined in section 2(1) of that Act:

(c) protecting any historic place or historic area that is entered on the New Zealand Heritage List/Rārangi Kōrero under the Heritage New Zealand Pouhere Taonga Act 2014:

(d) protecting any wāhi tapu or wāhi tapu area that—

(i) is entered on the New Zealand Heritage List/Rārangi Kōrero under the Heritage New Zealand Pouhere Taonga Act 2014; or

(ii) is identified in the terms of any lease or forestry right, if the lease or forestry right is, in relation to the overseas investment, the interest in land, or one of the interests in land, described in section 12(a) of the Act:

(e) protecting any land that is set apart as Māori reservation and that is wāhi tapu under section 338 of Te Ture Whenua Māori Act 1993:

(f) providing access to land for members of the public or any section of the public.

View

59. Based on the Applicant's due diligence and the Forestry Managers observations visiting the Land, the statements from the Vendor and the statutory declaration given by the Applicant confirming that the contents of the application and appendices are true and correct we are **satisfied** that there are no existing arrangements in relation to the Land being acquired.

Analysis

60. The following sets out what (if any) existing arrangements are relevant to this Investment:

Type	Existing arrangement
Indigenous vegetation / fauna	None identified
Trout, salmon, and/or protected wildlife	None identified
Public access	None identified
Historic heritage	None identified
Wāhi tapu	None identified
Maori Reservation Land and wāhi tapu	None identified

61. There is a 118-hectare conservation covenant protecting existing indigenous flora and fauna registered on the Land. No planting or harvesting can occur in this area of Land, this area cannot be used for forestry purposes. The approximate boundaries of this are shown in the map of the Land included as Appendix 4. This is already recorded on the relevant records of title (instrument number 217413.1) and will already have to be maintained by the Applicant.

62. The land certificate provider has investigated the Land and confirmed:

- there are no existing historic places or areas that are entered on the New Zealand Heritage List of any area threshold located on the Land;
- there are no wahi tapu or wahi tapu areas of any area threshold that are entered on the New Zealand Heritage List located on the Land; and
- there is no land set apart as Maori reservation of any area threshold on the Land.

63. For completeness, it is noted that the Forest Manager has the following processes in place for addressing archaeological issues:

(a) Harvest Planning Decision Process – which outlines the steps taken during the harvest planning and operations;

(b) Archaeological Authority Process – which outlines the steps taken at the harvest planning stage if a 'known site' is within the planned area; and

(c) Accidental Discovery Process – which outlines the steps taken if a site is discovered during harvest operations.

Condition(s)

64. We recommend the decision-maker also impose a condition of consent, if granted, that, whether or not identified in the application, any existing arrangement in respect of the relevant land, or any part of the relevant land, that is for one or more specified purposes will be implemented and maintained, or will continue to be implemented and maintained.

Existing consent conditions – regulation 29(2)(b)

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?

65. We are **satisfied** that there are no existing consent conditions affecting the Land. The Vendor is not an overseas person.

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?

66. The Applicant states, and the Vendor has confirmed, that there are no contractual obligations or existing arrangements in place relating to the supply of logs from trees harvested on the Land. We are **satisfied** this criterion is met.

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?

View

67. We are **satisfied** that whenever a crop of trees is harvested on the Land, the Applicant will establish a new crop to replace the harvested crop.

Analysis

68. The 180 hectares of self-sown stands will be harvested at least 15 years after thinning. The 2004 stands (approximately 29.4 hectares) are currently being thinned, therefore the first wave of harvesting is planned for approximately 2033 – 2035.

69. The Applicant plans to replant the trees after harvest. Replanting will be in pinus radiata at 1000 stems per hectare, thinned to approximately 450 stems per hectare.

70. The Applicant requests the replanting requirement for the Land within three years of harvesting to allow for the following:

(a) limited planting season – planting can only occur in the winter of each year commencing June;

(b) seedling availability – there may be seeding availability issues and seedlings need to be ordered by the September prior to planting; and

(c) labour issues – labour shortages for planting trees have been widely reported recently.

Condition(s)

71. We recommend imposing as a condition of consent that harvested crops be replanted within 3 years of harvesting. This timeframe is consistent with the Applicant's consents for the Underwood, Hakahaka and Whataroa forests.

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.

72. We are **satisfied** that the section 16A(4) criterion is met, noting that the Land does not include special land. This is confirmed by the sensitive land certificate dated 29 July 2019 provided by the Applicant.

73. For completeness, the Applicant confirms that internal waterways in the Land have been investigated by the land certificate provider, who has searched all relevant survey plans as well as viewing the local GIS site and the waterways do not qualify as special land because they do not have an average width exceeding 3 metres.

Has the farm land been offered on the open market?

Farm land advertising - s16(1)(f)

The Regulations require farm land or farm land securities to be offered for acquisition on the open market to non-overseas persons for at least 20 working days (or longer if the advertisement states or implies that offers will be accepted for that longer period). The purpose of such advertising is to ensure non-overseas persons have reasonable notice that they are available for acquisition. The Regulations do not require that the vendor accept any alternative offer made by a non-overseas person.

74. The Land is used exclusively for forestry activities and does not contain farmland. We are therefore **satisfied** that this requirement is not relevant.

Other requirements in the Regulations – section 16A(4)(g)

Have the other requirements set out in regulations been met?

75. Not applicable, currently there are no other relevant requirements set out in the regulations.

Consent criteria

76. As detailed above, we are satisfied that the relevant criteria in section 16, section 16A and the regulations are met. Therefore, we recommend that consent be granted to the Investment.

Third Party Submissions

77. No third-party submissions were received.

Appendices

Appendix 1 - Proposed Decision

Supplied separately – See Objective file A3804027.

Appendix 2 - Guidance for applying the Act

1. Ministers (or, in this case, the delegated decision-maker) must grant consent to this overseas investment if satisfied that all of the criteria in section 16 and 16(4) of the Overseas Investment Act 2005 (the Act) are met. The decision-maker must decline to grant consent if it is not satisfied that all of the criteria in section 16 are met. The decision-maker must not take into account any criteria or factors other than those identified in sections 16 and 16A(4) of the Act, and regulation 29 of the Overseas Investment Regulations 2005 (the Regulations).
2. In the attached Report the Overseas Investment Office identifies each of the relevant criteria under the Act and Regulations that the regulator is required to consider in this case.

Conditions

3. Under section 16C(4), certain mandatory conditions must be imposed on any consent granted under section 16A(4).
4. Under section 25A, additional conditions may be imposed on any consent that is granted.
5. The attached Report sets out the mandatory conditions, and other conditions that you may wish to consider imposing in this case.

Decision

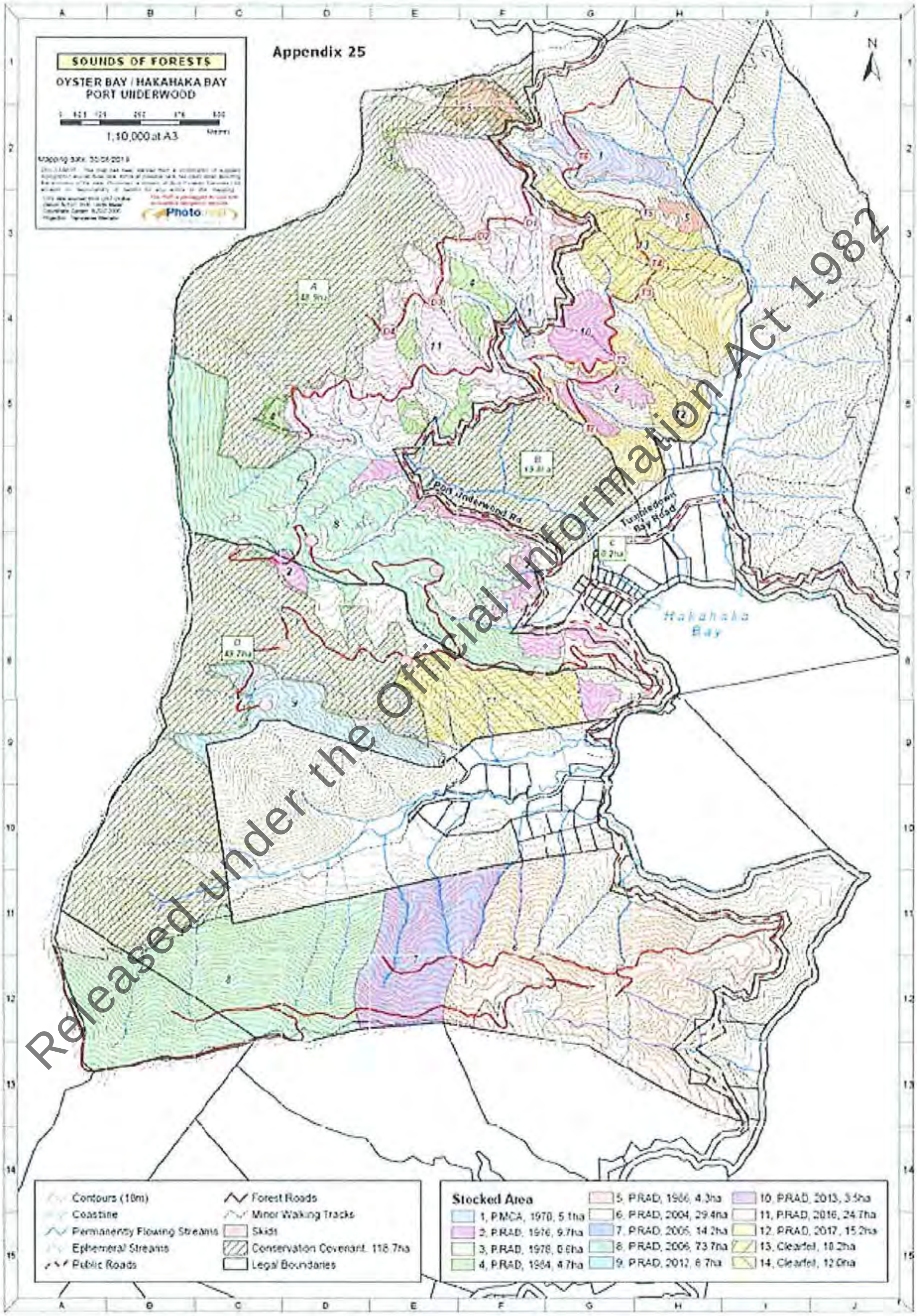
6. The decision that you are required to make should be based on information available to you that you consider is sufficiently reliable for that purpose. The information that the Overseas Investment Office has taken into account in making its recommendation is summarised in the attached Report.

Appendix 3 - Sensitive Land

1. Land at Port Underwood Road, Marlborough Sounds (known as 'Port Underwood'):

Interest	Freehold Interest (approximately 419.7007 hectares)
RTs	233769, MB5B/1047, MB5B/1005, MB6A/1060 and MB6A/1096
Legal description	Lot 2 Deposited Plan 10502, Lot 1 Deposited Plan 357517, Section 22 SO Plan 6094 and Section 24 Block XII Arapawa Survey District
Sensitivities	• is more than 5 hectares of non-urban land; • a portion of the land which exceeds 0.4 hectares (approximately 15.6155 hectares) adjoins land held for conservation purposes under the Conservation Act 1987 which exceeds 0.4 hectares in area; • the land adjoins land held as scenic reserve subject to the Reserves Act 1977 that is administered by the Department of Conservation which exceeds 0.4 hectares in area; and • the land adjoins land adjoins land that is listed or in a class listed, as a reserve, a public park, or other sensitive area by the regulator under section 37 (the adjoining land is zoned Conservation in the Marlborough Sounds Resource Management Plan and/or Open Space 3 in the Proposed Marlborough Environment Plan and has an area exceeding 0.4 hectares).

Appendix 4 - Map of the Land



OVERSEAS INVESTMENT OFFICE

Land Information New Zealand
Toitū te whenua

[THIS APPLICATION HAS NOT BEEN DECIDED]

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: [THIS APPLICATION HAS NOT BEEN DECIDED]

The following people have been given the following **consent**:

Case	201900493
Consent type	One-off Consent (forestry activities) for an overseas investment in sensitive land.
Consent holder/s	New Zealand Forest Industries Limited (company number 5921389) (**You** or the **Consent Holder**)
Consent	The Consent Holder may acquire the Land subject to the Conditions set out below.
Land	Approximately 419.7007 hectares of freehold land at Port Underwood Road, Marlborough Sounds, being the land contained in records of title 233769, MB5B/1047, MB5B/1005, MB6A/1060 and MB6A/1096 (known as 'Port Underwood').
Use-by Date	31 October 2020

Conditions

Your Consent is subject to the Special Conditions, Standard Conditions and Reporting Conditions (**Conditions**) set out below. You must comply with them all. Be aware that if you do not comply with the Conditions you may be subject to fines or other penalties, and you may also be required to dispose of the Land.

For the avoidance of doubt, we will not require you to enter a security deed prior to acquisition of the Land as described in Standard Condition 6.

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

Definitions

Act means the Overseas Investment Act 2005.

Regulations means the Overseas Investment Regulations 2005.

Any term or expression that is defined in the Act or Regulations and used, but not defined, in this consent has the same meaning as in the Act or Regulations.

Special Conditions

You must comply with the following Special Conditions. These apply specifically to this Consent and include Conditions that we must impose under the Act.

Details	Required date
Special Condition 1: Land must be used for forestry activities	
The Land must be used exclusively, or nearly exclusively, for forestry activities except as otherwise permitted by these Conditions. If you do not comply with this condition, Standard Condition 6 will apply and we may require you to dispose of the Land.	At all times.
Special Condition 2: trees must be replanted after harvest	
You must replace each crop of trees you harvest with a new crop of trees (**Replant**). You may Replant on a like-for-like basis or on any similar basis. This condition does not require you to: 1. Replant the Land with the same species of tree or use the same silvicultural regime; or 2. do anything in breach of any other Act, regulation, rule, bylaw, or that is otherwise contrary to law. This condition does not limit Special Condition 1. If you do not comply with this condition, Standard Condition 6 will apply and we may require you to dispose of the Land.	Within three years of harvest (or as otherwise permitted by this condition).
Special Condition 3: residential use restrictions	
The Land must not be used, or held for future use, for any residential purposes except for: 1. worker accommodation in accordance with section 16(A)(4)(c) of the Act; or 2. as otherwise permitted by these Conditions. If you do not comply with this condition, Standard Condition 6 will apply and we may require you to dispose of the Land.	At all times.

Special Condition 4: existing arrangements	
You must implement and maintain any existing arrangements in respect of the Land that are for a specified purpose as set out in Regulation 29 of the Regulations (**Arrangements**). You must implement and maintain all Arrangements, including: 1. specific Arrangements set out in these Conditions; and 2. Arrangements you did not identify in your application for consent. If you do not comply with this condition, Standard Condition 6 will apply and we may require you to dispose of the Land.	At all times.

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
Standard Condition 1: acquire the Land	
You must acquire the Land: 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 2. using the acquisition, ownership and control structure you described in your application. Note, only you – the named Consent Holder - may acquire the Land, not your subsidiary, trust or other entity.	31 October 2020.
Standard Condition 2: tell us when you acquire the Land	
You must tell us in writing when you have acquired the Land. Include details of: 1. the date you acquired the Land (**Settlement**), 2. consideration paid (plus GST if any), 3. the structure by which the acquisition was made and who acquired the Land, and 4. copies of any transfer documents and Settlement statements.	As soon as you can, and no later than two months after Settlement.
Standard Condition 3: allow us to inspect the Land	
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: 1. Allow a person we appoint (**Inspector**) to: (a) enter onto the Land, including any building on it, other than a dwelling, for the purpose of monitoring your compliance with the Conditions (**Inspection**),	At all times.

(b) remain there as long as is reasonably required to conduct the inspection, (c) gather information, (d) conduct surveys, inquiries, tests and measurements, (e) take photographs and video records, and (f) do all other things reasonably necessary to carry out the Inspection. 2. Take all reasonable steps to facilitate an Inspection including: (a) directing your employees, agents, tenants or other occupiers to permit an Inspector to conduct an Inspection, (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. During an Inspection: (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, (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.	
Standard Condition 4: remain of good character	
You and the Individuals Who Control You: 1. must continue to be of good character, and 2. must not become an individual of the kind referred to in section 15 or section 16 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. The **Individuals Who Control You** are individuals who: (a) are members of your governing body,	At all times.

(b) directly or indirectly, own or control 25% or more of you or of a person who itself owns or controls 25% or more of you, and (c) are members of the governing body of the people referred to in paragraph (b) above.	
Standard Condition 5: tell us about changes that affect you, the people who control you, or people you control	
You must tell us in writing if any of the following events happens to any of the Consent holders: 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 25% or more 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. 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 section 15 or 16 of the Immigration Act 2009 (see Standard Condition 4). 3. You cease to be an overseas person or dispose of all or any part of the Land. 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 25% or more ownership or control interest: (a) becomes bankrupt or insolvent (b) has an administrator, receiver, liquidator, statutory manager, mortgagee's or chargee's agent appointed, or (c) becomes subject to any form of external administration.	Within 20 working days after the change.

Standard Condition 6: dispose of the Land if you do not comply with key special conditions	
Some of the Special Conditions were key to the decision to give consent. If we consider you have failed to comply with one of those special conditions in a material way we may require you to dispose of the Land. We may also require you to execute a security deed before you may acquire the Land. The security deed: 1. must be in the form we require, 2. must be executed and delivered to us before you acquire the Land, 3. gives us power to appoint a receiver to dispose of the Land if you do not do that as required by this Standard Condition 6, 4. will provide, among other things, that if we appoint a receiver, the receiver may dispose of the Land, deduct his or her costs from the proceeds of sale, and pay the remainder to you. If all or part of this Standard Condition 6 applies to a Special Condition, we have said so in that condition. We will give you written notice if we require you to dispose of the Land. After we have given you notice, you must:	
Value the Land: obtain and send us a copy of a market valuation of the Land from a New Zealand registered valuer.	Within six weeks of the date of our notice.
Market the Land: instruct a licensed real estate agent to actively market the Land for sale on the open market.	Within six weeks of the date of our notice.
Dispose of the Land: dispose of the Land to a third party who is not your associate.	Within six months of our notice.
Offer without reserve: 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.	Within nine months of our notice.
Report to us about marketing: tell us in writing about marketing activities undertaken and offers received for the Land.	By the last day of every March, June, September and December after our notice or at any other time we require.

Report disposal to us: send us, in writing, evidence: (a) that you have disposed of the Land, (b) of disposal (including copies of sale and purchase agreements, settlement statements and titles showing the purchaser as registered proprietor), (c) the purchaser is not your associate.	Within one month after the Land has been disposed of.

Reporting Conditions

We need information from you about how your investment plan is tracking so we can monitor your progress against the Conditions.

You must lodge periodic reports. The reports must:

1. be sent to oiomonitoring@linz.govt.nz by these dates:
   (a) within two months of settlement occurring
   (b) 30 November 2022
2. contain information about:
   (a) your progress in implementing the Special Conditions,
   (b) your most current forecast/schedule for harvesting and replanting of various areas the Land (including maps showing the particular areas and likely timing),
3. follow the format of the template annual report published on our website (see https://oio.linz.govt.nz/oio-consent-monitoring).

If requested in writing by the OIO, the Consent Holder(s) must provide a written report within 20 working days (or such other timeframe as specified) on any matter relating to its compliance with:

(a) The representations and plans made or submitted in support of the application and notified by the regulator as having been taken into account when the consent was granted, or

(b) The conditions of this consent.