

To: Michael Appleyard, Manager Applications, Overseas Investment Office

ASSESSMENT REPORT: **Organic Solutions Limited**

Date	8 July 2021	Classification	IN CONFIDENCE: Commercially sensitive
OIO reference (Report reference)	202000515	Suggested deadline	30 July 2021 (No commercial deadline as this is a retrospective application)

Purpose

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

Action sought

1. This decision has been delegated to the Overseas Investment Office (“**OIO**”).¹
2. Determine whether to grant consent and, if so, on what conditions.
3. For the reasons set out in this report, our recommendation is to **grant consent**. If you agree, we recommend you indicate your decision from page 3.

OIO Contacts

Name	Position	Contact	First contact
Michael Appleyard	Manager Applications, OIO	04 830 3880	<input checked="" type="checkbox"/>
Daniel Mumford	Senior Solicitor, OIO	04 830 3959	<input type="checkbox"/>

¹ Delegated under Table A section C Paragraphs 3 and 7 of the Designation and Delegation letter dated 17 October 2018.

A. Summary

1. Organic Solutions Limited (“**Applicant**”) is a New Zealand company incorporated in 2014. The Applicant is owned 53.45% by two New Zealand citizens and 46.55% by an Australian private investment company. The Applicant operates organic Thai takeaway businesses in the lower South Island and an online organic produce business based in Queenstown.
2. The Applicant operates approximately 23 hectares of farm land in Oamaru as an organically certified horticultural farm. The Applicant uses the farm to grow organic vegetable produce for its organic Thai takeaway businesses and online organic produce business.
3. The Applicant is seeking retrospective consent for its acquisition of the farm in May 2019.
4. For the reasons set out in this report, our recommendation is to **grant consent**.

Key information

Applicant	Organic Solutions Limited (New Zealand 53.55%; Australia 46.55%)
Vendor	Quennith Farms Limited (New Zealand 100%)
Land	23.2441 hectares of land located at 469 Main South Road, Totara, Oamaru
Consideration	\$1,700,000
Sensitivity	The Land is more than five hectares of non-urban land
Relevant tests	Investor test: s16(1)(a) & (2) Benefit to NZ test – substantial and identifiable benefit Farm land offer test: s16(1)(f)

Timing

5. Processing days for the application are set out in the table below. The OIO’s processing time is within KPI expectations.

Quality Assurance	OIO Processing	Waiting for Applicant / Vendor	Third party consultation
12	44	141	0

B. Decision

Core tests

6. I determine that:

6.1 The 'relevant overseas person' is:

Relevant overseas person	Role
Organic Solutions Limited	Applicant
Lanson International Holdings Pty Limited ("LIH")	Large overseas shareholder (46.55%) of the Applicant

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

Individuals with control	Role
James Elliot Porteous	Director (and 48.45% shareholder) of the Applicant
Marc Clement Lanson	Director of the Applicant (when the Land was acquired), director of LIH, and 23.275% shareholder of the Applicant (via 50% shareholding in LIH)
Yukari Lanson	Director of LIH and 23.275% shareholder of the Applicant (via 50% shareholding in LIH)

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

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

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

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

7. I am satisfied that the investor test in section 16(2)(a)-(d), as outlined in paragraphs 6.3 to 6.6 above, has been met.

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

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

8.2 the overseas investment will, or is likely to, benefit New Zealand (or any part of it or group of New Zealanders); and

8.3 the benefit will be, or is likely to be, substantial and identifiable.

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

National interest assessment

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

Decision about whether to grant or decline consent

11. Consent is granted to the investment in the form of the Proposed Decision in **Attachment 1**.



Michael Appleyard

Manager Applications (Overseas Investment Office)

Date: 09 / 07 / 2021

Released under the Official Information Act 1982

C. Background and transaction

12. The Applicant seeks retrospective consent under the Act for the acquisition of a freehold interest in 23.2441 hectares of sensitive land² at 469 Main Routh Road, Totara, Oamaru (“**Land**”) that is used to grow organic vegetable produce for its organic Thai takeaway businesses and online organics business (“**Investment**”).
13. The Land is outlined in red in the Figure 1 aerial photo below.



Figure 1 (map provided by the Applicant) – Outline of the Land

14. The Applicant entered into an agreement to purchase the Land on 25 September 2018. At the time the agreement was signed the Applicant was not advised by its legal advisor that OIO consent was acquired.
15. LIH, an Australian private investment company, acquired its 46.55% shareholding in the Applicant on 13 May 2019. The Applicant settled the purchase of the Land on 27 May 2019 without obtaining OIO consent.
16. After settlement, the Applicant was advised that the Land is sensitive land and that OIO consent should have been obtained before acquiring an interest. The Applicant advised that the breach of the Act was inadvertent and has taken steps to remedy this breach through an application for retrospective consent.
17. The Applicant continues to operate the Land as an organically-certified horticultural farm that supplies vegetable produce for its organic Thai takeaway businesses and online organics business. The Land has been used for more than 20 years as a market garden farm, and the farm is the largest fully organic vegetable growing operation in the South Island.

² The land is sensitive because: it is more than five hectares of non-urban land.

D. Application of the Act

18. The Land is sensitive because it is non-urban land over five hectares in size,³ so consent is required.⁴ The following criteria for an investment in sensitive land apply to this application:⁵
- The investor test must be met.⁶
 - The benefit to New Zealand test must be met.⁷
 - The farm land must have been offered for sale on the open market.⁸
 - You must also note whether the investment is a transaction of national interest and, if so, whether the Minister of Finance has decided that the investment is contrary to New Zealand's national interest.⁹
19. In order to satisfy the benefit to New Zealand test, the decision-maker must:
- determine that the overseas investment will, or is likely to, benefit New Zealand;¹⁰ and
 - determine that benefit will be, or is likely to be, substantial and identifiable.¹¹
20. We assess the investor test in Part E, the benefit to New Zealand test in Part F, and the farm land offer test in Part G.

Delegated decision

21. This decision has been delegated to the OIO.¹²
22. The delegation includes all ancillary powers and functions,¹³ including the power to determine who the relevant overseas person is and who the individuals with control of that person are.¹⁴

Retrospective application

Background

23. As noted above in paragraphs 14-16, the Applicant's acquisition of the Land without OIO consent was inadvertent and resulted from substandard legal advice. When the Applicant later realised that it breached the Act it took immediate steps to obtain consent.

Application of the Act and Regulations

24. The breaches of the Act occurred when the purchase transaction became unconditional in September 2018, and settled in May 2019, without OIO consent.

³ Table 1, Part 1, Schedule 1 of the Act.

⁴ Under sections 10(1)(a) and 12(a)(i) of the Act.

⁵ Set out in section 16(1) of the Act.

⁶ Section 16(1)(a) of the Act.

⁷ Section 16(1)(c)(ii) of the Act. The alternative is the relevant overseas person or each of the individuals with control is a NZ citizen or resident, which is not applicable to the proposed investment.

⁸ Section 16(1)(f) of the Act.

⁹ Section 16(1)(g) of the Act.

¹⁰ Section 16A(1)(a) of the Act.

¹¹ Section 16A(1)(b) of the Act. This criterion applies because the Land is non-urban land over 5 ha in size.

¹² Delegated under Table A section C Paragraphs 3 and 7 of the Designation and Delegation letter dated 17 October 2018.

¹³ See the first bullet point in Table A of the delegation letter dated 17 October 2018.

¹⁴ See sections 15(1) and (2) of the Act.

25. As the breach was inadvertent, voluntarily self-reported, and resulted from substandard legal advice we recommended the Applicant applied for retrospective consent to acquire the Land.
26. In accordance with section 53 of the Act and reg 36 of the Regulations we have imposed a \$20,000 administrative penalty on the Applicant (that has been paid).

E. Applicant and investor test

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

Business Activities

28. The Applicant operates organic Thai2go takeaway restaurants in the South Island and the Southern Organics online organic produce business.

Relevant overseas person

29. The Applicant is Organic Solutions Limited, a company incorporated in NZ on 3 November 2014.
30. The Applicant is an overseas person under s7(2)(c) of the Act, as more than 25% (46.55%) of the shares in the Applicant are owned by LIH, an Australian company. LIH is 50% owned by Marc Lanson (an Australian citizen) and 50% owned by Yukari Lanson (a Japanese citizen).
31. Of the remaining shares in the Applicant, 48.45% are held by James Porteous (the Applicant's sole director and a New Zealand citizen) and 5% are held by Nigel Clark (a New Zealand citizen).
32. For these reasons, we recommend that the 'relevant overseas person' ("ROP")¹⁵ is (collectively):

Relevant overseas person	Role
Organic Solutions Limited	Applicant
Lanson International Holdings Pty Limited	Large overseas shareholder (46.55%) of the Applicant

Control and experience

33. The Applicant is controlled by its sole director James Elliot Porteous. Marc Lanson was a director of the Applicant from March 2019 until April 2020, meaning he had control over the Applicant at the time the Land was acquired.
34. As Marc Lanson and Yukari Lanson are both directors and 50% shareholders in LIH, which is part of the ROP, we consider they have a degree of control over the ROP..
35. Thus, we recommend that the 'individuals with control of the relevant overseas person' ("IWCs")¹⁶ are:

Individuals with control	Role
James Elliot Porteous	Director (and 48.45% shareholder) of the Applicant

¹⁵ Section 15 of the Act.

¹⁶ Section 15 of the Act.

Individuals with control	Role
Marc Clement Lanson	Director of the Applicant (when the Land was acquired), director of LIH, and 23.275% shareholder of the Applicant (via 50% shareholding in LIH)
Yukari Lanson	Director of LIH and 23.275% shareholder of the Applicant (via 50% shareholding in LIH)

36. We received the biographical information provided by the Applicant for each of the IWCs and note that the IWCs collectively have general business experience and acumen.
37. The IWCs collectively have tertiary qualifications in the fields of politics and finance. The IWCs collectively have experience in sales, marketing, corporate governance, project management, finance, and operations. They also have recent experience in developing and expanding the Applicant's organic Thai takeaway businesses and online organics business.
38. Accordingly, we consider that the IWCs have the business experience and acumen required by the Act.

Good character

39. We have identified minor matters relating to the operation of its restaurants and the breaches of the Act as matters relevant to character. However, we consider these do not prevent a finding that the IWCs are of good character because the matters are minor and the Applicant has taken steps so they do not reoccur. As a result, we are satisfied that the statutory declaration as to good character can be relied on.
- The matters we have identified and considered are detailed in **Attachment 2**.
40. For these reasons, we are satisfied the IWCs are of good character and recommend that you determine that this test is met.

Summary of investor test

41. For the reasons set out above and summarised in the table below, our conclusion is that **the investor test has been met**.

Investor test criteria	OIO assessment	
	Risk	Summary
Collectively have business experience and acumen relevant to the investment. Section 16(2)(a)	Test met	The IWCs have relevant business experience operating the organic Thai takeaway businesses and an online organic produce business.
Relevant overseas person demonstrated financial commitment. Section 16(2)(b)	Test met	The ROP acquired the Land in May 2019.

Investor test criteria	OIO assessment	
	Risk	Summary
Individuals with control are of good character. Section 16(2)(c)	Some concerns	We have identified some matters of concern, but after assessment, we are satisfied the IWCs are of good character. See Attachment 2 .
Not an individual of the kind ineligible for a visa or entry permission under ss 15 or 16 of the Immigration Act 2009. Section 16(2)(d)	Test met	Statutory declarations have been provided confirming that each of the IWCs is not of the kind referred to in ss 15 or 16 of the Immigration Act 2009.

F. Investment plan and benefit to New Zealand test

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

Investment plan

Land

43. The Applicant purchased the Thai2go business in Queenstown in 2014 and implemented its organic business model in 2016, when it began purchasing organic produce from the previous owner of the Land.
44. The Applicant acquired the Land in May 2019, and at that time the farm was producing up to 16 varieties of vegetable crop per year, primarily brassicas, lettuces, cabbages, potatoes, and yams. The farm uses organic methods with no chemical herbicides, pesticides, or fertilisers. The farm is certified under the BioGro organic programme.

Investment plan

45. The Applicant will continue to operate the farm to grow organic vegetables for its organic Thai2go takeaway restaurants, organic Ready2eat restaurant in Christchurch, as well as its Southern Organics online organic produce business. The Applicant requires the Land because its business model relies on its ongoing ability to source organic vegetables for its takeaway and online organic produce businesses.
46. Since acquiring the Land in 2019, the Applicant has been implementing plans to extend its operations to include additional Thai2go takeaway stores in Timaru and Wanaka (where the Applicant submits there are no other organic takeaway businesses). The Applicant currently operates organic Thai2go takeaway stores in Christchurch, Timaru, Wanaka, Queenstown, and Cromwell. The additional takeaway stores involve the creation of new jobs for each new store, including chefs and managers.
47. As at June 2021, the Applicant has confirmed that at least 18 new FTE jobs have already been created (with three additional new FTE jobs expected to be created in the next few months). The Applicant is also required under the conditions of consent to provide details of the new jobs that have resulted from the Investment.
48. The Applicant has also been expanding its takeaway businesses, acquiring machinery and staff to enhance the operation and efficiency of the farm and develop a distribution network for the delivery of organic produce to its takeaway business

locations and online organic produce business. The creation of the distribution network has resulted in the creation of new delivery driver jobs. As at June 2021, the Applicant has confirmed that it has expended over \$290,000 on refrigerated vehicles, delivery vehicles, and a seed planting machine. The Applicant is also required under the conditions of consent to provide details of the capital expenditure that has resulted from the Investment.

49. The Applicant is also focused on the production and use of food products in a sustainable and environmentally conscious manner. In addition to producing organic and healthy vegetables, the waste produced by the business is returned to the soil using worm farming and hot-composting methods. The objective is to reduce carbon emissions by returning carbon and microbes to the soil through its business activities.

What is likely to happen without the investment (Counterfactual)

50. We consider that if the Investment did not proceed in May 2019, the most likely outcome would be that the vendor would have sold the Land to an alternative New Zealand purchaser (most likely a neighbouring dairy farm owner). A neighbouring dairy farm owner had expressed an interest in purchasing the Land in order to convert it to a dairy farm and combine it with its existing operations.
51. The counterfactual would likely have resulted in the loss of the 4-5 full-time equivalent (“FTE”) employees who worked on the farm. If the Land was incorporated into the neighbour’s dairy farm it would have been unlikely to require any further staff or further investment as the Land would likely have been incorporated into the existing dairy farm operations.

Assessment of key benefits

52. We consider the key point of difference between the Investment and the counterfactual is that the Investment will maintain the existing long-term use of the Land as an organic produce farm, which will result in substantial and identifiable benefits.
53. The Applicant requires the Land to grow organic produce for its takeaway and online organic produce businesses. The Investment will result in the retention of existing jobs at the farm and creation of new jobs in the takeaway businesses as well as the distribution network. The Investment will also result in additional investment in establishing new takeaway businesses, creating a distribution and trucking network, and upgrading plant and machinery on the farm.

Summary of benefits

54. The benefits to New Zealand that are likely to result from this Investment and our assessment of the relative weight to be given to each are set out in the table below.
55. Factors that we considered were either not relevant to the investment, or the benefit to New Zealand was not sufficient to be relied on, are noted in **Attachment 3**.
56. In applying the benefit to New Zealand criteria, you are required to consider each of the benefit factors and determine which of them are relevant. The weight and relative importance to be given to each factor is a matter to be determined by you as the decision-maker. This report sets out our assessment to guide your consideration, however it is not determinative.

57. Under the terms of the Ministerial directive letter,¹⁷ the 'rural land directive' applies to this investment.¹⁸ The benefit factors Ministers have directed should be given high relative importance are noted in the table below.¹⁹

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¹⁷ Dated 28 November 2017, paragraphs 13-17.

¹⁸ Because the investment involves the acquisition of non-urban land over 5 hectares in size (excluding any associated land) and excludes 'forest land'.

¹⁹ The applicable factors that we have given high relative importance are jobs and oversight and participation by New Zealanders.

Summary assessment: benefit to NZ test

58. This table assesses the benefits to NZ likely to result from the investment and the relative weight to be given to each.

Relevant benefit factors	Applicant's claims: what they intend to do	Without the investment (Counterfactual)	OIO analysis: strength/weakness		Proposed special conditions
			Indicative strength	Summary	
Job opportunities <i>(high relative importance)</i>	The Investment has resulted in approximately 21-24 new FTE jobs including farm hands, farm manager, takeaways store managers, chefs, kitchen hands, and delivery drivers.	The 4-5 FTE jobs employed to operate the farm would be lost.	Strong	Investment retains existing jobs on the Land and create new jobs for the Applicant's businesses.	Applicant to report on the number of new jobs created.
Oversight and participation by New Zealanders <i>(high relative importance)</i>	The Applicant is 53.45% owned by New Zealanders.	Not applicable under this factor.	Strong	Applicant has substantial New Zealand ownership and participation.	No conditions appropriate.
Additional investment for development purposes	The Investment has resulted in over \$290,000 on a new planting machine and vehicles to support the operation of the farm, takeaway business, and online business (tractor, trucks, and delivery vehicles).	It is unlikely any material investment would be made to the Land.	Low	Investment has resulted in investment into planting machinery to assist the productivity of the farm and into vehicles that support the operation and expansion of the Applicant's businesses.	Introduce at least \$290,000 of additional investment.

Relevant benefit factors	Applicant's claims: what they intend to do	Without the investment (Counterfactual)	OIO analysis: strength/weakness		Proposed special conditions
			Indicative strength	Summary	
Consequential benefits	The Investment uses sustainable and efficient methods of producing and disposing of food, including worm farming and hot composting, which can reduce food waste and carbon emissions.	It is unlikely these sustainable and environmentally-conscious processes would occur on the Land.	Low	The Investment supports the operation of sustainable and environmentally-conscious processes for producing and disposing of food.	No conditions appropriate.

Released under the Official Information Act 1982

Consultation and submissions about the investment

59. No consultation or third-party submissions were sought or received in relation to this application.

Conclusion – benefit to New Zealand test

60. We have undertaken our assessment having regard to the characteristics of the Land and the nature of the interest being acquired, reflecting the proportional nature of the benefit to New Zealand test. In this case, the Applicant is seeking retrospective consent for the acquisition of a freehold interest in approximately 23 hectares of land in Oamaru that is being used as an organic vegetable farm.
61. After considering the application, we are satisfied that the Investment will result in the creation of new jobs (to operate the farm and work in the Applicant's takeaway and online produce businesses), additional investment (in developing the land and supporting the Applicant's takeaway and online produce businesses), and using sustainable and efficient methods of disposing excess food. Taking into account the modest size and sensitivity of the Land, and the continuation of the current use of the Land will continue under the Investment, we consider the overseas investment will benefit New Zealand and that the benefits are substantial and identifiable.

G. Farm land offer test

62. Because the Land is farm land,²⁰ we note that it was advertised for sale on the open market with the required information for a period exceeding 20 working days²¹ on real estate websites (Trademe, real estate agents' websites, and realestate.co.nz)²² and in local newspapers.
63. We are therefore satisfied the regulations requiring the farm land to be offered for acquisition on the open market have been complied with.²³

H. Not a transaction of national interest

64. The investment does not involve a transaction of national interest under the mandatory criteria of the Act.²⁴ This is because the investment does not involve a non-NZ government investor, or an investment in a strategically important business (as defined in the Act).
65. We have not referred this transaction to the Minister of Finance for him to call it in for a national interest assessment on a discretionary basis.²⁵ He has therefore not declined consent to the transaction.
66. We are directed²⁶ that the starting point is the assumption that overseas investment is in New Zealand's national interest and that we should only seek the Minister of Finance to exercise his discretion for a national interest assessment if the proposed investment:

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

²⁰ Currently being used primarily for horticultural use, being vegetable growing (see the definition of farm land in s 6 of the Act).

²¹ For sale by negotiation from September 2016 until settlement in May 2019.

²² From September 2016 until May 2019.

²³ Overseas Investment Regulations 2005, regulations 5 to 10.

²⁴ Under s 20A of the Act.

²⁵ Section 20B of the Act.

²⁶ Supplementary Ministerial Directive Letter (8 June 2020).

- would grant an investor significant market power within an industry or result in vertical integration of a supply chain;
- has foreign government or associated involvement that was below the 10 per cent threshold for automatic application of the national interest test, but granted that government (and/or its associates) disproportionate levels of access to or control of sensitive New Zealand assets; or
- would have outcomes that were significantly inconsistent with or would hinder the delivery of other Government objectives.

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

I. Conclusion

68. After considering the application, our view is that:

- the investor test has been met; and
- the overseas investment will, or is likely to, benefit New Zealand (or any part of it or group of New Zealanders); and
- the benefit will be, or is likely to be, substantial and identifiable; and
- the farm land offer test has been met; and
- we note that the transaction is not considered to be a transaction of national interest.

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



Daniel Mumford
Senior Solicitor
Overseas Investment Office

Date: 8 / 7 / 2021

J. List of Attachments

1. Proposed Decision and Conditions
2. Good character assessment
3. Other benefit factors

ATTACHMENT 1 PROPOSED DECISION

Consent for Overseas Person to Acquire Sensitive New Zealand Land

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

Consent

Decision date: [date]

The following people have been given the following consent:

Case	202000515
Consent	Retrospective consent for the Consent Holder's acquisition of the Land subject to the Conditions set out below.
Consent Holder	Organic Solutions Limited (Company number 5491082) We will also refer to the Consent Holder as you .
Land	A freehold interest in approximately 23.2441 hectares of land located at 469 Main Routh Road, Totara, Oamaru, contained in Record of Title OT1C/705.

Conditions

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

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

Special conditions

You must comply with the following **special conditions**. These apply specifically to this Consent and were considerations that particularly influenced us to give consent:

Details	Required date
Special condition 1: Must operate as an organic vegetable farm	
You must operate the Land exclusively or nearly exclusively as a commercial organic vegetable farm. If you do not, standard condition 4 will apply and we may require you to dispose of the Land.	At all times
Special condition 2: Minimum additional investment	
You must introduce at least \$290,000 of additional capital into New Zealand to purchase a new planting machine and vehicles used in the development of either the organic farm on the Land or a distribution network for the delivery of organic produce grown on the Land. If you do not, standard condition 4 will apply and we may require you to dispose of the Land.	28 February 2022

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: 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

<ul style="list-style-type: none"> (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. <p>2. Take all reasonable steps to facilitate an Inspection including:</p> <ul style="list-style-type: none"> (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. <p>3. During an Inspection:</p> <ul style="list-style-type: none"> (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 2: remain of good character	
<p>You and the Individuals Who Control You:</p> <ul style="list-style-type: none"> 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. <p>The Individuals Who Control You are individuals who:</p> <ul style="list-style-type: none"> (a) are members of your governing body, 	<p>At all times</p>

<p>(b) directly or indirectly, own or control more than 25% of you or of a person who itself owns or controls more than 25% of you, and</p> <p>(c) are members of the governing body of the people referred to in paragraph (b) above.</p>	
<p>Standard condition 3: tell us about changes that affect you, the people who control you, or people you control</p>	
<p>You must tell us in writing if any of the following events happens to any of the Consent holders:</p> <ol style="list-style-type: none"> 1. You, any Individual Who Controls You, or any person in which you or any individual who controls you hold (or at the time of the offence held) a more than 25% ownership or control interest commits an offence or contravenes the law anywhere in the world. This applies whether or not you or they were convicted of the offence. In particular, please tell us about any offences or contraventions that you are charged with or sued over and any investigation by enforcement or regulatory agencies or professional standard bodies. 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 2). 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 more than 25% ownership or control interest: <ol style="list-style-type: none"> (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. 	<p>Within 20 working days after the change</p>

Standard condition 4: 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.

If all or part of this standard condition 4 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 and so we can measure the benefits you have brought to New Zealand through your investment.

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

1. be sent to **oiomonitoring@linz.govt.nz** by these dates:
 - (a) Year one: 31 March 2022; and
 - (b) Year two: 31 March 2023.
2. contain information about:
 - (a) your progress in implementing the special conditions, and
 - (b) the number of new FTE jobs created at the farm on the Land, and at any of the Consent Holder's takeaway businesses, and at the Consent Holder's online organic produce business based in Queenstown, along with the details of the positions and wage/salary.
3. follow the format of the template annual report published on our website at <https://www.linz.govt.nz/overseas-investment/enforcement/how-we-take-action>.

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

- (a) the representations and plans made or submitted in support of the application and notified by the regulator as having been taken into account when the content was granted or
- (b) the conditions of this consent.

ATTACHMENT 2 – GOOD CHARACTER ASSESSMENT

The OIO undertook an open-source search of the relevant overseas persons (“**ROP**”) and individuals with control (“**IWCs**”). The table below summarises the matters we identified.

				Matter	Mitigating factors	Assessment
1. Employee breach of working visa				In 2019 a chef was temporarily relocated from Queenstown to Timaru Thai2Go. However, the chef’s working visa was location specific. Following a prosecution by the Labour inspectorate a stand down period was implemented from 10 September 2019 to 10 March 2020.	The Applicant has taken steps to ensure a similar issue does not arise again and now requests multi-location visas for all staff which it sponsors. The Applicant has also managed to hire chefs with permanent residency to assist the team and provide greater employee flexibility.	Low concerns
Proximity	Low	Med	High			We consider this matter does not preclude a finding that the IWCs are of good character, as the matter was minor and the Applicant has taken steps to ensure it does not reoccur.
Credibility	Low	Med	High			
Timing	Old	<10yrs	<3yrs			
Mitigation	High	Med	Low			
2. Inaccurate time recording				In 2019/2020 the manager of the Timaru Thai2Go did not record timesheets and subsequently claimed to have worked more hours than she was contracted for.	The Applicant has since implemented procedures to ensure record keeping in respect of hours worked is performed as required.	Low concerns
Proximity	Low	Med	High			We consider this matter does not preclude a finding that the IWCs are of good character, as the matter was minor and the Applicant has taken steps to ensure it does not reoccur.
Credibility	Low	Med	High			
Timing	Old	<10yrs	<3yrs			
Mitigation	High	Med	Low			
3. Breach of the Act				The Applicant acquired the Land in 2019 without obtaining OIO consent.	The Applicant’s breach was inadvertent and resulted from reliance on substandard legal advice. When the Applicant later realised that it breached the Act it took immediate steps to obtain consent.	Low concerns
Proximity	Low	Med	High			We consider this matter does not preclude a finding that the IWCs are of good character, as the matter was inadvertent and the Applicant has taken steps to ensure it does not reoccur.
Credibility	Low	Med	High			
Timing	Old	<10yrs	<3yrs			
Mitigation	High	Med	Low			

ATTACHMENT 3 – OTHER BENEFIT FACTORS

The table **below** lists other factors in the Act and regulations for assessing the benefit of overseas investments.

We considered that the factors below were either not relevant to the investment, or the benefit to New Zealand was not likely or sufficient to be relied on for the purposes of our assessment.

Factor	Reason not relevant or insufficient
New technology or business skills – s17(2)(a)(ii) (high relative importance factor)	Not relevant – The Investment will not involve the introduction of new technology or business skills.
Increased export receipts – s17(2)(a)(iii) (high relative importance factor)	Not relevant – The Investment will not involve export receipts.
Added market competition, greater efficiency or productivity, or enhanced domestic services – s17(2)(a)(iv)	No benefit – The amount of increased market competition for organic produce and greater productivity from growing a higher value product is insufficient to meet this factor.
Increased processing of primary products – s17(2)(a)(vi) (high relative importance factor)	Not relevant – The Investment will not involve the processing of primary products.
Indigenous vegetation/fauna – s17(2)(b)	Not relevant – There are no areas of significant indigenous vegetation or significant habitats of indigenous fauna on the Land.
Trout, salmon, wildlife and game – s17(2)(c)	Not relevant – There are no areas of significant habitats of trout, salmon, or wildlife on the Land.
Historic heritage – 17(2)(d)	Not relevant – There are no historic heritage sites on the Land.
Walking access – s17(2)(e)	Not relevant – There is currently no public walking access over the Land as it is a private business.
Offer to sell seabed/foreshore/riverbed to the Crown – s17(2)(f)	Not relevant – The Land does not include special land.
Key person in a key industry – reg 28(b)	Not relevant – The Applicant is not a member of a key industry.
Affect image, trade or international relations – reg 28(c)	Not relevant – New Zealand's image would not be affected by a well-reasoned decision to decline.
Owner to undertake other significant investment – reg 28(d)	Not relevant – The use of the sale proceeds by the vendor of the Land will not result in a significant Investment.
Previous investments – reg 28(e)	No benefit – The Applicant has previous investments but has been unable to show that these have materially benefitted New Zealand.
Advance significant government policy or strategy – reg 28(f)	No benefit – New Zealand's closer economic relations with Australia image would not be materially advanced by the Investment.

Factor	Reason not relevant or insufficient
Enhance the viability of other investments – r28(g)	Not relevant – The Applicant does not have other overseas investments.
Strategically important infrastructure – reg 28(h)	Not relevant – The Investment does not involve strategically important infrastructure.
Economic interests – reg 28(i)	Not relevant – The Investment may contribute towards the New Zealand economy but appears insufficient to meet the threshold under this factor.

Released under the Official Information Act 1982