

To: Anneke Turton, Manager Applications, Overseas Investment - LINZ

## ASSESSMENT REPORT: **Joval Wine Group (NZ) Limited**

<b>Date</b>	3 April 2023	<b>Classification</b>	IN CONFIDENCE: Commercially sensitive
<b>LINZ reference</b>	202200645	<b>Deadline</b>	28 April 2023 (requested)

### Purpose

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

### Action sought

1. Review this report.
2. Determine whether to grant consent and, if so, on what conditions.
3. Indicate your decision from page 3.

### Assessment timeframe requirements

A decision is required by 8 June 2023 to enable the decision to be communicated to the applicant in compliance with the prescribed statutory assessment timeframe.

### Key information

<b>Applicant</b>	<b>Joval Wine Group (NZ) Limited</b> (Australia 100%)
<b>Vendors</b>	<b>Aurora Vineyard Limited</b> (New Zealand 60%, United States of America 20%, Singapore 20%)
<b>Land</b>	19.0515 hectares of land located at Bendigo Loop Road, Lot 3 DP 301165.
<b>Consideration</b>	\$3,820,000
<b>Sensitivity</b>	Is more than 5 hectares of non-urban land
<b>Relevant tests</b>	Investor test: s18A Benefit to NZ test – farm land benefit test s16A(1C); s16(1)(c); s16A(1), (1A) Farm land offer test: s16(1)(f) National interest test: s16(1)(g)

## Timing

4. The Overseas Investment Regulations 2005 specify the total assessment timeframe for this application is 100 working days. This application is currently on day 56, therefore a decision is due to the applicant by 8 June 2023.

## A. Decision

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### Core tests

5. I determine that:

- 5.1 The 'relevant overseas person' (ROP) is/are (collectively):

Relevant overseas person	Role
Joval Wine Group (NZ) Limited	Applicant
Joval Wines Pty Ltd	100% shareholder (as sole trustee for Valmorbida Unit Trust No.3) of Applicant
Joval Pty Ltd	Sole trustee of Applicant's ultimate beneficial owner (Joval No.2 Trust). Unit holder (as trustee) of 100% of units in the Valmorbida Unit Trust No.3.

- 5.2 The 'individuals with control of the relevant overseas person' (IWC) are:

Individuals with control	Role
John Fulvio Valmorbida	Ultimate beneficial owner of Applicant, Director of Joval Wines Pty Limited and Joval Pty Ltd and 99% shareholder in Joval Pty Ltd
Michelle Bernadette Valmorbida	Ultimate beneficial owner of Applicant and 1% shareholder in Joval Pty Ltd
Timothy Ricketson Menting	Director of Applicant, Joval Wines Pty Limited and Joval Pty Limited
Frank Joseph Kraps	Director of Applicant

- 5.3 None of the relevant overseas persons and individuals with control of the relevant overseas person have established any of the factors contained in section 18A(4) of the Act.<sup>1</sup>

6. I am satisfied that the investor test in section 18A has been met.

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

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

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

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<sup>1</sup> They are the same entities and persons that have been considered as ROP and IWC in previous Joval applications.

- 7.3 the benefit is proportionate to the sensitivity of the land and the nature of the transaction;
- 7.4 the benefit will be, or is likely to be, substantial in relation to one of more of the factors of high relative importance for farm land
8. I am satisfied, in relation to the farm land offer criterion, that the Applicant has been granted an exemption on 13 February 2023 as set out in report 202200572.

*National interest assessment*

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

*Decision about whether to grant or decline consent*

10. My ultimate decision is to grant consent subject to the conditions in the Proposed Decision in **Attachment 1**.



Anneke Turton

Manager, (Overseas Investment -LINZ)

Date: 04 / 04 / 2023

Released under the Official Information Act 1982

## B. Background and proposed transaction

11. Joval Wine Group (NZ) Limited (the **Applicant**) seeks consent to acquire approximately 19.0515 hectares of land located at Bendigo Loop Road, Bendigo, near Cromwell, Central Otago (the **Land**). The Land comprises an existing vineyard.



Figure 1- The Land (outlined in a yellow dashed line)

12. The Land (marked in pink in the southern portion of Figure 2 below) is located within a few kilometres of the Nanny Goat Vineyard (marked in cyan in the northern portion of Figure 2) which is owned and operated by the Applicant. The acquisition of the Land will allow the Applicant to expand its existing vineyard operations and achieve some economies of scale.

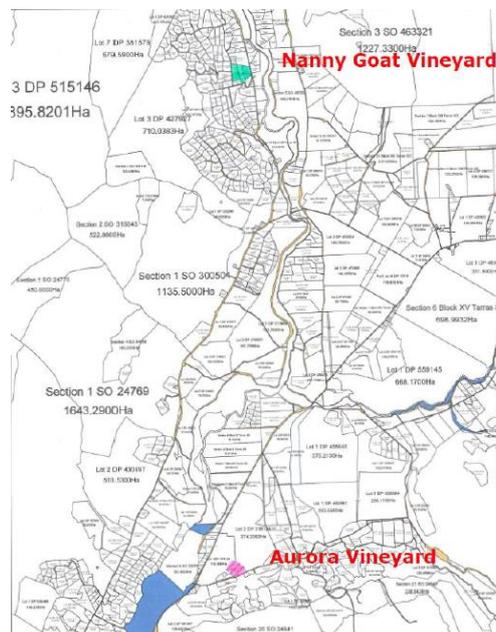


Figure 2 - The Land's proximity to the Nanny Goat Vineyard

13. The Land is 'sensitive land' as it is 'non-urban land' that exceeds the area threshold of 5 hectares. The Land is classified as farm land under the Act as it is currently exclusively and principally used for grape production.
14. The Land does not contain any fresh or seawater areas, or any historical heritage, wāhi tapu or archaeological sites.

## C. Application of the Act

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15. The Land is sensitive because it is non-urban land over 5 ha in size,<sup>2</sup> so consent is required.<sup>3</sup> The following criteria for an investment in sensitive land apply to this application:<sup>4</sup>
  - The investor test must be met.<sup>5</sup>
  - The benefit to New Zealand test must be met.<sup>6</sup>
  - The farm land must have been offered for sale on the open market<sup>7</sup>, unless exempt<sup>8</sup>.
  - You must also note whether the investment is a transaction of national interest and, if so, whether the Minister of Finance has decided that the investment is contrary to New Zealand's national interest.<sup>9</sup>
16. 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 NZ;<sup>10</sup> and
  - determine that benefit will be, or is likely to be, substantial in relation to one of more of the factors of high relative importance for farm land<sup>11</sup> (unless the farm land benefit test is disapplied<sup>12</sup>); and
17. We assess the investor test in Part D, the benefit to New Zealand test in Part E, the farm land offer test in Part F, and discuss national interest matters in Part G.

## D. Applicant and investor test

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

### Business Activities

19. Joval Wine Group (NZ) Limited is part of the Valmorbidia family group of companies and trusts (the **Joval Group**). The Joval Group is Australian-based and its business activities include wine production, marketing and distribution. The Joval Group has a vertically integrated structure including: vineyards; processing and refining; sales and marketing.
20. Joval Group has a presence in New Zealand, Australia, and Europe, selling approximately 200,000 cases per annum under approximately 21 different labels.

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<sup>2</sup> Table 1, Part 1, Schedule 1 of the Act.

<sup>3</sup> Under sections 10(1)(a) and 12(a)(i) of the Act.

<sup>4</sup> Set out in section 16(1) of the Act.

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

<sup>6</sup> Section 16(1)(c)(ii).

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

<sup>8</sup> Section 20(1)(a) or (b) of the Act.

<sup>9</sup> Section 16(1)(g) of the Act.

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

<sup>11</sup> Section 16A(1C)(b) of the Act. This criterion applies because the Land is farm land over 5 ha in size.

<sup>12</sup> Section 16A(1D) of the Act.

21. Having operated in New Zealand for several years,<sup>13</sup> the Joval Group owns and operates vineyards in the Waihopai Valley in the Marlborough region, where it produces the Catalina Sounds, Crowded House, Tai Nui, and Totara wine brands and in Central Otago, where it produces under the Nanny Goat wine brand.<sup>14</sup>

## Ownership

22. A copy of the structure of the Joval Group appears in **Attachment 2**.
23. The Joval Group is ultimately beneficially owned by the Joval No.2 Trust, whose beneficiaries are John Valmorbida, Michelle Valmorbida, their children, and the entities they own.
24. Control of the trusts owning the Applicant runs through:
- Joval Wine Group Pty Limited as trustee of the Valmorbida Unit Trust No. 3; and
  - Joval Pty Limited as trustee of the Joval No. 2 Trust, which owns all of the units in Valmorbida Unit Trust No. 3.

## Control

25. The entities in the Joval Group have similar directors, being:
- John Valmorbida
  - Michelle Valmorbida
  - Frank Kraps; and
  - Timothy Menting.

26. Their directorships are shown as follows:

	Applicant	Joval Wines Pty Ltd	Joval Pty Ltd
<b>Michelle Valmorbida</b>			✓
<b>John Valmorbida</b>		✓	✓
<b>Frank Kraps</b>	✓	✓	✓
<b>Timothy Menting</b>	✓		

27. Day-to-day control and decision-making is held and exercised by the Applicant's directors. Investment entry/exit and significant capital and operating expenditure decisions will be made by the directors of the Applicant and John Valmorbida.
28. We consider that the key elements of control (voting rights<sup>15</sup> and source of capital<sup>16</sup>) are limited to the four individuals above (as there are no other directors of the companies).

<sup>13</sup> The Joval Group was first granted consent in 2015 under OIO consent 201410085.

<sup>14</sup> Under OIO consents 201810280 and 202000767

<sup>15</sup> All four individuals hold voting rights

<sup>16</sup> Contributed by John and Michelle Valmorbida

## Relevant overseas person and individuals with control

29. We recommend that the 'relevant overseas person' is (collectively):

Relevant overseas person	Role
Joval Wine Group (NZ) Limited	Applicant
Joval Wines Pty Ltd	100% shareholder (as sole trustee for Valmorbida Unit Trust No.3) of Applicant
Joval Pty Ltd	Sole trustee of Applicant's ultimate beneficial owner (Joval No.2 Trust). Unit holder (as trustee) of 100% of units in the Valmorbida Unit Trust No.3.

30. We recommend that the 'individuals with control of the relevant overseas person' (IWC)<sup>17</sup> are:

Individuals with control	Role
John Fulvio Valmorbida	Ultimate beneficial owner of Applicant, Director of Joval Wines Pty Limited and Joval Pty Ltd and 99% shareholder in Joval Pty Ltd
Michelle Bernadette Valmorbida	Ultimate beneficial owner of Applicant and 1% shareholder in Joval Pty Ltd
Timothy Ricketson Menting	Director of Applicant, Joval Wines Pty Limited and Joval Pty Limited
Frank Joseph Kraps	Director of Applicant

## Summary of investor test

31. The relevant overseas persons and individuals with control established none of the factors contained in section 18A(4) of the Act.
32. For the reasons set out above, our conclusion is that **the investor test has been met.**

## E. Investment plan and benefit to NZ test

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

### Current state (counterfactual)

34. Aurora Vineyard consists of 13.88 hectares of vines. The vineyard is mostly flat and consists of 10.4 hectares of Pinot Noir and some smaller areas of Riesling, Pinot Gris and Syrah. The property has a 3-bay storage shed with an attached office.
35. Aurora vineyard is a contract grape supplier, supplying grapes to Endeavour Group. The grapes are trucked to Marlborough for processing and blending with wine produced from other vineyards.
36. Wine produced by Endeavour Group is shipped to Australia in bulk, where it is bottled and sold through their supermarket. The majority of the Pinot Noir is sold under

<sup>17</sup> Section 15.

Endeavour’s home labels “Anthem” and “The Remarkables” and the Riesling and Pinot Gris have been blended away into large Sauvignon Blanc blends.

37. The yield history based on tonnes per hectare for the last five years is:

Vintage	Pinot Noir (10.40ha)	Riesling (2.10ha)	Pinot Gris (0.49ha)	Syrah (0.89ha)
2018	7.15	4.04	7.76	6.72
2019	5.69	5.77	10.24	10.98
2020	5.16	9.50	8.16	6.77
2021	5.12	9.31	8.35	6.84
2022	8.47	13.38	13.06	8.43
5-year average	6.32	8.40	9.51	7.95

Figure 3 -Yield history

38. Aurora Vineyard has a contractor who acts as vineyard manager. This person hires in seasonal workers and contractors. The vineyard currently employees the equivalent of 1.8 FTEs including the Manager. Machine harvesting is now being employed at this vineyard.

**Investment plan**

39. The Applicant will increase the quality of the grapes grown on the Land to produce premium wine. To accomplish this the Applicant will remove the Riesling and Pinot Gris vines and replant 2.6 hectares with premium clones of Pinot Noir/Chardonnay (the replanting is marked in yellow hatching in Figure 3 below). This will commence in 2026 with a first harvest expected by 2032. The replanting is estimated to cost \$200,000.

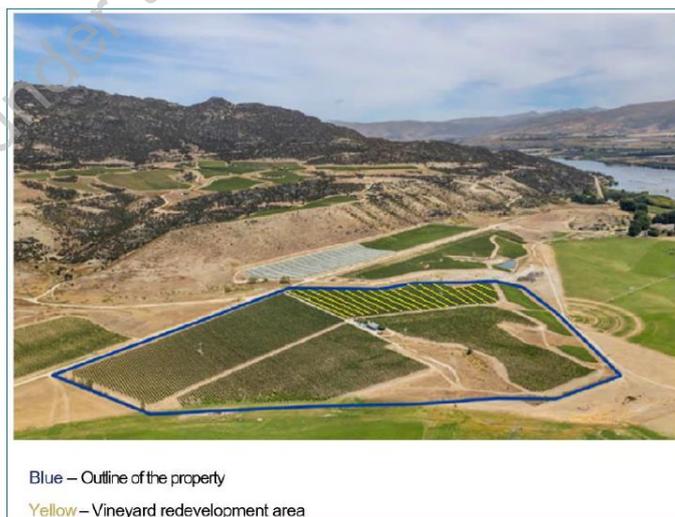


Figure 4 - Vineyard redevelopment

40. An additional 1,200 cases of Pinot Noir /Chardonnay will be produced from the replanted area, increasing premium Pinot Noir/Chardonnay grape production per annum from 3,600 to 4,800 cases by 2034 (a 34% increase) on average.

41. This will be of higher value than continuing with Riesling and the small volume of Pinot Gris currently being produced because Pinot Noir & Chardonnay grapes fetch \$4,500 per tonne, whereas Riesling and Pinot Gris are around the \$2,000 per tonne.
42. The forecast increase in export receipts achieved through premiumisation is \$322,400 pa from 2023, increasing to over \$500,000 pa by 2034, when full production and maturation of the vintage is released for export.
43. Due to the current lead time to order new vines (there is a two year wait), the plan is to remove the Riesling and Pinot Gris after the 2025 harvest, replace the trellis and replant during 2026 while they are dormant.
44. The Applicant plans to improve fruit quality from the Aurora Vineyard by:
  - Implementing vineyard management systems to improve fruit quality through labour intensive shoot thinning, leaf plucking, crop thinning and canopy management practices; and
  - replacing machine harvesting with labour intensive hand harvesting;

*Synergies with the Nanny Goat Vineyard*

45. The Applicant owns the nearby Nanny Goat vineyard at 68 Queensbury Terrace (comprising 28.3 hectares of land). The Aurora Vineyard will add an additional 19.6 hectares to the Nanny Goat vineyard operation. The Land will be operated as a single economic unit.
46. The Applicant will transport the grapes a short distance to the local winery used to produce Nanny Goat and (when built) will utilise the barrel hall at the Nanny Goat vineyard to improve the maturation of the wine. The wine produced will be bottled and labelled under the "Nanny Goat Vineyard" brand.
47. The Applicant will construct a new larger Cellar Door at Nanny Goat's Queensberry Terrace vineyard to be added and integrated into the barrel hall complex that is to be constructed. The new larger Cellar Door will effectively double the size of the existing Cellar Door to approximately 80 guests. The projected cost of the project is \$1,000,000. This construction will not occur if the Aurora Vineyard is not purchased because of the lack of supply security and smaller operational scale of the Central Otago operations

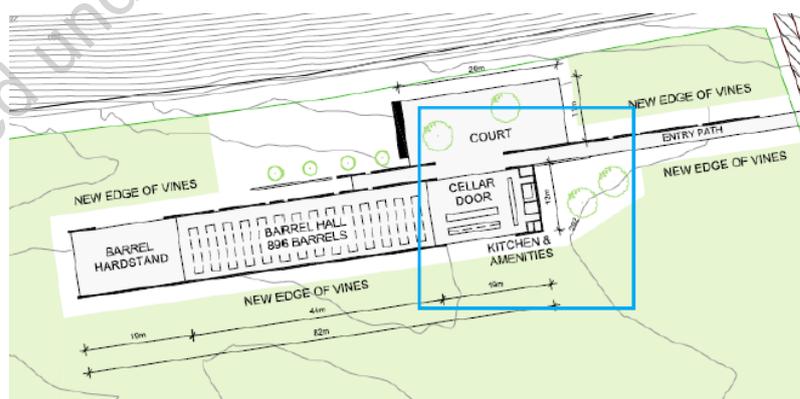


Figure 5 - Cellar door

48. The Applicant plans to benefit from the following other synergies with Nanny Goat Vineyard:
  - transporting grapes a shorter distance to the local winery used to produce Nanny Goat Wines, Maude Winery, (and not to Marlborough); and

- (once built), utilising the barrel hall at the Nanny Goat vineyard to improve the maturation of the wine.

#### *New jobs*

49. The Applicant plans to add 2.5 permanent FTEs by 2029 as a result of more labour-intensive vineyard management and hand-picking harvesting, and to staff the new cellar door. Additional temporary workers amounting to 0.25 – 0.5 FTE will be engaged by the Applicant to replant and establish 2.6 ha of new Pinot Noir/Chardonnay.<sup>18</sup>
50. We are satisfied that the Applicant is likely to be able to fund the works contemplated under the Investment Plan.

#### **Farm land benefit test**

51. This investment involves the acquisition of farm land exceeding 5 hectares in area. As a result, the farm land benefit test applies unless you decide it need not be met for one of the reasons set out in the Act.<sup>19</sup>
52. As the farm land benefit test applies, the following factors must be given high relative importance:<sup>20</sup>
  - the economic benefits factor (section 17(1)(a)) and, in particular, the creation or retention of jobs, introduction of technology or business skills, increased export receipts, and increased processing of primary products; and
  - the oversight or participation factor (section 17(1)(f)).
53. For the farm land benefit test to be met, the applicant must demonstrate, in relation to one or more of those factors of high relative importance, that the benefits of the investment are of a size or nature that represent a substantial benefit to New Zealand.

#### **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, decide which of them are relevant and determine the relative importance of those relevant factors. The weight and relative importance to be given to each factor is a matter to be determined by you as the decision-maker (except where the farm land benefit test requires a factor to be given high relative importance). This report sets out our assessment to guide your consideration, however it is not determinative.

<sup>18</sup> These workers will be engaged for the replanting period, which is likely to only be a few weeks.

<sup>19</sup> Section 16A(1C)–(1D). You may decide not to apply the farm land benefit test if: the transaction is minor or technical; the transaction does not materially change the level of ownership or control that the relevant overseas person has over the asset; or the farm land has no or limited productive capacity as farm land and will, or is likely to, be used promptly, as a result of the overseas investment, for industrial or commercial development (for example, a supermarket) or for the construction of 1 or more buildings that, taken together, will consist of 20 or more new residential dwellings.

<sup>20</sup> Section 16A(1C)(a).

**Summary assessment: benefit to NZ test**

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

<b>Relevant Benefit factor</b>	<b>Economic benefits</b>	
<b>Indicative Strength</b>	<b>Strong</b>	
<b>Proposed special conditions</b>	<ul style="list-style-type: none"> <li>• Replant 2.6 hectares with premium clones of Pinot Noir/Chardonnay.</li> <li>• Construct Cellar door with 80 guest capacity at Nanny Goat vineyard.</li> <li>• Spend at least \$600,000 on the construction of the Cellar door.</li> </ul>	
<b>Claimed benefit</b>	<b>Development of vineyards</b>	
	<b>Applicant’s claims: what they intend to do</b>	<b>Current state</b>
	<p>Replant 2.6 hectares with premium clones of Pinot Noir/Chardonnay in 2026.</p> <p>The Applicant will add a new larger Cellar Door and function area to the new barrel hall and hard stand complex to be constructed at the Nanny Goat Vineyard.</p> <p>Building improvements will cost approximately \$750,000 and fixtures and fittings will cost approximately \$250,000. Construction would begin in 2025</p>	<p>Currently planed in Riesling and Pinot Gris vines.</p> <p>Consent 201810280 only requires the construction of a barrel hall (at the Nanny Goat vineyard site).</p> <p>The barrel hall is not yet built.</p>
<b>LINZ analysis</b>	<p>An additional 2.6 hectares of higher value Pinot Noir /Chardonnay grapes will likely be replanted with a replanting cost of \$200,000.</p> <p>Construction of a Cellar Door would result in approximately \$1,000,000 being spent on capital developments in the area (albeit not on the Land itself).</p> <p>This construction is unlikely to occur if the Land is not purchased because of the lack of supply security and smaller operational scale of the Central Otago operations.</p>	

<b>Claimed benefit</b>	<b>Increased export receipts</b>	
	<b>Applicant's claims: what they intend to do</b>	<b>Current state</b>
	<p>Pinot Noir &amp; Chardonnay grapes fetch approximately \$4,500 per tonne. The forecast increase in export receipts achieved through premiumisation is \$322,400 pa from 2023, increasing to over \$500,000 pa by 2034.</p> <p>Nanny Goat has established Australian distribution networks. Currently, 86% of cases of Nanny Goat wine is exported with 73% ending up in Australia and distributed by Joval Group.</p> <p>Joval Group carefully manages retail sales and has been successful in maintaining the retail price for Nanny Goat Pinot Noir at being well above A\$37 per bottle.</p>	<p>Riesling and Pinot Gris grapes sell for approximately \$2,000 per tonne.</p> <p>Around 75% of Endeavour's blended wine is exported to Australia in bulk, where it is bottled into Endeavour's home brands, and sold in supermarkets.</p> <p>Endeavour's home brands, being Anthem and The Remarkables retail at A\$29.22 and A\$23.99 per bottle respectively.</p>
<b>LINZ analysis</b>	<p>Planting of premium varieties of grapes will likely increase the returns obtained per tonne of grapes.</p> <p>The Joval Group has an established distribution network and the ability (through that distribution network) to place its products at the premium end of the market. The Applicant's claims regarding its export receipts and distribution network have been tested in recent assessment reports.<sup>21</sup></p>	
<b>Claimed benefit</b>	<b>Jobs</b>	
	<b>Applicant's claims: what they intend to do</b>	<b>Current state</b>
	<p>2.5 additional permanent FTE positions from 2027, with 0.5 FTE starting in 2024.</p> <p>0.25-0.5 additional temporary FTE positions from 2026 to 2029 resulting from the clearing and replanting of the 2.6ha of vineyard.</p>	<p>There are 1.8 current FTEs. No additional jobs created.</p>
<b>LINZ analysis</b>	<p>New jobs are likely to result from the more intensive viticultural practices such as hand harvesting and from a larger Cellar Door.</p> <p>There will also be temporary jobs associated with the replanting.</p>	

<sup>21</sup> Cases 202000767 and 201810280.

<b>Claimed benefit</b>	<b>Increased productivity</b>	
	<b>Applicant's claims: what they intend to do</b>	<b>Current state</b>
	New practices will improve fruit quality through labour intensive hand harvesting, shoot thinning, leaf plucking, crop thinning and canopy management practices.	The grapes are machine harvested.
<b>LINZ analysis</b>	More intensive management practices (including more labour intensive practices) are likely to increase the fruit quality (and thus the productivity of the Land), albeit at a higher production cost. This increased productivity is a better use of the Land than the status quo	

## Conclusion – benefit to NZ test

### *Key benefits*

58. After considering the application, we are satisfied that the investment is likely to result in the benefits considered above. In particular, economic benefits resulting from the planting of premium vines; increased export receipts, development of a larger Cellar Door and additional jobs.

### *Proportionality*

59. We have undertaken our assessment having regard to the sensitivity of the Land and the nature of the overseas investment transaction, reflecting the proportional nature of the benefit to NZ test. The Land is sensitive farmland with a currently operational vineyard on it and so it is of a high value to New Zealanders notwithstanding its relatively small size (19 hectares). The extent of the benefits resulting from the investment would therefore have to be proportionate to its value to New Zealanders (when compared to the current state) to satisfy us that the overseas investment is likely to benefit New Zealand.
60. Taking into account the size of the Land and the fact that it is a currently operational vineyard, we consider: the development of both the Aurora and Nanny Goat vineyards; the increase in exported product and the additional jobs are likely to benefit New Zealand and that these benefits are proportionate to the sensitivity of the land and the nature of the transaction.

### *Farm land benefit test*

61. In relation to the farm land benefit test, the benefits likely result under the economic factor, a factor of high relative importance, are likely to be substantial.

## F. Farm land offer test

62. The Vendor initially listed the Land for sale online on 18 February 2022 with a deadline of 24 March 2022.
63. Although extensively advertised on the Internet, the advertising failed to include one other form of mandatory medium as required by Regulation 8 - as no advertisements were run in newspapers or in a real estate publication. Therefore, the farmland advertising criteria under s16(1)(f) of the Act was not fully met.

64. The Applicant sought, and obtained on 23 February 2023<sup>22</sup> a partial exemption from the requirement in section 16(1)(f) of the Act to offer the farm land for sale on the open market. This was because there was substantial (albeit imperfect) compliance with the Act and we were satisfied that the purpose of advertising (providing New Zealanders with an opportunity to acquire the Land) had been achieved by the Internet advertising that was undertaken.
65. We are therefore satisfied the transaction is exempt from the farm land offer requirement.

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

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66. The investment does not involve a transaction of national interest under the mandatory criteria of the Act.<sup>23</sup> 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).
67. We have not referred this transaction to the Minister of Finance for him to call it in for a national interest assessment on a discretionary basis.<sup>24</sup> He has therefore not declined consent to the transaction.
68. We are directed<sup>25</sup> that the starting point is the assumption that overseas investment is in New Zealand's national interest and that we should only seek the Minister of Finance to exercise his discretion for a national interest assessment if the proposed investment:
- could pose risks to New Zealand's national security or public order
  - would grant an investor significant market power within an industry or result in vertical integration of a supply chain
  - has foreign government or associated involvement that was below the 10 per cent threshold for automatic application of the national interest test, but granted that government (and/or its associates) disproportionate levels of access to or control of sensitive New Zealand assets
  - would have outcomes that were significantly inconsistent with or would hinder the delivery of other Government objectives
  - raises significant Treaty of Waitangi issues, or
  - relates to a site of national significance (e.g. significant historic heritage).
69. We do not consider that this investment engages any of these risk factors.

## **H. Conclusion**

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70. 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 is proportionate to the sensitivity of the land and the nature of the transaction; and

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<sup>22</sup> In case 202200572.

<sup>23</sup> Under s 20A of the Act.

<sup>24</sup> Section 20B of the Act

<sup>25</sup> Ministerial Directive Letter (24 November 2021).

- the farm land benefit test applies to the transaction and the benefit will be, or is likely to be, substantial in relation to a factors of high relative importance for farm land; and
- the applicant is exempt from the farm land offer test; and
- the transaction is not considered to be a transaction of national interest.

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

72. If you agree, we refer you to **Attachment 1** to review the Proposed Decision (including consent conditions), and from page 3 of this Assessment Report to record your decision.



Craig Mundy-Smith

Senior Solicitor  
**Overseas Investment -LINZ**

Date: 03 / 04 / 2023

## **I. List of Attachments**

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1. Proposed Decision
2. Intended ownership structure
3. Other benefit factors

Released under the Official Information Act 1982

## ATTACHMENT 1 PROPOSED DECISION

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### Consent for Overseas Person to Acquire Sensitive New Zealand Land

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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.

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#### Consent

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Decision date: [date]

The following people have been given the following consent:

<b>Case</b>	202200645
<b>Consent</b>	Joval Wine Group (NZ) Limited may acquire the Land subject to the Conditions set out below.
<b>Consent holder/s</b>	Joval Wine Group (NZ) Limited (New Zealand Company number 1304813) We will also refer to each Consent holder and the Consent holders together as <b>you</b> .
<b>Land</b>	A freehold Interest in 19.0515 hectares of land located at Bendigo Loop Road being Lot 3 DP 301165 , contained in Record of Title 5179 (Otago).
<b>Timeframe</b>	You have until 31 December 2024 to acquire the Land.

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## Conditions

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

In the Consent and the Conditions, we refer to Toitū Te Whenua Land Information New Zealand as **LINZ, us or we**.

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

**Nanny Goat Vineyard** means the vineyard at 86 Queensbury Terrace, Queensbury, Central Otago

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## Special conditions

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

Details	Required date
<b>Special Condition 1: Replanting</b>	
Replant 2.6 hectares of the Land with premium clones of either Pinot Noir and/or Chardonnay	31 December 2026
<b>Special Condition 2: Construct cellar door</b>	
Construct a cellar door with 80 guest capacity at Nanny Goat vineyard.	31 December 2027
<b>Special Condition 3: Spending on cellar door</b>	
Spend not less than \$600,000 on the construction of a cellar door with 80 guest capacity at Nanny Goat vineyard.	31 December 2027

## Standard conditions

You must also comply with the **standard conditions** set out below. These apply to all overseas people who are given consent to acquire sensitive New Zealand land, including you:

Details	Required date
<b>Standard condition 1: Acquire the land</b>	
<p>You must acquire the Land:</p> <ol style="list-style-type: none"> <li>by the date stated in the Consent. If you do not, your Consent will lapse or become invalid and you must not acquire the Land, and</li> <li>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.</li> </ol>	As stated in the Consent
<b>Standard condition 2: Tell us when you acquire the Land</b>	
<p>You must tell us in writing when you have acquired the Land. Include details of:</p> <ol style="list-style-type: none"> <li>the date you acquired the Land (<b>Settlement</b>),</li> <li>consideration paid (plus GST if any),</li> <li>the structure by which the acquisition was made and who acquired the Land, and</li> <li>copies of any transfer documents and Settlement statements.</li> </ol>	As soon as you can, and no later than two months after Settlement
<b>Standard condition 3: Allow us to inspect the Land</b>	
<p>Sometimes it will be helpful for us to visit the Land so we can monitor your compliance with the Conditions. We will give you at least two weeks' written notice if we want to do this. You must then:</p> <ol style="list-style-type: none"> <li>Allow a person we appoint (<b>Inspector</b>) to: <ol style="list-style-type: none"> <li>enter onto the Land, including any building on it, other than a dwelling, for the purpose of monitoring your compliance with the Conditions (<b>Inspection</b>),</li> <li>remain there as long as is reasonably required to conduct the inspection,</li> <li>gather information,</li> <li>conduct surveys, inquiries, tests, and measurements,</li> <li>take photographs and video records, and</li> </ol> </li> </ol>	At all times

Details	Required date
<p>f. do all other things reasonably necessary to carry out the Inspection.</p> <p>2. Take all reasonable steps to facilitate an Inspection including:</p> <ul style="list-style-type: none"> <li>a. directing your employees, agents, tenants, or other occupiers to permit an Inspector to conduct an Inspection,</li> <li>b. being available, or requiring your employees, agents, tenants, or other occupiers to be available, at all reasonable times during an Inspection to facilitate access onto and across the Land. This includes providing transport across the Land if reasonably required.</li> </ul> <p>During an Inspection:</p> <ul style="list-style-type: none"> <li>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,</li> <li>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.</li> </ul>	
<b>Standard condition 4: Remain not unsuitable to Invest in New Zealand</b>	
<p>You, and to the extent that you are not an individual, the Individuals Who Control You must remain not unsuitable to own or control the Assets in accordance with section 18A(1) of the Act.</p> <p>The <b>Individuals Who Control You</b> are individuals who:</p> <ul style="list-style-type: none"> <li>a. are members of your governing body</li> <li>b. directly or indirectly, own or control more than 25% of you or of a person who itself owns or controls more than 25% of you, and</li> <li>c. are members of the governing body of the people referred to in paragraph (b) above.</li> </ul>	At all times
<b>Standard condition 5: Tell us about changes that affect you, the people who control you, or people you control</b>	
<p>You must tell us in writing if any of the following events happens to any of the Consent holders:</p> <ul style="list-style-type: none"> <li>1. You become aware that you and/or any Individual Who Controls you establishes any of the investor test factors listed in section 18A(4) of the Act.</li> <li>2. You cease to be an overseas person or dispose of all or any part of the Asset.</li> </ul>	Within 20 working days after the change

Details	Required date
<p>3. Your New Zealand Service Address changes. This is the address you provided us in your application as the address which we will send any legal document we need to serve on you.</p>	
<p><b>Standard condition 6: Dispose of the Land if you do not comply with key special conditions</b></p>	
<p>If all or part of this Standard Condition 6 applies to a special condition, we have said so in that special condition. 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 will give you written notice if we require you to dispose of the Land. After we have given you notice, you must:</p>	
<p><b>Value the Land:</b> obtain and send us a copy of a market valuation of the Land from a New Zealand registered valuer.</p>	<p>Within six weeks of the date of our notice</p>
<p><b>Market the Land:</b> instruct a licensed real estate agent to actively market the Land for sale on the open market.</p>	<p>Within six weeks of the date of our notice</p>
<p><b>Dispose of the Land:</b> dispose of the Land to a third party who is not your associate.</p>	<p>Within six months of our notice</p>
<p><b>Offer without reserve:</b> if you have not disposed of the Land within six months of our notice, offer the Land for sale by auction or tender without a reserve price or minimum bid and dispose of the Land.</p>	<p>Within nine months of our notice</p>
<p><b>Report to us about marketing:</b> tell us in writing about marketing activities undertaken and offers received for the Land.</p>	<p>By the last day of every March, June, September, and December after our notice or at any other time we require</p>
<p><b>Report disposal to us:</b> send us, in writing, evidence of the following:</p> <ul style="list-style-type: none"> <li>a. that you have disposed of the Land (including copies of sale and purchase agreements, settlement statements and titles showing the purchaser as registered proprietor), and</li> <li>b. that the purchaser is not your associate.</li> </ul>	<p>Within one month after the Land has been disposed of</p>

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## Reporting conditions

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

In addition to Settlement reporting (as set out in Standard Condition 2), you must provide the OIO with reports detailing the progress of the investment. The reports must:

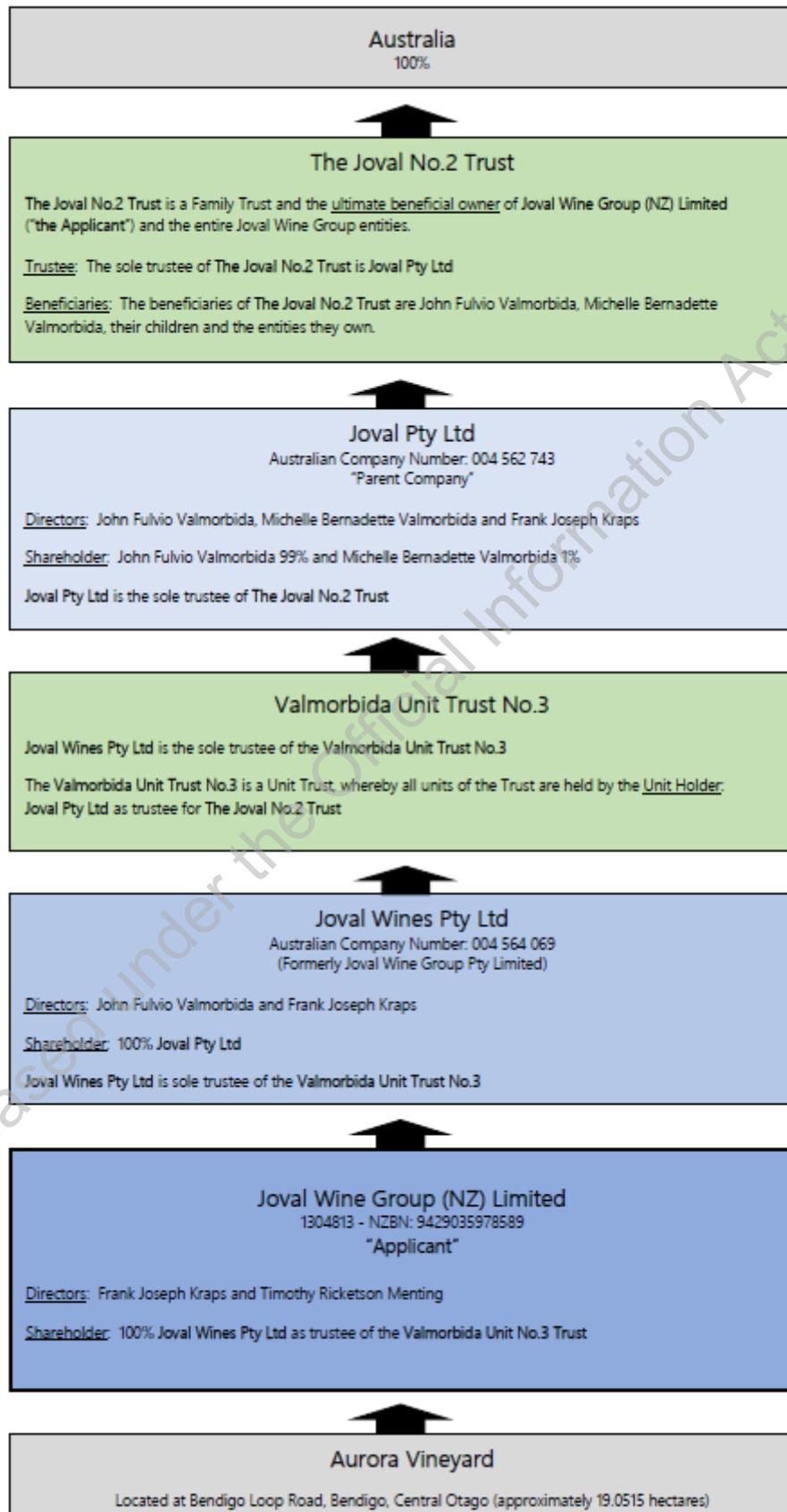
1. be submitted via our [Webform](#) by these dates:
  - a. 1 April 2026
  - b. 1 April 2029
2. contain information about:
  - a. your progress in implementing the special conditions (which can include photographs, maps or aerial imagery as evidence of compliance with relevant conditions).
3. follow the format of the template annual report published on our website

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.

Released under the Official Information Act 1982

## ATTACHMENT 2 – INTENDED OWNERSHIP STRUCTURE



## ATTACHMENT 3 – OTHER BENEFIT FACTORS

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The table **below** lists other factors in the Act 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
<b>Environmental benefits</b>	<b>Not relevant</b> - There are no areas of indigenous vegetation or habitats of wild animals.
<b>Public access</b>	<b>Not relevant</b> - There is no public access to the Land
<b>Historic heritage</b>	<b>Not relevant</b> - There are no historic heritage or wahi tapu sites on the Land
<b>Significant government policy</b>	<b>Not relevant</b> - No benefits were claimed by the Applicant
<b>Oversight or participation by New Zealanders</b>	<b>Not relevant</b> - Investment will result in a reduction in New Zealand ownership
<b>Consequential benefits</b>	<b>Not relevant</b> - No consequential benefits are claimed.
<b>Water bottling</b>	<b>Not relevant</b> - The investment does not involve water bottling

Released under the Official Information Act 1982