

To: Hon Dr David Clark, Associate Minister of Finance
Hon Eugenie Sage, Minister for Land Information

ASSESSMENT REPORT: Te Arai Links

Date	26 February 2020	Classification	IN CONFIDENCE: Commercially sensitive
OIO reference (Report reference)	201900377 (1503)	Priority	High

Action Sought

Minister	Action	Suggested Deadline
Hon Eugenie Sage, Minister for Land Information	<ol style="list-style-type: none"> Review the attached report and decide whether to grant consent to the application Forward the report and attachments to the Associate Minister of Finance 	1 April 2020
Hon Dr David Clark, Associate Minister of Finance	<ol style="list-style-type: none"> Review the attached report and decide whether to grant consent to the application Forward the report and attachments to the Overseas Investment Office 	1 April 2020

LINZ Contacts

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Minister's office to complete

1 = Was not satisfactory		2 = Fell short of my expectations in some respects		3 = Met my expectations	
4 = Met and sometimes exceeded my expectations			5 = Greatly exceeded my expectations		
Overall Quality	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input type="checkbox"/> 5
Comments					
<input type="checkbox"/> Noted	<input type="checkbox"/> Seen	<input type="checkbox"/> Approved	<input type="checkbox"/> Overtaken by events		
<input type="checkbox"/> Withdrawn	<input type="checkbox"/> Not seen by Minister	<input type="checkbox"/> Referred to:			

ASSESSMENT REPORT: Te Arai Links

Overview

Purpose

1. We seek Ministers' decision on the application by Te Arai Links under the Overseas Investment Act 2005 (the **Act**) to acquire a leasehold interest in approximately 143.8 hectares of land and a freehold interest in approximately 25.24 hectares of land.

Key information

Applicant	Te Arai Links (United States of America 100%)
Vendors	Te Arai South Holdings Limited (New Zealand 100%)
Consideration	\$3,490,000 for the freehold land [s 9(2)(b)] for grant of the leases for the leasehold land and [s 9(2)(b)] per annum per golf course, [s 9(2)(b)(ii)]
Application type	Sensitive land -including residential (Benefit to New Zealand - S&I)
Relevant tests	Investor test (s16(2)(a) - (2) of the Act) Benefits test – substantial and identifiable benefits (s16(1)(c)(ii), s16A(1)(a) & (b) of the Act) Residential outcome-s16A(1)(c) & 16B

2. Please refer to the **A3 in Attachment 10** for overview tables summarising the application and the Overseas Investment Office's (**OIO's**) assessment.

Provisional recommendation

3. Our provisional recommendation is to **grant consent**.
4. If you agree to grant consent, we recommend that you make the determinations set out in paragraphs 5 to 9 below.

[s 9(2)(a)]

Anneke Turton
Manager Applications (Overseas Investment Office)

Date: 26 / 2 / 2020

Decision

5. I determine that:

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

ROP	Relationship
Richard and Suzanne Kayne Living Trust (the Trust)	Ultimate owner of the Applicant
Te Arai Links	The Applicant

5.2 the 'individuals with control of the relevant overseas person' are:

IWC	Role
Richard Alan Kayne	Director of the Applicant, Trustee and beneficiary of the Trust
Suzanne Laughinghouse Kayne	Beneficiary and Trustee of the Trust
James Eric Rohrstaff	Director of the Applicant

5.3 the individuals with control of the relevant overseas person collectively have business experience and acumen relevant to the overseas investment;

5.4 the relevant overseas person has demonstrated financial commitment to the overseas investment;

5.5 all the individuals with control of the relevant overseas person are of good character; and

5.6 each individual with control of the relevant overseas person is not an individual of the kind referred to in section 15 or 16 of the Immigration Act 2009 (which sections list certain persons not eligible for visas or entry permission under the Immigration Act); and

6. I am satisfied that the investor test s16(2)(a)-(d), as outlined in paragraph 5 above, has been met; and

Associate Minister of Finance

Minister for Land Information

Agree

Agree

Disagree

Disagree

7. I am satisfied, in relation to the benefits test, that:

7.1 the criteria for consent in sections 16 and 16A(1)(a)-(b) 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); and

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

Associate Minister of Finance

Minister for Land Information

Agree

Agree

Disagree

Disagree

8. The criterion in section 16A(1)(c) and the conditions imposed on the consent in accordance with section 16B (residential outcomes) will be, or are likely to be, met.

Associate Minister of Finance

Minister for Land Information

Agree

Agree

Disagree

Disagree

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

Associate Minister of Finance

Minister for Land Information

Grant consent subject to the conditions in the Proposed Decision

Grant consent subject to the conditions in the Proposed Decision

Grant consent with amended conditions provided on:

Grant consent with amended conditions provided on:

Consent declined

Consent declined

Hon Dr David Clark
Associate Minister of Finance

Hon Eugenie Sage
Minister for Land Information

Date: / /

Date: / /

Released under the Official Information Act 1982

Executive summary

1. Te Arai Links (the **Applicant**) is seeking consent to acquire a leasehold interest in approximately 143.8 hectares of land (**Leasehold Land**) and a freehold interest in approximately 25.2 hectares of land (**Freehold Land**) (a total interest in 169 hectares of land), located at 816 Ocean View Road, Te Arai which is located within the Te Arai South Precinct (together the **Land**). The Land is part of two records of title¹ and will be subdivided from these titles.
2. The Land is currently a pine plantation forest used for production forestry. The Applicant intends to develop two links style 18 hole championship level golf courses on the Land, together with clubhouse and visitor accommodation and maintenance and water storage facilities (the **Investment**).
3. Te Arai is a small area on the east coast of the North Island with Mangawhai to the north and Tomarata to the south and can be seen in Figures 1 & 2 below:



Figure 1-North Island location

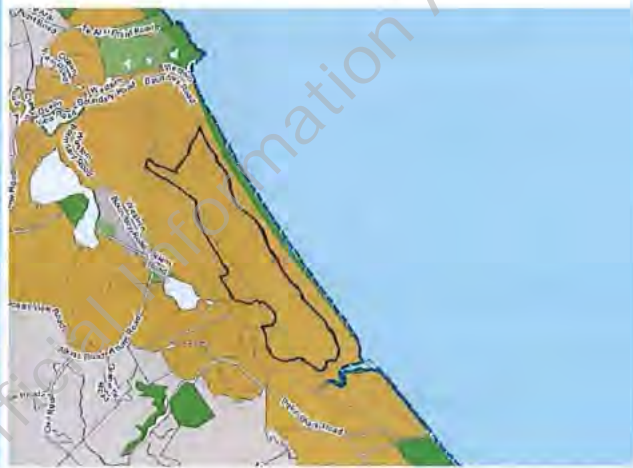


Figure 2-Land outlined in black. The brown designates rural-coastal zone land

4. The Applicant is an unlimited liability New Zealand company, formed to acquire the Land and then operate the golf courses on it. The ultimate owner of the Applicant developed the nearby Tara Iti golf course (named after the endangered fairy tern, a small tern endemic to New Zealand). It is also an 18-hole links style course, and is ranked the 2nd best golf course in the world outside the USA.
5. The proposed transaction will enable the transfer of the freehold title in certain parts of the Land to the Ngati Manuhiri Settlement Trust (subject to the Applicant's leases).
6. The Applicant requires consent because the Land:
 - a) is residential land (has a property category of lifestyle in the Auckland District valuation);
 - b) is non-urban land over 5 hectares; and
 - c) adjoins a reserve of a type specified in the list published under section 37 of the Act.²

¹ Records of Title 671895 and 671896.

² The adjoining land is zoned as open space-conservation zone and Auckland Council has indicated it may vest this land as open space. As such the Applicant has treated this adjoining land as reserve land.

7. The forest land directive applies to this investment as the existing use of the Land is as forest land. The high relative importance factors for investments in forest land are:
- increased processing of primary products; and
 - advance significant Government policy or strategy.
8. The benefits to New Zealand that are likely to result from this investment include:

Strong weighting	<ul style="list-style-type: none"> Advance significant Government Policy or Strategy (<i>high relative importance</i>) – the New Zealand-Aotearoa Government Tourism Strategy is likely to be advanced; Job opportunities– the creation of 40 permanent FTE roles is expected; and Increased export receipts- export receipts are likely to be increased by at least \$6 million a year by the end of 2022.
Moderate weighting	<ul style="list-style-type: none"> Additional investment for development purposes- at least \$25 million is likely to be introduced into New Zealand; Previous investments - the Applicant has previously invested in the Tara Iti golf course development, which has resulted in benefit to New Zealand such as growth in employment and increased capital spent in the region; and Walking access- the Investment will create new public access to the Land that would not occur with continued production forestry.
Weak weighting	<ul style="list-style-type: none"> New technology or business skills– the golf course design skills of architectural firm Coore & Crenshaw will be introduced to New Zealand; Enhanced domestic services– further tourist accommodation will be available; and Consequential benefit - <ul style="list-style-type: none"> Habitat for native invertebrate species is likely to be created; and Ngati Manuhiri will retain its freehold interest in the Land and the income generated from this Investment will help support its educational scholarship programme.

9. Guidance for applying the Act is set out in **Attachment 2**.

Timing

10. The application was accepted on 24 July 2019, however the Applicant did not enter into an agreement to lease/purchase the Leasehold Land and the Freehold Land from the Vendor until 1 November 2019. Given the interests of Ngati Manuhiri would be affected by the contents of the agreements, the OIO could not complete the assessment of the application until they were received on 7 November 2019. A decision has been requested by 1 April 2020, being 120 working days after the date of these agreements.

11. Processing days for the application to date are:

Quality Assurance	OIO Processing	Waiting for Applicant / Vendor	Third party consultation
7	46	45	43

Released under the Official Information Act 1982

Applicant and investor test

12. This section describes the Applicant, and whether the investor test criteria in the Act are likely to be met.

Who is making the investment

13. The Investment is being made by the Applicant, an unlimited liability New Zealand company formed to acquire the Land and operate two golf courses and associated amenities on the Land. The Applicant's ultimate owners also developed the Tara Iti golf course,³ located 5 kilometres to the north of the Land in 2015 (**Tara Iti**). Golf Digest has ranked Tara Iti as the 2nd best golf course in the world outside the USA in 2020 and it is the highest ranked course in the Southern Hemisphere.⁴

Overview of assessment: investor test

Element of investor test	OIO assessment of strengths and weaknesses		Cross-references
	Risk Barometer	Summary	
Relevant overseas persons (ROP) and individuals with control (IWC) confirmed	ROP & IWC identified	ROP & IWC identified	Paragraphs 14-19 Section 15 of the Act
Collectively have business experience and acumen relevant to the investment	Test met	The IWCs have business experience that is relevant to the Investment, including the development of the nearby Tara Iti golf course.	Paragraphs 20-22 Section 16(2)(a) of the Act.
ROP demonstrated financial commitment	Test met	The Applicant has demonstrated financial commitment by investing a significant sum in the design of the golf courses, entering into the agreement to purchase the leasehold and freehold land and engaging professional advisers	Section 16(2)(b) of the Act.
Good character	No concerns	We are satisfied that the IWC of the ROP are of good character.	Paragraphs 23-25 and Attachment 9 Section 16(2)(c) of the Act
Not an individual of the kind ineligible for a visa or entry permission under ss 15 or 16 of the Immigration Act 2009	Test met	Statutory declarations provided confirming that each individual is not of the kind referred to in sections 15 or 16 of the Immigration Act. No additional assessment is required.	Section 16(2)(d) of the Act

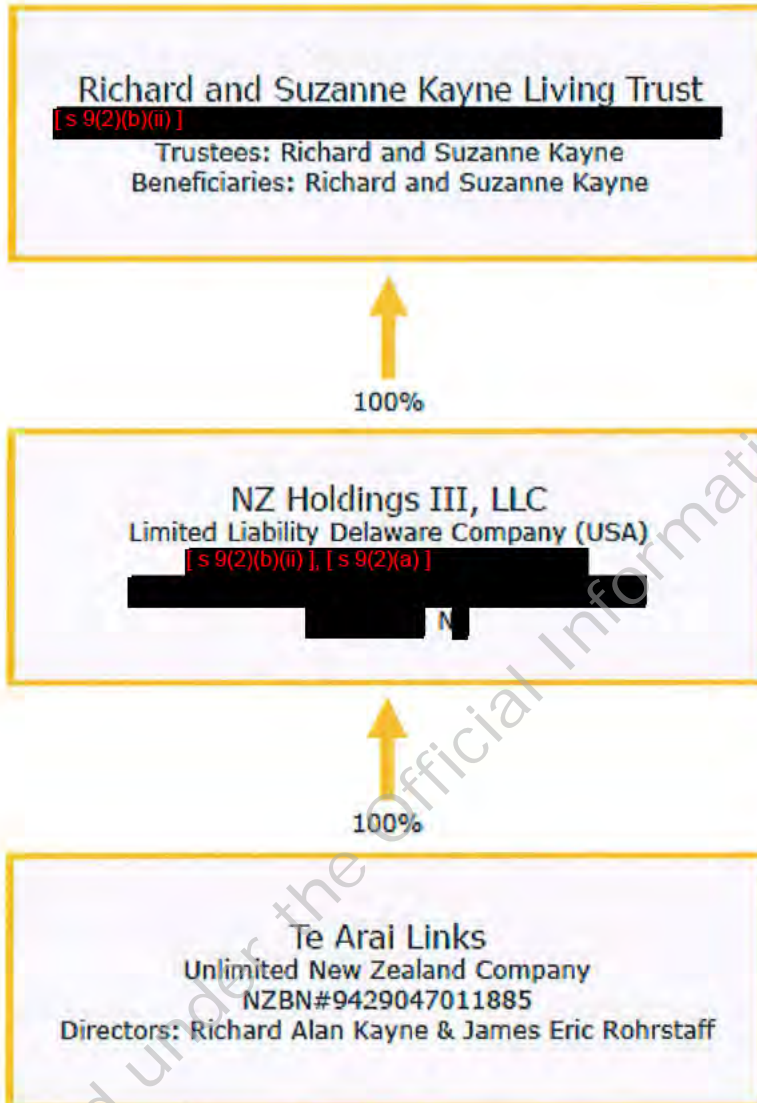
³ <http://www.taraiti.com/>

⁴ <https://www.stuff.co.nz/sport/golf/118629775/new-zealand-golf-course-tara-iti-ranked-second-on-world-list>

https://www.nzherald.co.nz/business/news/article.cfm?c_id=3&objectid=12298458

Ownership and control of the Applicant

14. The Applicant has two directors, both US citizens, who are detailed in the diagram below showing the Applicant's ownership structure:



Ownership

15. The Applicant is wholly owned by NZ Holdings III LLC (**NZ Holdings**)⁵ the shares of which in turn are wholly owned by the Richard and Suzanne Kayne Living Trust (the **Trust**). The trustees of the Trust are Richard and Suzanne Kayne who are also the sole beneficiaries of the Trust.
16. NZ Holdings is an intermediary holding company which is managed by individuals nominated by the Trust. These individuals act with authority granted by the Trust and may be removed at any time. As NZ Holdings must act in accordance with the directions of the Trust we do not consider it to be a relevant overseas person.

⁵[s 9(2)(b)(ii)]

Control

17. The decision to acquire the Land was made by Richard Kayne, Suzanne Kayne and the Applicant's directors. They would also make the decision to divest the Land and undertake significant capital expenditure.

18. We have determined that the 'relevant overseas person' (ROP) is (collectively):

ROP	Relationship
Richard and Suzanne Kayne Living Trust (the Trust)	Ultimate owners of the Applicant
Te Arai Links	The Applicant

19. We have determined that the 'individuals with control of the relevant overseas person' (IWC) are:

IWC	Role
Richard Alan Kayne	Director of the Applicant, Trustee and beneficiary of the Trust
Suzanne Laughinghouse Kayne	Beneficiary and Trustee of the Trust
James Eric Rohrstaff	Director of the Applicant

Business experience and acumen

s16(2)(a) and 18(1)(a) of the Act.

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.

20. In this case, the Investment can be described as the acquisition of Land for the development of two championship level golf courses, with clubhouse and visitor accommodation and maintenance and water storage facilities

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

- a) Richard and Suzanne Kayne have experience in developing golf courses in New Zealand, having developed Tara Iti to the north of the Land in 2012; and
- b) James Rohrstaff has 15 years of experience in development, project, sales and marketing for both premier real estate developments and golf clubs.

22. Having regard to the above, we are satisfied that the individuals with control of the relevant overseas persons for the Acquisitions has business experience and acumen relevant to the Investment.

Good character assessment

s16(2)(c) and 18(1)(c) of the Act.

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):

- 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);
- any other matter that reflects adversely on the person's fitness to have the particular overseas investment.

23. 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.
24. The OIO undertook an open-source search of the ROP's and IWC's and several matters were identified. These matters relate to business litigation, media criticism, environmental concerns and political donations and are discussed further at **Attachment 9**.
25. After carefully reviewing these matters and the relevant comments from the Applicant, we note that the business litigation matters have been either settled or dismissed, were minor infringements or were not proximate to Mr Kayne as an individual and that some of the criticisms made in the public arena were not based in fact or did not concern the IWC's. Therefore we are satisfied that the matters do not prevent a finding that the IWC's are of good character.

Provisional conclusion – Investor test

26. Our provisional conclusion is that the investor test is **met**.

Investment and benefits test

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

Summary of the proposed transaction and the Investment Plan

The proposed transaction

28. The Applicant entered into sale and purchase agreements to acquire the Leasehold Land and the Freehold Land on 1 November 2019 (**SPA's**). The Applicant considers the Land is suitable for development of two 18 hole golf courses and associated clubhouses and amenities, one at the north and one at the south of the Land.
29. The SPA's are conditional on a number of matters including OIO consent; resource consent for its own developments; the Vendor receiving resource consent for the subdivision of the Land and development of its residential subdivision and the [s 9(2)(b)(ii)]

The current situation & the Vendor

30. The Land is owned by a New Zealand registered limited liability company, Te Arai South Holdings Limited (**Vendor**), a company formed to act as partner to the Ngati

Manuhiri Settlement Trust (**Ngati Manuhiri**), a statutory claims settlement trust⁶ in the development of a 754 hectare beachfront parcel at Te Arai South. The Vendor's sole business is development of this land and it has obtained professional advice on the best development options for the Land.

31. The Land is currently a pine plantation forest which affords little ecological value and is considered by the Vendor to be uneconomic. Clearing works have started. The pine plantation was planted by the Crown when it owned the Land to stabilise the dune sands.
32. The Auckland Unitary Plan (**AUP**) includes provisions for the development of land within the Te Arai South Precinct (**Precinct**), including enabling the transition of the land from existing unsustainable and uneconomic land uses, including production forestry, to more sustainable and economically viable land uses.
33. The Vendor is completing a 60 lot residential subdivision which can be seen shaded pink in Figures 4-8 below (**Residential Subdivision**). The Vendor considers the Applicant's proposed development will significantly enhance the values of these lots.

[s 9(2)(b)(ii)]

Te Arai South Precinct

34. The Land sits within the Precinct which forms part of the Treaty settlement between the Crown and Ngati Manuhiri. Land within the Precinct was purchased by Ngati Manuhiri as part of the commercial redress component of their settlement. One of the objectives for the Precinct outlined in the AUP (relevant section included in Bundle) is a transition of the land to sustainable uses which minimise adverse effects on the high value landscapes, ecological areas and coastal character values.
35. The wider Precinct, shown in the figure below, contains significant indigenous wetlands and a dune system considered to be of high ecological value. Note these features are **not** on the Land being acquired.



Figure 3-Map showing the entire Te Arai Precinct. The blue areas designate the proposed development

⁶ Established under the Ngati Manuhiri Claims Settlement Act 2012.

36. Under the AUP, a Comprehensive Site Management Plan (CSMP) has been undertaken which includes a vegetation management plan and ecological management plan.

The Land

37. A map of the Te Arai Precinct including the Land in its entirety is shown below:



Figure 4- Overall view of the proposed North and South Golf course Land. Green designates Golf Course Land, yellow designates freehold land where visitor accommodation and other amenities will be developed, pink designates the Vendor's residential subdivision and brown the balance land which will revert to Ngati Manuhiri.

38. The Land consists of:

- a) a leasehold interest in approximately 64.3 hectares of land to be used as the south golf course and 12.3 hectares of land to be used as a south reservoir shown in green in Figure 4 (**South Golf Course Land**);
- b) a leasehold interest in approximately 67.2 hectares of land to be used as the north golf course shown in green in Figure 4 (**North Golf Course Land**);
- c) a freehold interest in land as follows:

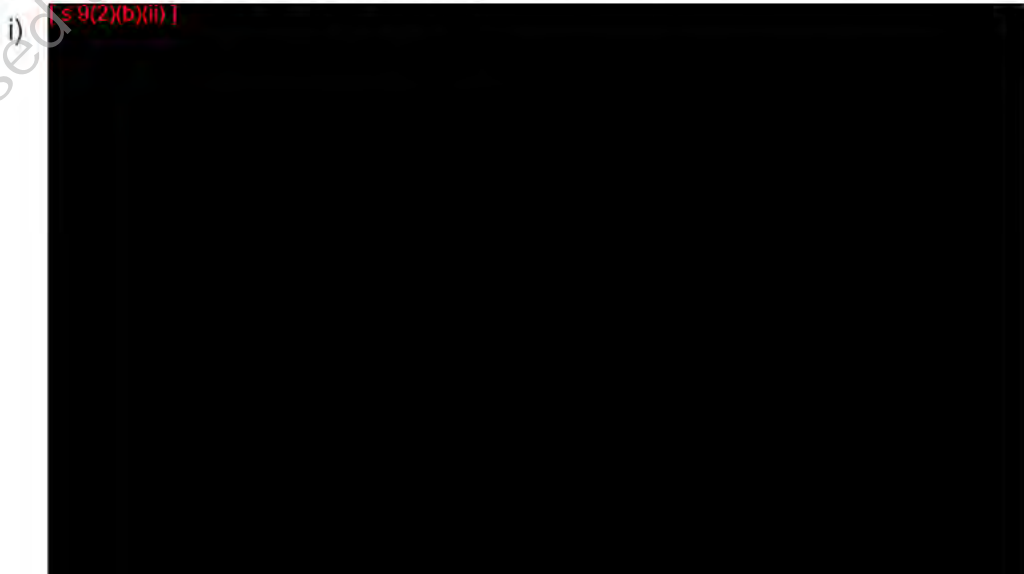


Figure 5-FH1

- ii) approximately 8.6 hectares of land near the North Golf Course Land to be used as a maintenance area and northern reservoir, administration offices, possibly workers accommodation and associated carparking (FH2); and


- iii) [s 9(2)(b)(i)]


Figure 6-FH3

39. FH1, FH2 and FH3 are referred to together in this report as the **Freehold Land**.

- 40. [s 9(2)(b)(i)]




Figure 7- The North Golf Course Land-highlighted in green and annotated as North GC. FH3 is also shown.

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

Figure 8-The South Golf Course Land highlighted in green and marked as South GC. The south reservoir is marked as such to the top of the figure. FH 1 & FH2 are also shown.

Development Plans for the Leasehold Land

The Golf Courses

41. The Applicant will construct two 18-hole international standard, links⁷ golf courses and associated infrastructure on each of the South Golf Course Land (**South Course**) and the North Golf Course Land (**North Course**) (together the **Golf Courses**). The associated infrastructure includes:
 - a) visitor accommodation;
 - b) one to two clubhouses;
 - c) a central maintenance facility; and
 - d) water storage facilities.
42. The Golf Courses will be walking courses⁸ available for public use with caddies available for hire but not mandatory. Golfers will be able to make the Golf Courses their "home club" in terms of the NZ Golf affiliation rules. The Applicant intends the Golf Courses to operate alongside Tara Iti, which is 5 kilometres to their north.
43. The Applicant will begin construction of both Golf Courses at the same time, with the North Course expected to be completed first. The Golf Course Superintendent from Tara Iti will oversee the construction of the Golf Courses and has also overseen construction of 4 top 100 ranked golf courses.
44. The Applicant plans for both these courses to become ranked within the world top 100 courses, leading to there being three top 100 class courses in a single location (together with Tara Iti) creating a cluster effect which is useful for golf tourism. A **cluster effect** is where golf tourists travel to areas where they can play a number of courses on one trip. The Applicant expects the Golf Courses to be Marquee level golf courses (discussed further below).

⁷ A links style golf course is the world's oldest style of golf course and comes from the Scottish word '*hlinc*' which means rising ground and refers to an area of coastal sand dunes.

⁸ No golf carts are available, players must walk the course.

45. Letters of support for the Applicant's proposed development from the Chief Executive of New Zealand Golf Inc, the Executive Director of Golf Tourism, Auckland Tourism, Events and Economic Development (**ATEED**) and a letter from Ngati Manuhiri outlining its support for the Applicant's required water consents are included at **Attachment 5**.

Golf Course Designers

46. The South Course will be designed by Bill Coore and Ben Crenshaw⁹ (**Coore Crenshaw**) and the North Course will be designed by Tom Doak¹⁰. Coore Crenshaw and Tom Doak are American golf course designers.
47. Tom Doak designed the course at Tara Iti and has designed 5 courses in the top 100 courses in the world as designated by Golf magazine.¹¹ These courses are:
- Tara Iti (ranked 29);
 - Pacific Dunes in Oregon (ranked 26);
 - Ballyneal in Colorado (ranked 86);
 - Barnbogle Dunes in Tasmania (ranked 38); and
 - Cape Kidnappers in New Zealand (ranked 44)
48. Coore Crenshaw also have 5 courses ranked in the top 100 courses in the world, but have never designed a golf course in New Zealand:
- Barnbogle (Lost Farm) in Tasmania (ranked 90);
 - Cabot Cliffs in Nova Scotia (ranked 50);
 - Shanqin Bay in China (ranked 39);
 - Friar's Head in New York (ranked 33); and
 - Sand Hills in Nebraska (ranked 13).
49. Tom Doak and his crew enjoyed playing golf at the local Mangawhai Golf Club, an Experience level club, so much while they were working on Tara Iti that they gifted Mangawhai a free long range plan (which would normally cost hundreds of thousands of dollars) and many of Tom Doak's crew have donated their time and expertise to Mangawhai Golf Club.
50. A full list of the consultants engaged by the Applicant are in **Attachment 3**.

Golf Course Levels

51. Golf Tourism New Zealand ranks golf courses, with Marquee level being the top ranking and Experience the next level down. Tara Iti is a Marquee level course and the Applicant aims to have the Golf Courses also ranked as Marquee.
52. There are no numerical thresholds for Marquee or Experience courses status. The assessment process was developed by the original Golf Tourism Working Group and is a purpose built document to analyse both the quality of the course and the facility's amenities. Marquee courses are of a high quality and are aspirational with inherent international interest. They have history and/or a particular identity and are accessible for visitor play.

⁹ <https://www.cooreandcrenshaw.com/portfolio.html>

¹⁰ <https://www.renaissancegolf.com/>

¹¹ <https://www.golf.com/courses-and-travel/photo/2017/08/28/top-100-golf-courses-world-2017>

53. The below table at Figure 9 lists the Marquee courses in New Zealand, other than Tara Iti. It should be noted that only one of these is a links style course- Paraparaumu Beach Golf Club:

Marquee Courses	Location
Kauri Cliffs Golf Course	Far North
Wainui Golf Club,	Hibiscus Coast, Auckland
Gulf Harbour Country Club, Hibiscus	Hibiscus Coast, Auckland
Titirangi Golf Club	Auckland
Windross Farm Golf Course, Papakura	Papakura, Auckland
Wairakei Golf + Sanctuary	Taupo
The Kinloch Club	Taupo
Cape Kidnappers Golf Course	Hawkes Bay
Paraparaumu Beach Golf Club	Wellington
Royal Wellington Golf Club	Wellington
Clearwater Golf Club	Christchurch
The Hills	Queenstown
Millbrook Resort	Queenstown
Jack's Point	Queenstown

Figure 9-Marquee courses in New Zealand (excluding Tara Iti).

Green fees

54. The Applicant intends to charge overseas visitors a higher green fee per round than New Zealand residents which is consistent with other New Zealand Marquee courses:

	High Season	Low Season
Overseas visitor green rate fee	[s 9(2)(b)(ii)]	[s 9(2)(b)(ii)]
New Zealand resident green rate fee	[s 9(2)(b)(ii)]	[s 9(2)(b)(ii)]

55. High and low (summer and winter) rates will be adopted, as the sand based nature of the Golf Courses will mean they are able to be played year round. [s 9(2)(b)(ii)]

Marketing the Golf Courses

56. The Applicants have supplied an Economic Assessment Report prepared by McDermott Consultants¹³ (**McDermott Report**) which considers there are three types of golf tourist:
- Holiday makers or the casual market- tourists who may incidentally play a round or two of golf while travelling;
 - Regular golfers or enthusiasts- golf will be a feature of their holidays and they may plan their holidays around known courses while undertaking other activities; and

¹² For example between 9am -9.30 am

¹³ Included in the bundle

- c) Pure golfers -tourists who travel, often in groups, to dedicated golf resorts or regions. Their primary motivation for travel is to golf and may only travel to 1-2 destinations.
57. Tourism New Zealand seeks to target the enthusiasts encouraging groups or couples to consider New Zealand as a destination where they can play golf and enjoy a range of other activities. The 2015 International Visitor Survey indicates that more golf tourists are likely to visit wineries (41%) than other tourists (25%).

Irrigation of the Golf Courses

58. Surface water will be taken from the Poutawa Stream of up to 350,000m³ each year, taken during high flow (generally winter) including construction of associated intake structures. Groundwater will also be taken from the bores in the Te Arai South forest of up to 200,000m³ each year. Two water storage reservoirs will be developed. Consents required for these developments are discussed at **Attachment 4**.

Development Plans for the freehold land

Visitor accommodation

59. The Applicant intends to develop visitor accommodation consisting of at least [§ 9(2)(b)(i)] rooms for visitors to the Golf Courses on FH1 and expects this development to cost approximately [§ 9(2)(b)(i)]. Development is likely to commence [§ 9(2)(b)] after acquisition of the Land. It expects the accommodation to have 70% occupancy during the high season and 35% in the low season.
60. The Applicant has stated that once the Golf Courses are fully established it is likely to develop further accommodation on the Freehold Land as the initial accommodation will be designed on a scalable basis. It may also develop some staff accommodation although no timeframe has been proposed for such a development.
61. The Applicant expects to achieve a gross return of approximately [§ 9(2)(b)] a year (or a [§ 9(2)(b)] return) from operating the [§ 9(2)(b)]-room visitor accommodation which will operate year-round like the Golf Courses.
62. It is expected that the visitor accommodation will be managed by or in conjunction with Tara Iti Hospitality Limited, a New Zealand registered company that manages the visitor accommodation and guest services at Tara Iti. It is expected that economies of scale can be achieved by effectively pooling resources.

63.

[§ 9(2)(b)(i)]

Timeline and costs for the development, resource consents required

64. The land use provisions for the Precinct envisage its use for recreation activities and the Applicant's proposed primary use for the Land is as Golf Courses. As such resource consent is not required to carry out golf course activity on the Land. However consent will be required to establish the Golf Courses. A full list of the likely consents required¹⁴ appears in **Attachment 4**. The Applicant does not foresee any issues in obtaining the required consents.

¹⁴ As advised by B&A Urban & Environmental in their planning report (contained in bundle).

65. The Applicant expects that consents will be issued for the developments by the end of 2020, with construction starting in 2021. It has supplied the table below showing the development timeline:

Te Arai Links - Development Timeline	
	[s 9(2)(b)(ii)]
Consenting	
Reservoirs	
Coore Course construction	
Coore Course grow-in	
Doak Course construction	
Doak Course grow-in	
Clubhouse construction	
Maintenance Facility	
VA (block 1) construction	

Figure 10-Development timeline for the investment-the South Course is referred to as the Coore Course and the North Course as Doak Course

66. The Applicant estimates the approximate cost of the development of the Golf Courses and associated amenities is approximately [s 9(2)(b)(ii)] as shown below:

[s 9(2)(b)(ii)]

Figure 11-Estimated Development costs

Forest land directive

67. The forest land directive applies to this investment as the existing use of the Land is as forest land. The high relative importance factors for investments in forest land are:
- a) increased processing of primary products; and
 - b) advance significant Government policy or strategy.

What is likely to happen without the investment (Counterfactual)

68. We consider that if the Applicant did not acquire the Land the Vendor would likely retain the Land in the short term and in the medium to long term an alternative New Zealand purchaser (**ANZP**) would acquire the leasehold of the Land for continued forestry production.
69. There are two key questions to determine what is likely to occur without the Investment:
- (a) who is likely to own the Land? And
 - (b) what is the likely use of the Land?

Who is likely to own the Land

70. The Applicant has not identified who it considers would likely own the Land. However the Golf Courses are on the Leasehold Land and the Vendor considers it likely that any other purchaser would likely require a freehold interest in entirety of the Land not just the Freehold Land. This would not be satisfactory for Ngati Manuhiri as it would deprive them of retaining the Land within its rohe.¹⁵

What is the likely use of the Land?

71. The McDermott Report considers various alternative uses of the Land such as continued production forestry, residential development and use as a recreation area. While the Applicant comes to the conclusion that no other use by an alternative purchaser would provide the same level of benefits as the Investment it does not identify a clear likely use.

Our Assessment

72. [s 9(2)(b)(ii)]
73. It seems unlikely that a purchaser would acquire the Land for the purposes of residential development as selling leasehold titles to properties is uncommon in New Zealand and would likely make them harder to sell. It also seems unlikely a purchaser would buy the Land to create a recreation area as it is a large area of land and would be expensive to purchase relative to any revenue generated from such purposes.
74. We consider that as the freehold title to the Land is unlikely to be offered for sale, that in the medium to long term an ANZP would buy the leasehold title to the Land, who would continue to use the Land for production forestry. [s 9(2)(b)(ii)]

¹⁵ Area or boundary of the iwi.

Residential land outcome – “residential purposes incidental to a relevant business’ and non-residential use”

s16A(1)(c), s16B and cl 19 of sch 2 of the Act

If the relevant land is or includes residential land, Ministers must be satisfied that the conditions imposed on the consent in accordance with the residential land outcome will be, or are likely to be, met.

To the extent the application relates to residential land, Ministers must determine a residential land outcome that relates to the residential land and impose the set of conditions relating to that residential land outcome. Different residential land outcomes may apply to different parts of the residential land (with different conditions imposed for different parts).

75. The Land is zoned as lifestyle land and is therefore residential land under the Act. The Applicant intends to initially develop a golf course and visitor accommodation on the Land and *may* develop staff accommodation in the future.

Residential land outcome

76. To the extent the application relates to residential land, an appropriate residential land outcome must first be determined. In this case, all the Land is residential land.

77. There are several residential land outcomes available (as set out in clause 19, Schedule 2 of the Act), including:

- a) ‘on-sale’;
- b) ‘use for non-residential purposes’;
- c) ‘operation of a long-term accommodation facility on the residential land’;
- d) ‘increased residential dwellings’;
- e) ‘residential purposes incidental to a relevant business’;
- f) ‘occupation as main home or residence’;
- g) ‘operation of existing share equity, rent-to-buy, or rental arrangements’; and
- h) ‘any other case’.

78. Each residential land outcome has a specific set of conditions that must be imposed on the investment if that outcome is considered to be appropriate.

Use for non-residential purposes

79. The majority of the Land will be used for either the golf course development or associated facilities such as club houses, visitor rooms and visitor accommodation. We consider this use to be for non-residential purposes.

Residential purposes incidental to a relevant business

80. The remainder of the Land is intended to be used for staff accommodation.
81. Incidental residential use applies if:
- a) the land is likely to be used only in support of the relevant business, where the relevant business is not in the business of using land for residential purposes; and
 - b) the interest in residential land is likely to be acquired in the ordinary course of business of the relevant overseas person.

82. In considering whether the incidental residential use test is met, regard may be had to:
- a) whether any reasonable alternative exists to the acquisition of the relevant interest in the residential land;
 - b) the proximity of the residential land to the premises or operations of the relevant business;
 - c) whether the use of the residential land for residential purposes is (without limitation) as accommodation for staff engaged in the relevant business; and
 - d) any other factors that seem to the relevant Ministers to be relevant in the circumstances.
83. In this case, the relevant business is the golf course operations. We are satisfied that use of the land for residential purposes will only be in support of the relevant business (as staff accommodation) and the interest is being acquired in the ordinary course of business of the Applicant.

Residential outcome conditions

84. Conditions must be imposed that relate to the relevant residential outcome. We have recommended that conditions of consent are applied to the parts of the Land as follows:
- a) non-occupation condition - to all the Land;
 - b) use for non-residential purposes (that the residential land is not used, nor held for future use, for residential dwellings or long-term accommodation facilities) – to the Land that will be used for the golf course operations including the visitor accommodation; and
 - c) use for residential purposes incidental to the golf course operations (staff accommodation) – to the Land which will be used for staff accommodation.
85. We are satisfied that the residential outcome conditions are likely to be met by the Applicant.

Consultation and submissions about the investment

Consultation with the Department of Conservation (DOC)

86. We have consulted with DOC. Please see paragraphs 176-179 for details of that consultation.

Consultation with Walking Access Commission (WAC)

87. We have consulted with WAC. Please see paragraphs 151-152 for details of that consultation.

Consultation with Tourism New Zealand & Golf Tourism New Zealand

88. We have consulted with Tourism New Zealand and Golf Tourism New Zealand. Please see the exports receipts benefit section for details of that consultation.

Submissions

89. No third-party submissions have been sought or received. We note that the Applicant has supplied letters of support from several third parties. These are included in **Attachment 5**.

Overview of assessment: investment and benefit test

Relevant benefit factors	Applicant's claims: what they intend to do	Without the investment (Counterfactual)	OIO analysis: strength/weakness		Proposed special conditions and reporting requirements	Cross refs
			Indicative strength	Summary		
Job opportunities	Development of the Golf Courses and associated amenities will require staffing from golf maintenance workers and hospitality workers to pro-shop and teaching staff.	Production forestry would continue on the Land which creates minimal and sporadic temporary job opportunities.	Strong weighting	The Applicant's ultimate owner is already a significant employer in the region and the Investment is also likely to create a significant number of permanent FTE as well as short term construction and seasonal FTE.	<u>Condition:</u> the creation of at least 38 permanent FTE within 30 months of acquisition of the Land. <u>Report:</u> on the FTE created, the number of people employed and approximate salary ranges and job titles for roles.	Paragraphs 92-99 s17(2)(a)(i)
Increased export receipts	The Applicant will develop the Golf Courses and amenities which are expected to draw both domestic and international golf tourists.	The logs felled on the Land would be exported. It is unclear how many logs would be exported, however the price of logs has fallen recently. The Land would be replanted in trees and some of the trees exported when felled. Any exports generated from felling are likely to be many years away.	Strong weighting	The development of the Investment will result in export receipts of at least \$6 million a year by the end of 2022.	<u>Report:</u> on the number of overseas visitors to the Golf Courses and the number of overseas visitors staying in accommodation, breaking down by visitor country as far as is possible.	Paragraphs 100-117 s17(2)(a)(iii)

Relevant benefit factors	Applicant's claims: what they intend to do	Without the investment (Counterfactual)	OIO analysis: strength/weakness		Proposed special conditions and reporting requirements	Cross refs
			Indicative strength	Summary		
Previous investments	The Applicant's ultimate owners have developed the nearby Tara Iti course which is ranked 2 nd in the world by Golf Digest (outside the USA).	-	Moderate weighting	The Applicant's ultimate owners have a proven track record of developing golf courses to a high standard in New Zealand, bringing benefits to New Zealand and the Mangawhai region.	-	Paragraphs 118-132 reg28(e)
Advance significant government policy or strategy <i>(high relative importance)</i>	The Investment will result in the development of Golf Courses which will attract international golf tourists and align with the New Zealand Aotearoa Government Tourism Strategy.	Continued forestry production would align with the One Billion Trees policy.	Moderate weighting	The Applicant's Investment aligns with the coalition Government's Tourism Strategy.	-	Paragraphs 133-141 reg28(f)
Additional investment for development purposes	The Applicant will develop the Golf Courses.	Minimal capital for harvest and replanting costs is likely to occur under continued forestry production on the Land comparative to the Investment.	Moderate weighting	The Applicant will introduce at least \$25 million into New Zealand for the development of the Golf Courses and associated developments	<u>Condition:</u> the introduction into New Zealand of at least \$25 million to be used in development of the Golf Courses and associated developments <u>Report:</u> on progress of development of the Golf Courses and associated developments.	Paragraphs 142-148 s17(2)(a)(v)

Relevant benefit factors	Applicant's claims: what they intend to do	Without the investment (Counterfactual)	OIO analysis: strength/weakness		Proposed special conditions and reporting requirements	Cross refs
			Indicative strength	Summary		
Walking access	The Applicant will create two trailways through the Land to the foreshore.	An ANZP would be unlikely to consult with WAC regarding public access, especially for land to be used for continued forestry production.	Moderate weighting	Two trailways through the Land will be created	<u>Condition</u> : creation of certain public access easements and create two trailways	Paragraphs 149-157 s17(2)(e)
New technology or business skills	The Applicant will use the services of internationally recognised golf course designers to develop the Golf Courses.	It is unlikely any new business skills would be introduced under continued forestry production.	Weak weighting	Coore Crenshaw will design and develop on the of the Golf Courses	<u>Condition</u> : Coore Crenshaw designing and developing one of the Golf Courses.	Paragraphs 158-163 s17(2)(a)(ii)
Added market competition, increased productivity, efficiency, and enhanced domestic services	The Applicant will develop the Golf Courses and associated amenities.	It is unlikely any benefit would occur under this factor with continued production forestry.	Weak weighting	The Visitor accommodation is likely to result in enhanced domestic services.	-	Paragraphs 164-171 s17(2)(a)(iv)
Consequential benefit	The development of the Golf Courses will create benefit for Ngati Manuhiri that forestry production would not provide.	-	Weak weighting	The Investment is likely to result in benefits accruing to Ngati Manuhiri	-	Paragraphs 172-195 reg28(a)
Consequential benefit	The Applicant will undertake planting on the Land that will protect indigenous fauna on or near the Land.	An ANZP would be unlikely to undertake additional protections, especially for land to be used for continued forestry production.	Weak weighting	The change in use of Land and proposed planting of native vegetation is likely to create habitat for native invertebrate species and may lead to dotterels nesting on the Land	<u>Condition</u> : appoint a full time Conservation Manager and increase planting of native vegetation	

90. The section below sets out our discussion in relation to factors under which we consider the proposed investment is likely to result in benefit to New Zealand.
91. Factors that we considered were either not relevant to the investment, or the benefit to New Zealand was not sufficient enough to be relied on, are discussed in **Attachment 4**.

Job opportunities

There are three key elements to this factor (s17(2)(a)(i) of the Act):

- The "new job opportunities" must be **new**, or if existing jobs are being "retained", the existing jobs **would or might** otherwise be lost if the investment does not proceed;
- The new job opportunities or retained jobs must be **in New Zealand**;
- The new job opportunities or retained jobs that are **likely to result** from the overseas investment must be **additional** to those which are likely to occur **without the overseas investment**.

92. We consider the Applicant's development is likely to result in the creation of 40 permanent full time equivalent (**FTE**) jobs within 30 months of acquisition of the Land as well as short term construction roles and contracted caddie roles.

Permanent FTE jobs

93. The table below shows the new FTE permanent jobs which are likely to be created once the Golf Courses are complete and the timeframe within which they are expected to occur:

Job Type	Number of FTE	Approximate timeframe for creation of FTE
Golf maintenance	[s 9(2)(b)(ii)]	12 months following acquisition
Pro-shop and teaching	[s 9(2)(b)(ii)]	30 months following acquisition
Clubhouse	[s 9(2)(b)(ii)]	30 months following acquisition
Visitor accommodation	[s 9(2)(b)(ii)]	30 months following acquisition
General administration	[s 9(2)(b)(ii)]	6 months following acquisition
Total	40	

Contractor & short term roles

94. The development of the Golf Courses themselves and the visitor accommodation will require contractors. The Applicant has not provided an estimate of the number of contracting FTE likely to be required but the Applicant has advised that [s 9(2)(b)(ii)]
95. The Applicant will also contract caddies for the Golf Courses once operational and expects caddies to be employed on a seasonal or contract basis which the Applicant

estimates to be the equivalent of 5 FTE. The Applicant also expects to have to hire short-term staff in the high season to service the visitor accommodation.

Counterfactual

96. Continued production forestry is unlikely to create any permanent jobs but would likely create minimal short term work in periods of replanting, pruning or harvesting.

Our Assessment

97. We consider the Investment is likely to create a considerable number of permanent FTE roles, as it has done at Tara Iti which the McDermott Report states employs approximately 10% of the local labour force and has supported an increase in local contracting capacity for land development.
98. We also consider the Investment will result in short term construction and seasonal FTE. Tara Iti consisted of one golf course, this development consists of two. Given the amount spent at Tara Iti on contractors and the significant amount of work that will be required to develop the land into two golf courses as well as develop visitor accommodation, we consider it is likely that a significant number of contractor roles will be likely to be created. Due to there being two golf courses we also consider there will also be a need for seasonal caddy and accommodation workers. We therefore consider the employment created by the Investment is likely to be considerably more than what would be created from continued production forestry on the Land.

Proposed conditions

99. We propose that the Applicant be conditioned to create at least 38 permanent FTE roles within 30 months of acquisition of the Land.

Increased export receipts

There are two key elements to this factor (s17(2)(a)(iii) of the Act):

- **Export receipts** must be likely to be increased.
- The increased export receipts that are **likely to result** from the overseas investment must be **additional** to those that are likely to occur without the investment.

100. We consider the Applicant's proposed developments on the Land are likely to result in increased export receipts for New Zealand of at least \$6 million a year by the end of 2022.
101. Golf Tourism New Zealand (**GTNZ**) considers that if the Golf Courses achieve Marquee status, they will deliver on the Applicant's desired outcome of a cluster effect. Generally courses forming a cluster effect are Marquee or Experience level.
102. While the Golf Courses will technically sit within Auckland's boundary, their location on the doorstep to Mangawhai would see it more associated with Northland according to GTNZ. The Golf Courses will encourage more visitation to the likes of Kauri Cliffs (the only Marquee course north of the Golf Courses and Tara Iti), and four nearby New Zealand Experience Courses located to the north of the proposed development as well. While the Golf Courses and Tara Iti will constitute their own cluster, with Kauri Cliffs less than two hours away, Auckland/Northland could potentially have four courses ranked among the World Top 100 in the coming years, making it one of the most sought after golf destinations in the world.

103. GTNZ considers the Northland region will be the biggest beneficiary of the Golf Courses, and it will help encourage more premium visitors to head north rather than the traditional tourism route of turning south from Auckland.
104. GTNZ considers that not only will the Golf Courses generate media interest, as the development of Tara Iti did, but that further increased visitor volumes of premium clientele can be expected. Golf tourists to New Zealand spend more during their stay (\$4,800 v \$3,900) and stay longer (27 nights v 16 nights) than the average tourist to New Zealand. Golf tourism was estimated to be worth \$345 million to New Zealand in 2016, which is a 138% increase on 2012 figures and the Applicant considers it to be a market that is continuing to grow.
105. The Applicant believes that in Year 1 (late 2022) of the opening of the Golf Courses, patronage is likely to be [s 9(2)] rounds. By Year 3 it considers the number of rounds per course will increase to [s 9(2)(b)(i)] in the high season and [s 9(2)] in the low season).

106.

[s 9(2)(b)(i)]

Tara Iti

107. The Applicant undertook a review of Tara Iti's offering in 2017 and as a result of this discovered that the vast majority of its overseas golf club members had never visited New Zealand prior to joining the club and that their visit to New Zealand was solely attributable to Tara Iti. During 2018 Tara Iti estimates that [s 9(2)] of its visitors were international golf tourists.
108. Tara Iti also arranges itineraries for those visitors who have not arranged other New Zealand experiences themselves or via travel agents. During 2018 it prepared 22 itineraries for 66 people with an average spend of [s 9(2)(b)] per person. This excludes any spending they may make on these travels such as for food and drink, entry costs etc.
109. The Guest Relations Manager at Tara Iti estimates that approximately 90% of visitors will play a round of golf at another New Zealand Marquee course while here.
110. Given the experience at Tara Iti and the similar manner in which they will be managed, the Applicant considers the economic benefits at the Investment are likely to align with that produced at Tara Iti.

Targeting the USA market

111. The Applicant has been successful in marketing Tara Iti to tourists from the USA and it will also market the Golf Courses to the USA market. Richard and Suzanne Kayne are well connected to the USA golf market which they consider will lead to their peers travelling to the Golf Courses on this basis.
112. The average spend of a golf tourist from the USA to New Zealand is \$19,000, who only rank 4th for country of origin for golf tourists behind Australia, China and the UK¹⁶ as seen in the diagram below:

¹⁶ <https://www.tourismnewzealand.com/markets-stats/sectors/special-interest/golf/>

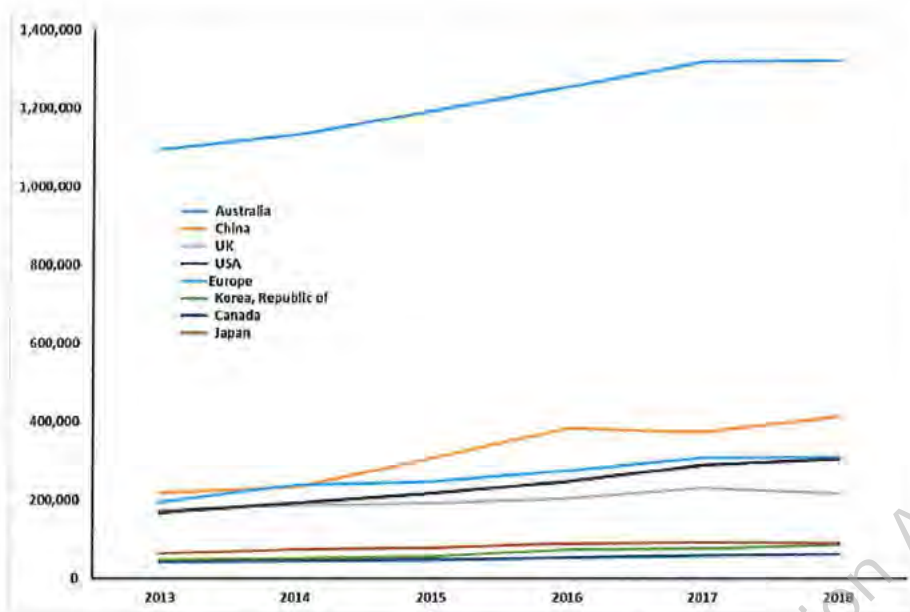


Figure 12 -diagram showing New Zealand Golf Tourism by country of origin 2013-2018

113. GTNZ focuses on 3 markets-Australian, the USA and China. The USA is the world's largest and most mature golf tourism market and China is the world's fastest growing golf tourism market. By targeting the USA, the Applicant aligns with GTNZ's strategy of higher value and lower volume golf tourism. Golfers from the USA have high expectations for the quality of the courses they play, the service levels offered, and the amenities found alongside golf. It is anticipated that the Golf Courses will deliver on all these needs, [s 9(2)(b)(i)]

114. It is also expected that golfers who visit the Golf Courses will visit other destinations in New Zealand bringing tourism dollars to other parts of the country, not just the Mangawhai region. The McDermott Report estimates this at approximately \$20 million a year. Further the letter from ATEED at **Attachment 5** states that "golfing tourists are also likely to explore investment and other business opportunities while here, providing further to the economy".

Counterfactual

115. There is likely to be some export revenue generated if the trees on the Land are exported once felled. The McDermott Report states the current value of the trees is approximately [s 9(2)(b)(i)] although it notes the log prices have fallen from USD138 per tonne to USD110 per tonne and may drop to USD100 per tonne.¹⁷ It is unclear how many of the trees would be exported. Trees may also be replanted on the Land, some of which may be exported in 25 years.

Our Assessment

116. We consider that the development of the Golf Courses is highly likely to attract international golf tourists to New Zealand to play the courses, much like Tara Iti has. The Applicant's development has the support of the Office of Golf Tourism and New Zealand Golf Inc and GTNZ considers the cluster effect of the Golf Courses and Tara Iti is likely to be very attractive to golf tourists.

¹⁷ https://www.nzherald.co.nz/business/news/article.cfm?c_id=3&objectid=12247719

117. The export receipts generated by the Investment are likely to result in annual export receipts which are higher than the export receipts generated by continued production forestry on the Land, where trees are generally only felled and exported approximately every 25 years. As such we consider the benefit to New Zealand and the Mangawhai region is likely to be high and therefore of **strong weighting**.

Previous investments

There are two key elements to this factor (reg28(e) of the Regulations):

- The **relevant overseas person** must have **previously undertaken investments**;
- The previous investments must have been, or are, of **benefit to New Zealand**.

Development of the Tara Iti Golf Course

118. Consent to develop Tara Iti was obtained by Richard and Suzanne Kayne in 2012¹⁸ with the course opening in September 2015. Initially ranked 6th in the world (outside the USA) by Golf Digest (being the highest debut ever on any of Golf Digest's various course rankings¹⁹) Tara Iti is now ranked 2nd best in the world outside the USA.²⁰
119. The Applicant developed a golf course, clubhouse and is currently developing members cottages and a residential development. Views of the golf course and clubhouse can be seen below in Figures 13-16.
120. Tara Iti was designed by Tom Doak who will develop the North Course which is a links style golf course, as the Golf Courses will be.



Figures 13 & 14 -Views of Tara Iti Golf Course



Figure 15 & 16-Views of Tara Iti Clubhouse

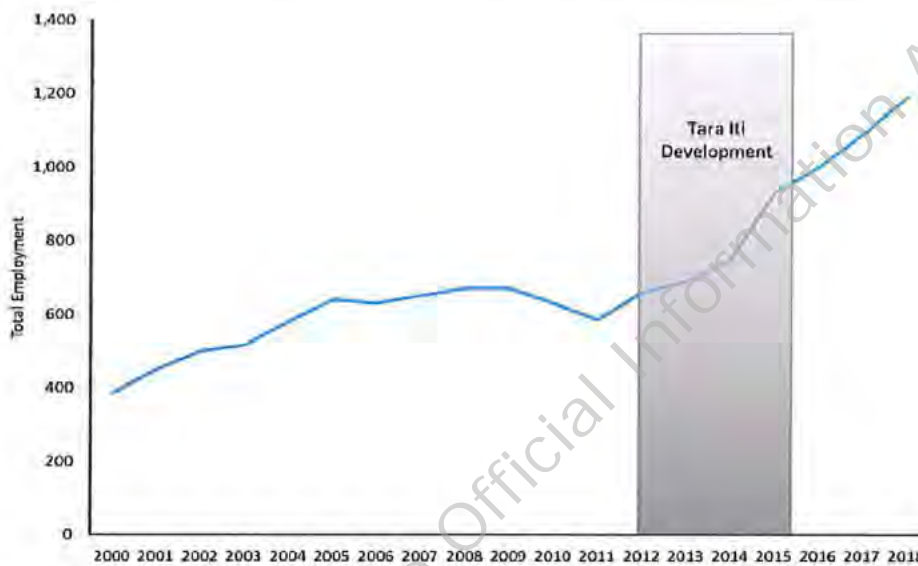
¹⁸ Case 201220004.

¹⁹ <https://www.golfdigest.com/story/exploring-tara-iti-a-golf-oasis-on-the-other-side-of-the-world>

²⁰ <https://www.newstalkzb.co.nz/news/sport/nz-golf-course-ranked-second-best-in-world-list/>

Benefits generated by Tara Iti

- 121. The McDermott Report states that Tara Iti directly employs approximately 10% of the local labour force and has supported an increase in local contracting capacity for land development.
- 122. During 2018, 210 people were employed at Tara Iti (both part time and full time staff). Of those, 86% resided in Mangawhai, showing the impact Tara Iti has had on the region's employment. Tara Iti also offers caddying, hospitality and greenkeeper training, providing upskilling for locals in the region.
- 123. The McDermott Report includes the below diagram, showing employment growth in the region, which the Applicant considers shows the marked increase in growth since the development of Tara Iti:



Source: Statistics New Zealand, Business Demography Tables

Figure 17-Employment growth in Mangawhai between 2000-2018

- 124. The McDermott Report also shows the amount of capital spent on development of Tara Iti:

	[s 9(2)(b)(ii)]
Professional Services	
Land Development	
Infrastructure	
Building	
Equipment & Fittings	
Vehicles & Transport Equipment	
Total	

Figure 18-capital expenditure on Tara Iti between 2012-2018, figures in millions

125. Approximately a further [s 9(2)(b)(ii)] has been spent on operating expenditure (84% of this in New Zealand) as shown in the table below, which shows nearly half these costs are wages paid to staff at Tara Iti:

Total	[s 9(2)(b)(ii)]
Direct Labour	
Consultants	
Contractors	
NZ CoS (Estimate)	
Goods	
New Zealand Total	
NZ Share	

Figure 19-Operating expenditure between 2015-2018

126. As at March 2019, Tara Iti has 189 members. [s 9(2)] of these members are domestic, with the balance being overseas visitors, the majority of whom are from [s 9(2)(b)].
127. Visitor accommodation consists of 8 two bedroom cottages and 2 one bedroom chalets. In 2018, [s 9(2)] nights were sold with [s 9(2)] of these sold to overseas visitors.



Figures 20, 21 & 22-views of the cottages and their integration into the surroundings

128. Spending by international golf tourists at Tara Iti during 2018 was [s 9(2)(b)(ii)] (accommodation, catering and merchandise).

129. [s 9(2)(b)(ii)]

130. Approximately 1.2 million plants have been planted since acquisition [s 9(2)(b)(ii)]

Kea Award

131. Richard Kayne's involvement in the development of Tara Iti resulted in him being awarded the Kea Friend of New Zealand award at the 2019 Kea World Class New Zealand Awards in recognition of his "*exceptional contribution to New Zealand by someone not born here but who nonetheless epitomises the kiwi sense of spirit and endeavour*". Included as **Attachment 6** is a letter from Kea discussing why Richard Kayne was presented with this award. This letter states that "*through the Tara Iti development, Ric [sic] has contributed significantly to economic growth within Northern Auckland and Northland, attracting direct and indirect tourism, and employing over 300 employees and contractors*".

Our assessment

132. We consider that a significant level of benefit has been created by the development of Tara Iti for both New Zealand and the local region. Further the benefit level exceeds that expected under the 2012 consent application. As such we consider the benefit created to be of **moderate weighting**.

Advance significant government policy or strategy (high relative importance factor)

There are three key elements to this factor (reg 28(f) of the Regulations):

- The overseas investment must give effect to or advance a specific Government policy or strategy.
- The Government policy or strategy must be significant.
- The effect or advancement that is likely to result from the overseas investment must be additional to that which is likely to occur without the overseas investment.

133. We consider the Applicant's Investment will advance the New Zealand-Aotearoa Government Tourism Strategy²¹ (the **Strategy**).

134. The Applicant considers the Investment aligns with the Strategy, which was released in May 2019. The goal of the Strategy is to "*enrich New Zealand through sustainable tourism growth*" through productive, sustainable and inclusive tourism. The Strategy notes that the tourism system needs to work more actively with iwi and communities to shape future growth. The Governments goals for tourism can be seen in the below diagram:

²¹ <https://www.mbie.govt.nz/dmsdocument/5482-2019-new-zealand-aotearoa-government-tourism-strategy-pdf>



Figure 23-Goals of the Strategy

135. As the diagram shows, the Government's focus is not solely on the economic benefits. The impact on the environment and regions and New Zealanders and communities is also important.
136. The Applicant also considers the Investment aligns with the New Zealand International Golf Strategy (**Golf Strategy**)²² from 2013. The Golf Strategy states there are opportunities to develop new golf infrastructure in New Zealand and aims for New Zealand to become a known and respected golf destination. It should be noted that the Golf Strategy was written prior to the development of Tara Iti.
137. The Applicant claims development of the Investment will make the region a new golfing destination. In particular the Investment, combined with Tara Iti, will lead to three marquee level courses in the same region which will be highly attractive to golf tourists. The Golf Courses will also be developed in a similar manner to Tara Iti, which is sympathetic to the natural landscape of the area with additional planting being undertaken where appropriate. The integration of Tara Iti's course into the natural landscape (which will need to be restored once the pine trees are removed) can be seen in the below photo:

²² <https://www.tourismnewzealand.com/media/1958/nz-international-golf-strategy.pdf>



Figure 24-Aerial view of the Tara Iti course.

138. The Applicant has supplied letters of support from GTNZ and ATEED (included in **Attachment 5**).

Counterfactual

139. Without the Investment the use of the Land would continue as production forestry which would align with the One Billion Trees policy. As such there would be some continued environmental benefit provided by the planting (such as contribution to reduction in greenhouse gases) along with minor economic benefits to the region (likely to occur sporadically at monitoring or harvest times). There is unlikely to be much benefit provided to the local region through employment given the sporadic nature of forestry and there would be no benefit provided to the region by tourism.

Our Assessment

140. We note the Strategy has been considered by Cabinet. We consider the Investment aligns with the Strategy by:
- a) providing ongoing benefits to the local region- We note that Tara Iti already employs approximately 10% of the local labour force and has supported an increase in local contracting capacity for land development;
 - b) attracting both international and domestic golf tourists- There is no other destination in the Southern Hemisphere where three marquee level golf courses can be played in such close proximity to each other. Tara Iti has already climbed in the international golf course rankings to 2nd in the world outside the USA which evidences the Applicant's ability to develop high ranked golf courses; and
 - c) being undertaken in a manner which is sympathetic to the environment- Part of the appeal of Tara Iti and the Golf Courses is their integration with their surroundings (which have been damaged by forestry but will be restored by the Investment).
141. The Golf Strategy was not considered by Cabinet, so it is unclear whether it is a significant government strategy. However, we consider the Investment also aligns with this strategy. While there would be some benefit likely to occur without the investment we consider the benefit provided by the Investment considerably outweighs this and should be accorded a **moderate weighting**.

Additional investment for development purposes

There are four key elements to this factor (s17(2)(a)(v) of the Act):

- The investment must be **additional investment**.
- The additional investment must be **introduced into New Zealand**.
- The additional investment must be **for development purposes**.
- The additional investment that is **likely to result** from the overseas investment must be **additional** to that which is likely to occur **without the overseas investment**.

142. We consider the Applicant's proposed developments on the Land are likely to result in at least \$25 million being introduced into New Zealand.

143. [s 9(2)(b)(ii)]

144.

145.

Counterfactual

146. [s 9(2)(b)(ii)]

Minimal

capital is likely to occur under continued forestry production on the Land comparative to the Investment. Eventually there would likely be further monies expended on harvesting and replanting costs although this is likely to be considerably less than expended by the Applicant.

Our Assessment

147. The Applicant has calculated it will introduce \$25.875 million into New Zealand, we consider they are likely to introduce \$32.925 million. Given that the Applicant is acquiring a relatively small interest in the Freehold Land and a larger interest in Leasehold Land that will ultimately revert to Ngati Manuhiri, we consider that the introduction into New Zealand of investment anywhere in this range provides a considerable benefit which should be given a **moderate weighting**.

Proposed conditions

148. Given the uncertainty regarding the Applicant's estimates we propose conditioning the Applicant to introduce at least \$25 million into New Zealand for the purposes of developing the Golf Courses and associated developments. We note that over [s 9(2)] million has been spent developing Tara Iti to date and consider it likely that considerably more than \$25 million will be introduced into New Zealand and spent on this development.

²³ [s 9(2)(b)(ii)]

Walking access

There are four key elements to this factor (s17(2)(e) of the Act):

- There must be **adequate mechanisms** in place or proposed to **provide, protect or improve walking access**.
- The walking access must be over the **relevant land**.
- The walking access must be **available to the public** or any section of the public.
- The provision, protection or improvement of walking access that is **likely to result** from the overseas investment must be **additional** to that which is likely to occur **without the overseas investment**.

149. We consider that the Applicant's Investment will provide new public access to the Land.

Walking Trails

150. The Applicant plans to create two recreation trails over the Land providing access to the foreshore as delineated in red in the below figure. These trails are not required to be formed under the Te Ārai South Precinct Plan and the Applicant has committed to the creation voluntarily:

[s 9(2)(b)(ii)]



Figure 25-Proposed location of walking trails

Access to the Land

151. While the Land will not be completely freely accessible by the public, the Applicant notes green fee-paying members of the public will have access to the Land. The clubhouses will be accessible to the public whether or not they are playing golf.

Walking Access Commission Report

152. The Walking Access Commission (**WAC**) inspected the Land on 12 June 2019 and provided the OIO with a report on its recommendations for the Land (included in the Bundle). Their recommendation appears below along with the Applicant's response. All references to a map shown below as Figure 26:

WAC Recommendation	Applicant Response
<p><i>The Applicant should:</i></p> <p>a) Establish public access easements through the site as required under Te Ārai South Precinct Plan, Chapter I542 of the Auckland Unitary Plan – See the map for dark blue portions of the recommended public access as they run through the Applicant's proposed Golf Course development.</p>	<p>The Public Access Easements (PAE) will be legally created at the time the land is purchased. As the PAE relates to the golf land (the land being acquired) the Applicant will form the physical public accessway from the boundary of its land to the reserve boundary during the golf course construction.</p> <p>The creation of those public access easements is a key condition of the existing Residential Subdivision consent. Those easements will be created as part of the first phase of subdivision at Te Arai South that includes the vesting of the public parkland. That first phase of subdivision will create the Land.</p> <p>Consequently, those access easements will be pre-existing at the time of the Applicant's investment in the Land.</p> <p>Notwithstanding that situation, the development of the golf courses will include the formation of trails corresponding with the courses into physical construction works to ensure that they are properly integrated into the final golf course design.</p> <p>Beyond the Land to the west [s 9(2)(b)(ii)]</p> <p>[REDACTED]</p> <p>The Applicant proposes that it will carry out all maintenance works on those sections of the trails extending through the golf courses on behalf of the public.</p>

Released under the Official Information Act 1982

WAC Recommendation	Applicant Response
<p>b) Vest public reserve land in Auckland Council as required under Te Ārai South Precinct Plan, Chapter 1542 of the Auckland Unitary Plan, with the addition of a strip of public reserve land around the edge of the property linking Slipper Lake Esplanade Strip to Atkins Road. <i>See the map for the proposed reserves (light green). Any public access benefit from the recommendation above (applicant to establish public access easements) is entirely reliant on the reserves being established and vested in Auckland Council; and the public access being continued as proposed in the Overall Scheme Plan across the residential development and adjacent sand mining area, connecting then to the reserves around the edge of the Overall Scheme.</i></p>	<p>The bulk of the public reserve land will be vested with Auckland Council at the same time as the golf titles are issued (i.e. the land being acquired by the Applicant). The strip linking Slipper Lake Esplanade Strip to Atkins Road along the western edge of the Precinct and reserve land adjacent to Lake Tomorata is to be vested as public reserve land following the consent approval and completion of future sand mining on the adjacent eastern land (as mapped on the Te Ārai South Precinct Plan). However, under the 60-lot residential subdivision consent, that land is to be subject to a PAE until that land is vested.</p> <p>The Applicant believes it is not possible to create the golf titles without vesting the reserve and associated public access rights and that matter is addressed in the Vendor's resource consent.</p>
<p>c) In summary, WAC's recommendations are based on the implementation of the Overall Scheme Plan, in line with Chapter 1542 Te Arai South Precinct, Auckland Unitary Plan Operative in Part. That is, the public access benefit of the Applicant's proposed public access across the Golf Course areas is dependent on creation/vesting of reserves shown around the edge of the Overall Scheme Plan AND provision of connecting public access through the current owner's residential development AND proposed adjacent sand mining area.</p>	<p>The public access benefits will be legalised at the time of the Vendor's subdivision and will be established at the time the land is purchased. However, there is no obligation on the Vendor to form the lengthy network of tracks within those public access corridors. Such construction work is left to Auckland Council as part of wider regional park improvements in the future.</p> <p>Nevertheless, the Applicant will physically form the public accessway from the reserve to the inland boundary on the golf land.</p> <p>The Sandmine land is owned by a third party. The Applicant has no knowledge of the timing for the Auckland Council formation of the public accessway over the Sandmine land. However, the following points are noted:</p>

WAC Recommendation	Applicant Response
	<ul style="list-style-type: none"> <li data-bbox="991 304 1393 869">• The central PAE through the Applicant's land corresponds with the main access road link into the site. That access road link has already been established. Consequently only a small amount of work is necessary to connect that central PAE through the applicant's land to Lake Tomarata. For that reason the central PAE is expected to provide an almost immediate access benefit. <li data-bbox="991 891 1393 1794">• The strip of land linking Slipper Lake Esplanade Strip to Atkins Road along the western edge of the Precinct comprises an existing forestry track that is presently suitable for pedestrian, bicycle and equestrian access purposes. Consequently the northern PAE through the Applicant's land is only presently isolated by the absence of a physical connection through the sandmine land to that western route. That link would be able to be easily formed for pedestrian, bicycle and equestrian use through the existing production forestry. For that reason the northern PAE is not expected to represent a 'dead end' route for any great length of time.

Released under the Official Information Act

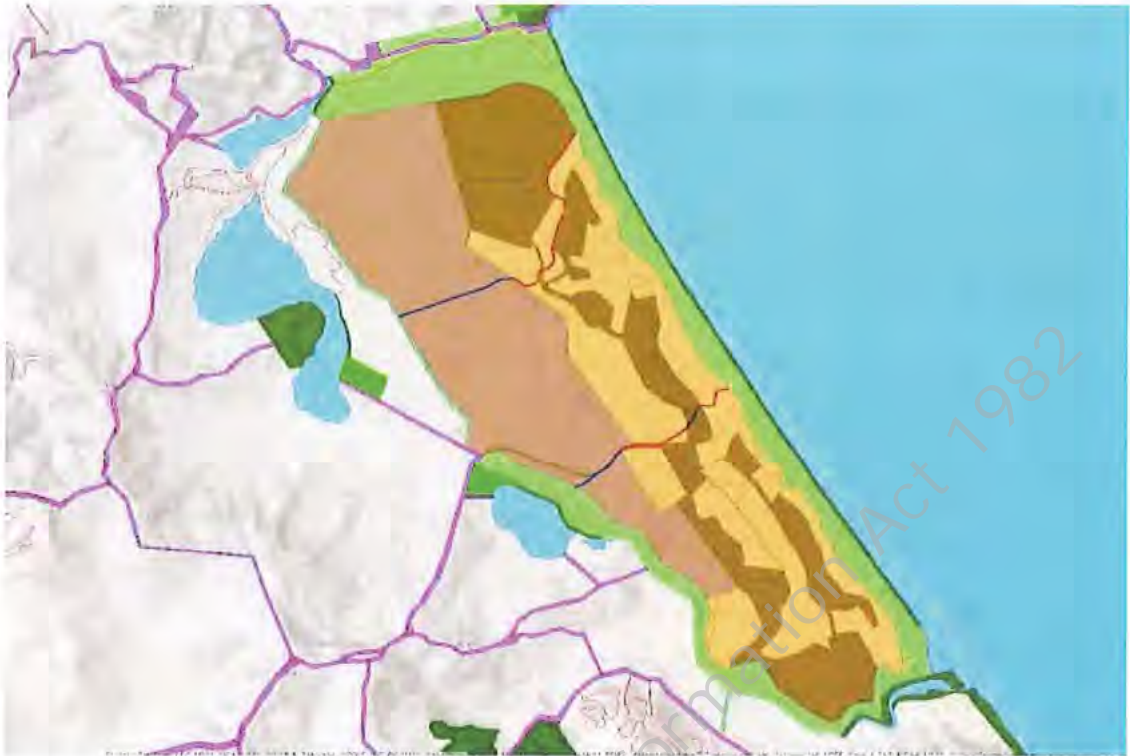


Figure 26-WAC map of proposed access

153. The red portions of the line adjacent to the blue lines in Figure 26 above showing the proposed PAE's are the Applicant's proposed voluntary trails. The Applicant acknowledges further consultation with WAC and the Auckland Council will be required as development of the Investment progresses.

Counterfactual

154. No walking access is likely to be made available to the public should forestry production continue on the Land due to safety issues. Nor would an ANZP be required to consult with WAC about providing access.

Our Assessment

155. We consider that WAC's recommendations at b) and c) in the table at paragraph 152 above involve third parties such as Auckland Council implementing part of the Overall Scheme Plan and as such the Applicant cannot be conditioned to ensure they occur.
156. We consider that the Applicant's Investment will create new public access to the Land that would not occur with continued production forestry. The public will be able to use the proposed walking trails through the Land to gain access to the foreshore and green fee paying golfers will have access to the rest of the land comprising the Golf Courses. We consider the benefits of public access created by the Investment are of **moderate weighting**.

Proposed conditions

157. We propose that the Applicant be conditioned to create the PAE's as shown in blue on the maps and public access trails as shown in red at Figure 26.

New technology or business skills

There are three key elements to this factor (s17(2)(a)(ii) of the Act):

- The technology or business skills must be **introduced into** New Zealand; and
- The technology or business skills must be **new** to New Zealand; and
- The new technology or business skills that are likely to be introduced as a result of the overseas investment must be **additional** to that which are likely to be introduced **without the investment**.

This factor will not be relevant for many investments as, although the technology or skills may be new for the Applicant or in relation to the investment, in many cases they are already being used elsewhere in New Zealand by others.

158. We consider that the introduction of the golf course architecture skills of Coore Crenshaw to New Zealand is likely to be a drawcard for golfing tourists and therefore of benefit to New Zealand.
159. Coore Crenshaw is an internationally recognised architectural firm specialising in golf course design which believes that traditional, strategic golf is the most rewarding. This firm will design the South Golf Course which will be their first golf course in New Zealand. A list of the top ranked golf courses they have designed around the world are listed above at paragraph 48.
160. New Zealand based contractors will get to work alongside this firm during the development of the South Golf Course thereby expanding their skill base.

Counterfactual

161. As the Land would remain undeveloped and the Golf Courses would not be built, the introduction of the golf course design skills of Coore Crenshaw would not occur. It is unlikely there would be the introduction of new business kills or technology with continued production forestry.

Our Assessment

162. We consider that the introduction into New Zealand of the golf course design skills of Coore Crenshaw will be of benefit to New Zealand and that regional contractors are likely to be exposed to new methods of golf course design and development not before seen in New Zealand. We consider this benefit to be of **weak weighting**.

Proposed conditions

163. We propose conditioning the Applicant to use Coore Crenshaw to develop the South Golf Course.

Added market competition, greater efficiency or productivity, enhanced domestic services

There are three key elements to this factor (s17(2)(a)(iv) of the Act):

- The overseas investment must be likely to result in one or more of:
 - (i) **added market competition;**
 - (ii) **greater efficiency or productivity;** or
 - (iii) **enhanced domestic services.**
- The added market competition, greater efficiency or productivity, or enhanced domestic services must occur **in NZ.**
- The added market competition, greater efficiency or productivity, or enhanced domestic services that is **likely to result** from the overseas investment must be **additional** to that which is likely to occur without the overseas investment.

164. We consider the Applicant's development will result in greater efficiency with the Investment being managed alongside Tara Iti and enhanced domestic services by way of the creation of additional accommodation in the region.

Enhanced Domestic Services

165. The Applicant considers development of the visitor accommodation will increase accommodation available in the region for golf tourists. The Applicant contends that there are a growing number of golf tourists visiting New Zealand (increasing from approximately 57,000 in 2013 to 130,000 in 2018). The McDermott Report notes that the majority of Marquee courses in New Zealand don't offer dedicated accommodation.²⁴ The Investment will have accommodation, as Tara Iti does, which the Applicant considers will make its offering attractive to golf tourists as they will be able to play three golf courses and stay there.
166. Golf tourists are often attracted to an area where more than one marquee level course can be played. With the development of the Golf Courses this will provide market competition to other golf course offerings in New Zealand, as they will be able to play three golf courses in one area and stay at the visitor accommodation.
167. We agree that this will enhance domestic services in New Zealand by providing further tourist accommodation, in particular golf tourist accommodation.

Great Efficiency or Productivity

168. The visitor accommodation for the Golf Courses will be managed by Tara Iti Hospitality Limited which manages the visitor accommodation and guest services at Tara Iti. The Applicant considers this will lead to economies of scale between the Investment and Tara Iti as well as consistency of service levels and continued higher levels of employment.

Counterfactual

169. Continued use of the Land as a production forest would not result in any benefit to New Zealand occurring under this benefit factor.

Our Assessment

170. We consider that the Investment will provide added market competition for golf tourism in New Zealand. The Investment offers accommodation which not all marquee courses do, and once complete it will be the only place in New Zealand where three marquee golf courses can be played at and stayed at in such close proximity to each other.
171. Offering more specialist golf tourism accommodation will likely result in enhanced domestic services in New Zealand. The management of Tara Iti's accommodation and guest services alongside the Investment will also likely provide efficiencies in the operation of both businesses. We consider the benefit to be of **moderate weighting**.

²⁴ Kauri Cliffs, Cape Kidnappers, Kinloch, Clearwater and Millbrook are those which do.

Consequential benefits

There are three key elements to this factor (reg28(a) of the Regulations):

- There must be a **consequential benefit to New Zealand**.
- The benefit must not have been considered under another factor, it must be **another** consequential benefit.
- the consequential benefit that is **likely to result** from the overseas investment must be **additional** to that which is likely to occur **without the overseas investment**

172. We consider that there are two main consequential benefits created by the development:
- a) The Applicant's development of the Golf Courses and its planned planting and protection measures are likely to create benefit for New Zealand by protecting indigenous fauna on or near the Land; and
 - b) the development of the Golf Courses will provide benefits to Ngati Manuhiri which would not otherwise occur.

Protection of Indigenous fauna on or near the Land

Boffa Miskell Report

173. The Applicant engaged Boffa Miskell to prepare an ecological report on the Land (**the Report**) (included in the bundle). The Report states there are no Significant Natural Areas, Recommended Areas for protection or Significant Ecological Areas **ON** the Land itself, nor are there any wetlands or streams located on the Land.
174. The Report also states there are no significant habitat for At Risk or Threatened avifauna, including the NZ fairy tern (New Zealand's most endangered endemic bird) or northern New Zealand dotterel²⁵ on the Land. Nor are there any habitats for bats or katipos. The NZ fairy tern has been reported as foraging at Spectacle Lake and to a lesser extent at Slipper Lake during their post breeding period, but not at Tomarata Lake. The map below shows both Spectacle and Slipper Lakes are outside the Precinct and not immediately adjacent to the Land.



Figure 27-map showing location of Slipper, Spectacle and Tomarata lakes

²⁵ The Southern New Zealand dotterel only breeds on Stewart Island.

175. The Report recommends that native vegetation be increased on the Land, specifically by planting threatened and at-risk species like sand coprosma, spinifex and kanuka as well as native plants like pohuehue which provides both habitat and food resources for native invertebrate species like the Rauparaha copper butterfly.
176. The Report states that the change in use from commercial pine forest to golf courses will provide new areas for the banded and northern New Zealand dotterels to roost and that they may even nest on the Golf Courses like they have at Tara Iti.

Department of Conservation Report

177. The OIO consulted with Department of Conservation (**DOC**) who did not provide any direct comment on the recommendations in the Report and provided their own report with certain recommendations or matters for confirmation which appear below along with the Applicant's response:

DOC Recommendations	Applicant's comment
<p>A. The Applicant addresses concerns regarding water extraction for this development for adjacent areas, especially Lake Tomorata and the Poutawa Stream.</p>	<p>The Applicant's <u>proposal for surface water from Poutawa Stream</u> essentially comprises a high flow take that will take no more than 10% of the streamflow at any one time. The take seeks to intercept elevated runoff from the contributing pastoral rural catchment for storage in a large reservoir before that, otherwise waste 'resource', is discharged (and lost) to sea. Professional ecological advice received by the Applicant has confirmed that, subject to appropriate triggers for the cessation of take, this approach will not adversely affect ecological values of Poutawa Stream. Limiting the take to occur only when flows are elevated (above the median flow) and taking not more than 10% of the flow minimises any potential to affect water temperature or chemistry in the lower reaches of the stream. To allay any concerns the Applicant has volunteered a condition to its water consents that would prevent any take whatsoever in December, January and February which are the months when it is understood that Fairy Tern may forage in the estuary.</p> <p><u>A further ground water take</u> planned by the Applicant has the potential to impact on lake levels by increasing ground water flow away from Lake Tomarata (as distinct from reducing groundwater flow towards it). No impacts on other lakes would be generated by this water take. Carefully modelling of the ground water at the site has identified that, in the worst-case scenario, any impact on the lake can be confined to existing annual seasonal fluctuations in water levels.</p>

	<p>The Applicant has proposed to monitor the lake level and cease taking from the bores down gradient of Lake Tomarata when the lake level reaches its average seasonal low level so that the water take itself will not result in the water level being lower than the existing seasonal fluctuation. Professional ecological advice received by the Applicant has identified that, subject to careful monitoring and a response process above, adverse effects on the ecological values of Lake Tomarata can be avoided.</p> <p><i>Both water takes (surface and ground water) remain subject to resource consent assessment and approval by Auckland Council).</i></p>
<p>B.</p> <p>a) The Applicant clarifies whether helicopters will operate to / from this intended purchase, and if so, how the effects on wildlife will be avoided.</p> <p>b) Helicopters not be permitted within a minimum of 500m airspace of the coastal & lake areas and preferably do not fly over the coastal and wetland areas at all.</p>	<p>Resource consent is not currently being sought to operate helicopters from the Land. Should consent be sought, any helicopter operations will be subject to the environmental protection rules of the Auckland Unitary Plan and associated policies. Where helicopter operations are carried out, operating protocols covering both landings and flight paths will be implemented to avoid adverse effects on public use and enjoyment of adjacent parkland and coastal margins and the ecological values of sensitive areas surrounding the Te Arai South Precinct including the adjacent lakes, their wetland systems and Poutawa Stream.</p>
<p>C. A Conservation Manager to be appointed once consent is granted, to commence work on implementing pest control, protection and restoration of revegetation sites on the property, weed management and the exclusion of domestic and wild animals.</p> <p><i>Note: When DOC were asked to clarify this statement they advised that they envisage this role as being similar to that as at Tara Iti ie:</i></p> <p><i>working with other agencies & community groups in the area so predator trapping is (preferably) seamless between different land managers; ensuring land/dune restoration is appropriately managed;</i></p>	<p>The requirements of the Te Arai South Precinct require that a full time ranger be appointed by future owners to implement the ecological management components of the comprehensive site management plan (CSMP) applying to the precinct and, in particular, on-site revegetation monitoring, ecological protection (avifauna and reptiles) and pest and weed control.</p> <p>That replicates the same requirement applying under the Te Arai North Precinct and has been applied at Tara Iti (as mentioned). Both the golf development proposed by the Applicant and the wider subdivision will be subject to a 'pet-free' covenant that prohibits owners from bringing inappropriate predatory or pest</p>

<p><i>ensuring public & householder beach access located away from shore bird nesting areas- especially the Poutawa Stream, that people are directed away from the Poutawa shorebird nesting area above the high tide level (especially at/near high tide); providing information to householders/property users about all shore birds and their vulnerability to disturbance</i></p>	<p>species into the site. That is a further matter that the ranger will police.</p> <p>The subdivision consent for the Residential Subdivision requires that a consent notice be registered on the titles for those lots making future owners aware of and have access to the contents of the CSMP and the ecological sensitivities of the site and surrounds. A key role of the ranger will be to ensure that outcome beyond that binding legal requirement.</p> <p>The duties of the ranger with respect to the off-site management of the land to be vested as public parkland, including the management of public access in relation to ecological protection and various trapping initiatives within that parkland, will be subject to the terms of a reserve co-management agreement that is to be entered into with Auckland Council by the Vendor. The preparation of that co-management agreement, which is anticipated as comprising similar terms to a co-management agreement entered into in relation to the Te Arai North reserve, is in the early stages of development and is expected to be finalised prior to vesting of the parkland.</p>
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178. On 30 January 2020, DOC advised the OIO that a fairy tern nest site had been identified at the Poutawa Stream although the data for the current season had not been collated as yet. DOC noted that ideally this would mean no more than 5% of the streamflow be taken at any one time and no water be taken at all between October-April. We have advised the Applicant of these comments.
179. On behalf of the Applicant, Boffa Miskell emailed their contact at the Maungauika (North Head Office-Auckland Mainland) of DOC (the relevant office for the Land) who advised that no fairy tern nests have been sited at Poutawa Stream. They noted that one was there a few years ago which may have caused the confusion of the other DOC staff. This email chain is shown below at Figure 28.
180. The Applicant has stated that if it had to commit to the lower level of take from the stream it would have significant impacts on the development and could impact on benefits realised from the project.

[s 9(2)(a)]
Sent: Tuesday, 4 February 2020 11:50 a.m.
To: [s 9(2)(a)]
Subject: Poutawa stream

Hi [s]

I've heard a rumour that DOC has found a fairy tern nest at Poutawa stream – I'm assuming that this isn't the case and that someone has confused this with the Te Arai Stream?

I'd appreciate if you could clarify this for me so that I can put an end to the rumour (if that's what it is!).

[s 9(2)(a)]

[s 9(2)(a)] POST OFFICE SQUARE | WELLINGTON 6011 | NEW ZEALAND
www.boffamiskell.co.nz

Hi [s]

Not this season. There was one there a few years back, that may be the cause for confusion.

Cheers,

[s 9(2)(a)]

Maungauika | North Head Office – Auckland Mainland
18 Takarunga Road | PO Box 32 026, Devonport, Auckland 0744
T: +64 9 445 9142

Conservation leadership for our nature *Tākina te hī, Tākina, te hā o te Āo Tūroa*



www.doc.govt.nz

Figure 28 -Emails between DOC and Boffa Miskell regarding fairy terns

Counterfactual

181. No Conservation Manager would be appointed if an ANZP purchased the Land for continued production forestry and there would be no public access to or on the Land due to this use.

Ngati Manuhiri

182. Ngati Manuhiri have provided a copy of their letter written in support of the Applicant's applications for water consents under the Resource Management Act and it is included at **Attachment 5**. This letter states that Ngati Manuhiri are satisfied that the Investment "has been carefully considered to appropriately address the environmental management of the site along with the ecological management of the Land and water under the Comprehensive Management Plan". Further the letter states Ngati Manuhiri "considers this will promote a better and more environmentally sustainable outcome for the land and water and in particular will not have a negative impact on the Trust attributes to Poutawa Stream and Tomarata Lake" and the "proposal will help enhance the cultural and spiritual values of Te Arai South Forest".

Our Assessment

183. We note Ngati Manuhiri's support for the Investment and what it considers to be environmental and ecological benefits created by it.
184. We consider the change in use of the Land and the proposed planting of native vegetation is likely to create habitat for native invertebrate species and may even lead to dotterels nesting on the Golf Courses.
185. We note DOC's recent comments to the OIO regarding a Fairy Tern nest being recently located at Poutawa Stream however we further note this has been refuted by the local DOC ranger responsible for the area. While the Applicant's plans not to take water from Poutawa Stream during December, January and February (the months Fairy Tern may forage in the estuary) should provide safe foraging conditions for Fairy Terns, without the Investment, water is unlikely to be taken from the stream at all.
186. We consider that the volume of take from the stream and the months of the take are matters which should be considered fully through the resource consent process where they will have access to complete information and the ability to investigate this matter further. As such we have recommended a condition of consent that the Applicant limit its water take to the level proposed in the Application. The Applicant is also conditioned to provide DOC with its submitted water consent application which would enable DOC to participate in the resource consent process if it chooses.
187. The Applicant is also required to employ the full time Conservation Manager under the CSMP for the Precinct. As a result of this we consider the benefit to New Zealand to be of **weak weighting**.

Proposed conditions

188. We recommend that the Applicant be conditioned:
- a) to ensure that when it makes its water consent application for the taking of water from Poutawa Stream that a) no more than 10% of the streamflow is taken at any one time and b) that no water is taken at all during December, January and February which are the months when it is understood that Fairy Tern may forage in the estuary. The Applicant should also be conditioned to provide the OIO and DOC with a copy of the both the submitted water consents and the subsequently granted water consents;
 - b) to advise DOC and the OIO when a full time Conservation Ranger or Manager to implement the ecological management components of the CSMP applying to the precinct has been appointed; and
 - c) increase the planting of native vegetation on the Land by planting largely threatened or at-risk species such as sand coprosma, spinifex and kanuka and native plants like pohuehue which will provide both habitat and food resources for native invertebrate species.

Benefit to Ngati Manuhiri

189. [s 9(2)(b)(ii)]

²⁹ <https://ngatimanuhiri.iwi.nz/>

²⁸ [s 9(2)(b)(ii)]

states will be applied to the Ngati Manuhiri tertiary education scholarship programmes.

190. Ngati Manuhiri's foremost objective, following its Treaty settlement, is to retain ownership of the land within its rohe.²⁹ The Applicant considers it is unlikely that any other purchaser would be prepared to acquire only the leasehold interest in part of the Land, enabling Ngati Manuhiri to retain the freehold.
191. In its letter of support included at **Attachment 5**, Ngati Manuhiri note that the Investment is a substantial part of what represents "*a significant opportunity for Ngati Manuhiri to advance its economic, cultural and social wellbeing*".
192. The Applicant also refers to the benefits accrued to the region by Tara Iti and refers to an article from the NZ Herald showing the support of Hon. Shane Jones, Minister for Regional Economic Development and Forestry Minister for the Investment.³⁰
193. The Applicant also refers to Tara Iti's support for local community activities³¹ and indicates similar donations may be forthcoming from the Applicant in relation to this Investment.

Counterfactual

194. With continued forestry Ngati Manuhiri would own the freehold of pine forests, rather than the freehold of two high value income earning golf courses, the income from which it could apply to its educational scholarship fund (likely to be higher than that generated by a pine forest).

Our Assessment

195. The Investment allows Ngati Manuhiri to retain its freehold interest in the Land and the income generated from this Investment will help support its educational scholarship programme. The income generated from leasing land for production forestry is likely to be less than that generated by the Investment. We consider the benefit of this factor to be of **weak weighting**.

Provisional conclusion – benefits test

196. In order for consent to be granted, the Applicant must demonstrate:
 - a) that the overseas investment will, or is likely to, benefit New Zealand (or any part of it or group of New Zealanders); and
 - b) that the benefit will be, or is likely to be, substantial and identifiable.
197. We have assessed the benefit likely to result from this Investment in accordance with the forestry land directive contained in the Ministerial Directive Letter.
198. 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 test). Here the Applicant is acquiring approximately 143.8 hectares of leasehold land and a freehold interest in approximately 25.2 hectares of land at 816 Ocean View Road, Te Arai.

Ministerial discretion

199. Determining whether the investment is likely to result in substantial and identifiable benefit is ultimately a matter to be decided by Ministers and involves the exercise of

²⁹ A tribal district; the area over which iwi and hapū claim mana whenua.

³⁰ https://www.nzherald.co.nz/business/news/article.cfm?c_id=3&objectid=12213830

³¹ To Mangawhai Historical Society, Mangawhai Surf Club, Mangawhai Beach School and Auckland Rescue helicopter Trust.

Ministerial judgement. Ministers also have discretion under section 17(1)(c) of the Act to determine the relative importance to be given to each relevant factor (or part).

Forestry land directive

200. In relation to forestry land, the Ministerial Directive Letter states:
- "The Government recognises that overseas investment in the forestry sector, and the associated downstream processing industries, has the potential to add significant value to the overall economy and the environment."*
201. The Ministerial Directive Letter provides that the following factors will generally be of high relative importance:
- a) increased processing of primary products; and
 - b) advance significant Government policy or strategy.
202. We do not consider that any other factor should be given high relative importance in the context of this Investment.

Provisional conclusion

203. After careful consideration of the application, we are satisfied that the Investment is likely to result in the benefits below:
- c) the introduction into New Zealand of at least \$25 million;
 - d) the creation of at least 40 FTE permanent jobs on the Land;
 - e) export receipts of at least \$6 million a year to be generated from the Investment by 2022;
 - f) the previous benefits accrued to the region and New Zealand from the development of Tara Iti;
 - g) two walking trails created through the land;
 - h) change in use of the Land which together with planting is likely to create a habitat for native invertebrate species and could lead to dotterels nesting on the Land itself, not just on adjacent land;
 - i) alignment with, and advancement of, the Government's Tourism Strategy;
 - j) introduction into New Zealand of the golf design skills of Coore Crenshaw;
 - k) enhanced domestic services from the development of the visitor accommodation; and
 - l) the consequential benefits of the Investment accruing to Ngati Manuhiri.
204. Overall, when examined together, we consider that the benefits of the investment are likely to be **substantial and identifiable**.
205. We also consider that the residential land outcome conditions, that have been recommended to be imposed, are likely to be met.
206. Our provisional view is that the benefits test is met.

Provisional recommendation

207. Our provisional recommendation is to **grant consent**, as we consider that the investor test and the benefits test have been met.
208. If you agree, we refer you to **Attachment 1** to review the Proposed Decision (including consent conditions), and to paragraphs 5 to 9 of the overview section of this Assessment Report to record your decision.

List of Attachments

1. Proposed Decision
2. Guidance for applying the Act
3. List of Consultants used in the development of the Golf Courses
4. Resource consents commentary
5. Letters of Support
6. KEA Award letter
7. Other Benefit Factors
8. Sensitive land details
9. Good character
10. Overview tables

List of other documents in the Bundle

- A. Application
- B. Investment Plan (Appendix 1 of the Application)
- C. Planning Report dated 27 June 2019 from B&A Urban & Environmental
- D. Te Arai South -Auckland Unitary Plan
- E. Boffa Miskell Ecological Report dated 2 July 2019
- F. Economic Assessment-McDermott Consultants dated 9 July 2019
- G. WAC Report
- H. DOC Report

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	201900377
Consent	Te Arai Links (company number 7020773) may acquire the Land subject to the Conditions set out below.
Consent holder/s	Te Arai Links We will also refer to each Consent holder and the Consent holders together as you .
Land	A leasehold interest in approximately 143.8 hectares of land and a freehold interest in approximately 25.2 hectares of land (a total interest in 169 hectares) located at 816 Ocean View Road, Te Arai which is located within the Te Arai South Precinct to be subdivided from Records of Title 671895 and 671896.
Timeframe	You have until 28 February 2022 to acquire the Land.

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: Required consents for development of the land	
<p>You must:</p> <ul style="list-style-type: none">a) apply for resource and water consents to develop two golf courses, visitor accommodation and clubhouse (as required) on the Land; andb) obtain resource and water consents to develop two golf courses, visitor accommodation and clubhouse (as required) on the Land <p>If you do not, standard condition 6 will apply and we may require you to dispose of the Land.</p>	<p>By 28 February 2022</p> <p>By 28 February 2023</p>
Special condition 2: Develop the Land	
<p>1. You must develop on the Land:</p> <ul style="list-style-type: none">a) two 18 hole links style golf courses;b) at least one clubhouse to service the golf courses; andc) visitor accommodation consisting of at least 15 accommodation rooms. <p>2. You must use the services of Coore Crenshaw to design and develop one of the golf courses on the Land.</p> <p>If you do not, standard condition 6 will apply and we may require you to dispose of the Land.</p>	<p>By 28 February 2025</p> <p>At all times during development of the golf courses.</p>
Special condition 3: Residential Land use outcomes	

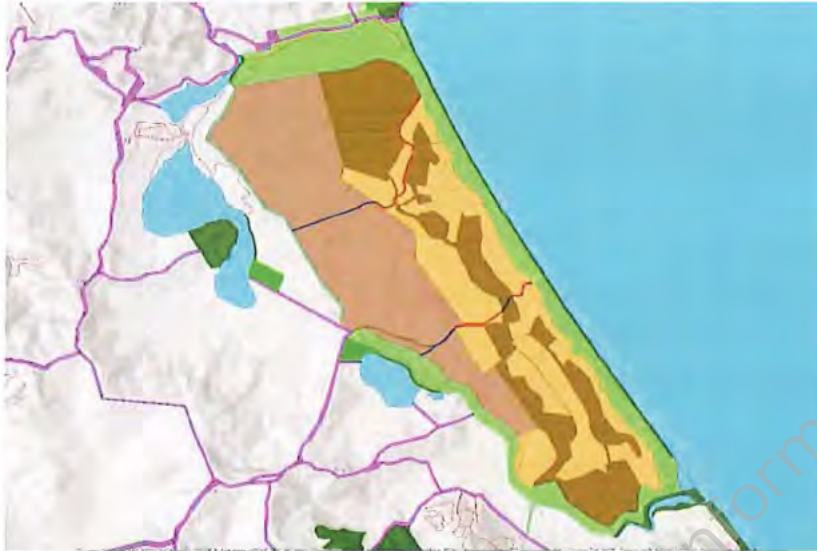
<p>1. You must comply with the non-occupation outcome as defined in clause 17(3), Part 5 of Schedule 2 of the Overseas Investment Act 2005 in respect of the Land.</p> <p>2. None of the following people may occupy the Land for residential purposes:</p> <ul style="list-style-type: none"> a) You, NZ Holdings III LLLC and the Richard and Suzanne Kayne Living Trust; b) Any person with a 25% or more ownership or control interest in any of the people in (a); c) Any overseas person who occupies the Land other than on arm's length terms³²; d) Any overseas person who has a beneficial interest in, or beneficial entitlement to the relevant interest in the Land; and e) If (a) is a trust, any beneficiary, direct or indirect, who may benefit under the trust at the trustees' discretion. <p>3. If you do not comply with this Special Condition, Standard Condition 6 applies and we may require you to dispose the Land.</p>	<p>At all times</p> <p>At all times</p>
<p>Special condition 4: Use Land for Non-residential purposes or Incidental Residential Use</p>	
<p>Either one of the following conditions must be met in regard to each part of the Land:</p> <ul style="list-style-type: none"> 1. The Land (or part of the Land) is not used, nor held for future use, for residential dwellings or long-term accommodation facilities; OR 2. The primary use of part of the Land is staff accommodation for the golf course operations. You must use this land for residential purposes only in support of the golf course operations as accommodation for workers. <p>If you do not comply with this Special Condition, Standard Condition 6 applies and we may require you to dispose the Land.</p>	<p>At all times.</p>
<p>Special condition 5: Capital to be introduced to New Zealand</p>	
<p>You must introduce into New Zealand at least \$25 million to be spent on the developments referred to in special condition 2 above.</p>	<p>By 28 February 2025</p>

³² At arm's length terms has the meaning in clause 17, Part 5, Schedule 2 of the Overseas Investment Act 2005. In summary, it means terms (for example, under a lease) that are on a reasonable commercial basis.

Special condition 6: Jobs created	
<p>You must create at least 38 permanent full time equivalent roles on the Land.</p> <p>If you do not, standard condition 6 will apply and we may require you to dispose of the Land.</p>	By 28 February 2025
Special condition 7: Ecological conditions	
<p>You must:</p> <ul style="list-style-type: none"> a) ensure that your water consent application for the taking of water from the Poutawa Stream states that <ul style="list-style-type: none"> i) no more than 10% of the streamflow is taken at any one time; and ii) no water is taken from the Poutawa Stream at all during December, January and February (being the months when it is understood that Fairy Tern may forage in the estuary) and provide a copy of the water consent application to the OIO and the Department of Conservation (DOC); b) provide a copy of the granted water consents to the OIO and DOC; c) advise DOC and the OIO when a full time Conservation Ranger or Manager to implement the ecological management components of the Comprehensive Site Management Plan has been appointed; and d) increase the planting of native vegetation on the Land by planting largely threatened or At Risk species such as sand coprosma, spinifex and kanuka and native plants like pohuehue which will provide both habitat and food resources for native invertebrate species. 	<p>Within 6 weeks of the application being made</p> <p>Within 6 weeks of the water consents being granted</p> <p>By 31 December 2021</p> <p>From 28 February 2022</p>

Special condition 8: Walking Access conditions

You must create public easements and walking access trails creating access to the foreshore as delineated in red in the map below.



By 28 February 2026

Special condition 9: Heritage conditions

You must meet with Heritage New Zealand archaeologists to discuss whether further protective mechanisms are possible and whether a protective covenant may be appropriate.

By 28 February 2022

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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	
<p>You must acquire the Land:</p> <ol style="list-style-type: none"> 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. <p>Note, only you – the named Consent holder - may acquire the Land, not your subsidiary, trust or other entity.</p>	As stated in the Consent
Standard condition 2: tell us when you acquire the Land	
<p>You must tell us in writing when you have acquired the Land. Include details of:</p> <ol style="list-style-type: none"> 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	
<p>Sometimes it will be helpful for us to visit the Land so we can monitor your compliance with the Conditions.</p> <p>We will give you at least two weeks' written notice if we want to do this.</p> <p>You must then:</p> <ol style="list-style-type: none"> 1. Allow a person we appoint (Inspector) to: <ol style="list-style-type: none"> (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 4: 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 1. 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 25% or more of you or of a person who itself owns or controls 25% or more 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 5: 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 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: <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 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.

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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.

Every year, you must lodge a **periodic report**. It must:

1. be sent to **oiomonitoring@linz.govt.nz** by these dates:
 - (a) 30 April 2022
 - (b) 30 April 2024
 - (c) 30 April 2025
 - (d) 30 April 2026
 - (e) contain information about your progress in implementing the special conditions.
2. follow the format of the template annual report published on our website at https://www.linz.govt.nz/system/files_force/media/doc/oiio_annual-report-template_20180322.docx?download=1.
3. 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 content was granted or
 - (b) The conditions of this consent.

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ATTACHMENT 2 - GUIDANCE FOR APPLYING THE ACT

4. Ministers must grant consent to this overseas investment if they are satisfied that all of the criteria in sections 16 and 18 of the Overseas Investment Act are met. They must decline to grant consent if they are not satisfied that all of the criteria in sections 16 and 18 are met. Ministers must not take into account any criteria or factors other than those identified in sections 16, 17 and 18, and regulation 28 of the Overseas Investment Regulations.
5. Where the criteria under sections 16 and 18 are the same, Ministers need only consider each criterion once.
6. In the attached Report the Overseas Investment Office identifies each of the criteria and factors under sections 16, 17 and 18, and regulation 28 that Ministers are required to consider in this case.

“Benefit to New Zealand criteria”

7. In this case, section 16 requires Ministers to decide, among other things, whether they are satisfied in relation to the following “benefit to New Zealand” criteria:
 - (a) the overseas investment will, or is likely to, benefit New Zealand (or any part of it or group of New Zealanders), as determined under section 17 (section s16(1)(d)(ii), s16B); and
 - (b) that benefit will be, or is likely to be, substantial and identifiable (section s16(1)(d)(ii), s16B).
8. The application of the benefit to New Zealand criteria involves the exercise of Ministerial judgement. The fact that responsibility for making this decision has been conferred on Ministers confirms that this is a high-level decision with significant policy content. That is also apparent from the language and content of the factors that must be considered, many of which require a high degree of evaluative judgement and are not capable of quantification or calculation.
9. In applying the benefit to New Zealand criteria, Ministers are required to consider each of the factors in section 17(2), determine which of the factors are relevant to the investment, and have regard to the relevant section 17(2) factors. The relative importance to be given to each factor is a matter to be determined by Ministers. In particular, the Act does not require economic factors to be given more weight than non-economic factors, or vice versa. It is a matter for you, in carrying out your overall evaluation, to decide what weight to give to each factor.
10. The decision concerning whether the benefit to New Zealand, or any part of it or group of New Zealanders, is substantial and identifiable under section 16A(1)(b), involves a collective assessment of the relevant factors.

Justice Miller's "with and without test"

Economic factors

11. The High Court in *Tiroa E and Te Hape B Trusts v Chief Executive of Land Information* [2012] NZHC 147 ("*Tiroa E*") requires the "economic benefit" factors in section 17(2)(a) to be assessed on the basis of a "counterfactual test". That is, Ministers must consider with respect to each section 17(2)(a) factor whether the overseas investment is likely to result in a benefit to New Zealand over and above any benefit that will or is likely to result even if the investment does not proceed. It is only the additional benefit from the overseas investment that is relevant when applying the "benefit to New Zealand" criteria.

Non-economic factors

12. Although the position is not free from doubt, the better view is that the same question – will this benefit be achieved even if the overseas investment does not occur – should be asked in relation to the other "non-economic" factors listed in section 17(2)(b)-(e). The High Court judgment suggested³³ that there could be a benefit in respect of the non-economic factors even if the same benefit would be achieved in the absence of the investment. But as the Court noted³⁴, it is not easy to see how a benefit that will happen anyway could be regarded as substantial for the purposes of section 16A(1)(b). We consider that Ministers should not treat benefits that are likely to be achieved in any event as contributing to the "substantial and identifiable benefit" criterion.

Regulation 28 factors

13. With regard to the factors in regulation 28 of the Overseas Investment Regulations 2005, Miller J noted that:

The criteria listed in reg 28 deal, for the most part, with benefits that only an overseas buyer could provide or what may be loosely described as strategic considerations, so they do not require a counterfactual analysis.³⁵

14. Many of the factors in regulation 28 are incapable of having a counterfactual analysis applied to them. However, as recognised by Miller J, there are some factors that may require a counterfactual analysis. The Overseas Investment Office has applied a counterfactual analysis where appropriate.

Conditions

15. Conditions may be imposed on any consent that is granted, under section 25(A). The attached Report recommends some conditions that Ministers may wish to consider imposing in this case.
16. If you wish to make any changes to the conditions of consent, those changes should be discussed with the Overseas Investment Office, and the other Minister, before being finalised.

³³ *Tiroa E* at [36].

³⁴ *Tiroa E* at [38].

³⁵ *Tiroa E* at [36].

Decision

17. 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.
18. If you propose to disagree with the decision of the other Minister, you should discuss your proposed decision with the Overseas Investment Office and the other Minister.
19. If required, staff from the Overseas Investment Office are available to brief you on the Office's recommendations.

Good character criterion

20. Section 16(2)(c) of the Act requires that Ministers be satisfied that the relevant overseas person or, (if that person is not an individual) all the individuals with control of the relevant overseas persons are of good character.
21. The term "good character" is not defined in the Act. The majority of the Select Committee reporting back on the Bill in 2005 confirmed that the "good character" test was needed as it is important to ensure that all persons investing in New Zealand are people unlikely to act inappropriately and bring New Zealand into disrepute.
22. When undertaking the good character assessment, Ministers must be satisfied that the character of all the individuals with control of the relevant overseas person is sufficient so that they should be granted the privilege of owning or controlling sensitive New Zealand assets.
23. The good character test is applicable to individuals, not entities such as body corporates. However, where the investment is to be carried out by a body corporate, the character of the relevant individuals who control the body corporate will need to be considered. Where an offence or contravention is committed by a person to which an individual had a 25% or more ownership or control interest, this is a mandatory consideration. Where the individual's interest in the person is less than this, there generally must be other grounds to reasonably infer participation by the individual in the alleged wrongdoing.
24. Section 19(1) of the Act states that the following factors must be taken into account (without limitation) in assessing whether or not a person is of good character:
 - (a) offences or contraventions of the law by the person, or by any person in which the individual 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.
25. All relevant matters must be weighted up before making a decision that an individual is of good character. If the decision-maker wishes to rely on a matter to which the applicant has not had an opportunity to respond, then such an opportunity to respond needs to be given to the applicant.
26. How much weight should be given to a particular matter depends on a number of factors, including how closely linked the particular matter is with the investment being made. While submissions on weighting given by the relevant overseas person or individual with control may be considered, the ultimate decision as to the weighting to be given to relevant matters is for the decision-makers.
27. Matters which might be relevant include:

- (a) Credible allegations of offending or contraventions of the law (assessing whether the allegation is sufficiently linked to an individual with control or relevant overseas person);
 - (b) Investigations, prosecutions or other enforcement action by regulatory or professional bodies;
 - (c) Track record in New Zealand.
28. Matters which are unlikely to be relevant include:
- (a) Adverse information that does not relate to an individual with control (for example, offences or contraventions by a relevant overseas person which occurred before the particular individual became involved with the relevant overseas person);
 - (b) Where the decision maker is satisfied that allegations about a relevant overseas person or individual with control have been fully investigated by the relevant regulatory or other authority and the person or individual has been cleared of any wrongdoing;
 - (c) Adverse information that does not impact on the character of a relevant overseas person or individual with control.
29. Briefly, some of the things we consider when weighing up "good character" include:
- (a) connection to the Individuals with Control (IWCs) or Relevant Overseas Person (ROP): we assess the level of control between any of the IWCs of the ROP and the particular matter. For example, a breach of safety rules by an employee of subsidiary company where the company was fined would likely have a low (or no) connection with an IWC who was an executive director of the parent company, whereas an executive decision by a company to illegally collude with a competitor would likely have a high connection with that IWC.
 - (b) relevance to this investment: we assess how relevant the particular matter is to the nature of this particular investment. For example, a dangerous driving conviction by an IWC would have low relevance in connection with the acquisition of a dairy farm, whereas a conviction for discharging farm effluent into a waterway would have a high relevance to the acquisition of a dairy farm.
 - (c) what actions, if any, were taken to remedy the situation and reduce the chances of it reoccurring.
30. The onus is on the applicants to satisfy the decision maker that all the individuals with control are of good character.
31. If the decision maker has doubts about the character of an individual with control which result in it not being satisfied that the test for good character has been met, then the application for consent must be declined.

**ATTACHMENT 3 – LIST OF CONSULTANTS USED IN
DEVELOPMENT OF THE GOLF COURSES**

<i>Consultant Name</i>	<i>Specialist Inputs</i>	<i>Key Contact</i>
Darby Partners	Project Planning Specialist Landscaping	[s 9(2)(a)]
Barker and Associates	Planning	
Cato Bolam	Engineering and Survey	
Boffa Miskell	Ecology Landscape Visual Assessment	
Earthtech Consulting	Groundwater Specialist Geotechnical	
NIWA	Surface Water Hydrology	
ACH Consulting	Stormwater Management	
Clough and Associates	Archaeology	
Stantec	Traffic	
John Irving Studio	Clubhouse and VA Architect	
Parkland Products	Golf Course Irrigation Design	

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ATTACHMENT 4 –RESOURCE CONENTS

Consent likely required	Commentary
Golf Course Construction (Forestry Removal and Earthworks)	<ul style="list-style-type: none"> • Earthworks of scale required for this development are a restricted discretionary activity under the Auckland Unitary Plan (AUP). The sandy nature of the soil means this would likely be low risk in nature. • Overland flow paths and flood plains likely to be able to be incorporated into natural setting of the Golf Courses dealing with them a restricted discretionary activity under the AUP. Likelihood of consent issues are low. <p><i>Note that existing forestry permits are in place so harvesting can be carried out as a permitted activity under the National Environmental Standards</i></p>
Clubhouse and Maintenance Buildings	<ul style="list-style-type: none"> • Construction of new buildings are a restricted discretionary activity under the AUP and will be assessed in terms of their visual amenity and character values. • The clubhouse likely to be single level overlooking the beach but the Applicant intends to integrate it into the surrounding dunes such as it has at Tara Iiti. • The more utilitarian maintenance buildings are to be located where they are screened from the coastal marine area and the nearby beach by a combination of existing landforms, forestry and forestry to be transitioned to native vegetation. As such likelihood of consent issues are low.
Groundwater Take	<ul style="list-style-type: none"> • Earthtech consulting have advised there is ample groundwater to accommodate the volume of groundwater required so that ground water recharge rates are not exceeded and local groundwater resources are retained. Likelihood of consent risk is low.
Poutawa Stream Water Take	<ul style="list-style-type: none"> • Consent will be required for the water take and for work taking place within a Significant Ecological Area being construction of a streamside inlet structure. Seems likely overall discretionary activity status under the AUP would apply.

	<ul style="list-style-type: none"> Proposed water intake to be limited to extraction of stream water during elevated winter flows. Seems likely that the stream water take can be supported from an ecological perspective (Boffa Miskell Report). It is considered that consenting risks can be managed and consent obtained.
Reservoir	<ul style="list-style-type: none"> Consent required for earthworks and damming (likely discretionary status). No issues in obtaining consent foreseen.
Stormwater and Wastewater discharges	<ul style="list-style-type: none"> Both stormwater and wastewater discharge activities require consent as discretionary activities under the AUP. As there are no upstream or downstream receiving catchments consent not anticipated to be complex.
Visitor Accommodation	<div style="background-color: black; color: red; padding: 5px;">[s 9(2)(b)(ii)]</div>
Staff accommodation	

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ATTACHMENT 5 -LETTERS OF SUPPORT

Office of Golf Tourism New Zealand
1 Nelson Street
PO Box 91 893, Auckland 1142
New Zealand
PH: +64 9 914 4789

2 May 2019

1 Nelson Street
Auckland 1010

To whom it may concern:

The purpose of this letter is to express support for the addition of two new resort golf courses to be developed in the Auckland region.

Tourism New Zealand (TNZ) has identified golf as a special interest sector and, in partnership with New Zealand Golf, has promoted golf related tourism since 2013 via a purpose built entity, Golf Tourism New Zealand (GTNZ).

GTNZ's first task was to write a Golf Tourism Strategy Report. This report was accepted by TNZ in August 2013 and found that:

1. There was an opportunity to grow the value of the inbound golf tourism market from the current level (at the time) of \$145 million to a target of \$223 million over three years.
2. That for this to be achieved, there would need to be development and improvement of new and existing facilities which have a significant long-term impact on the quality of the "golf trails" of New Zealand.
3. That the public and private sector should be encouraged to invest in new and existing golf facilities that will make meaningful contributions to the golf trails.

Since 2013's Strategy, the current value of inbound golf tourism has risen to exceed \$450 million annually. Golfers remain the highest spenders and most satisfied travellers of any special interest category. Additionally, they show a willingness to travel in shoulder seasons and spend a significant amount of time in regional New Zealand. They are a low-volume, high-spend, mature clientele.

Over the past several years, New Zealand has seen improved investment from the private sector in both infrastructure and improved service levels. While this has helped fuel solid growth, we must continue to create quality golf products that can be accessed by the visitor market, and in sufficient quantity to ensure we continue to build our reputation as one of the world's great golf destinations and encourage new and repeat visitors.

It is the view of Golf Tourism New Zealand that Te Arai Links and Richard Kayne should be granted approval to proceed with the construction of two new golf courses and the required infrastructure associated with the project.

Sincerely,

[s 9(2)(a)]

Ryan Brandenburg, PGA
Executive Director
Golf Tourism New Zealand

[s 9(2)(a)]

ATEED letter of support for Te Arai

As the region's economic development agency, Auckland Tourism, Events and Economic Development (ATEED) supports the development of Te Arai Links at Auckland's northern boundary.

As part of its work to grow a sustainable visitor economy for Auckland, ATEED is focused on programmes to attract high-value visitors.

The segment of high-net-worth individuals who are passionate about golf has been a priority one for ATEED in recent years - particularly those from China.

While what they spend directly during their visit to our region and New Zealand is important - and they spend proportionately more than standard visitors - golfing tourists are also likely to explore investment and other business opportunities while here, providing further value to the economy.

The successful development of Te Arai Links would add another strong component to our region's golf tourism 'trail' offering - which is part of the national golfing experience that contributes more than \$400m annually.

The proposed high-quality development also aligns with several key ATEED priorities: it will involve significant foreign direct investment; it will assist the regional dispersal of visitors, and attract high-value visitors to Auckland's northern reaches; and it involves a partnership with Iwi which supports the growth of Māori enterprise.

In ATEED's view, the proposed Te Arai Links development will provide significant value to our regional economy and should be granted approval.

[s 9(2)(a)]

Nick Hill
Chief Executive



May 2019

To Whom It May Concern

New Zealand Golf is a non-for-profit charitable trust established in 1910 as the leadership and governance entity for golf in New Zealand.

Golf is the most played sport in New Zealand with around half a million kiwis playing golf each year at one of the 376 courses throughout the country. As a sector, golf employs over 2,000 people and contributes more than a billion dollars to the national economy each year.

As a sport, golf makes a significant contribution to the health and wellbeing of its participants, increases the social connectivity of communities and improves provides important education and life values outcomes for young people.

Positive benefits are not confined to golf participants; the game of golf delivers an increasingly significant number of social, environmental and economic benefits to the country.

As part of our role, we encourage and support the growth of golf tourism. For New Zealand, golf tourism revenues exceeded \$300M by the end of 2016 and have since exceeded \$400M. Golf is significant in its disproportionate contribution to tourism, as on average, golfers spend 23% more than traditional holiday visitors.

New Zealand Golf fully supports the Te Arai Links development and believes this will further enhance New Zealand's international reputation as a golfing destination.

It is our view that the development of world class golf facilities in the regions of New Zealand is vitally important for our country and we fully support the vision of the Te Arai Links developers.

Yours sincerely,

[s 9(2)(a)]

Dean Murphy
Chief Executive
New Zealand Golf Inc.

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Manuhiri Kaitiaki Charitable Trust



4 July 2019

[s 9(2)(a)]

Te Arai Links Golf Course Proposal – Water Take applications

Tēnā koe [s 9(2)]

The Te Arai North forest is a significant asset of the Ngāti Manuhiri Settlement Trust and its commercial redress opportunities represent a significant opportunity for Ngāti Manuhiri to advance its economic, cultural and social wellbeing. That situation is acknowledged in the Te Arai South Precinct of the Auckland Unitary Plan. Through the Trust's joint venture partnerships in relation to the land, the proposal by Te Arai Links comprises a substantial part of those opportunities. This is particularly so with respect to the retirement of the land from exotic production forestry operations and the rehabilitation of a significant part of the land for public recreational use and native dune land restoration planting extending inland from the significant planned public parkland.

Reflecting those areas being statutory acknowledgement areas under the Ngāti Manuhiri Claims Settlement Act 2012, the Trust exercises a kaitiaki / stewardship role of their cultural, spiritual, historical, and traditional associations over Poutawa Stream and the Ngāroto Lakes that lie adjacent to Te Arai South Forest. The Trust has reviewed the details of the Te Arai Links proposal, including the proposed ground water take and surface water take from Poutawa Stream and potential impacts on the Ngāroto Lakes, specifically Tomarata Lake.

The Trust is satisfied that the Te Arai Links proposal has been carefully considered to appropriately address the environmental management of the site along with the ecological management of the land and water under the Comprehensive Management Plan for the Precinct. The Trust considers this will promote a better and more environmentally sustainable outcome for the land and water and in particular will not have a negative impact on the values the Trust attributes to Poutawa Stream and Tomarata Lake. Furthermore, the Trust considers that, by contributing to the overall improvement of the ecological values of the wider landholding and parkland, the Te Arai Links proposal will help enhance the cultural and spiritual values of Te Arai South Forest.

Acknowledging the Trust's joint venture with Te Arai Links and, through that partnership, the Trust's ongoing participation and role in the land and its resources, including water resources, the Trust expresses support for the proposal.

Nga mihi

[s 9(2)(a)]

Kaitiaki Manager
Manuhiri Kaitiaki Charitable Trust
Ngāti Manuhiri

ATTACHMENT 6 -KEA AWARD LETTER



ADDRESS: Level 7, 167b Victoria Street West
Auckland 1010
New Zealand

[s 9(2)(a)]

WEB: www.keanewzealand.com

26 June 2019

To Whom it May Concern,

Ric Kayne was awarded the Kea Friend of New Zealand Award at the 2019 Kea World Class New Zealand Award in recognition of his 'exceptional contribution to New Zealand by someone not born here but who nonetheless epitomises the Kiwi sense of spirit and endeavour'.

A preeminent alternative asset manager, Ric has made New Zealand his home. His investment in the development of Tara Iti Golf Club has been possible only by working closely, and with the blessing of local Iwi, Ngati Manuhiri and Te Uri o Hau.

Through the Tara Iti development, Ric has contributed significantly to economic growth within Northern Auckland and Northland, attracting direct and indirect tourism, and employing over 300 employees and contractors

In honour of Ric's commitment to the land and its people, the kaumatua formally recognised him as a "Rangatira alongside the Rangatira of Te Uri o Hau within the rohe of Te Uri o Hau."

Ric and his team replaced pines with over 1.5 million native trees and plants and established a trust to undertake genetic research and eradicate pests. As a result of Ric's investment, endangered species were revived in the re-established and newly created wetlands, bringing many species back from the precipice of extinction.

Ric invests most of his time and resources in New Zealand, and with an Auckland-based private equity and venture fund, he has brought US skills and practices to Australasia. Ric continues to help New Zealand to succeed beyond its shores and to compete on the world stage by facilitating the exchange of information and by utilising his international networks for the betterment of New Zealand and its people.

If you require further background information, please don't hesitate to call myself [s 9(2)(a)]

Yours Sincerely

[s 9(2)(a)]

Global CEO, Kea New Zealand

ATTACHMENT 7 OTHER BENEFIT FACTORS

32. The table **below** lists other factors in the Act and regulations for assessing the benefit of overseas investments.
33. 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 purposes of our assessment.

Factor	Reason not relevant or insufficient
Increased processing of primary products – s17(2)(a)(vi) (high relative importance factor)	While the forestry on the Land will be harvested and sold by the Applicant and may be processed in New Zealand, this would occur under the counterfactual in any case, although possibly at a slightly later stage.
Indigenous vegetation/fauna s17(2)(b)	There is no significant vegetation or fauna on the Land itself although there will likely be if the Golf Courses are developed.
Trout, salmon, wildlife and game – s17(2)(c)	There are no trout, salmon wildlife or game on the Land.
Historic heritage – 17(2)(d)	Heritage New Zealand did not identify any areas requiring protection on the Land but would like to meet with the Applicant to discuss whether any further protections for the Land are possible. Although no benefit is likely to occur at this stage, we have recommended a consent condition.
Offer to sell seabed/foreshore/riverbed to the Crown – s17(2)(f)	There is no special land on the Land.
Key person in a key industry – reg 28(b)	This investment does not involve a key person in a key industry.
Affect image, trade or international relations – reg 28(c)	The decline of consent would not affect New Zealand's image, trade or international relations.
Owner to undertake other significant investment – reg 28(d)	The Vendor is already undertaking the Residential Subdivision.
Enhanced viability -reg 28(g)	While the Investment may result in efficiencies due to the operation of the golf courses in conjunction with the nearby Tara Iti, we do not consider it is likely to enhance the viability of the Tara Iti. Tara Iti is currently a profitable operation and is not dependant on the new golf course developments.
Strategically important infrastructure – reg 28(h)	There is no strategically important infrastructure on the Land.
Economic interests – reg 28(i)	The Investment will not affect New Zealand's economic interests.
Oversight and participation by New Zealanders – reg 28(j)	No New Zealanders will be involved in management or control of the Investment.

ATTACHMENT 8 - SENSITIVE LAND DETAILS

Te Arai South

Land Interest	Leasehold Interest, and Freehold Interest (approximately 741.3652 hectares)
Record(s) of Title	CT 671895, CT 671896 (North Auckland)
Sensitivity	Is more than 5 hectares of non-urban land Includes land that a district plan or proposed district plan under the Resource Management Act 1991 provides is to be used as a reserve, as a public park, for recreation purposes, or as open space Adjoins land that is over 0.4 hectares and is listed, or in a class listed, as a reserve, a public park, or other sensitive area by the regulator under s37 Includes residential land

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ATTACHMENT 9 - GOOD CHARACTER SEARCHES AND ANALYSIS

The OIO undertook an open-source search of the relevant overseas persons (ROPs) and individuals with control (IWCs).

The searches of the International Consortium of Investigative Journalists (ICIJ) database, United Nations Security Council (UNSC) Terrorist Entities List, and Interpol Red Notice List did not produce any relevant results.

Our internet searches identified matters relating to environmental matters, business litigation, media criticism and political donations.

These matters have been analysed collectively in the table below.

Matter	Summary of disclosure or search finding	Connection to IWC/ROP			Relevance to this investment			Summary of Applicant response	OIO assessment
		Low	Med	High	Low	Med	High		
Environmental matters	The Environmental Court ruled that a weir installed across Te Arai Stream restricts the passage of fish, threatening the food source of the Fairy Tern bird.	✓					✓	<p>The Applicant does not consider that this should have any impact on the character considerations of the Applicant because:</p> <ol style="list-style-type: none"> 1. The weir was not installed by an entity that the Applicant has any relationship with; 2. Ric Kayne only has a minority holding in TANL and has no control over it. 	<p>We are satisfied that this matter should not preclude a finding of good character for the following reasons:</p> <ol style="list-style-type: none"> 1. Ric Kayne/ the Applicant does not have control over TANL (although his minority ownership interest is noted). 2. Tara Iiti (and therefore the Applicant) had no direct involvement in the weir works. 3. Regardless, the weir was approved by DOC in 2016 and Auckland Council in 2017 and TANL is working to solve the issues that have been raised.

Matter	Summary of disclosure or search finding	Connection to IWC/ROP			Relevance to this investment			Summary of Applicant response	OIO assessment	
		Low	Med	High	Low	Med	High			
	<p>The Court ruled that it was inappropriate to make an enforcement order against the Council to remove the weir and recommended that the Council, Te Arai North Limited, Land Information New Zealand and the Department of Conservation seek to resolve the issues expediently.</p> <p>The Court disagreed with the Fairy Tern Trust that the Weir should be summarily removed as this could create harmful impacts</p>								<p>3. TANL is actively working to resolve any issues with the weir. It proposes to build a bridge that removes the need for the weir. Applications for legalising access and use arrangements have been submitted to DOC and LINZ</p>	

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Matter	Summary of disclosure or search finding	Connection to IWC/ROP			Relevance to this investment			Summary of Applicant response	OIO assessment
		Low	Med	High	Low	Med	High		
Business litigation	Past instances of litigation have been disclosed relating to Ric Kayne. The litigation relates to matters that include claims of false profit forecasts, not investing in line with client's objectives, copyright violations, breach of contract and wrongful death.	✓			✓			<p>The Applicant noted that the United States is a very litigious society and that such claims are not uncommon.</p> <p>Each of these matters have been either settled or dismissed, were minor infringements or were not proximate to Mr Kayne as an individual.</p>	Due to the nature of these matters and the proximity of Mr Kayne to them, we are of the view that they should not preclude a finding of good character.

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Matter	Summary of disclosure or search finding	Connection to IWC/ROP			Relevance to this investment			Summary of Applicant response	OIO assessment
		Low	Med	High	Low	Med	High		
Media criticism	<p>Mr Kayne and entities related to him have been criticised in the media.</p> <p>Some of this criticism relates to opposition from certain parts of the community to elements of Mr Kayne's prior investment (being the Tara Iti golf course) and the current investment (being the Te Arai golf course) that affect the environment.</p> <p>Mr Kayne also received some media attention about his thoughts on the Overseas Investment regime.</p>			✓		✓		<p>With regards to the criticism around the Te Arai and Tara Iti developments, the Applicant notes that DOC has been consulted and that measures are in place that are relevant to these concerns. The Applicant also notes that it was not involved with some of the matters over which concern has been raised by the public.</p> <p>With regards to the views expressed on the Overseas Investment regime, the Applicant submits that Mr Kayne's free expression of his perspective on proposed legislative change should not have any impact on his character.</p>	<p>As the relevant parties were consulted at the time of the OIO applications and the community has the opportunity to provide input under the RMA process, we are satisfied that these matters do not prevent a finding of good character.</p> <p>We consider that Mr Kayne was expressing personal views and opinions in the face of public criticism much of which was not based on fact and that this should not be considered relevant to his character.</p>

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Matter	Summary of disclosure or search finding	Connection to IWC/ROP			Relevance to this investment			Summary of Applicant response	OIO assessment
		Low	Med	High	Low	Med	High		
Political donations	Media reported that Richard and Suzanne Kayne donated over \$200,000 USD to presidential candidates in 2017.			✓	✓			<p>The Applicant submits that political donations are a common occurrence in the United States and that they are not a contravention of the law.</p> <p>The Applicant notes that it has only made one significant donation in recent years, being [s 9(2)(a)] to the Republican National Committee in 2017 (which it notes was not a special purpose donation).</p> <p>Other donations were made to from 2015-2016 which did not exceed \$50,000.</p>	<p>As political donations are relatively common in the USA and Mr and Mrs Kayne have donated to members of both major political parties in the USA, we do not consider this matter to be relevant to character. We note that there is no suggestion of bribery or inappropriate behaviour in relation to these donations.</p>

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ATTACHMENT 10 - OVERVIEW TABLES FOR TE ARAI LINKS 201900377

 <p>Figure 1-North Island location</p> <p>Figure 2-Land outlined in black. The brown designates rural-coastal zone land</p>	<p>Application</p> <ul style="list-style-type: none"> Te Arai Links (the Applicant) is seeking consent to acquire a leasehold interest in approximately 143.8 hectares of land and a freehold interest in approximately 25.2 hectares of land located at 816 Ocean View Road, Te Arai. The Land is currently a pine plantation forest used for production forestry and the Applicant intends to develop two links style 18 hole championship level golf courses on the Land, together with clubhouse and visitor accommodation and maintenance and water storage facilities (the Investment). The vendors are Te Arai South Holdings Limited, a company formed to act as partner to the Ngati Manuhiri Settlement Trust, a statutory claims settlement trust³⁶ in the development of a 754 hectare beachfront parcel at Te Arai South 	<p>Provisional recommendation</p> <ul style="list-style-type: none"> Our provisional recommendation is to grant consent. Relevant tests for this transaction: <ul style="list-style-type: none"> Investor test (s16(2)(a) - (2) of the Act) Benefits test – substantial and identifiable benefits (s16(1)(c)(ii), s16A(1)(a) & (b) of the Act) Residential outcome-s16A(1)(c) & 16B
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Overview of assessment: Investor test

Element of investor test	OIO assessment of strengths and weaknesses		Cross-references
	Risk Barometer	Summary	
Relevant overseas persons (ROP) and individuals with control (IWC) confirmed	ROP & IWC identified	ROP & IWC identified	Paragraphs 14-19 Section 15 of the Act
Collectively have business experience and acumen relevant to the investment	Test met	The IWCs have business experience that is relevant to the Investment, including the development of the nearby Tara Iti golf course.	Paragraphs 20-22 Section 16(2)(a) of the Act.
ROP demonstrated financial commitment	Test met	The Applicant has demonstrated financial commitment by investing a significant sum in the design of the golf courses, entering into the agreement to purchase the leasehold and freehold land and engaging professional advisers	Section 16(2)(b) of the Act.
Good character	No concerns	We are satisfied that the IWC of the ROP are of good character.	Paragraphs 23-25 and Attachment 9 Section 16(2)(c) of the Act
Not an individual of the kind ineligible for a visa or entry permission under ss 15 or 16 of the Immigration Act 2009	Test met	Statutory declarations provided confirming that each individual is not of the kind referred to in sections 15 or 16 of the Immigration Act. No additional assessment is required.	Section 16(2)(d) of the Act

³⁶ Established under the Ngati Manuhiri Claims Settlement Act 2012

Overview of assessment: investment and benefit test

Relevant benefit factors	Applicant's claims: what they intend to do	Without the investment (Counterfactual)	OIO analysis: strength/weakness		Proposed special conditions and reporting requirements	Cross refs
			Indicative strength	Summary		
Job opportunities	Development of the Golf Courses and associated amenities will require staffing from golf maintenance workers and hospitality workers to pro-shop and teaching staff.	Production forestry would continue on the Land which creates minimal and sporadic temporary job opportunities.	Strong weighting	The Applicant's ultimate owner is already a significant employer in the region and the Investment is also likely to create a significant number of permanent FTE as well as short term construction and seasonal FTE.	<u>Condition:</u> the creation of at least 38 permanent FTE within 30 months of acquisition of the Land. <u>Report:</u> on the FTE created, the number of people employed and approximate salary ranges and job titles for roles.	Paragraphs 92-99 s17(2)(a)(i)
Increased export receipts	The Applicant will develop the Golf Courses and amenities which are expected to draw both domestic and international golf tourists.	At least some of the logs felled on the Land would be replanted in trees and some of the trees exported when felled. Any exports generated from felling are likely to be many years away.	Strong weighting	The development of the Investment will result in export receipts of at least \$6 million a year by the end of 2022.	<u>Report:</u> on the number of overseas visitors to the Golf Courses and the number of overseas visitors staying in accommodation, breaking down by visitor country as far as is possible.	Paragraphs 100-117 s17(2)(a)(iii)
Previous investments	The Applicant's ultimate owners have developed the nearby Tara Iti course which is ranked 2 nd in the world by Golf Digest (outside the USA).	-	Moderate weighting	The Applicant's ultimate owners have a proven track record of developing golf courses to a high standard in New Zealand, bringing benefits to New Zealand and the Mangawhai region.	-	Paragraphs 118-132 reg28(e)
Advance significant government policy or strategy (high relative importance)	The Investment will result in the development of Golf Courses which will attract international golf tourists and align with the New Zealand Aotearoa Government Tourism Strategy.	Continued forestry production would align with the One Billion Trees policy.	Moderate weighting	The Applicant's Investment aligns with the coalition Government's Tourism Strategy.	-	Paragraphs 133-141 reg28(f)
Additional investment for development purposes	The Applicant will develop the Golf Courses.	Minimal capital for harvest and replanting costs is likely to occur under continued forestry production on the Land comparative to the Investment.	Moderate weighting	The Applicant will introduce at least \$25 million into New Zealand for the development of the Golf Courses and associated developments	<u>Condition:</u> the introduction into New Zealand of at least \$25 million to be used in development of the Golf Courses and associated developments <u>Report:</u> on progress of development of the Golf Courses and associated developments.	Paragraphs 142-148 s17(2)(a)(v)
Walking access	The Applicant will create two trailways through the Land to the foreshore.	An ANZP would be unlikely to consult with WAC regarding public access, especially for land to be used for continued forestry production.	Moderate weighting	Two trailways through the Land will be created	<u>Condition:</u> creation of certain public access easements and create two trailways	Paragraphs 149-157 s17(2)(e)
New technology or business skills	The Applicant will use the services of internationally recognised golf course designers to develop the Golf Courses.	It is unlikely any new business skills would be introduced under continued forestry production.	Weak weighting	Coore Crenshaw will design and develop on the of the Golf Courses	<u>Condition:</u> Coore Crenshaw designing and developing one of the Golf Courses.	Paragraphs 158-163 s17(2)(a)(ii)
Added market competition, increased productivity, efficiency, and enhanced domestic services	The Applicant will develop the Golf Courses and associated amenities.	It is unlikely any benefit would occur under this factor with continued production forestry.	Weak weighting	The Visitor accommodation is likely to result in enhanced domestic services.	-	Paragraphs 164-171 s17(2)(a)(iv)
Consequential benefit	The development of the Golf Courses will create benefit for Ngati Manuhiri that forestry production would not provide.	-	Weak weighting	The Investment is likely to result in benefits accruing to Ngati Manuhiri	-	Paragraphs 172-195 reg28(a)
Consequential benefit	The Applicant will undertake planting on the Land that will protect indigenous fauna on or near the Land.	An ANZP would be unlikely to undertake additional protections, especially for land to be used for continued forestry production.		The change in use of Land and proposed planting of native vegetation is likely to create habitat for native invertebrate species and may lead to dotterels nesting on the Land	<u>Condition:</u> appoint a full time Conservation Manager and increase planting of native vegetation	