

To: Hon Dr Megan Woods, Associate Minister of Finance
 Hon Damien O'Connor, Minister for Land Information

ASSESSMENT REPORT: Fisher & Paykel Healthcare Properties Limited

Date	5 April 2023	Classification	IN CONFIDENCE: Commercially sensitive
LINZ reference (Report reference)	202200414 (BRF 23-295)	Deadline	Assessment timeframe: 17 March 2023 Requested Decision: 30 April 2023

Purpose

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

Action sought

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

Assessment timeframe requirements

The assessment timeframe for this application was 17 March 2023. This application has taken longer than the timeframe to assess because of the size and complexity of the investment and personnel changes during the assessment process due to staff movement.

Toitū Te Whenua Land Information New Zealand Contacts

Name	Position	Contact	First contact
Anneke Turton	Manager Applications	+64 48302513	<input checked="" type="checkbox"/>
Hannah Worsley	Solicitor	+64 44717353	<input type="checkbox"/>

A. Summary

1. Fisher & Paykel Healthcare Properties Limited (the Applicant) is a limited liability company incorporated in and based in New Zealand. It is part of the Fisher & Paykel Healthcare Group (FPH Group), which was founded and has been headquartered in New Zealand since 1969.
2. The FPH Group currently operates in the field of research and development (R&D) and pilot manufacturing from its existing campus in East Tamaki, Auckland. The Applicant seeks to acquire a freehold interest in approximately 104.2612 hectares of land in Karaka (the Land) on which it intends to construct a second R&D campus to enable and support the ongoing expansion of the FPH Group's business activities in New Zealand.
3. For the reasons set out in this report, our recommendation is to grant consent.

Key information

Applicant	Fisher & Paykel Healthcare Properties Limited New Zealand (36.00%); Australia (27.00%); North America Region (17.00%); United Kingdom (10.00%); Asia Pacific Region (4.00%); Europe Region (4.00%); Various (2.00%).
Vendor	Karaka Meadows Limited New Zealand (100%)
Land	Approximately: <ul style="list-style-type: none"> • 19.586 hectares of land located at 350 Karaka Road, Karaka. • 27.4857 hectares of land located at 370 Karaka Road, Karaka. • 5.275 hectares of land located at 300 Karaka Road, Karaka. • 19.575 hectares of land located at 328 Karaka Road, Karaka. • 32.3445 hectares of land located 458 Karaka Road Karaka. Total: 104.2612 hectares.
Consideration	\$275,000,000
Sensitivity	Greater than 5 hectares of non-urban land Includes residential land.
Relevant tests	Investor test: s18A Benefit to NZ test – residential land outcome; farm land benefit test s16A(1C); s16(1)(a), s16(1)(b), s16(1)(f) and s16A(1).

Timing

4. The Overseas Investment Regulations 2005 specify the total assessment timeframe for this application is 100 working days. This application is currently on day 111. This application has taken longer than the assessment timeframe to assess due to both the size and complexity of the investment and changes in staff during the assessment process.

5. The Applicant has requested a decision by 30 April 2023 due to the impact of a delayed decision on the development timeframe for the Investment which may result in the conditioned dates being unachievable. The Applicant has obtained an extension to its commercial deadline to 30 June 2023.

B. Decision

Core tests

6. I determine that:

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

Relevant overseas person	Role
Fisher & Paykel Healthcare Properties Limited	The Applicant
Fisher & Paykel Healthcare Limited	Upstream owner of the Applicant
Fisher & Paykel Healthcare Corporation Limited	Ultimate upstream owner of the Applicant

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

Individuals with control	Role
Lewis George Gradon	Director of Fisher & Paykel Healthcare Properties Limited and Fisher & Paykel Healthcare Limited
Paul Nigel Shearer	
Andrew Robert Donald Somervell	Director of Fisher & Paykel Healthcare Properties Limited and Fisher & Paykel Healthcare Limited and senior Vice President of Fisher & Paykel Healthcare Corporation Limited
Michael Grenfell Daniell	Director of Fisher & Paykel Healthcare Corporation Limited
Scott Andrew St John	
Miriam Cather Simpson	
Philippa Mary Greenwood	
Lisa Margaret McIntyre	
Neville John Mitchell	
Donald Paul O'Dwyer	
Jonathan David Rhodes	Vice President of Fisher & Paykel Healthcare Group

- 6.3 None of the relevant overseas persons and individuals with control of the relevant overseas person have established any of the factors contained in section 18A(4) of the Act.

7. I am satisfied that the investor test in section 18A, as outlined in paragraphs 28-46 below, has been met.

Hon Dr Megan Woods

Agree

Disagree

☒☐

Hon Damien O'Connor

Agree

Disagree

☒☐

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

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

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

8.3 the benefit is proportionate to the sensitivity of the land and the nature of the transaction; the benefit will be, or is likely to be, substantial in relation to one of more of the factors of high relative importance for farm land; and

8.4 the conditions relating to residential land to be imposed on the consent in accordance with section 16B will be, or are likely to be, met.

Hon Dr Megan Woods

Agree

Disagree

☒☐

Hon Damien O'Connor

Agree

Disagree

☒☐

National interest assessment

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

Hon Dr Megan Woods

Agree

Disagree

☒☐

Hon Damien O'Connor

Agree

Disagree

☒☐

Decision about whether to grant or decline consent

10. My ultimate decision is to:

Hon Dr Megan Woods

Grant consent subject to the conditions in the Proposed Decision in **Attachment 1**

Grant consent with amended conditions provided on:

Decline consent

Hon Dr Megan Woods

Date: 20/4/23

Hon Damien O'Connor

Grant consent subject to the conditions in the Proposed Decision in **Attachment 1**

Grant consent with amended conditions provided on:

Decline consent

Hon Damien O'Connor

Date: 15/4/23

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C. Background and proposed transaction

11. Fisher & Paykel Healthcare Properties Limited (**FPH**, the **Applicant**)¹ is part of the Fisher & Paykel Healthcare Group (**FPH Group**) which is ultimately owned by Fisher & Paykel Healthcare Corporation Limited (**FPHC**), a New Zealand incorporated company which is listed on the NZX and ASX.²
12. The FPH Group currently operates from its existing campus (the **Existing Campus**) in East Tamaki, Auckland. Operations include research and development (**R&D**) activities, pilot manufacturing³ and associate commercial and administrative services. The Existing Campus is set out in a campus style, containing onsite cafeterias, landscaped gardens with native flora and architecturally designed buildings in a park-like setting the Applicant submits is designed to encourage and foster a culture of collaboration and innovation.
13. There are currently four buildings on the Existing Campus which co-locate R&D, pilot manufacturing and support staff. Earthworks are currently underway for a fifth building with construction due for completion in [s 9(2)]. Based on the FPH Group's current growth projections, the fifth building on the Existing Campus will reach capacity by [s 9(2)(b)] with no further land available on the Existing Campus to build any further, similar sized buildings.
14. FPHC seeks to acquire (via the Applicant) approximately 104.2612 hectares of land in Karaka (the **Land**) on which it intends to construct a second R&D campus to enable and support the ongoing expansion of the FPH Group's business activities in New Zealand (the **Investment**).

Land

15. The Applicant seeks to acquire a freehold interest in five records of title⁴ which will form the Land.
16. The Land is farm land as it is rural land⁵ and is used principally for pastoral purposes, with a smaller portion of the Land being used for horticultural purposes (namely a tomato hothouse business).
17. The Land is residential land under the Act as it has a category of 'lifestyle' in the district valuation roll. One part of the land (458 Karaka Road) is zoned 'rural'.⁶ Other than part of 458 Karaka Road, the Land carries a "Future Urban" zoning.

¹ A limited liability company incorporated in and based in New Zealand, incorporated on 7 March 2001. Company registration number 1117149.

² Incorporated 27 July 1954. Company registration number 51516.

³ A manufacturing or engineering production line set up during development, to test new methods, processes, and systems.

⁴ NA134A/751, NA889/167, NA889/168, 834200 and 834199.

⁵ As defined in section 6.

⁶ Lot 7, part Lot 3 and part Lot 5-6 DP 14876.

18. Below is an aerial photo of the Land.



Figure 1 Aerial photo of the Land

19. Aerial photographs of the land and wider location can be found in **Attachment 4**.
20. The Applicant will initially acquire three of the records of title comprising the Land which comprise approximately 79.4162 hectares from the Vendor under the first sale and purchase agreement (**SPA 1**)⁷ (the **Tranche 1** properties)⁸
21. Settlement for the Tranche 1 properties is scheduled to occur shortly after consent under the Act is obtained,⁹ at which point the Applicant will accept a nomination of the Vendor's rights as purchaser for the remaining two records of title (**SPA 2**)¹⁰ (the **Tranche 2** properties)¹¹ which comprise approximately 24.843 hectares under the second sale and purchase agreement.
22. Settlement of the Tranche 2 properties will occur in January 2026 and December 2026 respectively to allow time for the current businesses on the Land to be wound down.

D. Application of the Act

23. The Transaction requires consent because it is an overseas investment in significant business assets as the consideration exceeds \$100 million¹² and also involves an acquisition in sensitive land.
24. The Land is sensitive because it is both non-urban land over 5 hectares in size and residential land,¹³ so consent is required.¹⁴

⁷ Signed 31 August 2022.

⁸ 350 Karaka Road, 370 Karaka Road and 458 Karaka Road.

⁹ 20 working days following satisfaction of the OIA Condition.

¹⁰ Signed 8 April 2022.

¹¹ 328 Karaka Road and 300 Karaka Road.

¹² Section 13(1)(c).

¹³ Table 1, Part 1, Schedule 1 of the Act.

¹⁴ Under sections 10(1)(a) and 12(a)(i) of the Act.

25. The following criteria for an investment in sensitive land apply to this application:¹⁵
- The investor test must be met.¹⁶
 - The benefit to New Zealand test must be met.¹⁷
 - The farm land advertising criteria must be met.¹⁸
 - You must also note whether the investment is a transaction of national interest and, if so, whether the Minister of Finance has decided that the investment is contrary to New Zealand's national interest.¹⁹
26. In order to satisfy the benefit to New Zealand test, the decision-maker must:
- determine that the overseas investment will, or is likely to, benefit NZ;²⁰ and
 - determine that benefit will be, or is likely to be, substantial in relation to one of more of the factors of high relative importance for farm land²¹ (unless the farm land benefit test is disapplied²²); and
 - because the Land is residential:
 - determine a residential land outcome;²³
 - apply conditions of consent for the residential land outcome; and
 - be satisfied that those conditions are likely to be met.²⁴
27. We assess the investor test in Part E, the benefit to New Zealand test in Part F, and discuss national interest matters in Part G.

E. Applicant and investor test

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

Business Activities

29. The Applicant is part of the FPH Group and is a wholly owned subsidiary of FPHC. The FPH Group is a designer, manufacturer and marketer of products and systems for use in acute and chronic respiratory care, surgery, and the treatment of obstructive sleep apnoea. The FPH Group's medical products enable patients to transition into less-acute care settings, recover more quickly, and avoid more serious conditions.
30. FPHC is recognised as one of New Zealand's top 10 most reputable companies according to Kantar's 2022 Corporate Reputation Index.²⁵ The Applicant is the corporate entity within the FPH Group that holds the legal ownership interests in the real property for and on behalf of the FPH Group.
31. The FPH Group was founded and has been headquartered in New Zealand since 1969 when its first prototype respiratory humidifier was developed.

¹⁵ Set out in section 16(1) of the Act.

¹⁶ Section 18A / 16(1)(a) of the Act.

¹⁷ Section 16(1)(b)(ii) and 16(1)(c)(ii). The alternative is the relevant overseas person or each of the individuals with control is a NZ citizen or resident, which is not applicable to the proposed investment.

¹⁸ Section 16(1)(f).

¹⁹ Section 16(1)(g) of the Act.

²⁰ Section 16A(1)(a) of the Act.

²¹ Section 16A(1C)(b) of the Act. This criterion applies because the Land is farm land over 5 ha in size.

²² Section 16A(1D) of the Act.

²³ Section 16B(3)(a). The Act specifies a range of outcomes to choose from in clause 19, Schedule 2 of the Act.

²⁴ Section 16A(1)(b) of the Act.

²⁵ <https://www.kantarnewzealand.com/wp-content/uploads/2019/05/2022-Corporate-Reputation-Presentation-Deck-FINAL-FOR-ONLINE-V2.pdf>

32. The FPH Group employs (as of 31 August 2022) 3,610 people in New Zealand. It has a further 2,850 people based in more than 50 countries. Its products are manufactured in New Zealand (approximately ^{s 9(2)} in the year ended 31 March 2022) and Mexico and are sold in 120 countries. A significant number of its suppliers are New Zealand based (approximately ^{s 9(2)} of its direct suppliers to its New Zealand and Mexico manufacturing sites are based in New Zealand.)
33. In the 2022 financial year, The FPH Group's products were used to treat approximately 20 million patients worldwide, and operating revenue was \$1.68 billion.
34. The FPH Group's business is structured into two core product groups – hospital and homecare. The hospital product group includes products for invasive ventilation, non-invasive ventilation, high-flow therapy and surgical technologies. The FPH Group submits it is the global market leader for its respiratory humidification products.
35. The FPH Group has a focus on product innovation, and this is reflected in FPHC's continued substantial investment in R&D which was \$136.7 million in the 2021 financial year and \$154 million in the 2022 financial year. Since it listed in 2001, the FPH Group has spent approximately \$12 billion on R&D, the vast majority of which has been spent in New Zealand, as **all** of its R&D employees are based in New Zealand.²⁶ The FPH Group currently employs more than 750 scientists and engineers working in R&D in New Zealand.

Ownership

36. The Applicant (FPH)²⁷ is an overseas person for the purposes of the Act as it is a wholly owned subsidiary of an overseas person - Fisher & Paykel Healthcare Limited (**F&P Healthcare**), which is a limited liability company incorporated in New Zealand.²⁸
37. F&P Healthcare is a wholly owned subsidiary of FPHC and is the ultimate parent company for the FPH Group. FPHC is an overseas person as it is more than 25% owned and controlled by overseas persons as defined in the Act.
38. There are four shareholders in FPHC: Mitsubishi Group²⁹, BlackRock Inc, Hyperion Asset Management Limited and Pinnacle Investment Management Group Limited which each hold more than 5% but less than 8% of the total ordinary shares on issue. The remaining shares are widely held. 64% of the beneficial interest in FPHC is held by overseas persons with the majority held by the Australian and North American regions.³⁰
39. A diagram of the intended ownership structure is in **Attachment 2**.

Control

40. The governance of the FPH Group (including the Applicant) rests with the Board of FPHC (the **Board**). Transactions of the size and strategic nature of the Investment require the approval of the Board.
41. The day-to-day management of the Investment is the responsibility of Jonathan Rhodes VP – Supply Chain, Facilities and Sustainability, who sits on the executive team of the FPH Group.

²⁶ An example of technology the Applicant has recently developed is the Airvo 3 high flow system (a medical device for use in New Zealand hospitals) after five years of R&D. <https://www.fphcare.com/nz/corporate/investor/news/ty22/fph-unveils-airvo-3/>

²⁷ Incorporated on 7 March 2001. Company registration number 1117149.

²⁸ Incorporated on 14 September 1972. Company registration number 85147.

²⁹ Mitsubishi UFJ Financial Group, Inc., Mitsubishi UFJ Trust and Banking Corporation, Mitsubishi UFJ Kokusai Asset Management Co., Ltd., First Sentier Investors Realindex Pty Ltd, First Sentier Investors (Australia) IM Ltd, First Sentier Investors (Australia) RE Ltd, First Sentier Investors (Hong Kong) Limited, First Sentier Investors (Singapore), First Sentier Investors (UK) IM Limited, First Sentier Investors International IM Limited.

³⁰ 27% and 17% respectively.

42. We consider the individuals with control of the relevant overseas persons (**IWC**) to be the directors of the Applicant, F&P Healthcare and FPHC as those individuals hold the decision-making powers in respect of the relevant overseas persons (**ROP**). Jonathan Rhodes who sits on the executive committee of the FPH Group as VP is also an IWC due to having responsibility for the day-to-day management of the Investment.

Relevant overseas person and individuals with control

43. We recommend that the '**relevant overseas person**' is collectively:

Relevant overseas person	Role
Fisher & Paykel Healthcare Properties Limited	The Applicant
Fisher & Paykel Healthcare Limited	Upstream owner of the Applicant
Fisher & Paykel Healthcare Corporation Limited	Ultimate Upstream owner of the Applicant

44. We recommend that the '**individuals with control of the relevant overseas person**' (**IWC**)³¹ are:

Individuals with control	Role
Lewis George Gradon	Director of Fisher & Paykel Healthcare Properties Limited and Fisher & Paykel Healthcare Limited
Paul Nigel Shearer	
Andrew Robert Donald Somervell	Director of Fisher & Paykel Healthcare Properties Limited and Fisher & Paykel Healthcare Limited and senior Vice President of Fisher & Paykel Healthcare Corporation Limited
Michael Grenfell Daniell	Director of Fisher & Paykel Healthcare Corporation Limited
Scott Andrew St John	
Miriam Cather Simpson	
Philippa Mary Greenwood	
Lisa Margaret McIntyre	
Neville John Mitchell	
Donald Paul O'Dwyer	
Jonathan David Rhodes	Vice President of Fisher & Paykel Healthcare Group

Summary of investor test

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

³¹ Section 15.

F. Investment plan and benefit to NZ test

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

Investment plan

48. The Applicant intends to acquire the Land to develop a R&D campus (the **Development**) to enable and support the ongoing expansion of the FPH Group's business activities in New Zealand.
49. The Applicant has advised that the Existing Campus in East Tamaki is expected to reach capacity in s 9(2)
(b)(ii) 1 so it needs to acquire suitable land for a second campus to allow and support the ongoing expansion of the FPH Group's business and R&D activities in New Zealand.
50. The Development is intended to be a park-like 'campus' (similar to the Existing Campus) with onsite cafeterias, cultivations of native flora and landscaped gardens, walking tracks, waterways and architecturally designed buildings to encourage and foster a culture of collaboration and innovation.
51. The Applicant advised that it requires the site to be of sufficient size (at least 90 hectares) to accommodate phased development in the campus style over a long-term horizon, and it needs to be in a location close to current arterial routes and public transport, to ensure the Applicant can retain and attract top talent.
52. The Applicant identified the Auckland region as appropriate for the Development due to population size, the fact it has four hospitals, and is in close proximity of a fifth hospital in Waikato which enables access to the Applicant's employees for clinical and R&D activities.
53. Below are artist impression concept designs for the Development:



Figure 2 Concept design for Campus Development



Figure 3 Concept Design for Campus Development

54. The Applicant will construct the Development in a way that increases energy efficiency. For example, by collecting rainwater to water surrounding green spaces and to flush toilets, constructing buildings with green star energy ratings, electric charging stations, solar panels and spaces for electric vehicle charging stations. These features are already present in the buildings on the Existing Campus (on which the Applicant intends to model the Development).
55. The Applicant states that the FPH Group has a global commitment to carbon reduction and has set its own science-based targets which have been approved to be consistent with levels required to meet the goals of the Paris Agreement.
56. The Applicant also intends to enhance the natural environment on the Land by restoring native flora to create green spaces.
57. The Applicant intends to undertake the Development on the Land in three phases:
 - Phase 1 [s 9(2)(b)(ii)] involves the construction of [s 9(2)(b)(ii)] with an estimated cost of approximately \$230 to \$300 million.
 - Phase 2 [s 9(2)(b)(ii)] [s 9(2)(b)(ii)] and [s 9(2)(b)(ii)]
 - Phase 3 [s 9(2)(b)(ii)] [s 9(2)(b)(ii)]
58. A staging concept map for the Development can be found in **Attachment 5**.
Phase 1 [s 9(2)(b)(ii)]
59. To complete Phase 1 of the Development, the Applicant will need to obtain a plan change to rezone the Land from future urban and rural to general business (**Private Plan Change**). The Applicant will commence preparation of the Private Plan Change application following settlement of the Tranche 1 Land. The preparation of the application is anticipated to take up to two years to complete. The Applicant anticipates that the Auckland Council may take between 18 and 24 months to process the application once lodged. The cumulative timeframe of preparing and processing the

Private Plan Change application is therefore anticipated to be approximately five years.³²

60. Once the Private Plan Change is obtained,³³ the Applicant will apply for the required resource and building consents and will proceed with earthworks to prepare the site for construction of [s 9(2)(b)(ii)] including installation of major critical infrastructure services including drainage, roading, water high voltage networks, gas pipes and sewage. The construction of [s 9(2)(b)(ii)] will follow, which is expected to take around [s 9(2)] years to complete.
61. The cost for Phase 1 is estimated to involve approximately \$230 to \$300 million of capital expenditure (**Phase 1 Costs**) comprising at least:
 - [s 9(2)(b)(ii)] for design costs,
 - [s 9(2)(b)(ii)] for earthworks and major critical infrastructure; and
 - [s 9(2)(b)(ii)] for construction costs.
62. Based on the projected construction cost for its fifth building on the Existing Campus of [s 9(2)(b)(ii)] the Applicant estimates that the actual costs for Phase 1 will be closer to [s 9(2)(b)(ii)]
63. Approximately 710-810 people are estimated to work on Phase 1 for part or all of the [s 9(2)(b)(ii)] construction phase for Phase 1 of the Development, many of these for short periods. The Phase 1 Development will require the equivalent of approximately 217-317 full time equivalent (FTE) annual hours spread over [s 9(2)(b)(ii)] as set out in the table below (**Phase 1 Construction FTE**):

Average FTEs Required for Phase 1 of the Development	
	[s 9(2)(b)(ii)]
Plan Change	
Master Planning Work	
Design Works	
Infrastructure Works	

³² In support of the length of time sought for obtaining the Private Plan Change, the Applicant submits that the Auckland Council has taken up to two years to process three comparable private plan changes in the area. The private plan changes related to properties to the West of the Land which involved rezoning land from Future Urban to a mixture of residential, commercial, and open space with the intention of creating a new town centre. The plan change applications were submitted in August 2020 and the plan changes became operative in December 2022 meaning the Auckland Council processing period took more than two years before a decision was made.

The properties subject to the plan change applications (PC) were: PC 48 Drury Centre Precinct – Kiwi Property No 2 Limited: approx. 95 hectares – largely Business – Metropolitan and Mixed Use; PC 49 Drury East Precinct – Fulton Hogan Land Development Limited: approx. 185 hectares, mainly Residential with a small Business zone; and PC 50 Waihoehoe Precinct – Oyster Capital: approx. 49 hectares, being Residential (Terrace House and Apartment Buildings zone). The relevant NZ Herald article is available here: <https://www.nzherald.co.nz/business/developers-win-environment-court-decision-for-new-drury-hub/OMDTP7EUVZAAVJUTGVQZ7CKYQ/>.

³³ The Applicant has advised that the resource and building consents can only be applied for once the Private Plan Change process is complete.

R&D and Pilot Manufacturing Facility	[s 9(2)(b)(ii)]	
Construction Monitoring		
Total		
Total FTE for Phase 1:		217-317

64. The Applicant estimates that the total number of workers involved in Phase 1 of the Development at any given time is likely to be greater than the estimated average FTE number (as depicted in the table above) at that same point in time. For example, during the construction of the Applicant's fourth building on the existing Campus, there were at peak times up to 190 workers on site, however on a day-to-day basis the number of workers onsite fulltime was closer to 80-100.

65. Once Phase 1 is complete [s 9(2)(b)(ii)] will have capacity for up to [s 9(2)(b)(ii)] FTE jobs (which will be filled over time). The Applicant forecasts that by [s 9(2)(b)(ii)] there will be between 300 to 600 permanent FTE jobs on the Land [s 9(2)(b)(ii)] [s 9(2)(b)(ii)] (Phase 1 Permanent FTE).

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

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

67.

68.

69.

Phase 3 [s 9(2)(b)(ii)]

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

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

- [s 9(2)(b)(ii)]
71. [s 9(2)(b)(ii)]
72. [s 9(2)(b)(ii)]
73. The average estimates for Phase 3 of the construction of the Development are high-level as the detailed plans, and construction, are still many years away, and will be based on the Applicant's business requirements at the relevant time.
74. [s 9(2)(b)(ii)]
75. If all three phases are completed, the total Development costs (excluding the price of the Land) are estimated to exceed [s 9(2)(b)] between 2023 and 2060.³⁸ The Development is expected to result in the equivalent of approximately [s 9(2)(b)(ii)] ongoing FTE jobs for R&D, commercial, administrative, and manufacturing by 2060.
76. The Applicant has stated that it is committed to the construction of Phase 1 of the Development, however the timeline for Phase 2 and 3 of the Development will be dependent on actual business requirements and economic conditions at the relevant time.
77. The Investment will allow the expansion of the FPH Group's business operations in NZ, resulting in increased local production of products for export. Currently [s 9(2)(b)(ii)] of manufacturing occurs in NZ with 99% of product sales made outside NZ.³⁹ In the past 10 years total sales have increased from \$517 million in 2012 to \$1.642 billion in 2022.
78. Once Phase 1 is complete and [s 9(2)(b)(ii)] is operational (expected [s 9(2)(b)(ii)] it will support both R&D and manufacturing activities which will generate export receipts. The completion of [s 9(2)(b)(ii)] will increase the FPH Group's manufacturing floor space by [s 9(2)(b)(ii)] which will result in the increased production of products available for export. Each subsequent building constructed in Phases 2 – 3 will increase manufacturing floor space resulting in further increases in production for export.³⁹

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

³⁸ This amount is based on the Applicant's initial due diligence, site investigations, quantity surveyor estimates and applying a 4% pa inflation rate on construction costs.

³⁹ The Applicant states that it cannot define exactly what goods will be developed and/or manufactured on the Land at this time, as it cannot predict future product innovation or market demand. However, the FPH Group currently has global revenues of circa \$1.6 billion which are [s 9(2)(b)(ii)] which gives an indication of the revenue that can be generated from a [s 9(2)(b)(ii)]

Current state (counterfactual)

79. As detailed at paragraph 17 above the majority of the Land is residential land⁴⁰ as it has a category of "lifestyle" in the district valuation roll. One part of the land is zoned "rural".⁴¹
80. The Land is farm land as it is rural land⁴² and is used for the following purposes:
- 370 Karaka Road comprises a dwelling, worker accommodation and four broiler chicken sheds. There are four FTE employed on the property.
 - 458 Karaka Road is bare land used for dry stock grazing by Meadows Farms Limited, who own the neighbouring property at 370 Karaka Road. There are no FTE on the Land.
 - 328 Karaka Road is currently leased to NZ Hot House Limited, which grows tomatoes and cucumbers within glasshouses for domestic consumption. The business employs approximately 350 employees.⁴³
 - 300 Karaka Road is leased to KPH Transport Limited who operates a specialised (temperature controlled) produce transport business. The company employs approximately 100 FTEs. KPH transport Limited distributes produce for NZ Hot Houses Limited but also for other producers and has partnered with Talley's Group.
 - 350 Karaka Road is a lifestyle property, including a dwelling and is used predominately for grazing purposes. It is also used for the discharging of nutrient solution from the adjoining hothouse operation at 328 Karaka Road. It is unknown whether there are any existing FTE jobs on the Land.
81. There are small pockets of native vegetation on the Land in aggregate less than 5,000 square metres. There are no specific access arrangements on the Land other than a road widening project proposed by Waka Kotahi.
82. The Tranche 2 Land is currently owned by Bark 328 Limited. Under the terms of the sale and purchase agreement between Bark 328 Limited (as vendor) and Karaka Meadows Limited, (**Karaka Meadows**),⁴⁴ (as purchaser on behalf of Fulton Hogan Land Development Limited⁴⁵ (**Fulton Hogan**)) Bark 328 Limited has reserved the rights to continue to operate the hot house business and the KPH Transport Limited business through to the end of 2026 to provide time for operations to be wound down.
83. Karaka Meadows (has only recently acquired (or has unconditionally secured) both the Tranche 1 and Tranche 2 Land. Karaka Meadows has acquired the Land with the intention of completing a residential development. If the Applicant's Investment does not proceed then Karaka Meadows would clear the Land, demolish the glasshouses, the KPH Transport Limited building and the chicken sheds, and progress a medium scale residential development.
84. The pastoral uses of the Land are permitted by the sale and purchase agreements between Karaka Meadows and the current owners to continue until December 2023, but will then be wound down.

⁴⁰ As defined in section 6.

⁴¹ 458 Karaka Road.

⁴² As defined in section 6.

⁴³ The exact number of FTEs is unknown, but the Applicant has been advised by the Vendor that a portion of the 350 staff are likely to include casual and part-time employees reflecting high and low staff demands of a horticulture operation.

⁴⁴ A New Zealand Limited Company incorporated on 23 June 2021, company number 8197563. Karaka Meadows Limited is 100% New Zealand beneficially owned.

⁴⁵ A New Zealand Limited Company incorporated on 20 June 1997, company number 857426.

85. The Applicant states that it has limited information regarding the Land's current productivity, usage or management due to the Vendor only recently acquiring the Land.

Farm land benefit test

86. The Investment involves the acquisition of farm land exceeding 5 hectares in area. As a result, the farm land benefit test applies unless you decide it need not be met for one of the reasons set out in the Act.⁴⁶
87. The Applicant did not raise any grounds for disapplying the farm land benefit test in section 16A(1D) and we consider that none apply to the Investment.
88. Accordingly, as required by the Act, we have treated the following factors as having high relative importance:⁴⁷
- the economic benefits factor (section 17(1)(a)) and, in particular, the creation or retention of jobs, introduction of technology or business skills, increased export receipts, and increased processing of primary products; and
 - the oversight or participation factor (section 17(1)(f)).
89. For the farm land benefit test to be met, the applicant must demonstrate, in relation to one or more of those factors of high relative importance, that the benefits of the investment are of a size or nature that represent a substantial benefit to New Zealand.

Summary of benefits

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

⁴⁶ Section 16A(1C)–(1D). You may decide not to apply the farm land benefit test if: the transaction is minor or technical; the transaction does not materially change the level of ownership or control that the relevant overseas person has over the asset; or the farm land has no or limited productive capacity as farm land and will, or is likely to, be used promptly, as a result of the overseas investment, for industrial or commercial development (for example, a supermarket) or for the construction of 1 or more buildings that, taken together, will consist of 20 or more new residential dwellings.

⁴⁷ Section 16A(1C)(a).

Relevant benefit factor	Economic benefits (High relative importance factor)	
Indicative Strength	Strong	
Proposed special conditions	<ul style="list-style-type: none"> • Apply for and obtain resource consent for Phase 1 • Start construction of Phase 1 • Complete construction of Phase 1 [s 9(2)(b)(ii)] to allow for building buffer size). • Operate the R&D campus business at all times. • Spend at least [s 9(2)(b)(ii)] capital expenditure on R&D campus Development. 	
Claimed benefit	Capital expenditure	
	Applicant's claims: what they intend to do	Current State
	<p>The total capital expenditure that is likely to be introduced to New Zealand if Phases 1 to 3 are completed is approximately [s 9(2)(b)(ii)] which is apportioned as follows:</p> <ul style="list-style-type: none"> • Phase 1 Costs of approximately \$230-\$300 million (paragraph 61). • Phase 2 Costs of approximately [s 9(2)(b)(ii)] (paragraph 67). • Phase 3 Costs of approximately [s 9(2)(b)(ii)] (paragraph 71). 	No current capital investment
Analysis	We have considered the benefits claimed under Phase 1 only as the Applicant has stated that it is committed to Phase 1. We consider the capital expenditure under Phase 1 to be likely to occur and to be a significant benefit in its own right, even if Phase 2 and 3 do not eventuate.	
Claimed benefit	Creation of jobs	
	Applicant's claims: what they intend to do	Current state
	<p>Phase 1 [s 9(2)(b)(ii)]</p> <ul style="list-style-type: none"> • 300-600 permanent FTE (Phase 1 Permanent, FTE paragraph 65). • Equivalent of 277-317 construction FTE for one year spread over [s 9(2)(b)(ii)] (Phase 1 Construction FTE, paragraph 63) <p>Phases 2-3 will require further construction FTE roles for the development of the facilities and permanent FTE roles for its ongoing operation.</p> <p>If Phases 1-3 are completed the total number of new permanent FTE jobs is expected to be between [s 9(2)(b)(ii)]</p>	There are currently 454 FTE jobs on the Land.
Analysis	We consider that it is likely that Phase 1 will be completed resulting in the creation of at least 300-600 permanent FTE and require 710-810 temporary FTE for construction. This is a significant number of new jobs created over the counterfactual.	

Claimed benefit	Development of technology or business skills	
	Applicant's claims: what they intend to do	Current state
	The Applicant intends to use the facilities for R&D activities. These are expected to result in the development of new or improved technology. During Phase 2 and 3 the Applicant expects that it will continue to make substantial investment in R&D across both campuses.	No development of technology or business skill on the Land.
Analysis	We consider that the Applicant is in the business of developing and innovating new technology and this is the purpose of establishing the Investment. It is therefore likely that new technology will result from the Investment.	
Claimed benefit	Increase in productivity and export receipts	
	Applicant's claims: what they intend to do	Current state
	<p>The Investment will allow the expansion of the FPH Group's business operations in NZ, resulting in increased local production of products for export (paragraph 77 - 78).</p> <p>The completion of Phase 1 will result in a 15% increase in manufacturing floor space and the completion of Phase 2 and 3 will further increase manufacturing floor space. These increases will result in the increased production of products available for export.</p>	<p>No export receipts. Produce derived from land is sold domestically.</p>
Analysis	We consider that Increased productivity and increased export receipts are likely to occur.	
Relevant benefit factor	Environmental benefit	
Indicative strength	Weak	
Proposed special conditions	N/A	
Claimed benefit	Enhance natural environment and reduce carbon emissions	
	Applicant's claims: what they intend to do	Current state
	<p>The Applicant will develop the Land in a similar way to its Existing Campus and construct the buildings in a way that increases their energy efficiency (paragraph 54). The Applicant intends to enhance the natural environment on the Land by restoring native flora to create green spaces.</p> <p>The Applicant and FPH Group has a global commitment to carbon reduction and has set its own science-based targets consistent with the Paris Agreement.</p>	Land currently only has small pockets of native flora less than 5000 square metres.
Analysis	The investment will result in some environmental benefit by way of enhancing native flora but the size of the planting and resulting level of environmental benefit is likely to be small and cosmetic. The impact of the building design on the environment is positive but not overly significant. The installation of charging stations may incentivise electric car use, but this is a small benefit.	

Relevant benefit factor	Significant government policy	
Indicative Strength	Strong	
Proposed special conditions	N/A	
Claimed Benefit	Advance Research, Science and Innovation Strategy (RSI)	
	Applicant's claims: what they intend to do	Current State
	The Government has released Te Ara Paerangi – Future Pathways ⁴⁸ which is the White Paper strategy to reform the RSI system in New Zealand intended to create a more resilient, fit for purpose RSI system. The White Paper emphasises the need for close collaboration between Government, research agencies and the private sector. The FPH Group submits it is New Zealand's largest annual spender on R&D ⁴⁹ .	N/A
Analysis	<p>If the Investment goes ahead the FPH Group will continue its active and significant investment in R&D and the Development will be close to Auckland city's 4 hospitals and in close proximity to Waikato hospital enabling access for FPH Group employees to clinical and R&D activities.</p> <p>We consider the Investment is closely aligned with the initiatives identified in Te Ara Paerangi and that even if only Phase 1 is completed this policy is likely to be advanced.</p>	
Claimed benefit	Advance Government's Economic Plan ⁵⁰	
	Applicant's claims: what they intend to do	Current state
	<p>The Applicant claims the Investment will advance the Government's Economic Plan which is designed to build a more "productive sustainable and inclusive economy to improve the wellbeing and living standards of all New Zealanders"⁵¹ and identifies eight necessary economic shifts including:</p> <ul style="list-style-type: none"> <i>Moving our economy from volume to value by enabling NZ business to become more productive and build a "productive, sustainable, and inclusive economy".</i> <p>The Applicant considers the Investment will enable the continued growth and development of medical R&D and manufacturing in New Zealand which will give effect to this objective.</p> <ul style="list-style-type: none"> <i>Ensuring people are skilled, adaptable and have access to lifelong learning leading to higher wages and improved work conditions.</i> 	N/A

⁴⁸ <https://www.mbie.govt.nz/science-and-technology/science-and-innovation/agencies-policies-and-budget-initiatives/te-ara-paerangi-future-pathways/>

⁴⁹ \$154 million in the 2022 financial year.

⁵⁰ <https://www.mbie.govt.nz/assets/economic-plan.pdf>. The Applicant also claimed the Investment would advance the Advanced manufacturing industry transformation plan (ITP June 2022 (Draft)). The draft plan is intended to increase productivity, boost the number of high wages jobs, and create globally competitive low emissions manufacturing sector. However, this claim was not considered as it is a draft plan not endorsed by Cabinet.

⁵¹ Economic Plan <https://www.mbie.govt.nz/assets/economic-plan.pdf>

	The Applicant submits that the FPH Group offers a modern workplace with a strong focus on upskilling and career progression achieved through various programmes. The Investment will model the FPH Group's modern approach to the workplace and will enable the staff on the new campus to benefit from these programmes.	
Analysis	We consider the Investment is likely to align with the Government's Economic Plan to as the investment will continue the growth of R&D in New Zealand, is likely to increase wages and work conditions, and provide opportunities for New Zealand employees to be upskilled and progress their careers.	
Claimed benefit	Advance Employment Strategy, August 2019	
	Applicant's claims: what they intend to do	Current State
	<p>The Government's Employment strategy identifies that "there is significant room for improving New Zealander's skills, productivity, utilisation and wages" and proposes a number of initiatives. The Proposed Investment will support the following initiatives:</p> <ul style="list-style-type: none"> • <i>Investing in research and development.</i> The Transaction will allow the FPH Group to continue to invest in R&D initiatives. • <i>Investing in upskilling and developing career pathways.</i> FPHC is committed to offering the same learning and development programmes to employees of the new Development. • <i>Offering a modern workplace.</i> The FPH Group is committed to incorporating the same modern approach of its existing Campus to the new Development. • <i>Supporting the broader community and industry.</i> The Investment will allow the FPH Group to expand existing community programmes that it supports as the workforce grows.⁵² 	N/A
Analysis	We consider that the Investment is closely aligned with the initiatives identified in the Employment strategy. Even if only Phase 1 is completed this policy is likely to be advanced.	

⁵² Including First Foundation which assists disadvantage youth to attend university, the Wonder project which promotes science and technology pathways for youth and is backed by the Ministry of Business Innovation and Employment.

Relevant Benefit factor	Consequential benefit	
Indicative Strength	Weak	
Proposed special conditions	N/A	
Claimed benefit	Economic benefits to the local community.⁵³	
	Applicant's claims: what they intend to do	Current state
	<p>The Applicant claims the Investment will:</p> <ul style="list-style-type: none"> • create further education opportunities as the FPH Group partners with New Zealand universities to create opportunities for students pursuing careers in science, technology, engineering, and mathematics. • create benefits to the local community by expanding the voluntary involvement of the FPH Group in the community.⁵⁴ • A significant number of employees will be located in the local area leading to flow on economic benefits to surrounding local business, schools and communities. 	<p>There is limited engagement with or flow on economic benefit to the community with only 454 FTE jobs on the Land.</p>
Analysis	<p>The Investment is likely to have some positive flow on benefit to the community, more significantly in the area of creating education opportunities for science, technology, engineering and mathematics, however the Applicant has not made any specific commitments about how any potential educational opportunities or voluntary involvement may be implemented.</p>	

⁵⁴ In 2021 the FPHC created the Fisher & Paykel Healthcare Foundation a registered charitable entity and committed \$20 million to fund it. The Foundation has provided funding for clinical trials at Middlemore Hospital and supports various causes like the Lungs4Life campaign and Kiwibots programme.

Consultation and submissions about the investment

93. In undertaking our assessment, we consulted with the Ministry of Business Innovation and Employment (MBIE).

Ministry of Business innovation and Employment

94. MBIE expressed that it was generally supportive of the Applicant's investment plan, that it is comfortable with the claims made, and that the claims aligned well with the information MBIE holds for the Applicant. MBIE acknowledged that the FPH Group is one of the most significant R&D performers in New Zealand and that it supports the expansion of their business which will help New Zealand's wider productivity and employment.

Assessment of benefits

95. As mentioned in the table above, we have taken a conservative approach and have only considered benefits which will flow from Phase 1 of the Investment on the basis that only the first phase of the Development will occur as the Applicant has stated its commitment to Phase 1. If the second and third development phase proceeds, additional benefit may eventuate.

Residential land outcome

96. The most appropriate residential land outcome to require is 'used for non-residential purposes',⁵⁵ for which conditions must be imposed that require that the residential land is not used, nor held for future use, for residential purposes (residential dwellings or long-term accommodation facilities) (See **Attachment 1** for the proposed conditions).
97. The Applicant's intended use for the land (the construction of a R&D, manufacturing and commercial facilities) will satisfy this condition as this is a strictly non-residential use. The Applicant intends to use the Land solely in the ordinary course of the FPH group's business and has no intention to use any part of the Land for residential development in the future. Immediately after acquisition of the Land, the Applicant intends to lodge an application with the Auckland Council to rezone the Land as light industrial with a precinct overlay to enable the Development to be undertaken on the Land.
98. While the required rezoning application, resource and building consents for the Development are pending, the Applicant may consider allowing existing uses of the Land to continue in the short term (refer to paragraphs 82 and 84).

Conclusion – benefit to NZ test

Key benefits

99. After considering the application, we are satisfied that the investment is likely to result in the benefits considered above. In particular, the investment is likely to result in economic benefits arising directly, or indirectly from the Investment including:
- Capital expenditure of between \$230-\$300 million capital expenditure.
 - Job creation of at least 577 new (permanent and construction) FTE jobs.
 - The introduction of new R&D technology and business skills; and
 - Greater productivity from the Land and increased exports generated from the R&D and pilot manufacturing activities.

⁵⁵ Clause 19(2), row 2, Schedule 2 of the Act.

Proportionality

100. We have undertaken our assessment having regard to the sensitivity of the Land and the nature of the overseas investment transaction, reflecting the proportional nature of the benefit to NZ test.
101. The Land is sensitive by virtue of being residential and rural (non -urban land over 5 hectares), contains no other sensitivities and is currently used for predominately pastoral purposes. The size of the Land is significant, and it is valuable in terms of being productive farm land with the potential to support significant residential development. There are varying degrees of productivity currently on the Land, providing some employment and producing produce for sale domestically.
102. The benefits likely to result from the Investment include (at the very least with Phase 1) a capital expenditure of close to \$300 million, plus the benefit of 300-600 new permanent FTE jobs, a significant increase in production and export and new technology.
103. Taking into account the size, features and use of the Land, the level of capital expenditure of the Investment and economic flow on effects (including jobs and increased productivity and exports) we consider the overseas investment is likely to benefit New Zealand and the benefit is proportionate to the sensitivity of the land and the nature of the investment.

Farm land benefit test

104. We consider that the benefit likely to arise under the economic factor, a factor of high relative importance, is likely to be substantial in the context of this investment. Therefore, we consider that the farm land benefit test has been met.

G. Farm land offer test

105. Because the Land is farm land,⁵⁶ we note that it was advertised for sale on the open market with the required information for a period exceeding 30 working days⁵⁷ on Trademe.co.nz, Realestate.co.nz, Oneroof.co.nz and the Bayleys real-estate website⁵⁸ and in the Herald on Sunday.⁵⁹
106. The Applicant submitted a signed offer to the Vendor in accordance with the Vendor's tender process.⁶⁰

H. Not a transaction of national interest

107. The investment does not involve a transaction of national interest under the mandatory criteria of the Act.⁶¹ This is because the investment does not involve a non-NZ government investor, or an investment in a strategically important business (as defined in the Act).
108. We have not referred this transaction to the Minister of Finance for him to call it in for a national interest assessment on a discretionary basis.⁶² He has therefore not declined consent to the transaction.

⁵⁶ Currently being used primarily for pastoral purposes. (see the definition of farm land in s 6 of the Act).

⁵⁷ For sale by tender, closing on 31 August 2022.

⁵⁸ From 18 July to 31 August 2022.

⁵⁹ On 23 July 2022 and 30 July 2022.

⁶⁰ specified in the advertising on 30 August 2022, and that offer was accepted by the Vendor on 31 August 2022.

⁶¹ Under s 20A of the Act.

⁶² Section 20B of the Act

109. We are directed⁶³ that the starting point is the assumption that overseas investment is in New Zealand's national interest and that we should only seek the Minister of Finance to exercise his discretion for a national interest assessment if the proposed investment:

- could pose risks to New Zealand's national security or public order
- would grant an investor significant market power within an industry or result in vertical integration of a supply chain
- has foreign government or associated involvement that was below the 10 per cent threshold for automatic application of the national interest test, but granted that government (and/or its associates) disproportionate levels of access to or control of sensitive New Zealand assets
- would have outcomes that were significantly inconsistent with or would hinder the delivery of other Government objectives
- raises significant Treaty of Waitangi issues, or
- relates to a site of national significance (e.g. significant historic heritage).

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

I. Conclusion

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

- the investor test has been met; and
- the overseas investment will, or is likely to, benefit New Zealand (or any part of it or group of New Zealanders); and
- the benefit is proportionate to the sensitivity of the land and the nature of the transaction; and
- the farm land benefit test applies to the transaction and the benefit will be, or is likely to be, substantial in relation to a factors of high relative importance for farm land; and
- the conditions relating to residential land to be imposed on the consent will be, or are likely to be, met; and
- the transaction is considered to be a transaction of national interest.

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

Anneke Turton

Manager Applications
Overseas Investment -LINZ

Date: 05/04/2023

⁶³ Ministerial Directive Letter (24 November 2021).

J. List of Attachments

1. Proposed Decision
2. Intended ownership structure
3. Other benefit factors
4. Photos
5. Concept plan for three phases of Development

RELEASED UNDER THE
OFFICIAL INFORMATION ACT 1982

ATTACHMENT 1 PROPOSED DECISION

Consent for Overseas Person to Acquire Significant Business Assets and 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	202200414
Consent	The Consent Holder may acquire the Land subject to the Conditions set out below.
Consent holder/s	Fisher & Paykel Healthcare Properties Limited (Company Number 1117149). We will also refer to each Consent holder and the Consent holders together as you .
Land	<p>A Freehold Interest in:</p> <p>Tranche A Land:</p> <ol style="list-style-type: none">1. 19.586 hectares of land located at Lot 1 DP 205837, contained in Record of Title NA134A/751 (North Auckland).2. 27.4857 hectares of land located at Lot 4 DP 14876 and Part Lot 6 DP 14876, contained in Record of Title NA889/167 (North Auckland).3. 32.3445 hectares of land located at Lot 7, Part Lot 3 and Part Lot 5-6 DP 14876, contained in Record of Title NA889/168 (North Auckland). <p>Tranche B Land:</p> <ol style="list-style-type: none">4. 5.275 hectares of land located at Lot 1 DP 523765, contained in Record of Title 834199 (North Auckland).5. 19.570 hectares of land located at Lot 2 DP 523765, contained in Record of Title 834200 (North Auckland).
Timeframe	You have until:

	<ul style="list-style-type: none">• [12 months from consent date] to acquire the Tranche A Land; and• 31 December 2026 to acquire the Tranche B Land.
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OFFICIAL INFORMATION ACT 1982

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 Toitū Te Whenua Land Information New Zealand as **LINZ, us or we**.

Act means the Overseas Investment Act 2005.

Research and Development Campus means [s 9(2)(b)(ii)] on the Land to be used for research and development and pilot manufacturing activities.

Operate means: conduct research and development and pilot manufacturing activities at the Research and Development Campus and includes the opening of the Research and Development Campus.

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: Research and Development Campus	
<p>You must:</p> <p>a) Lodge the application for the private plan change to the Auckland Unitary Plan with the Auckland Council.</p> <p>b) Commence construction of the Research and Development Campus.</p> <p>c) Complete Construction of the Research and Development Campus.</p> <p>d) Operate the Research and Development Campus If you do not, Standard condition 6 will apply, and we may require you to dispose of the Land.</p>	<p>By [s 9(2)(b)(ii)]</p> <p>By [s 9(2)(b)(ii)]</p> <p>By [s 9(2)(b)(ii)]</p> <p>At all times, following completion of the Research and Development Campus above at 1(c).</p>
Special Condition 2: Capital expenditure on Research and Development Campus	
<p>You must spend at least [s 9(2)(b)(ii)] in capital expenditure to construct the Research and Development Campus. This includes for: design costs, earthworks and major critical infrastructure and construction costs:</p> <p>1. You must spend [s 9(2)(b)(ii)]</p> <p>2. You must spend [s 9(2)(b)(ii)]</p> <p>If you do not, Standard condition 6 will apply, and we may require you to dispose of the Land.</p>	<p>By [s 9(2)(b)(ii)]</p> <p>By [s 9(2)(b)(ii)]</p>

Details	Required date
Special condition 3: Use the Land for non-residential purpose	
<p>The primary use of the Land is for the operation of the Research and Development Campus. You must not use or hold the Land for any residential purposes.</p> <p>If you do not, standard condition 6 will apply and we may require you to dispose of your interest in the Land.</p>	<p>Within two months of settlement of the Tranche B Land.</p>

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"> 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 using the acquisition, ownership, and control structure you described in your application. Note, only you - the named Consent Holder - may acquire the Land, not your subsidiary, trust, or other entity. 	<p>As stated in the Consent</p>
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"> the date you acquired the Land (Settlement), consideration paid (plus GST if any), the structure by which the acquisition was made and who acquired the Land, and copies of any transfer documents and Settlement statements. 	<p>As soon as you can, and no later than two months after Settlement</p>
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. We will give you at least two weeks' written notice if we</p>	<p>At all times</p>

Details	Required date
<p>want to do this. 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), b. remain there as long as is reasonably required to conduct the inspection, c. gather information, d. conduct surveys, inquiries, tests, and measurements, e. take photographs and video records, and f. do all other things reasonably necessary to carry out the Inspection. 2. Take all reasonable steps to facilitate an Inspection including: <ol 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>During an Inspection:</p> <ol style="list-style-type: none"> 1. 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, 2. 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 not unsuitable to Invest in New Zealand	
<p>You, and to the extent that you are not an individual, the Individuals Who Control You must remain not unsuitable to own or control the Assets in accordance with section 18A(1) of the Act.</p> <p>The Individuals Who Control You are individuals who:</p> <ol style="list-style-type: none"> 1. are members of your governing body 2. directly or indirectly, own or control more than 25% of you or of a person who itself owns or controls more than 25% of you, and 	At all times

Details	Required date
3. are members of the governing body of the people referred to in paragraph 1 above.	
Standard condition 5: Tell us about changes that affect you, the people who control you, or people you control	
<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 become aware that you and/or any Individual Who Controls you establishes any of the investor test factors listed in section 18A(4) of the Act. 2. You cease to be an overseas person or dispose of all or any part of the Asset. 3. Your New Zealand Service Address changes. This is the address you provided us in your application as the address which we will send any legal document we need to serve on you. 	Within 20 working days after the change
Standard condition 6: Dispose of the Land if you do not comply with key special conditions	
<p>If all or part of this Standard Condition 6 applies to a special condition, we have said so in that special condition. If we consider you have failed to comply with one of those special conditions in a material way we may require you to dispose of the Land.</p> <p>We will give you written notice if we require you to dispose of the Land. After we have given you notice, you must:</p>	
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

Details	Required date
<p>Report disposal to us: send us, in writing, evidence of the following:</p> <ol style="list-style-type: none"> 1. that you have disposed of the Land (including copies of sale and purchase agreements, settlement statements and titles showing the purchaser as registered proprietor), and 2. that the purchaser is not your associate. 	<p>Within one month after the Land has been disposed of</p>

Reporting conditions

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

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

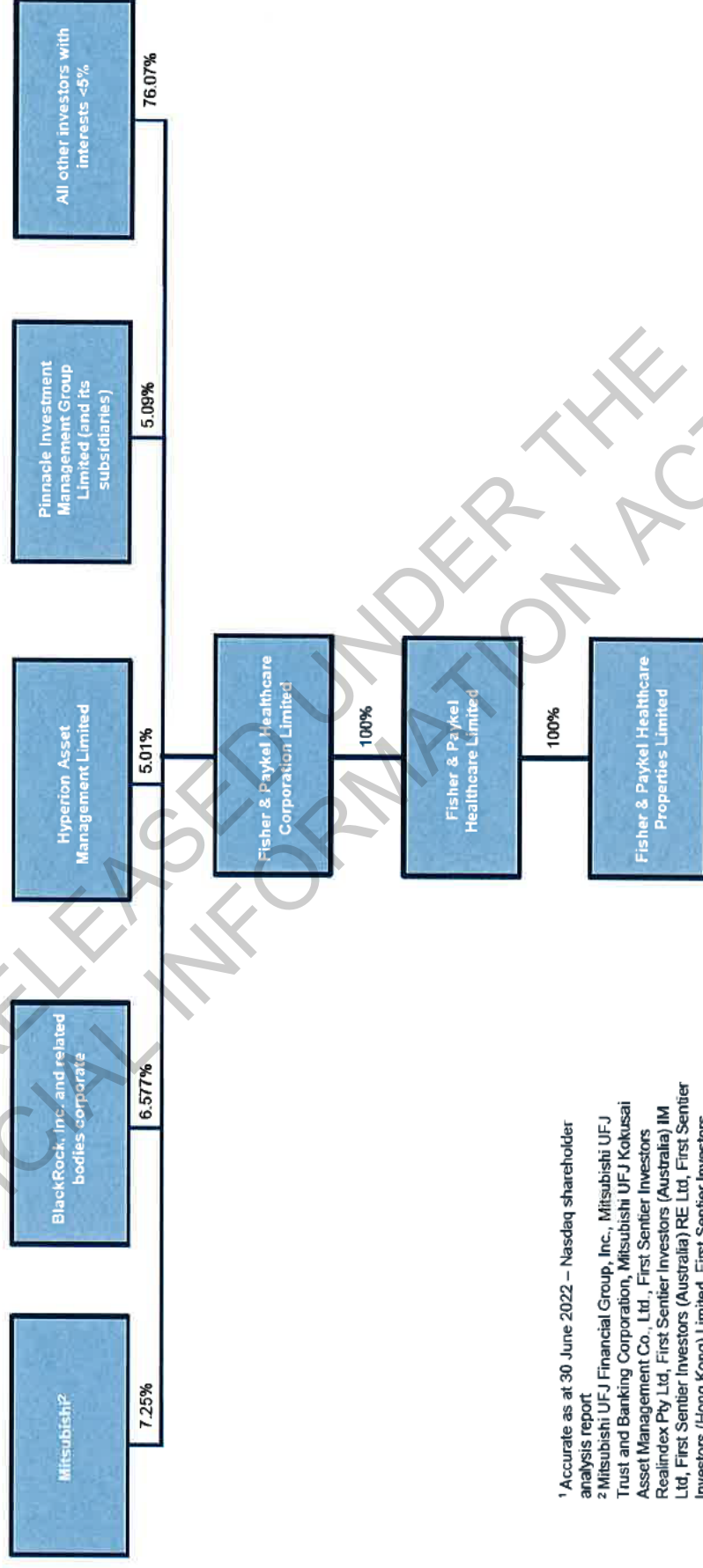
1. be submitted via our [Webform](#) by these dates:
 - a. [s 9(2)(b)(ii)]
 - b. [REDACTED]
 - c. [REDACTED]
2. contain information about:
 - a. your progress in implementing the special conditions (which can include photographs, maps or aerial imagery as evidence of compliance with relevant conditions)
3. follow the format of the template annual report published on our website

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

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

ATTACHMENT 2 – INTENDED OWNERSHIP STRUCTURE

Structure diagram showing ultimate ownership¹



¹ Accurate as at 30 June 2022 – Nasdaq shareholder analysis report

² Mitsubishi UFJ Financial Group, Inc., Mitsubishi UFJ Trust and Banking Corporation, Mitsubishi UFJ Kokusai Asset Management Co., Ltd., First Sentier Investors Realindex Pty Ltd, First Sentier Investors (Australia) IM Ltd, First Sentier Investors (Australia) RE Ltd, First Sentier Investors (Hong Kong) Limited, First Sentier Investors (Singapore), First Sentier Investors (UK) IM Limited, First Sentier Investors International IM Limited.

ATTACHMENT 3 – OTHER BENEFIT FACTORS

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

We considered that the factors below were either not relevant to the investment, or the benefit to New Zealand was not likely or sufficient to be relied on for the purposes of our assessment.⁶⁴

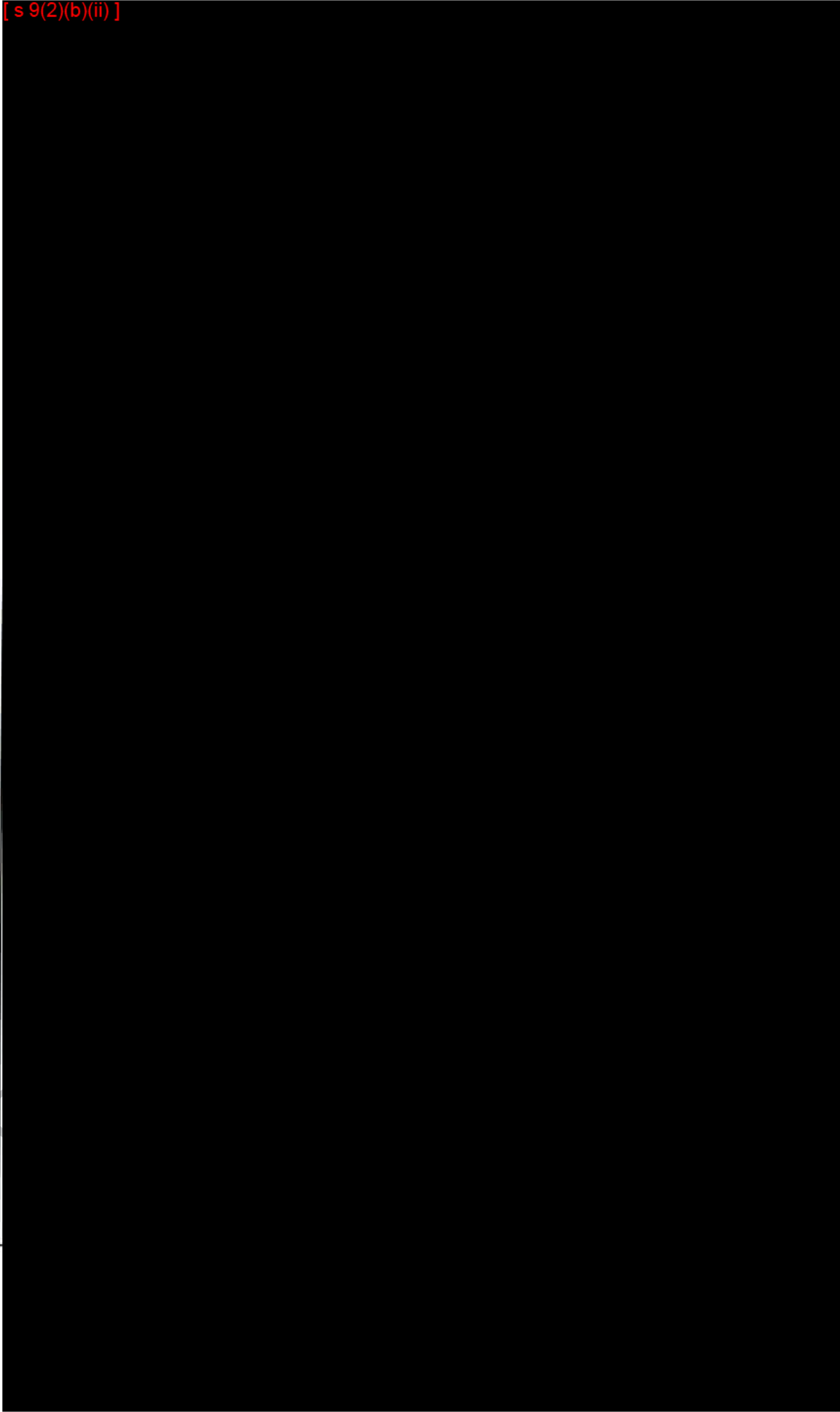
Factor	Reason not relevant or insufficient
Oversight or participation by New Zealanders	As a result of the Investment the Land will shift from 100% New Zealand owned to less New Zealand ownership.

⁶⁴ The Applicant did not claim benefits under the historic heritage or public access factors.

[illegible]

ATTACHMENT 5 - CONCEPT PLAN FOR THREE PHASES OF DEVELOPMENT ⁶⁵

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



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

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