

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

ASSESSMENT REPORT: Hermann Tobias Hagemeyer

Date	17 February 2021	Classification	IN CONFIDENCE: Commercially sensitive
OIO reference (Report reference)	202000540 (BRF 21-270)	Suggested deadline	8 March 2021 as the vendor can cancel the contract after this date

Purpose

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

Action sought

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

OIO Contacts

Name	Position	Contact	First contact
Charlotte Connell	Manager Applications, OIO	04 462 4407 (forwarded to mobile)	<input checked="" type="checkbox"/>
Duncan Robin	Senior Solicitor, OIO	04 460 2783	<input type="checkbox"/>

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A. Summary

1. Herman Tobias Hagenmeyer (the **Applicant**) is a German citizen who intends to acquire about 254 hectares of sensitive land at Tangoio, about 25 km north of Napier (the **Land**) and convert it from a sheep and beef farm to a wildlife sanctuary, manuka forest, and manuka honey producer (the **Investment**).
2. For the reasons set out in this report, our recommendation is to **grant consent**.

Key information

Applicant	Herman Hagenmeyer Germany 100%
Vendors	Beverly Coila Doohan and Daniel Peter Doohan as Executors in the Estate of Thomas Patrick Doohan; Stephen Hugh Reaney and CDT (Doohan) Limited as trustees of the T P Doohan Insurance Trust; Michael Owen Doohan and Stephen John Doohan as Trustees of the Estate of John William Doohan; and Beverly Coila Doohan. New Zealand 100%
Land	254.3343 ha of land in Tangoio Settlement Road, Hawkes Bay
Consideration	[s 9(2)(b)(ii)]
Sensitivity	Non-urban land over 5 hectares
Relevant tests	Investor test: s16(1)(a) & (2) Benefit to NZ test – substantial and identifiable benefit: s16(1)(c)(ii) and s16A(1) Farm land offer test: s16(1)(f) National interest test: s16(1)(g)

Timing

3. The requested decision date is 8 March 2021 because the commercial deadline for the transaction is **9 March 2021**.
4. Processing days for the application are set out in the table below. These are within our processing standard of 65 working days of active consideration for assessing applications of this type.

Quality Assurance	OIO Processing	Waiting for Applicant / Vendor	Third party consultation
9	41	24	28

B. Decision

Core tests

5. I determine that:

5.1 The 'relevant overseas person' is:

Relevant overseas person	Role
Hermann Hagenmeyer	The Applicant making the Investment

5.2 The relevant overseas person has business experience and acumen relevant to the overseas investment.

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

5.4 The relevant overseas person is of good character.

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

6. I am satisfied that the investor test in section 16(2)(a)-(d), as outlined in paragraphs 1.2 to 1.5 above, has been met.

Hon Dr Megan Woods

Hon Damien O'Connor

Agree

Agree

Disagree

Disagree

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

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

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.

Hon Dr Megan Woods

Hon Damien O'Connor

Agree

Agree

Disagree

Disagree

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

Hon Dr Megan Woods

Hon Damien O'Connor

Agree

Agree

Disagree

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

Noted

Hon Damien O'Connor

Noted

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 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 Dr Megan Woods

Date: 7/4/21

Hon Damien O'Connor

Date: / /

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Hon Damien O'Connor

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Hon Dr Megan Woods

Hon Damien O'Connor

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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

Noted

Hon Damien O'Connor

Noted

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Grant consent with amended conditions provided on:

Decline consent

Hon Damien O'Connor

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

Grant consent with amended conditions provided on:

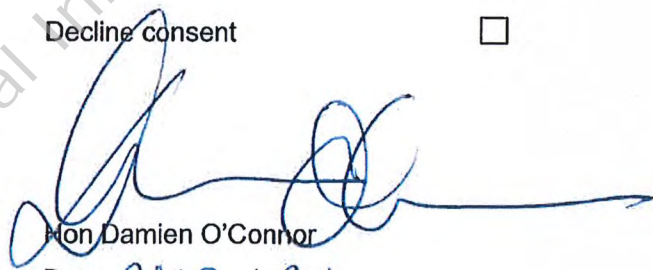
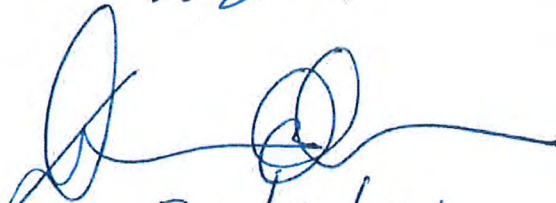
Decline consent

Hon Dr Megan Woods

Date: / /

Hon Damien O'Connor

Date: 28/2/21.



21/3/21.

Released under the Official Information Act 1982

C. Background and proposed transaction

11. The Applicant is the former CEO and owner of Getrag Corporation (now known as Magna PT), the world's largest supplier of transmission systems for passenger cars and commercial vehicles.
12. The Applicant already owns about 508 hectares of adjoining sensitive land (the **Adjoining Land**), which he received consent to acquire in 2017 (case 201620075), and part of which will form part of the wildlife sanctuary.



Aerial view of the Land (red outline), the Applicant's existing land (green outline), and the planned wildlife sanctuary and manuka forest.

A larger copy of this aerial view is available in **Attachment 4**.

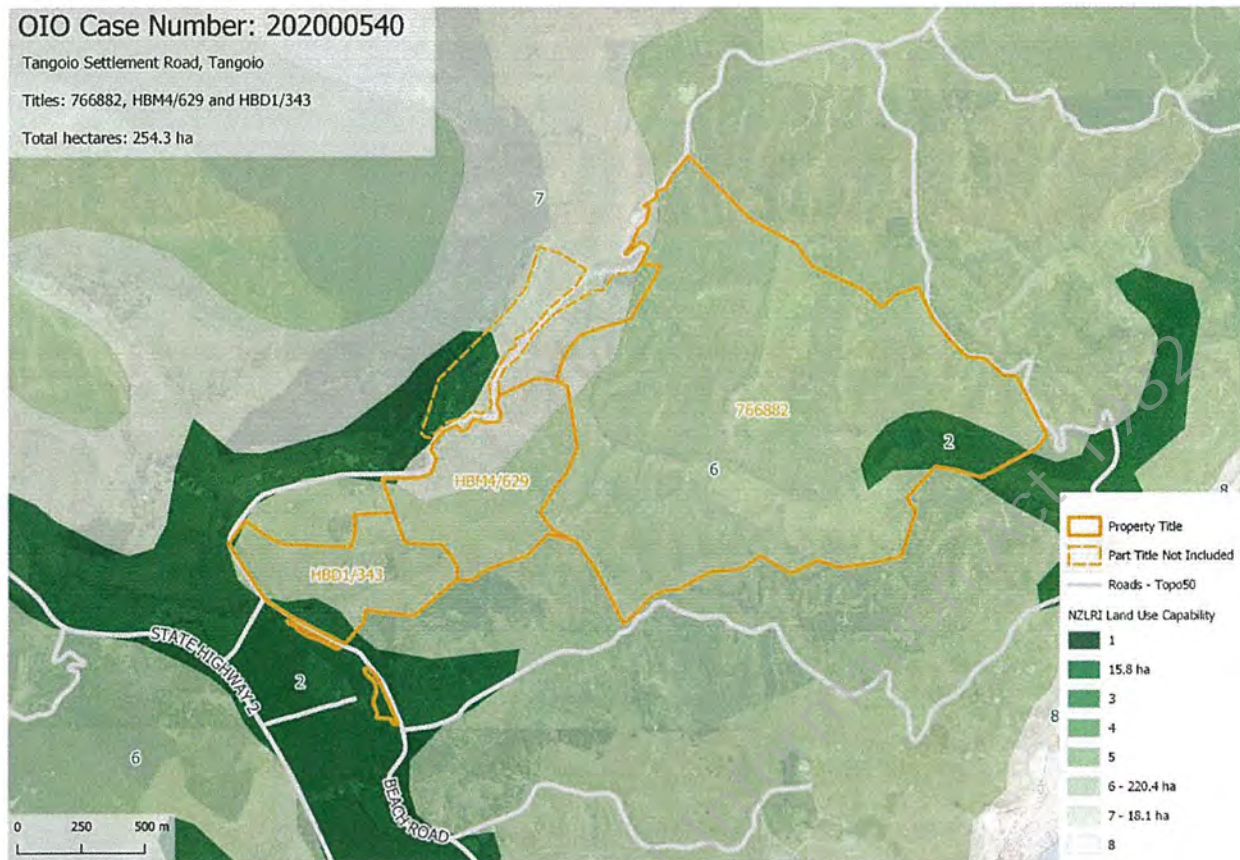
13. The following Land Use Capability (**LUC**) class information provides general context about the productive capacity and physical limitations of the Land.
 - LUC 2 - slight limitations for arable use and suitable for cultivated crops, pasture, and forestry (15.8 hectares)
 - LUC 6 - non-arable land with moderate limitations for use under perennial vegetation such as pasture or forest (220.4 hectares)
 - LUC 7 - non-arable land with severe limitations for use under perennial vegetation such as pasture or forest (18.1 hectares).

OIO Case Number: 202000540

Tangoio Settlement Road, Tangoio

Titles: 766882, HBM4/629 and HBD1/343

Total hectares: 254.3 ha



LUC Map of the Land

Further details relating to the sensitive land and a larger LUC map are available in **Attachment 5**.

D. Application of the Act

14. The Land is sensitive because it is non-urban land over 5 ha in size,¹ so consent is required.² The following criteria for an investment in sensitive land apply to this application:³

- the investor test must be met⁴
- the benefit to New Zealand test must be met⁵
- the farm land must have been offered for sale on the open market⁶
- 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.⁷

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

² Under sections 10(1)(a) and 12(a)(i) of the Act.

³ Set out in section 16(1) of the Act.

⁴ Section 16(1)(a) of the Act.

⁵ Section 16(1)(c)(ii).

⁶ Section 16(1)(f) of the Act.

⁷ Section 16(1)(g) of the Act.

15. 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;⁸ and
 - determine that benefit will be, or is likely to be, substantial and identifiable.⁹
16. We assess the investor test in Part E, the benefit to New Zealand test in Part F, the farm land offer test in Part G, and discuss national interest matters in Part H.

E. Applicant and investor test

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

Relevant overseas person and control

18. The Applicant's main activities are investment and acquisition in his personal capacity and through his family office: THI Investments.
19. The Applicant is an overseas person because he is not a New Zealand citizen or ordinarily resident in New Zealand. The Applicant submits [s 9(2)(b)(ii)], [s 9(2)(a)] [s 9(2)(b)(ii)], [s 9(2)(a)]
20. We recommend the 'relevant overseas person' (ROP) is solely the Applicant because he is making the Investment alone.
21. This means there are no 'individuals with control of the relevant overseas person' (IWC), because the ROP is an individual.

Experience

22. The Applicant has extensive commercial experience, and will be supported by:
 - Wendy and Clinton Reddington of 100% Positive Limited, who have over 40 years of forest and pest management experience, and who manage the Applicant's Adjoining Land; and
 - Tamsin Ward-Smith of Wild Solutions Limited, who has over 20 years of wildlife restoration experience including 10 years managing the Cape Kidnappers sanctuary.
23. We are satisfied the ROP has business experience and acumen relevant to the Investment as a result of his extensive commercial experience, and the relevant environmental experience of Wendy and Clinton Reddington, and Tamsin Ward-Smith.

Good character

24. The Applicant made submissions on certain matters relevant to character. Our open source searches found no additional matters.
25. We consider these matters do not prevent a finding that the relevant overseas person is of good character, and are satisfied the statutory declaration as to good character can be relied on because the matters he disclosed were inadvertent, or involved companies the Applicant has invested in rather than his own direct actions.
26. The matters we have identified and considered are detailed in **Attachment 2**.

⁸ Section 16A(1)(a) of the Act.

⁹ Section 16A(1)(b) of the Act. This criterion applies because the Land is non-urban land over 5 ha in size.

27. For these reasons, we are satisfied the ROP is of good character and recommend that you determine that this test **is met**.

Summary of investor test

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

Investor test criteria	OIO assessment	
	Risk	Summary
Has business experience and acumen relevant to the investment. Section 16(2)(a)	Test met	Extensive commercial experience, supplemented with expert advice.
Relevant overseas person demonstrated financial commitment. Section 16(2)(b)	Test met	The Applicant has entered into a binding agreement and incurred legal fees.
Is of good character. Section 16(2)(c)	Minor concerns	We are satisfied the ROP is of good character. See Attachment 2 .
Not an individual of the kind ineligible for a visa or entry permission under ss 15 or 16 of the Immigration Act 2009. Section 16(2)(d)	Test met	Statutory declarations have been provided confirming the ROP is not of the kind referred to in ss 15 or 16 of the Immigration Act 2009.

F. Investment plan and benefit to NZ test

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

Investment plan

30. The Applicant intends to acquire the Land, and convert it from a sheep and beef farm, to:
- a 150 hectare wildlife sanctuary (84 hectares will be on the Land, and 66 hectares will be on the Applicant's Adjoining Land); and
 - 140 – 150 hectare manuka forest with [s 9(2)(b)(ii)] hives to produce manuka honey.

Wildlife sanctuary

31. The Applicant plans on investing [s 9(2)(b)(ii)] between 2021 and 2023 establishing the wildlife sanctuary to increase indigenous vegetation and fauna. The main costs are building a predator-proof fence [s 9(2)(b)(ii)] and establishing indigenous vegetation [s 9(2)(b)(ii)].
32. The predator-proof fence would enable the wildlife sanctuary to be free of cats, mustelids, hedgehogs, and rodents (excluding mice, which would require additional pest control measures).

33. The Applicant submits the Land is well suited for a wildlife sanctuary given its proximity to the coast and multiple water sources. The Applicant considers it would provide a suitable habitat for native species such as kaka, kakariki, matata, spotless crane, and Australian bittern, as well as reptiles and invertebrates, such as geckos, skinks, Hawke's Bay tree weta and giraffe weevil. The Applicant considers it would also provide a viable habitat for pateke, the rarest waterfowl on mainland New Zealand.
34. The Applicant plans on establishing a "kiwi creche" that could breed up to 80 kiwi annually. The Applicant advises other protected species such as takahe could be candidates for its planned breeding programme; however, Department of Conservation (DoC) permits will be required to translocate certain species such as kiwi or takahe (though natural recolonisation does not require a permit).

Manuka forest and manuka honey business

35. The Applicant plans on investing [s 9(2)(b)] between 2021 and 2023 establishing the manuka forest, and [s 9(2)(b)] from 2022 establishing the manuka honey hives. The Applicant will introduce the hives gradually while the manuka forest is being established and expects to introduce [s] hives by 2027.
36. The Applicant estimates [s] hives will produce an average of [s 9(2)(b)(ii)] [s 9(2)(b)(ii)] of monofloral manuka honey annually for export.¹⁰
37. The Applicant estimates it will require 55 full-time equivalent (FTE) jobs to establish the Investment, and 4.7 – 6.2 to manage the Investment.
38. The Applicant also plans on creating new walking access on the Land (discussed further from **paragraph** Error! Reference source not found.).

What is likely to happen without the investment (Counterfactual)

39. Without the Investment, we consider the Land will likely be acquired by an overseas forestry investor, who would convert the Land to a 254 hectare commercial pinus radiata forest (the **Counterfactual**) because:
 - the Vendors advise they are not able to continue farming the Land and are preparing to retire;
 - the Vendors only received three other tenders for the Land, all from overseas forestry investors who would require consent under the Act's special forestry test.
40. The Counterfactual will likely lead to about [s 9(2)(b)] of additional investment establishing a pinus radiata forest, and [s 9(2)(b)(ii)] [s 9(2)(b)(ii)] of pinus radiata logs about 28 years from now for export.

Assessment

41. As the benefits (summarised above) are clear, the key issues are whether the Investment is likely to go ahead, and whether the benefits are sufficiently substantial to meet the Act's threshold.
42. Given the Applicant's financial ability to undertake the Investment and his track-record with the Adjoining Land he previously received consent to acquire, we consider the Investment is likely to go ahead. DoC have also advised that they are generally supportive of the Investment.

¹⁰ Ministry for Primary Industries' 2019 Apiculture Monitoring Report.

43. We also consider the Investment will likely lead to substantial benefits additional to those under the Counterfactual. In particular:
- the Applicant's investment to establish the wildlife sanctuary and manuka honey business can be expected to be about s 9(2) more than the investment that could be expected to convert the Land to forestry
 - the Investment will create more long-term jobs than a commercial forest
 - a wildlife sanctuary over 84 ha of the Land will increase native habitats to an extent that a commercial forest could not, and
 - there will be significantly more processing to produce the manuka honey than would be involved in exporting logs.
44. For these reasons, we consider the benefits from the Investment relative to the Counterfactual to be substantial.

Benefit to NZ test

45. The benefits to New Zealand 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. Factors 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**.
46. In applying the benefit to New Zealand criteria, decision-makers are required to consider each of the benefit factors and determine which of them are relevant. The weight and relative importance to be given to each factor is a matter to be determined by you as the decision-maker. This report sets out our assessment to guide your consideration, however it is not determinative.
47. Under the terms of the Ministerial directive letter,¹¹ the 'rural land directive' applies to this investment.¹² The benefit factors Ministers have directed should be given high relative importance are noted in the table below.¹³
48. Consultation undertaken in our assessment is discussed following the table.

¹¹ Dated 28 November 2017, paragraphs 13-17.

¹² Because the investment involves the acquisition of non-urban over 5 hectares in size (excluding any associated land) and excludes 'forest land'.

¹³ The factors that we have given high relative importance are: jobs, new technology or business skills, increased export receipts, increased processing of primary products, oversight and participation by New Zealanders.

Summary assessment: benefit to NZ test

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

Relevant benefit factors	Applicant's claims: what they intend to do	Without the investment (Counterfactual)	OIO analysis: strength/weakness		Proposed special conditions
			Indicative strength	Summary	
Consequential benefits	Increased indigenous vegetation and fauna over 240 hectares	No consequential benefits	Strong	Significant increase in indigenous vegetation and fauna, particularly on the 84 ha of the Land being set aside for the new wildlife sanctuary compared with the Counterfactual.	Report on the number of protected species on the Land
Additional investment for development purposes	Additional investment	Additional investment	Strong	About additional investment than the Counterfactual.	Invest in a predator-proof fence, establishing a manuka forest, and establishing hives
Job opportunities (high relative importance)	4.7 – 6.2 permanent FTE jobs, and 55 temporary FTE over 2.5 to 3.5 months	1 permanent FTE for 5 days a year, 11 temporary FTE over 3 months, and 10 temporary FTE over 1.5 months in Years 8 - 10	Strong	Significantly more permanent and temporary jobs than the Counterfactual	Create and retain 4 FTE

Relevant benefit factors	Applicant's claims: what they intend to do	Without the investment (Counterfactual)	OIO analysis: strength/weakness		Proposed special conditions
			Indicative strength	Summary	
Increased export receipts (<i>high relative importance</i>)	[redacted] over a 28 year period, ¹⁴ equating to [redacted] in today's dollars ¹⁵	[redacted] of pinus radiata log export receipts 28 years from now, equating to [redacted] in today's dollars ¹⁶	Moderate	[redacted] more export receipts over a 28 year period in today's dollars than the Counterfactual	Report on the volume and value of manuka honey exported
Walking access	Create new public walking access	No new walking access	Moderate	New public walking access. Weighted moderate, because although the access is significant relative to the Counterfactual, the access is ancillary in the context of the Investment.	Create the proposed walking access
Previous investments	The Applicant's previous Adjoining Land investment has been of benefit to New Zealand	Not applicable	Weak	The Applicant's previous investment has been of benefit to New Zealand including 2 permanent FTE jobs, 15 hectares of forest restoration, and a predator control programme. The benefits delivered exceeded those anticipated.	Not applicable

¹⁴ This assumes full production and exports of about [redacted]

¹⁵ Discounted at 6% (using Treasury's default discount rate).

¹⁶ Discounted at 6% (using Treasury's default discount rate).

Relevant benefit factors	Applicant's claims: what they intend to do	Without the investment (Counterfactual)	OIO analysis: strength/weakness		Proposed special conditions
			Indicative strength	Summary	
Enhance the viability of other investments	The Investment enhances the Applicant's existing Adjoining Land investment in 3.00 hectares of manuka forest and in conservation	Not applicable	Weak	The Investment slightly enhances the Applicant's existing Adjoining Land investment, and there is some overlap with our consideration of the previous investments benefit factor.	Not applicable

Consultation and submissions about the investment

50. In undertaking our assessment, we consulted with the Walking Access Commission (the **Commission**), Department of Conservation (**DoC**), and the Ministry for Primary Industries (**MPI**).

Walking Access Commission (the Commission)

51. The Commission recommended certain public walking access over the Land. The Applicant responded with alternative public walking access, of which the Commission was generally supportive. We have considered this in our assessment of the walking access benefit factor.



Aerial view of the Applicant's proposed walking access highlighted in blue-green.

Department of Conservation (DoC)

52. DoC was generally supportive of the Investment, noting the experience of the Applicant's consultant Tamsin Ward-Smith. DoC acknowledged the Applicant's engagement with Maungaharuru Tangitu iwi, and highlighted the importance of this relationship continuing moving forward.
53. DoC also highlighted that the Land adjoins some archaeological sites. The Applicant acknowledged this and advised they are aware of this and their Heritage New Zealand Pouhere Taonga Act 2014 obligations.¹⁷

¹⁷ The Applicant advises the archaeological sites adjoin the boundary with his Adjoining Land, and that he engaged CFG Heritage Limited to undertake an archaeological survey to locate and record known and new sites, and update the New Zealand Archaeological Association's site recoding scheme (SRS) as required. Heritage New Zealand did not recommend any sites be added to the heritage list.

54. DoC recommended the Applicant consider the long-term endurance of the Investment beyond his ownership of the Land. The Applicant advised he will consider this once the wildlife sanctuary is established.

Ministry for Primary Industries (MPI)

55. We consulted MPI about the proposed manuka forest and manuka honey business, and the Counterfactual. MPI provided several publicly available reports on New Zealand forestry and manuka honey, which we used to assess several of the Applicant's submissions.

Submissions

56. We received a third party walking access submission from the Hawke's Bay Regional Council (HBRC). However, the submission overlapped with our consultation with the Commission, so we mutually agreed with HBRC to consider the submission as part of our consultation with the Commission, which is discussed above.

Proposed special conditions

57. We recommend a range of conditions to ensure the benefits proposed by this Application are realised. To ensure the 'additional investment for development purposes' benefit factor is realised, we propose a condition requiring the Applicant to invest:

- [s 9(2)(b)(ii)] in a predator-proof fence¹⁸
- [s 9(2)(b)] establishing indigenous vegetation
- [s 9(2)(b)] establishing a manuka forest
- [s 9(2)(b)] establishing the hives.

58. We propose a condition requiring the Applicant employ 50 FTE for 3 months, and employ and retain 4 FTE employees to ensure the job opportunities benefit factor is realised. We consider these conditions will lead to the expected increased processing of primary products, increased export receipts, and consequential benefits.

59. We also propose a condition requiring the Applicant to create its proposed walking access to ensure the 'walking access' benefit factor is realised.

60. To enable the benefits from the 'consequential benefits' benefit factor manifest, we also propose a condition requiring the Applicant to use part of the Land as a wildlife sanctuary for indigenous fauna.

Proposed non-occupation condition

61. We recommend a condition restricting the Applicant's ability to use the Land for residential purposes is imposed.

62. In 2018, the Act was amended by the Overseas Amendment Act 2018. A key purpose of the amendments was to restrict the ability of overseas persons to acquire residential land unless they met certain criteria relating to residency and occupation. Part of the rationale behind this was to make "homes more affordable for New Zealand buyers and help redirect capital to productive uses."¹⁹

¹⁸ DoC recommended the predator-proof fence be subject to the designs and specifications of the Applicant's consultant Tamsin Ward-Smith of Wild Solutions Limited. We have not included this however due to the ambiguity regarding 'designs and specifications', and because we consider the conditions sufficient to ensure a predator proof fence will be built.

¹⁹ (Then) Overseas Investment Amendment Bill Explanatory note.

63. The amendments²⁰ also require mandatory conditions to be imposed restricting residential use for consents under the benefit pathway where the land is classified as residential land (eg. a lifestyle block). The purpose of this change was to ensure that an overseas person could not circumvent the intention of the changes by buying land for the purpose of occupation through the benefit pathway.
64. Treasury's report on the (then) amendment Bill²¹ noted (at page 14):
- "Allowing lifestyle land to be purchased by overseas persons while residential land purchases are restricted could result in overseas demand being funnelled into just this segment of the overall market. This would result in continued price pressures on land that could become urbanised over time. There could also be risks of land-banking if these lifestyle blocks are held and not developed by overseas persons. This kind of distortion and potential price pressures would not help reduce land market pressures, which are needed to improve housing affordability. Allowing overseas persons to purchase land to solely be used for resorts or luxury home developments would create similar risks. These risks would be especially pertinent if these developments occur on residential land that is located near urban areas where restrictions on the availability of urban land are most stringent."*
65. While these comments relate to lifestyle land, we consider they can equally apply to rural land where there is the potential to use it for lifestyle purposes in future.

Applicant's submissions

66. The Applicant submits while it has no current intention of residing on the Land, a non-occupation condition is not necessary or consistent with the policy decisions underpinning the 2018 reforms and amendments to the Act.
67. The Applicant further submits the purpose of the Act is met by imposing conditions connected to the investment plan, and that these conditions secure the benefit to New Zealand of the investment. A copy of the Applicant's full submissions is attached as **Appendix 6**.

Conclusion

68. Ministers have the discretion to impose any conditions they think appropriate on a consent.²² We consider a condition preventing the land from being used for residential purposes (a non-occupation condition) aligns with the policy intention as it prevents investors purchasing land resulting in the changes to the Act being circumvented, including the criteria relating to residency and occupation.
69. Accordingly, we recommend a condition restricting the Applicant's ability to use the Land for residential purposes is imposed – however, this is at Ministers discretion.

Conclusion – benefit to NZ test

70. Our assessment takes into account the characteristics of the Land and the nature of the interest being acquired, reflecting the proportional nature of the benefit to NZ test.
71. After considering the Application, we are satisfied that the investment is likely to result in the benefits considered above. Taking into account the relatively size of the Land, its inland location, and its likely Counterfactual is conversion to forestry if the application were declined resulting in less benefits, we consider the overseas

²⁰ Section 16B of the Act.

²¹ https://www.parliament.nz/resource/en-NZ/52SCFE_ADV_75755_1001/aabe2e053ff2050b4d29a447954a5b5df342e64f

²² Section 25A of the Act.

investment is likely to benefit New Zealand and that the benefits are substantial and identifiable.

G. Farm land offer test

72. The Land was advertised for sale on the open market with the required information for a period exceeding 20 working days²³ on trademe.co.nz, realestate.co.nz, and nzc.co.nz,²⁴ and in Hawke's Bay Today Country²⁵ and Farmers Weekly,²⁶ consistently with the farm land requirements.²⁷
73. We are, therefore, satisfied the regulations requiring the farm land to be offered for acquisition on the open market have been complied with.²⁸

H. Not a transaction of national interest

74. The investment does not involve a transaction of national interest under the mandatory criteria of the Act.²⁹ 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).
75. 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.³⁰ We are directed³¹ 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.
76. We do not consider that this investment engages any of these risk factors. Furthermore, this application was noted in the Weekly Operational Report of 21 January 2021 and the Minister of Finance did not seek additional information or to call it in for a discretionary national interest assessment. The Minister of Finance has, therefore, not declined consent to the transaction on the grounds that it is contrary to New Zealand's national interest.

I. Conclusion

77. After considering the application, our view is that:
- the investor test has been met

²³ For sale by internet and real estate sales publication.

²⁴ From 18 May 2020.

²⁵ On 28 May 2020, 4 June 2020, and 11 June 2020.

²⁶ On 1 June 2020 and 8 June 2020.

²⁷ Currently being used primarily as a sheep and beef farm (see the definition of farm land in s 6 of the Act).

²⁸ Regulations 5 to 10.

²⁹ Under s 20A of the Act.

³⁰ Section 20B of the Act

³¹ Supplementary Ministerial Directive Letter (8 June 2020)

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

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

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



Charlotte Connell

Manager, Applications

Overseas Investment Office

Date: 17 Feb 2021

List of Attachments

1. Proposed Decision and Conditions
2. Good character assessment
3. Other benefit factors
4. Aerial view of the Land
5. Land Use Class (LUC) map
6. Non-occupation condition submissions

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	202000540
Consent	The Consent Holder may acquire the Land subject to the Conditions set out below.
Consent Holder	Hermann Hagenmeyer We will also refer to each Consent holder and the Consent holders together as you .
Land	A freehold interest in 254.3343 hectares of land (subject to survey, subdivision, and amalgamation) located at Tangoio Settlement Road, Tangoio, contained in part of Record of Title 766882, Records of Title HBM4/629 and HBD1/343.
Timeframe	You have until 9 March 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: Additional investment for development purposes	
<p>You must invest:</p> <ol style="list-style-type: none"> <li data-bbox="204 952 1045 1093">1. [s 9(2)(b)(ii)] to be used to build a predator-proof fence on the Land and the adjoining land owned by the Consent Holder, encircling the area indicated with black dotted lines in Schedule 1 <li data-bbox="204 1115 1045 1227">2. [s 9(2)(b)(ii)] to be used to plant at least 70 hectares of indigenous plants on the Land within the area indicated with black dotted lines in Schedule 1 <li data-bbox="204 1249 1045 1323">3. [s 9(2)(b)(ii)] to be used to plant at least 140 hectares of manuka trees on the Land <li data-bbox="204 1346 1045 1420">4. [s 9(2)(b)(ii)] to be used to develop at least [s 9(2)(b)(ii)] hives 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 30 June 2023</p> <p>By 31 October 2024</p> <p>By 31 October 2024</p> <p>By 31 March 2028</p>
Special condition 2: Job opportunities	
<p>You must:</p> <ol style="list-style-type: none"> <li data-bbox="204 1697 1045 1794">1. create at least 50 full-time equivalent (FTE) jobs on the Land for at least 3 months to establish a wildlife sanctuary for indigenous fauna <li data-bbox="204 1827 1045 1924">2. create and retain 4 FTE jobs on the Land including at least 1 FTE job connected with the operation of the wildlife sanctuary for indigenous fauna. <p>If you do not, standard condition 6 will apply and we may require you to dispose of the Land.</p>	<p>By 31 March 2025</p> <p>At all times from 30 June 2026</p>

Special condition 3: Wildlife sanctuary	
<p>You must use the area within the black dotted lines on the Land in Schedule 1 for the purposes of a wildlife sanctuary for indigenous fauna.</p> <p>If you do not, Standard condition 6 will apply and we may require you to dispose of the Land.</p>	<p>At all times from 31 December 2023</p>
Special condition 4: Walking access	
<p>You must:</p> <ol style="list-style-type: none"> 1. register an easement registrable under the Land Transfer Act 2017 that allows for public walking approximately along the area indicated in blue-green in Schedule 2. 2. create public walking access on the Land approximately along the area indicated in blue-green in Schedule 2. <p>If you do not, standard condition 6 will apply and we may require you to dispose of the Land.</p>	<p>By 31 March 2022</p> <p>At all times from 30 June 2026</p>
Special condition 5: Non-occupation of the Land	
<p>None of the following people may occupy the Land acquired under this Consent:</p> <ol style="list-style-type: none"> (a) You; (b) Any overseas person who occupies the Land other than on arm's length terms (as defined in clause 17, Schedule 2 of the Act); or (c) Any overseas person who has a beneficial interest in, or beneficial entitlement to, the relevant interest in the Land. <p>If any such persons do occupy Land acquired under the Consent for residential purposes, Standard Condition 6 will apply, and we may require you to dispose of the Land.</p>	<p>Ongoing, while You, or any of the people outlined in paragraphs (a) to (c), has any relevant interest in the Land.</p>

Schedule 1 – Predator-proof fence



Released under the Official Information Act

Schedule 2 – Public walking access



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. <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"> 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. 	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"> Allow a person we appoint (Inspector) to: <ol style="list-style-type: none"> 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. 	
<p>Standard condition 4: remain of good character</p>	
<p>You and the Individuals Who Control You:</p> <ul style="list-style-type: none"> 1. must continue to be of good character, and 2. must not become an individual of the kind referred to in section 15 or section 16 of the Immigration Act 2009. In summary, these sections describe convicted or deported people who are not eligible for visa or entry permission to enter or be in New Zealand and people who are considered likely to commit an offence or to be a threat or risk to security, public order or the public interest. <p>The Individuals Who Control You are individuals who:</p> <ul style="list-style-type: none"> (a) are members of your governing body, 	<p>At all times</p>

<p>(b) directly or indirectly, own or control more than 25% of you or of a person who itself owns or controls more than 25% of you, and</p> <p>(c) are members of the governing body of the people referred to in paragraph (b) above.</p>	
<p>Standard condition 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 more than 25% ownership or control interest commits an offence or contravenes the law anywhere in the world. This applies whether or not you or they were convicted of the offence. In particular, please tell us about any offences or contraventions that you are charged with or sued over and any investigation by enforcement or regulatory agencies or professional standard bodies. 2. An Individual Who Controls You ceases to be of good character; commits an offence or contravenes the law (whether they were convicted or not); becomes aware of any other matter that reflects adversely on their fitness to have the Land; or becomes an individual of the kind referred to in <u>section 15</u> or <u>16</u> 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 more than 25% ownership or control interest: <ol style="list-style-type: none"> (a) becomes bankrupt or insolvent (b) has an administrator, receiver, liquidator, statutory manager, mortgagee's or chargee's agent appointed, or (c) becomes subject to any form of external administration. 	<p>Within 20 working days after the change</p>

Standard condition 6: dispose of the Land if you do not comply with key special conditions	
<p>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.</p> <p>If all or part of this standard condition 6 applies to a special condition, we have said so in that condition.</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>	
<p>Value the Land: obtain and send us a copy of a market valuation of the Land from a New Zealand registered valuer.</p>	<p>Within six weeks of the date of our notice.</p>
<p>Market the Land: instruct a licensed real estate agent to actively market the Land for sale on the open market.</p>	<p>Within six weeks of the date of our notice.</p>
<p>Dispose of the Land: dispose of the Land to a third party who is not your associate.</p>	<p>Within six months of our notice.</p>
<p>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.</p>	<p>Within nine months of our notice.</p>
<p>Report to us about marketing: tell us in writing about marketing activities undertaken and offers received for the Land.</p>	<p>By the last day of every March, June, September and December after our notice or at any other time we require.</p>
<p>Report disposal to us: send us, in writing, evidence:</p> <ul style="list-style-type: none"> (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. 	<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 and so we can measure the benefits you have brought to New Zealand through your investment.

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

1. be sent to **oiomonitoring@linz.govt.nz** by these dates:
 - (a) 30 April 2022
 - (b) 30 April 2023
 - (c) 30 April 2024
 - (d) 30 April 2026
 - (e) 30 April 2028
2. contain information about:
 - (a) your progress in implementing the special conditions, and
 - (b) the number of protected species on the Land
 - (c) your volume and value of manuka honey produced on the Land and exported
3. follow the format of the template 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 – GOOD CHARACTER ASSESSMENT

The Applicant submitted several good character matters. Our open-source searches found no additional matters. The table below summarises the matters that have not been considered and resolved in previous applications.

	Matter	Mitigating factors	Assessment
1. Health & safety	In July 2020, a worker died from an accident at a RE Panels Belgium plant. The Applicant has a 24.7% ownership interest, and more than 50% of the voting rights in THI Holdings GmbH, which 99% owns RE Panels.	Authorities investigated, and the factory was closed during the investigation. However, authorities took no further action. There is also no mention the Applicant was directly involved in the matter.	Low concerns Given the nature of the two investments is quite different, and that the Applicant wasn't directly responsible for safety matters, we have low concerns with the Applicant's ability to manage health and safety.
3. Civil litigation	The Ford Motor Company is the subject of litigation for allegedly knowingly selling cars with faulty transmissions. Getrag was involved in the construction of the transmissions while the Applicant was its CEO and owner.	The litigation relates to the Ford Motor Company rather than Getrag. There is also no mention the Applicant was directly involved in the matter.	Low concerns Even if the litigation concludes the transmissions were faulty it is Ford's actions that are the issue, and the nature of its business is sufficiently different to the proposed investment that any concerns with management are low, especially given the local experts the Applicant is bringing in.

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

ATTACHMENT 3 – OTHER BENEFIT FACTORS

The table below lists other factors in the Act and regulations for assessing the benefit of overseas investments. We considered that the factors below were either not relevant to the investment, or the benefit to New Zealand was not likely or sufficient to be relied on for the purposes of our assessment.

Factor	Reason not relevant or insufficient
New technology or business skills – s17(2)(a)(ii) (<i>high relative importance factor</i>)	Not relevant as the Investment is unlikely to lead to new technology or business skills.
Added market competition, greater efficiency or productivity, or enhanced domestic services – s17(2)(a)(iv)	Not relevant as the Investment is unlikely to meet these criteria.
Increased processing of primary products – s 17(2)(a)(v)	Not met because while the Investment is likely to lead to manuka honey, we do not consider there is sufficient transformation of the primary product into a new products (eg. apples into apple juice).
Indigenous vegetation/fauna – s17(2)(b)	Not relevant as the Land is unlikely to contain significant existing indigenous vegetation and fauna.
Trout, salmon, wildlife and game – s17(2)(c)	Not relevant as the Land is unlikely to contain significant existing areas of these habitats.
Historic heritage – s17(2)(d)	Not met because while the Investment will likely lead to additional protections of historic heritage compared with the Counterfactual, the enhanced protections are likely to be negligible.
Offer to sell seabed/foreshore/riverbed to the Crown – s17(2)(f)	Not relevant as the Land does not contain seabed, foreshore, or riverbed as defined in the Act.
Key person in a key industry – reg 28(b)	Not relevant as the Investment does not involve a key person in a key industry.
Affect image, trade or international relations – reg 28(c)	Not relevant as declining consent will not adversely impact New Zealand's image overseas, trade, international relations, or result in New Zealand breaching its international obligations.
Owner to undertake other significant investment – reg 28(d)	Not relevant as the Vendors are unlikely to undertake significant investment.
Advance significant government policy or strategy – reg 28(f)	Not met because while the Investment will likely lead advance Te Mana o te Taiao – The Aotearoa New Zealand Biodiversity strategy and The One Billion Trees Programme, the Counterfactual will likely equally advance The One Billion Trees Programme.
Strategically important infrastructure – reg 28(h)	Not relevant as there is no strategically important infrastructure on the Land.
Economic interests – reg 28(i)	Not relevant as the Investment is unlikely to have any material effect on New Zealand's economic interests.

Factor	Reason not relevant or insufficient
Oversight and participation by New Zealanders – reg 28(j) <i>(high relative importance factor)</i>	Not relevant as New Zealanders will not have any ownership or control interests in the Investment.

Released under the Official Information Act 1982

ATTACHMENT 4 – AERIAL VIEW OF THE LAND



Aerial view of the Land (red outline), the Applicant's existing land (green outline), and the planned wildlife sanctuary and manuka forest.

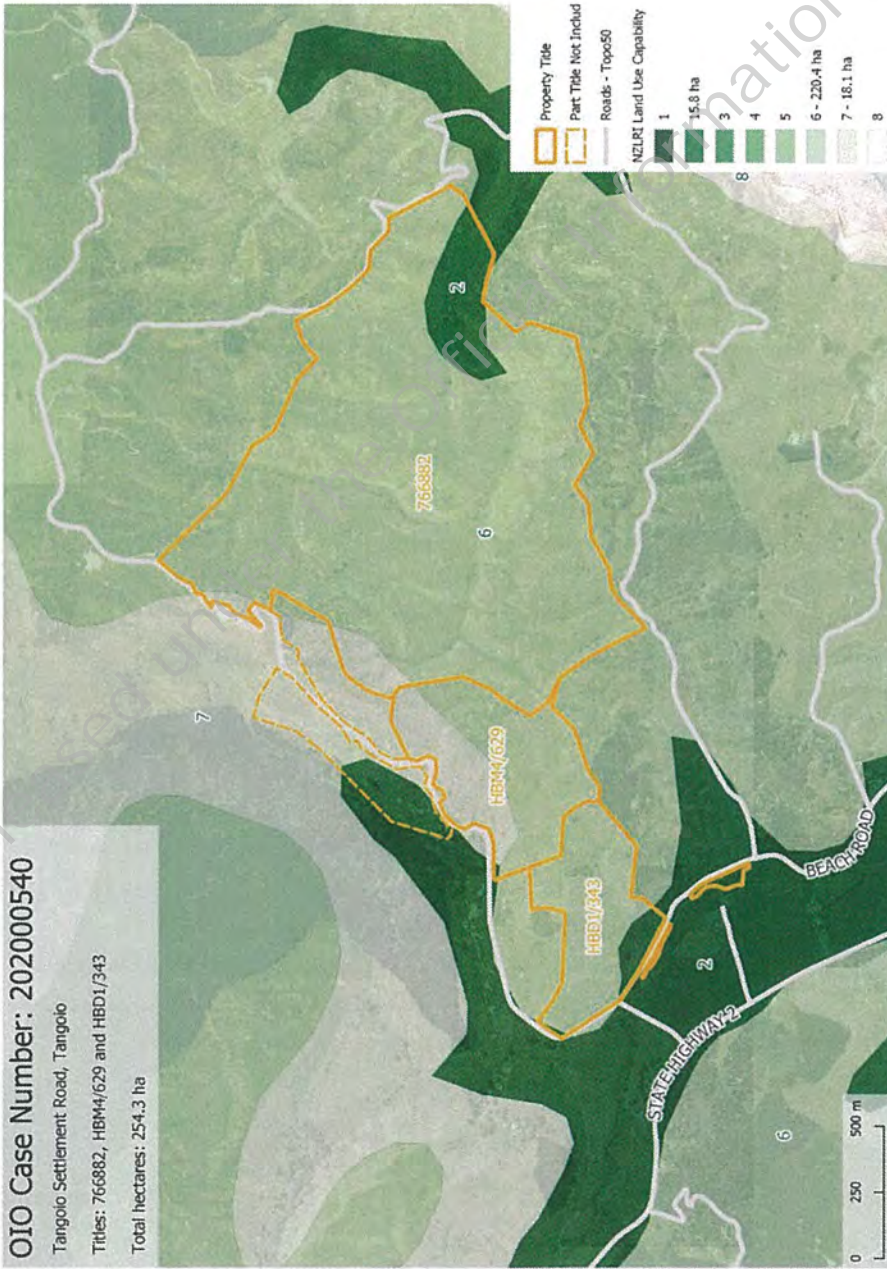
ATTACHMENT 5 – LUC MAP

OIO Case Number: 202000540

Tangolo Settlement Road, Tangolo

Titles: 766882, HBM4/629 and HBD1/343

Total hectares: 254.3 ha



LUC Class code	Description
1	Land with virtually no limitations for arable use and suitable for cultivated crops, pasture or forestry
2	Land with slight limitations for arable use and suitable for cultivated crops, pasture or forestry
3	Land with moderate limitations for arable use, but suitable for cultivated crops, pasture or forestry
4	Land with moderate limitations for arable use, but suitable for occasional cropping, pasture or forestry
5	High producing land unsuitable for arable use, but only slight limitations for pastoral or forestry use
6	Non-arable land with moderate limitations for use under perennial vegetation such as pasture or forest
7	Non-arable land with severe limitations to use under perennial vegetation such as pasture or forest
8	Land with very severe to extreme limitations or hazards that make it unsuitable for cropping, pasture or forestry

ATTACHMENT 6 – NON-OCCUPATION CONDITION SUBMISSIONS

BUDDLE FINDLAY

16 February 2021

To

Duncan Robin
Senior Solicitor
Overseas Investment Office
Radio NZ House
155 The Terrace
Wellington

From

Susie Kilty
Jayden van Leeuwen

By email

drobin@linz.govt.nz

Dear Duncan

Request for submissions on non-occupation condition (case 202000540)

1. We refer to your letter dated 15 February 2021, in which you asked for further submissions from the Applicant (Mr Hagenmeyer) on the Overseas Investment Office (OIO)'s proposed recommendation to the Ministers that, if consent was granted, a non-occupation condition should be imposed.
2. While the Applicant's plans for the property (as set out in the application and investment plan) do not include any residential use, and the Applicant has no current intention of residing on the land, the Applicant submits that the imposition of a non-occupation condition is not necessary or consistent with the policy decisions underpinning the 2018 reforms. In particular:
 - (a) The primary purpose of such a condition is to prevent overseas persons living on residential land (land categorized as residential or lifestyle land on the relevant District Valuation Roll). Section 16B of the Overseas Investment Act 2005 (the Act) requires mandatory conditions restricting residential use for consents relating to sensitive land that is or includes residential land, including lifestyle land (as you note in your 15 February letter). The proposed land is not classified this way, and this is an important distinction.
 - (b) As your letter notes, the policy concern related to lifestyle and residential category land. Relying on the Treasury's statement referred to at paragraph 7 of your letter to justify the imposition of a non-occupation condition on *rural* land goes beyond the scope of the Treasury's comments on *lifestyle* land, and has the effect of treating rural land as residential land.
 - (c) In the Treasury's "Screening of Residential Land: Questions and Answers" document published as part of the 2018 reforms, a lifestyle property is described as "*land that is larger than an ordinary residential section, generally in a rural area, and where its predominate use as a place of residence. Farming the land in the traditional sense is not economic*".¹

¹<https://www.treasury.govt.nz/sites/default/files/2018-08/screening-res-land-qanda.pdf>, page 8.

- (d) In recommending the use of District Valuation Rolls to classify land for the purposes of the Overseas Investment Act, Treasury noted:²

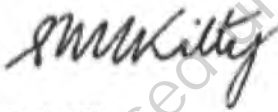
"We consider that both options A (Rating Valuation Rules) and B would fully meet the criterion of policy effectiveness. Under both, residential property is broadly defined, capturing both suburban properties and more urban-fringe properties such as lifestyle blocks. Both options would generally capture holiday homes and bachs. Similarly, both options exclude land where residential housing is not its primary function (such as farms and commercial properties that include a residential premise)." [emphasis added]

- (e) The land the Applicant intends to acquire includes undulating and steep farmland, which will be converted to a wildlife sanctuary and indigenous plantings, and is not the kind referred to in paragraph 7 of your letter, or above. Parliament had the opportunity to consider regulating other types of land, but chose not to. For example, an Aide Memoire to the Minister of Housing and Urban Development on 12 December 2017, stated:³

"We do not propose extending the new more restrictive treatment for non-residential sensitive land. This would be a significant new restriction that we have not had an opportunity to consider now, and is not necessary to remove the inconsistent treatment of 'like for like' residential housing. This issue could be looked at as part of the later wider reform of the Overseas Investment Act reform."

3. The Applicant therefore submits that it is not necessary, to give effect to the purpose of the Act, for a non-occupation condition to be imposed in the particular circumstances, and encourages the OIO not to recommend, and Ministers not to impose, such a condition. The purpose of the Act is met by imposing conditions connected to the proposed development of the land as set out in the investment plan. It is these conditions that secure the benefit to New Zealand of the investment.
4. Please let us know if you require any further information or have any further questions.

Yours sincerely



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Solicitor

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² <https://www.treasury.govt.nz/sites/default/files/2016-03/res-land-release.pdf>, page 68.

³ <https://www.treasury.govt.nz/sites/default/files/2016-03/res-land-release-pt2.pdf>, page 21.

