

To: Michael Appleyard, Manager Applications, Overseas Investment Office

VARIATION ASSESSMENT REPORT: Since20181 Development Limited

Date	12 April 2021	Classification	IN CONFIDENCE: Commercially sensitive
OIO reference	202000225,202000473	Deadline	As soon as possible
OIO contact	Charlie Hulley, Solicitor, Applications		

A. Proposal to vary consent conditions

- We seek your delegated¹ decision on Since20181 Development Limited (the **Applicant**)'s application to vary the condition of two consents under section 27 of the Overseas Investment Act 2005 (the **Act**).

Key features of consent

- The Applicant was granted two consents to acquire freehold residential land and undertake an apartment development with a total of approximately 175 dwellings².
- The Applicant intended to acquire land:
 - at 20 Browns Bay Road on 9 December 2019 (201900225) under the increased housing test and non-residential use test (as the Applicant proposed to construct and retain three commercial units³); and
 - at 22 and 24 Beechwood Road (201900473) on 19 December 2019 under the increased housing test (together, the **Consents**).⁴
- See the labelled aerial image of the land acquired under the Consents below:



¹ All variation decisions are delegated to the OIO under Table A (G) of the Designation and Delegation letter dated 17 October 2018.

² Note the number of dwellings required under each consent does not equal 175, due to buffer given.

³ The Applicant planned to lease these commercial units out as businesses servicing the apartment residents (e.g., a laundry or shop)

⁴ See signed assessment reports [201900225](#) and [201900473](#) for context.

5. The consent required the Applicant construct at least:
 - a. 75 dwellings on the 20 Browns Bay Road land and neighbouring land⁵; and
 - b. 80 dwellings on the 22 and 24 Beechwood Road land.
6. The Applicant has not yet applied for resource consent as required by the Consents and requests a variation to the Consents' conditions (detailed in Section C).

Changes from Apartment Development to Terraced Housing Development

Background

7. The Applicant informed the OIO in July 2020 that it would not be able to undertake the apartment development and intended to seek a variation.
8. In the course of progressing the apartment development the Applicant engaged further experts (including an architect, engineer, planner) through early 2020 who have found several issues with its proposed apartment development.
9. A combination of the below issues identified by the relevant experts led the Applicant to apply to the OIO for a variation to its Consents, as it determined the apartment development is no longer feasible:⁶
 - a. Instability of the land;
 - b. Engineering concerns;
 - c. Issues with the design of the apartment development;
 - d. Planning issues with the apartment development; and
 - e. Lower demand for apartments post Covid-19 (together, **Issues**).

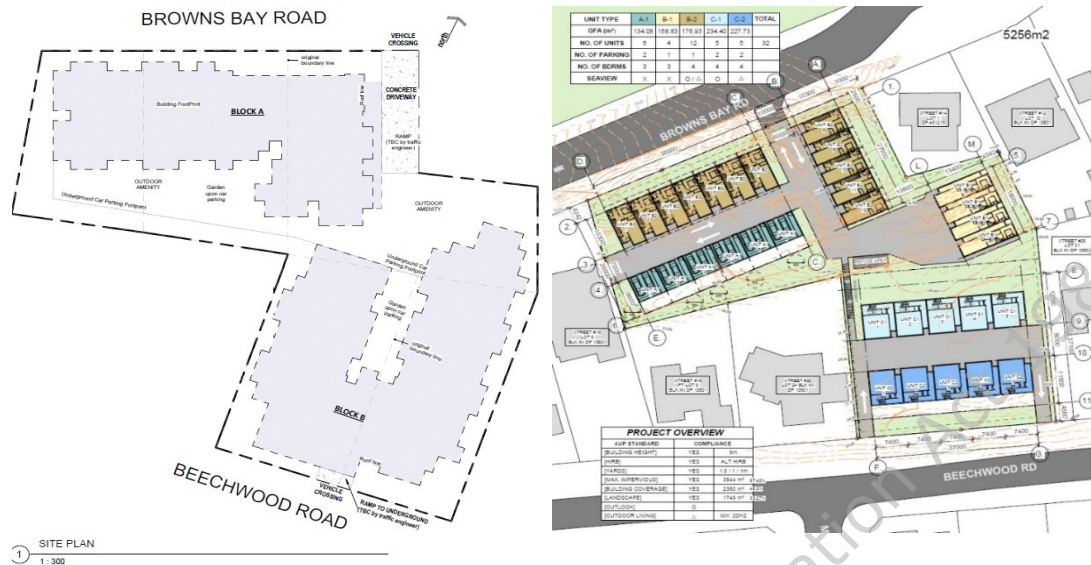
Proposed Alternative Terraced Housing Development

10. The Applicant now proposes to undertake an alternative terraced housing development of 32 terraced houses and therefore adjust the development milestones.

⁵ Increase in dwellings was required on 20 Browns Bay Road land and neighbouring land already owned by the Applicant before the residential changes came into force, as the structure crossed property boundaries.

⁶ The Applicant filed a variation application with OIO on 26 August 2020.

11. See below an aerial image of the original plan for the apartment development (left) compared to plans for an alternative terraced housing development:



12. We recommend you **grant** the variation.

B. How to approach the decision

13. You may vary or revoke conditions of consent with the agreement of the consent holder.⁷ In considering whether to grant a variation, you must have regard to the purpose of the Act, being:

to acknowledge that it is a privilege for overseas persons to own or control sensitive New Zealand assets by—

- (a) *requiring overseas investments in those assets, before being made, to meet criteria for consent; and*
- (b) *imposing conditions on those overseas investments.*

14. The Act also has the purpose of managing certain risks, such as national security and public order risks, associated with transactions by overseas persons. This is not directly relevant to this application.

C. Variation assessment

15. The Applicant therefore requests a variation to both consents as follows:

- a. 20 Browns Bay Road:
 - i. Special Condition 1 – increased housing: reduce in the number of dwellings increased from 75 apartment dwellings to approximately 20 dwellings;
 - ii. Special Condition 2 – development milestones: an extension of time given the change in the nature of the project; and
 - iii. Special Condition 4 – remove as the Applicant no longer plans to construct and lease the three commercial units.
- b. 22 and 24 Beechwood Road:
 - i. Special Condition 1 – increased housing: reduce in the number of dwellings increased from 80 apartment dwellings to approximately 10 dwellings; and

⁷ Section 27 of the Act.

- ii. Special Condition 2- development milestones: requests an extension of time given the change in the nature of the project.
 - c. Under both consents remove “including commercial leasing”, as the alternative terraced housing will contain any commercial units.
 - d. Under both consents other consequential amendments including to change references to apartment development to terraced housing development.
- 16. We accept the Applicant’s submission that they would be unlikely to receive the required consents to undertake the apartment development and would receive opposition from neighbouring properties given the design/planning issues such as overshadowing and infringement of height requirements.
- 17. In summary we accept the Applicant is unlikely to be able to complete the apartment development based on the Issues.
- 18. In our view, it is reasonable to grant the variation because:
 - a. The Applicant proactively engaged with the OIO, filing a variation before the first milestones became due under both Consents.
 - b. The Applicant is presently unable to construct the apartment development for which Consents were granted due to the significant Issues (explained in paragraph 9).
 - c. The Applicant cannot overcome the Issues identified and create an increased housing outcome unless it progresses an alternative development.
 - d. The proposed alternative terraced housing development is likely to occur. Reports from an engineer and architect provided by the Applicant highlighted the Issues listed above at paragraph 9. These experts also confirmed a terraced housing development is more suitable for the land than an apartment development. The Applicant continues to engage with these experts in planning the alternative terraced housing development.
 - e. The Applicant has committed significant capital in applying for the Consents, purchasing this land, due diligence costs associated with engaging engineers, architects, planners and solicitors.
 - f. To ensure the Applicant delivers the alternative terraced housing development we are imposing updated development milestones, and closely monitoring the Applicant’s progress against these milestones through yearly reporting to the OIO. The development milestones have been updated to reflect the changed nature of the Applicant’s plans in their variation application.

D. Decision

1. I agree to vary the conditions of the Consent as set out in **Attachment 1**.

Agree ✓ / Disagree



Michael Appleyard
Manager Applications (Residential & Forestry)
Date: 12 April 2021

ATTACHMENT 1 – PROPOSED VARIED DECISION

See the varied conditions of consent for:

- [20 Browns Bay Road](#); and
- [22 and 24 Beechwood Road](#).

Released under the Official Information Act 1982