



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

## ASSESSMENT REPORT: Ampol Limited

<b>Date</b>	15 March 2022	<b>Classification</b>	IN CONFIDENCE: Commercially sensitive
<b>OIO reference</b> (Report reference)	202100582 (BRF 22-291)	<b>Suggested deadline</b>	11 April 2022 <i>See description of the commercial deadline below.</i>

### Purpose

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

### Action sought

1. Review this report 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.

### Commercial deadline

*The transaction is occurring by way of a Scheme of Arrangement requiring approval from the High Court. Ampol Limited requests a decision by 5-12 April 2022, which is 10-15 working days after the last expected date for the meeting of Z Energy Limited's shareholders to consider and, if thought fit, to approve the scheme.*

### OIO Contacts

Name	Position	Contact	First contact
Daniel White	Manager Applications	+64 4 460 0147	<input checked="" type="checkbox"/>
Daniel Mumford	Senior Solicitor	+64 4 830 3959	<input type="checkbox"/>
Ed Atienza	Solicitor	+64 4 495 0472	<input type="checkbox"/>

## A. Summary

1. Ampol Limited (**Ampol**) is a widely-held ASX-listed<sup>1</sup> petroleum refiner, importer, marketer, and distributor operating in Australia (under its own brand) and New Zealand (through the Gull brand which it acquired in 2017<sup>2</sup>).
2. Ampol seeks consent under the Act to acquire 100% of the shares of Z Energy Limited (**Z Energy or Z**) through a Scheme of Arrangement, requiring approval by the High Court and conditional on a number of factors including obtaining consent under the Act.
3. For the reasons set out in this report, our recommendation is to **grant consent**.

### Key information

Applicant	<b>Ampol Limited</b> Australia (99.9%); New Zealand (0.1%)
Vendors	<b>Z Energy Limited</b> New Zealand (55.4%); Australia (29.5%); United States of America (8.8%); United Kingdom (1.8%); United Arab Emirates (1.3%); Switzerland (1.0%); Various (2.2%)
Land	See <b>Attachment 3</b> for details of the relevant land.
Consideration	Approximately NZ\$1.96 billion
Sensitivities	Includes: <ul style="list-style-type: none"> <li>• Residential land</li> <li>• More than 5 hectares of non-urban land</li> <li>• Land that is over 0.4 hectares and is held for conservation purposes under the Conservation Act 1987</li> <li>• Land adjoining land that is over 0.4 hectares and is held for conservation purposes under the Conservation Act 1987</li> <li>• Land adjoining marine and coastal area</li> <li>• Land adjoining land that is Whanganui River</li> <li>• Land adjoining land that is greater than 0.4 hectares and is a marginal strip</li> </ul>
Relevant tests	Investor test: s18A Benefit to NZ test: substantial and identifiable benefit s16A(1)(a)-(b) Residential land outcomes: s16A(1)(c), s16B

### Timing

4. Processing days for the application are set out in the table below:

Quality Assurance	OIO Processing	Waiting for Applicant / Vendor	Third party consultation
6	61	22	-

<sup>1</sup> ASX refers to Australian Securities Exchange.

<sup>2</sup> OIO case ref 201710023. Ampol has committed to divesting of the Gull business in New Zealand should the transaction proceed – it also seeks clearance from the Commerce Commission on this basis.

7.4 the transaction is exempt from the farm land offer criterion;<sup>3</sup> and

7.5 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*

8. 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*

9. 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: 27 / 03 / 22

**Hon Damien O'Connor**

Date: / /

<sup>3</sup> Section 20(b) of the Act, pursuant to paragraph 4. a. of the Gazette notice of 15 December 2016.

## B. Decision

### Core tests

5. I determine that:

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

Relevant overseas person	Role
Ampol Limited ( <b>Ampol</b> )	Applicant and 100% owner of the acquiring entity
Ampol Holdings NZ Limited ( <b>Ampol NZ</b> )	Acquiring entity

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

Individuals with control	Role
Steven Gregg	Chairman of Ampol
Matthew William Halliday	CEO and director of Ampol
Mark Peter Chellew	Director of Ampol
Melinda Blanton Conrad	
Michael Francis Ihlein	
Gary Malcolm Smith	
Penelope Ann Winn	
Elizabeth Ann Donaghey	
Gregory David Barnes	Director of Ampol Holdings NZ Limited
Brent Edward Merrick	

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

6. I am satisfied that the investor test in section 18A, as outlined in paragraphs 5.1 to 5.3 above, has been met.

**Hon Dr Megan Woods**

Agree

Disagree

**Hon Damien O'Connor**

Agree

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;

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

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

## B. Decision

### Core tests

5. I determine that:

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

Relevant overseas person	Role
Ampol Limited ( <b>Ampol</b> )	Applicant and 100% owner of the acquiring entity
Ampol Holdings NZ Limited ( <b>Ampol NZ</b> )	Acquiring entity

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

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Steven Gregg	Chairman of Ampol
Matthew William Halliday	CEO and director of Ampol
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Melinda Blanton Conrad	
Michael Francis Ihlein	
Gary Malcolm Smith	
Penelope Ann Winn	
Elizabeth Ann Donaghey	
Gregory David Barnes	Director of Ampol Holdings NZ Limited
Brent Edward Merrick	

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

6. I am satisfied that the investor test in section 18A, as outlined in paragraphs 5.1 to 5.3 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;

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

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

- 7.4 the transaction is exempt from the farm land offer criterion;<sup>3</sup> and
- 7.5 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**

**Hon Damien O'Connor**

Agree

Agree

Disagree

Disagree

*National interest assessment*

8. 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**

**Hon Damien O'Connor**

Noted

Noted

*Decision about whether to grant or decline consent*

9. My ultimate decision is to:

**Hon Dr Megan Woods**

**Hon Damien O'Connor**

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

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

Grant consent with amended conditions provided on:

Grant consent with amended conditions provided on:

Decline consent

Decline consent

**Hon Dr Megan Woods**

Date: / /

**Hon Damien O'Connor**

Date: 11/4/22.

<sup>3</sup> Section 20(b) of the Act, pursuant to paragraph 4.a. of the Gazette notice of 15 December 2016.

## C. Background and proposed transaction

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10. The Applicant is Ampol Limited (**Ampol**), a company registered in Australia. It is engaged in petroleum refinery, importation, marketing, and distribution and operates in Australia (under its own brand) and New Zealand through the Gull brand which it acquired in 2017.
11. Ampol seeks to acquire 100% of the shares of Z Energy through a Scheme of Arrangement (**Investment**), which requires approval by the High Court as well as a number of other conditions to be satisfied (including obtaining clearance from the Commerce Commission as well as consent under the Act). As part of its application to obtain clearance from the Commerce Commission, Ampol will undertake to divest from Gull in order to address competition concerns.
12. If all of the Scheme conditions are met and the Investment proceeds, the total consideration will be approximately NZ\$1.96 billion.
13. Z Energy has interests in sensitive land because of its approximate 37% partnership interest in Dryland Carbon One Limited Partnership (**Dryland Carbon LP**). Dryland Carbon LP is a forestry management investment venture which owns approximately s9(2)(b)(ii) hectares of forestry and farm land. Dryland Carbon LP is used to generate carbon credits to meet Z Energy's compliance surrender obligations under the New Zealand Emissions Trading Scheme. The Applicant will therefore only be acquiring a minority interest in this land.
14. Z Energy also has freehold interests in approximately 2.9642 hectares of sensitive land, and leasehold interests in a further approximately 1.3 hectares of sensitive land. This includes:
  - residential land used as service stations;
  - a tenanted residential site intended for development into a service station;
  - tenanted residential land acquired to deal with historic contamination issues; and
  - a truck stop fuel facility at the Port of Otago adjoining Otago harbour.
15. The Investment will enable Ampol to become a trans Tasman petroleum industry leader through delivering growth in international markets, and supporting future energy transition efforts. It has committed to introducing into New Zealand substantial investment to develop future energy initiatives and create new jobs. It will also advance government policies such as decarbonisation and fuel supply security.

## D. Application of the Act

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16. The Land is sensitive for a number of reasons (see **Attachment 3** for further details),<sup>4</sup> so consent is required.<sup>5</sup> The following criteria for an investment in sensitive land apply to this application:<sup>6</sup>
  - The investor test must be met.<sup>7</sup>
  - The benefit to New Zealand test must be met.<sup>8</sup>

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<sup>4</sup> Table 1 and 2, Part 1, Schedule 1 of the Act.

<sup>5</sup> Under sections 10(1)(a) and 12(a)(i) of the Act.

<sup>6</sup> Set out in section 16(1) of the Act.

<sup>7</sup> Section 18A / 16(1)(a) of the Act.

<sup>8</sup> Section 16(1)(e).

- You must also note whether the investment is a transaction of national interest and, if so, whether the Minister of Finance has decided that the investment is contrary to New Zealand's national interest.<sup>9</sup>
17. 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 New Zealand;<sup>10</sup> and
  - determine that benefit will be, or is likely to be, substantial and identifiable;<sup>11</sup>
  - determine that the transaction is exempt from the farm land offer criterion;<sup>12</sup> and
  - because the Land is residential:
    - determine a residential land outcome;<sup>13</sup>
    - apply conditions of consent for the residential land outcome; and
    - be satisfied that those conditions are likely to be met.<sup>14</sup>
18. The application was received, and the transaction entered into, prior to the commencement of the provisions relating to the benefit test in the Overseas Investment Amendment Act 2021. The version of the Act and Regulations in force on 18 October 2021 (when the application was received), therefore, applies to this application. In particular, the benefit test as it existed on that date applies.
19. 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**

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

### **Business Activities**

21. Ampol is an Australian-incorporated company publicly listed on the ASX Main Board (ASX:ALD). It supplies Australia's largest branded petrol and convenience network. It also refines, imports, markets, and distributes petroleum products in Australia (under its own name, but formerly under the name Caltex Australia).
22. It retails fuel in New Zealand through its subsidiary Gull New Zealand Limited, the company that operates the Gull brand of service stations.

### **Relevant overseas person**

#### **Ownership**

23. Ampol is publicly listed, and widely held. It estimates that as at 18 October 2021, the only shareholders holding more than 5% of its shares are:
- AustralianSuper Pty Ltd (11.84% interest), an Australian superannuation and pension fund; and

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

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

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

<sup>12</sup> Section 20(b) of the Act, pursuant to paragraph 4.a. of the Gazette notice of 15 December 2016.

<sup>13</sup> Section 16B(3)(a). The Act specifies a range of outcomes to choose from in clause 19, Schedule 2 of the Act.

<sup>14</sup> Section 16A(1)(c) of the Act.



- Magellan Asset Management Limited (5.16% interest), an investment management company which offers asset management, equities, securities, hedge funds, investment strategies, financial planning, and advisory services.
24. Ampol is the 100% owner of Ampol Holdings NZ Limited (**Ampol NZ**), a New Zealand incorporated company. Ampol NZ is anticipated to be the acquiring entity of the shares in Z Energy. A diagram of the proposed ownership structure is in **Attachment 2**.
25. For these reasons, we recommend that the '**relevant overseas person**' is (collectively):

Relevant overseas person	Role
Ampol Limited ( <b>Ampol</b> )	Applicant and 100% owner of the acquiring entity
Ampol Holdings NZ Limited ( <b>Ampol NZ</b> )	Acquiring entity

### Control

26. Ampol and Ampol NZ are controlled by their respective boards of directors.
27. Ampol's board of directors approved the acquisition, and can approve the divestment, of Z Energy.
28. We don't consider that Ampol's owners, either alone or together, have sufficient ownership to control Ampol's operations.
29. For these reasons, we recommend that the '**individuals with control of the relevant overseas person**' (**IWC**)<sup>15</sup> are:

Individuals with control	Role
Steven Gregg	Chairman of Ampol
Matthew Halliday	CEO and director of Ampol
Mark Chellew	Director of Ampol
Melinda Conrad	
Michael Ihlein	
Gary Smith	
Penelope Winn	
Elizabeth Donaghey	
Gregory Barnes	Director of Ampol Holdings NZ Limited
Brent Merrick	

### Summary of investor test

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

<sup>15</sup> Section 15.

## F. Investment plan and benefit to New Zealand test

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

### Investment plan

33. Ampol intends to acquire all of the shares in Z Energy to further Ampol's strategic objective to become a leader in the trans-Tasman fuel industry. A combination of Ampol and Z Energy will deliver scale across its regional supply chain to support the safe and reliable sourcing of fuel products in Australia and New Zealand.
34. Ampol's overall investment in growth capex in Z Energy's business between 2023-2028 is detailed in the table and explained in detail below. This table illustrates how Ampol's investment is greater than what Z Energy would have done without the investment:

Investment	Value	Time	Z investment
Future energy initiatives	\$50 million minimum s9(2)(b)(ii)	FY23 to FY28	\$2.4 million
Terminals and related assets	\$15 million minimum	FY23 to FY28	\$0
Other growth capex	\$30 million minimum	FY23 to FY28	\$13 million
Retail and convenience	\$10 million	FY23"	\$10 million
<ul style="list-style-type: none"> <li>Retail network</li> <li>Convenience store refresh</li> </ul>	\$20 million	FY23 to FY25	\$20 million
<b>Total</b>	<b>\$125 million minimum</b>		<b>\$45.4 million</b>

Figure 1 (Table provided by the Applicant) – Ampol's total investment in growth capex

### Future energy and decarbonisation

35. Ampol intends to support future energy solutions in New Zealand through a commitment of at least \$50 million towards investment in low carbon solutions. These solutions include:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

### Terminals & infrastructure

36. Ampol intends to spend an additional \$15 million on Z Energy's terminals and related assets over the 2023-2028 period. This includes:

69 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

#### *Fuel supply and fuel security*

37. Ampol can offer Z Energy significant fuel supply security through its broad trading network and its substantial fuel refining, storage, and transportation infrastructure on the east coast of Australia. This infrastructure includes:
- the Lytton refinery in Brisbane (refining product until at least 2027 further to a fuel security agreement with the Australian Government);
  - the Kumell Terminal fuel storage facility in Sydney (capacity 750 million litres – greater than New Zealand’s total storage capacity of approximately 680 million litres); and
  - a large number of fuel tankers available to transport fuel.
38. The capacity<sup>16</sup> and proximity to New Zealand will make Lytton an important source of fuel following the New Zealand Refinery Company’s decision to end refining fuel in New Zealand. Ampol has also previously assisted New Zealand fuel retailers in situations where there have been major supply disruptions.

#### *Access to capital for further investment in New Zealand*

39. If the Investment proceeds, Ampol intends to apply for a secondary listing on the NZX. This will add another substantial company to the NZX that New Zealand investors can access. While Z is currently listed on the NZX, its market capitalisation (approximately NZD\$1.8 billion) is much less than Ampol’s market capitalisation (approximately NZD\$7.5 billion). Also, as Ampol’s shares are currently listed on the ASX, New Zealand investors can also invest in Z Energy by purchasing Ampol’s shares listed on the ASX.

#### *Supporting New Zealand government policies*

40. Ampol understands Z Energy is proactively involved with the New Zealand government on policy development. Ampol intends to support and continue Z’s positive working relationship with the New Zealand government in relevant areas, including decarbonisation. Ampol believes that its experience with the biofuels mandate in Australia could be helpful as part of the development of New Zealand’s biofuels mandate.

### **What is likely to happen without the investment (Counterfactual)**

41. We consider that if the Investment does not proceed, it is likely that the ownership and operation of Z Energy will remain the same in the short medium term. Z Energy will remain listed on the NZX with widely held ownership by retail and institutional investors with continued operation of Z Energy’s business in a manner similar to the status quo.
42. It is unlikely the shares in Z Energy will be sold to an alternative New Zealand investor in the near future. In support of this, while Z Energy has advised that it has previously received other unsolicited, non-binding indicative proposals from other potential investors to acquire Z Energy. Z Energy has advised that these other proposals did not value Z’s business sufficiently to progress.

<sup>16</sup> The Lytton Refinery produces around 6 billion litres of refined fuel per annum. New Zealand’s fuel usage was 6.8 billion litres in 2018.

## Assessment of key benefits

43. As part of the Investment, Ampol will commit \$50 million towards investing in future energy and decarbonisation as well as \$15 million towards terminal infrastructure, improve security of fuel supply for New Zealand, and support New Zealand government policy regarding decarbonisation and the development of green energy. These benefits are likely to occur over and above what would occur under the counterfactual.
44. Ampol will also create 35 new FTE jobs as part of its cadetship and graduate recruitment programmes, and create greater efficiency by using its large transport fuel supply chains (comprising both global import and Australian manufacturing capability).

## Summary of benefits

45. 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.
46. 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 4**.
47. In applying the benefit to New Zealand criteria, you 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.
48. Under the terms of the 2017 Ministerial directive letter,<sup>17</sup> the 'rural land directive' applies to this investment.<sup>18</sup> The benefit factors Ministers have directed should be given high relative importance are noted in the table below.<sup>19</sup>
49. Consultation undertaken in our assessment is discussed following the table.

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<sup>17</sup> Dated 28 November 2017, paragraphs 13-17. While a subsequent Ministerial Directive Letter was issued on 24 November 2021, pursuant to the transitional provision of that new letter, the 2017 directive letter still applies to the benefit test criteria.

<sup>18</sup> Because the investment involves the acquisition of non-urban land over 5 hectares in size (excluding any associated land) and excludes 'forest land'.

<sup>19</sup> The factors that we have given high relative importance are: jobs, new technology or business skills, increased export receipts, increased processing of primary products, and oversight and participation by New Zealanders.

### Summary assessment: benefit to New Zealand test

50. This table assesses the benefits to New Zealand 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	
<b>Job opportunities</b> <i>(high relative importance)</i>	The Investment is likely to result in 35 new full-time equivalent (FTE) positions, comprising: <ul style="list-style-type: none"> <li>• 10 new FTE positions from its cadetship programme (two cadet positions created per year for at least five years)</li> <li>• 25 new full-time equivalent (FTE) positions from its graduate recruitment programme (five FTE graduate positions created per year for at least five years)</li> </ul>	No new jobs (as Z Energy does not currently operate a cadet or graduate recruitment programme)	<b>Strong</b>	The Investment is likely to create 35 new FTE positions over and above what would occur without the Investment.  This is a significant increase in FTE roles for the relevant interest in the Land, resulting in a strong weighting.	A condition requiring the creation of a cadetship programme and a graduate recruitment programme within 18 months of the Investment.

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	
<p><b>Additional investment for development purposes – s17(2)(a)(v)</b></p>	<p>The Investment is likely to result in investment of approximately \$125 million comprising:</p> <ul style="list-style-type: none"> <li>\$50 million on future energy initiatives s9(2)(b)(ii)</li> <li>\$15 million on terminal infrastructure (including s9(2)(b)(ii)</li> <li>\$30 million on other growth capex (including s9(2)(b)(ii)</li> <li>\$10 million to support Z Energy's planned retail network expansion</li> <li>\$20 million to support Z Energy's planned convenience store refresh programme</li> </ul>	<p>Under the status quo, Z Energy is likely to make the following investments:</p> <ul style="list-style-type: none"> <li>\$2.4 million to towards Z Energy's commitment towards its planned electric vehicle charging network</li> <li>\$13 million on other growth capex</li> <li>\$10 million for Z Energy's planned retail network expansion</li> <li>\$20 million for Z Energy's planned convenience store refresh programme</li> </ul>	<p><b>Strong</b></p>	<p>The Investment is likely to lead to the introduction of approximately \$79.6 million more for development than would occur without the Investment.</p> <p>The additional investment would be focused on future energy and decarbonisation initiatives, improving infrastructure, growth capex, as well as existing Z Energy programmes to expand its retail network and refresh its service station convenience stores. There is some uncertainty as to how much will be spent on each type of future energy initiative, however the condition ensures at least \$50 million will be spent in total in this area.</p> <p>The level of additional investment is significant for the relevant interest in the Land, resulting in a strong weighting.</p>	<p>A condition requiring additional investment of at least:</p> <ul style="list-style-type: none"> <li>\$50 million on future energy initiatives (including \$2.4 million to support Z Energy's commitment towards its planned electric vehicle charging network project)</li> <li>\$15 million on terminal infrastructure</li> <li>\$30 million on other growth capex</li> <li>\$10 million to support Z Energy's planned retail network expansion</li> <li>\$20 million to support Z Energy's planned convenience store refresh programme by 30 April 2029 (with \$60 million to be invested by 30 April 2026)</li> </ul>

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	
<p><b>Advance significant government policy or strategy</b> <i>(high relative importance)</i></p>	<p>The Investment is likely to advance or support the Government's Climate change policies (including in response to the Climate Change Response (Zero Carbon) Amendment Act 2019) by investment into future energy and low carbon solutions</p>	<p>Z Energy would continue its existing initiatives to transition to a low carbon economy.</p>	<p><b>Moderate</b></p>	<p>The Investment is likely to advance a number of government policies focused on addressing climate change.</p> <p>The funding for Z Energy's transition to a low carbon economy will be matched by Ampol, and \$47.6 million of Ampol's separate \$50 million investment in future energy and decarbonisation is over and above what would happen without the Investment.</p> <p>This is a modest level of support of government policy roles for the relevant interest in the Land, resulting in a moderate weighting.</p>	<p>The additional investment condition will secure the spending required to advance or support significant government policy.</p>

Released under the Official Information Act 1982

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	
Previous investments	<p>Ampol acquired Gull (after obtaining consent in 2017). The consent did not require benefits as no sensitive land was involved. However, Ampol submitted that the acquisition of Gull has resulted in:</p> <ul style="list-style-type: none"> <li>■ [REDACTED]</li> <li>■ [REDACTED]</li> <li>■ [REDACTED]</li> </ul>	Not applicable	Medium	The Applicant has demonstrated benefit to New Zealand through previous investments, including new jobs and additional investment.	Not applicable.

Released under the Official Information Act 1982



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	
<b>Greater efficiency or productivity</b>	<p>The Investment is likely to result in greater efficiency as Ampol's global supply chain is more likely to efficiently source future energy products (e.g. green hydrogen and biofuels).</p> <p>Ampol's investment will also lower the costs of goods sold, with additional terminal capacity improving the landed supply cost, and additional tankage would allow Z to unload larger ships (thereby lowering the shipping freight costs).</p>	No greater efficiency (as Z Energy would not have access to Ampol's global supply chain and additional terminal capacity)	<b>Weak</b>	<p>The Investment is likely to result in greater efficiency in relation to the supply, storage, and costs of fuel over and above what would occur without the Investment.</p> <p>The increase in efficiency is likely to be low for the relevant interest in the Land, resulting in a weak weighting.</p>	Not applicable.

Released under the Official Information Act 1982

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	
<b>Consequential benefits</b>	<p>The Investment is likely to support the following initiatives:</p> <ul style="list-style-type: none"> <li>Better securing New Zealand's fuel supply (including in accordance with fuel supply security reviews) with Ampol's fuel supply network and its substantial fuel refining, storage, and transportation infrastructure</li> <li>Capital market development (including the Growing New Zealand's Capital Markets 2029 report) by Ampol undertaking a secondary listing on the NZX</li> </ul>	<p>No support for the initiatives to improve the security of fuel supply, and capital market development.</p>	<b>Weak</b>	<p>The Investment is likely to advance a number of initiatives such as those focused on better securing New Zealand's fuel supply and developing New Zealand's capital market.</p> <p>This is a modest level of support of certain initiatives for the relevant interest in the Land, resulting in a weak weighting.</p>	<p>The additional investment condition will secure the spending required to advance or support these initiatives.</p>

Released under the Official Information Act 1982

## Consultation and submissions about the investment

51. One third-party submission was received in relation to this application. This was an email from a member of the public simply commenting "Block the sale from Ampol". This submission does not appear to relate to any particular criteria for consent and therefore does not appear relevant to the tests under the Act.
52. We received a copy of a letter dated 11 October 2021 from Matt Halliday, the Managing Director and CEO of Ampol, to Hon Damien O'Connor, the Minister for Land Information. Any points relevant to the application have formed part of the assessment.

### *Ministry of Business, Innovation, and Employment*

53. In undertaking our assessment, we consulted with the Energy and Resources Team at the Ministry of Business, Innovation, and Employment (**MBIE**) about the application and the proposed investment. MBIE advised that the Government is interested in the development of future energy and decarbonisation, particularly green hydrogen and biofuels. MBIE noted that biofuel mandates are expected to come into force in April 2023 and that specialist infrastructure will be required. s9(2)(b)(ii) [REDACTED]  
[REDACTED]
54. s9(2)(b)(ii) [REDACTED]. MBIE also noted that the introduction of Gull has been a positive influence on the competitiveness of the New Zealand fuel market. Overall, MBIE noted that the Investment appears likely to result in benefits to New Zealand (particularly the fuel industry).
55. As a result of this consultation, we note that due to the fast moving nature of research and development, and legislative responses to climate change, it can be difficult for industry players to commit to funds to specific projects too far into the future. As a result, conditions to ensure investment is made in the appropriate areas should balance minimum investment amounts with sufficient scope to permit greater investment in more beneficial areas.

## Proposed conditions and rationale

56. In order to adequately secure the keys benefits resulting from the Investment, we recommend imposing a special condition requiring the Applicant to invest at least \$125 million over the 2023-2028 period, including:
  - \$50 million on future energy initiatives (including \$2.4 million to support Z Energy's planned electric vehicle charging network project);
  - \$15 million on terminal infrastructure;
  - \$30 million on other growth capex;
  - \$10 million to support Z Energy's planned retail network expansion; and
  - \$20 million to support Z Energy's planned convenience store refresh programme with interim milestone dates and progressive investment thresholds.
57. We also recommend imposing a special condition requiring the Applicant to establish a cadetship programme and a graduate recruitment programme within the Z Energy business, within 18 months of the Investment.

## Residential land outcome

58. The transaction involves 'residential land' as defined in the Act, and therefore residential land outcomes must be determined for each piece of residential land.
59. The relevant residential land can be considered in two categories:
- **service station infrastructure:** this category includes land that is used for the operation of the Z Energy business<sup>20</sup>;
  - **rental properties:** this category includes land that contains both tenanted and untenanted houses and flats that adjoin a Z Energy service station<sup>21</sup>. These pieces of residential land were acquired by Z Energy due to a historic contamination issue s9(2)(b)(ii) [REDACTED]. Within this category is also s9(2)(b)(ii) [REDACTED].
60. Ampol submits that the most appropriate residential land outcome for the residential land is:
- for the **service station infrastructure** land, the 'non-residential use' outcome. Sch. 2, cl 19(2)(c)(2) of the Act requires that conditions be imposed requiring that the residential land is not used, nor held for future use, for residential dwellings or long term accommodation facilities;
  - for the **rental properties** land, the 'incidental residential use' outcome. Sch 2, cl 19(2)(c)(5) of the Act requires that conditions be imposed requiring that the residential land is used for residential purpose but only in support of the relevant business, where the relevant business is not in the business of using land for residential purposes. We have also proposed a condition requiring non-occupation by the ROP, anyone who has a more than 25% ownership or control interest in Ampol, or anyone who occupies the land otherwise than on arm's-length terms.
61. We agree with Ampol's submissions in relation to the service station infrastructure land, as the operation of the Z Energy service station is clearly not a residential use of the land. We also consider that while Ampol does hold the rental properties land, it does so in order that it can resolve the historic contamination issues that may be present, s9(2)(c) [REDACTED].
- We consider this is using the land for residential purposes (rental properties) that is in support of Z Energy's business, where Z Energy is not (or is only exceptionally) in the business of using land for residential purposes.

## Conclusion – benefit to New Zealand test

62. We have undertaken our assessment having regard to the characteristics of the Land and the nature of the interest being acquired, reflecting the proportional nature of the benefit to New Zealand test. In this case, we have particularly considered the relatively small size of the residential land parcels, the leasehold interest of the Dunedin Truck stop site, and that the interest in the Dryland Carbon LP forestry land is a minority limited partnership interest (which does not permit for management or control over the forestry land).

<sup>20</sup> Records of title 591760 (a Z Energy service station), NA7D/942 (a Caltex truck stop and land used for the operation of the truck stop), SA45A/571 (aviation fuel facility), CB24A/1261 (carpark of a Z Energy service station), CB23F/277 s9(2)(b)(ii) [REDACTED]

<sup>21</sup> Records of title NA27A/928 and NA27A/929 s9(2)(b)(ii) [REDACTED]

NA4C/917 s9(2)(b)(ii) [REDACTED]

WN30B/345 s9(2)(b)(ii) [REDACTED]

63. After considering the application, we are satisfied that the Investment is likely to result in the benefits considered above. The Investment is likely to result in a substantial amount of additional investment in future energy initiatives, infrastructure, and Z Energy initiatives to expand its retail network and refresh its convenience stores. It will also lead to the creation of 35 new FTE jobs within the Z Energy business over and above the counterfactual.
64. As a result of our assessment, and taking into account the size, characteristics, and use of the Land, we consider the Investment is likely to benefit New Zealand and that the benefits are substantial and identifiable.
65. Determining whether the investment is likely to result in substantial and identifiable benefit is ultimately a matter to be decided by Ministers and involves the exercise of Ministerial judgement. Ministers also have discretion under section 17(1)(c) of the Act to determine the relative importance to be given to each relevant factor (or part).
66. If you consider the weighting of particular benefit factors or the high relative importance should be altered in the circumstances, this may impact the overall assessment of the benefits.

## G. Farm land offer test

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67. Due to Z Energy's interest in Dryland Carbon LP, Ampol's acquisition of shares in Z Energy will also result in Ampol acquiring an interest in the land owned by Dryland Carbon LP.
68. This may include land that is farm land<sup>22</sup> (as it includes land for which consent was obtained in the past<sup>23</sup> to convert from farm land to forestry). The land owned by Dryland Carbon LP that is used for forestry activities is outside the definition of farm land in the Act.
69. We note Z Energy is listed on the NZX Main Board and the ASX (with foreign exempt status), and the Investment will occur by way of a Scheme of Arrangement under Part 15 of the Companies Act 1993.
70. Paragraph 4.a. of the Gazette notice of 15 December 2016<sup>24</sup>, states that:
 

*'Exemption from farm land offer criterion—Every person is exempted from section 16(1)(f) of the Act for a transaction to the extent that giving effect to the transaction has any of the following effects:*

*a. the acquisition by an overseas person of farm land securities that are quoted on a licensed market (within the meaning of section 6(1) of the FMC Act);'*
71. The shares in Z Energy fall within the definition of 'farm land securities that are quoted on a licensed market', as they are 'securities to which the overseas investment [in farm land] relates', and NZX Limited is listed on the Financial Market Authority's website as a licensed market operator.<sup>25</sup>
72. We are therefore satisfied that Ampol is exempt from the farm land offer criterion.<sup>26</sup>

<sup>22</sup> As defined in section 6 of the Act, being 'land being used primarily for agricultural, horticultural, or pastoral purposes, or for the keeping of bees, poultry, or livestock (which, to avoid doubt, do not include forestry activities within the meaning of [section 16A\(9\)](#)'.

<sup>23</sup> OIO case number 201900348.

<sup>24</sup> Notice of Exemptions from Farm Land Offer Criterion (Pursuant to Section 20 of the Overseas Investment Act 2005) 2016

<sup>25</sup> <https://www.fma.govt.nz/compliance/licensed-providers/nzx-limited/>

<sup>26</sup> Under section 20(b).

## H. Not a transaction of national interest

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73. The Investment does not involve a transaction of national interest under the mandatory criteria of the Act.<sup>27</sup> This is because the Investment does not involve a non-New Zealand government investor, or an investment in a strategically important business (as defined in the Act).
74. We are directed<sup>28</sup> that the starting point is the assumption that overseas investment is in New Zealand's national interest and that we should only recommend that a transaction is a transaction of national interest under s20B 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 more than 25 per cent ownership or control interest 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).
75. We do not consider that this investment engages any of these risk factors. We briefed the Minister of Finance on this Investment at his request but did not advise escalation to a national interest assessment because none of the scenarios listed above were triggered.<sup>29</sup> The Minister advised that he did not intend to call it in for a national interest assessment.<sup>30</sup>

## I. Conclusion

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76. 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 will be, or is likely to be, substantial and identifiable; and
  - the conditions relating to residential land to be imposed on the consent will be, or are likely to be, met;
  - the transaction is exempt from the farm land offer criterion;<sup>31</sup> and
  - the transaction is considered to be a transaction of national interest.
77. Therefore, we consider that the criteria for consent in section 16 have been met and our recommendation is to **grant consent**.

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<sup>27</sup> Under s 20A of the Act.

<sup>28</sup> Ministerial Directive Letter dated 24 November 2021. We note that, pursuant to the transitional provisions of the directive letter, the new Ministerial Directive Letter applies to the national interest criteria, while the previous directive letter applies to the benefit test criteria.

<sup>29</sup> LINZ BFR 22-257 dated 21 February 2022.

<sup>30</sup> Minister of Finance ROB-0433 23 February 2022.

<sup>31</sup> Section 20(b) of the Act, pursuant to paragraph 4.a. of the Gazette notice of 15 December 2016.

78. 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.



Daniel White  
Manager, Applications  
**Overseas Investment Office**

Date: 15 / 3 / 2022

## **J. List of Attachments**

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1. Proposed Decision and Conditions
2. Intended ownership structure
3. Land details
4. Other benefit factors

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## 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:

<b>Case</b>	202100582
<b>Consent</b>	The Consent holder/s may acquire the Assets subject to the Conditions set out below.
<b>Consent holder/s</b>	Ampol Limited (Australian company number 004 201 307) Ampol Holdings NZ Limited (New Zealand company number 8243546) We will also refer to each Consent holder and the Consent holders together as <b>you</b> .
<b>Assets</b>	100% of the fully-paid ordinary shares in Z Energy Limited (Company number 12046) that holds the Land or an interest in the Land
<b>Land</b>	<ol style="list-style-type: none"><li>1. A Leasehold Interest in 0.716 hectares of land located at 1 Hudson Road, Warkworth, Auckland, contained in Record of Title 591760 (North Auckland).</li><li>2. A Freehold Interest in 0.0771 hectares of land located at 1/39 Northcote Road, Hillcrest, Auckland, contained in Record of Title NA27A/928 (North Auckland).</li><li>3. A Freehold Interest in 0.0771 hectares of land located at 2/39 Northcote Road, Hillcrest, Auckland, contained in Record of Title NA27A/929 (North Auckland).</li><li>4. A Freehold Interest in 0.0771 hectares of land located at 41 Northcote Road, Hillcrest, Auckland, contained in Record of Title NA4C/917 (North Auckland).</li><li>5. A Freehold Interest in 1.6668 hectares of land located at 2020 Great South Road, Bombay, Auckland, contained in Record of Title NA7D/942 (North Auckland).</li></ol>



6. A Leasehold Interest in 0.2136 hectares of land located at 159 Golf Road, Galatea, Whakatane, contained in Record of Title SA45A/571 (South Auckland).
7. A Freehold Interest in 0.9655 hectares of land located at 198 Tararua Road, Levin, contained in Record of Title WN30B/345 (Wellington).
8. A Freehold Interest in 0.1006 hectares of land located at 13 Johns Road, Belfast, Christchurch, contained in Record of Title CB24A/1261 (Canterbury).
9. A Leasehold Interest in 0.0547 hectares of land located at 38 Hawke Street, New Brighton, Christchurch, contained in Record of Title CB23F/277 (Canterbury).
10. A Leasehold Interest in 0.3161 hectares of land located at 120 Fryatt Street, Dunedin Central, Dunedin, contained in Record of Title 380280 (Otago).
11. A Freehold Interest in 306.9668 hectares of land located at Pirikaha Road, Mangonui, Far North (Black Banner), contained in Record of Title NA981/14, NA596/139, NA485/103, NA87C/835, NA87C/838 (North Auckland).
12. A Freehold Interest in 756.997 hectares of land located at 280 Paponga Road, Broadwood, Far North (Paponga), contained in Record of Title NA75B/192, NA135D/975 (North Auckland).
13. A Freehold Interest in 1,220.9365 hectares of land located at Autawa Road, Tarata, New Plymouth (Autawa), contained in Record of Title TN118/54, TNA1/810 , TNA2/268 (Taranaki).
14. A Freehold Interest in 1,594.4614 hectares of land located at 2775 Mangapoike Road, Whakaka, Wairoa (Te Puna), contained in Record of Title GS5A/26 (Gisborne).
15. A Freehold Interest in 359.1174 hectares of land located at 368 Kirikau Valley Road, Kirikau, Ruapehu (Kirikau), contained in Record of Title WN30A/182, WN516/81 (Wellington).
16. A Freehold Interest in 724.2184 hectares of land located at 1129 Waitawhiti Road, Tinui, Masterton (Pukokino), contained in Record of Title 960074 (Wellington).
17. A Freehold Interest in 129.4994 hectares of land located at Pararangi Road, Waituna West, Manawatu (Momona), contained in Record of Title WN20C/331 (Wellington).
18. A Freehold Interest in 302.5900 hectares of land located at Whakatomotomo Road, Pirinoa, South Wairarapa (Pirinoa), contained in Record of Title WN26A/409 (Wellington).
19. A Freehold Interest in 1,319.2665 hectares of land located at 42 Wiffens Road, Kekerengu, Kaikoura (Matiawa), contained in Record of Title 397894 (Marlborough).

20. A Freehold Interest in 1,165.1772 hectares of land located at 1550 Avon Valley Road, Waihopai Valley, Marlborough, contained in Record of Title 843377, MB23/248 , MB47/63 (Marlborough).

21. A Freehold Interest in 339.0423 hectares of land located at 157 Smith Road, Herekino, Far North (Twin Ridge), contained in Record of Title 902793, 902794, NA133C/617, NA133C/618, NA133C/619, NA196/35, NA264/185, NA315/14, NA382/164 , NA3C/743 (North Auckland).

22. A Freehold Interest in 291.8647 hectares of land located at 127 Campbell Road, Peria, Far North (Campbell Road), contained in Record of Title NA42A/1265, NA430/156, NA45B/872, NA509/126, NA792/103, NA85A/407, NA85A/408, NA85A/409, NA882/103 (North Auckland).

23. A Freehold Interest in 135.8647 hectares on land located at Mangatipona Road, Fordell, Rangitikei (Mangatipona), comprised in Record of Title 9729 and 9730 (Wellington).

24. A Freehold Interest in 89.8970 hectares of land located at Mangahoe Road, Hunterville, Rangitikei (Mangahoe), comprised in Record of Title 1005023 (Wellington).

25. A Freehold Interest in 590.6969 hectares of land located at 14637 Route 52, Alfredton, Tararua (Big Pori), comprised in Records of Title 650145, WN25A/32, WN53A/372 and WN24A/382 (Wellington)

s9(2)(b)(ii)

27. A Freehold Interest in 1,106.8152 hectares of land located at 1154b Makakaho Road, Ngamatapouri, South Taranaki (Pinnacles) comprised in Records of Title TN172/2, TNH2/183, WN605/285, WN582/280 and WN762/26 (Taranaki).

28. A Freehold Interest in 1,489.37 hectares of land located at 188 Wicks Road (Wicks Road) comprised in Records of Title SL9B/739 and SL9D/993 (Southland).

29. A Freehold Interest in 227.6774 hectares of land located at 267 Millricks Line, Linton, Palmerston North (Barracks) comprised in Record of Title 996142 (Wellington).

s9(2)(b)(ii)

31. A Freehold Interest in 710.3137 hectares of land located at 1729 Kawautahi Road, Owhango, Ruapehu (Kokaha Adjusted Boundaries) comprised in Records of Title 997303, WN8A/949 and WN887/55 (Wellington).

	<p>32.A Freehold Interest in 825.1255 hectares of land in 872 Kohukohu Road, Far North District, Northland comprised in Records of Title NA1689/54, NA133C/935, NA89C/733, NA650/111, NA650/118, NA133C/936 and NA13D/118 (North Auckland).</p> <p>s9(2)(b)(ii) [Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p>
<b>Timeframe</b>	You have until 30 April 2023 to acquire the Assets.

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## Conditions

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

In the Consent and the Conditions, we refer to the Overseas Investment Office as **OIO, us or we**.

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

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## Special conditions

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

Details	Required date
<b>Special condition 1: Introduce at least \$125 million in capital expenditure</b>	
<p>1. You must introduce into New Zealand at least \$125 million to be invested as follows:</p> <ul style="list-style-type: none"><li>(a) \$50 million on future energy initiatives (including \$2.4 million to support Z Energy's commitment towards its planned electric vehicle charging network project);</li><li>(b) \$15 million on terminal infrastructure;</li><li>(c) \$30 million on other growth capex;</li><li>(d) \$10 million to support Z Energy's planned retail network expansion;</li><li>(e) \$20 million to support Z Energy's planned convenience store refresh programme.</li></ul>	By 30 April 2029
<p>2. Of the capital expenditure referred to in 1 above, you must introduce into New Zealand a cumulative total of at least \$60 million of capital expenditure on any combination of the items referred to in 1 above.</p> <p>If you do not, standard condition 6 will apply and we may require you to dispose of the Land or your interest in the Land.</p>	By 30 April 2026
<b>Special condition 2: Create new jobs</b>	
<p>1. You must establish a cadetship programme within the Z Energy business.</p>	By 30 April 2024
<p>2. You must establish a graduate recruitment programme within the Z Energy business.</p>	By 30 April 2024

<p>If you do not, standard condition 6 will apply and we may require you to dispose of the Land or your interest in the Land.</p>	
<p><b>Special condition 3: Use Land for non-residential purposes</b></p>	
<p>You must use that part of the Land that comprises residential land (used as services stations and ancillary purposes) for non-residential purposes.</p> <p>If you do not, standard condition 6 will apply and we may require you to dispose of the Land or your interest in the Land.</p>	<p>At all times</p>
<p><b>Special condition 4: Non-occupation outcome</b></p>	
<p>None of the following people may occupy that part of the Land that comprises residential land (used as rental properties), acquired under this consent, for residential purposes:</p> <ul style="list-style-type: none"> <li>(a) You;</li> <li>(b) Any overseas person with a more than 25% ownership or control interest in any of the people in (a);</li> <li>(c) Any overseas person who occupies the Land other than on arm's length terms;</li> <li>(d) Any overseas person who has a beneficial interest in, or beneficial entitlement to, the relevant interest in the Land; or</li> <li>(e) If (a) is a trust, any beneficiary (direct or indirect) who may benefit under the trust at the trustees' discretion.</li> </ul> <p>If you do not, standard condition 6 will apply and we may require you to dispose of the Land or your interest in the Land.</p>	<p>Ongoing</p>
<p><b>Special condition 5: Use Land for incidental residential purposes</b></p>	
<p>You must only use that part of the Land that comprises residential land (used as rental properties) for use as rental properties but only in support of the business of Z Energy Limited.</p> <p>Z Energy Limited must continue to not be (or only exceptionally be) in the business of using land for residential purposes.</p> <p>If you do not comply with this condition, Standard Condition 6 will apply and we may require you to dispose of the Land.</p>	<p>At all times</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
<b>Standard condition 1: acquire the Assets</b>	
<p>You must acquire the Assets:</p> <ol style="list-style-type: none"> <li>1. by the date stated in the Consent. If you do not, your Consent will lapse or become invalid and you must not acquire the Assets, and</li> <li>2. using the acquisition, ownership and control structure you described in your application.</li> </ol> <p>Note, only you – the named Consent holder – may acquire the Assets, not your subsidiary, trust, or other entity.</p>	As stated in the Consent
<b>Standard condition 2: tell us when you acquire the Assets</b>	
<p>You must tell us in writing when you have acquired the Assets.</p> <p>Include details of:</p> <ol style="list-style-type: none"> <li>1. the date you acquired the Assets (<b>Settlement</b>),</li> <li>2. consideration paid (plus GST if any),</li> <li>3. the structure by which the acquisition was made and who acquired the Assets, and</li> <li>4. copies of any transfer documents and Settlement statements.</li> </ol>	As soon as you can, and no later than two months after Settlement
<b>Standard condition 3: allow us to inspect the Land</b>	
<p>Sometimes it will be helpful for us to visit the Land so we can monitor your compliance with the Conditions.</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"> <li>1. Allow a person we appoint (<b>Inspector</b>) to:             <ol style="list-style-type: none"> <li>(a) enter onto the Land, including any building on it, other than a dwelling, for the purpose of monitoring your compliance with the Conditions (<b>Inspection</b>),</li> </ol> </li> </ol>	At all times

<ul style="list-style-type: none"> <li>(b) remain there as long as is reasonably required to conduct the inspection,</li> <li>(c) gather information,</li> <li>(d) conduct surveys, inquiries, tests and measurements,</li> <li>(e) take photographs and video records, and</li> <li>(f) do all other things reasonably necessary to carry out the Inspection.</li> </ul> <p>2. Take all reasonable steps to facilitate an Inspection including:</p> <ul style="list-style-type: none"> <li>(a) directing your employees, agents, tenants or other occupiers to permit an Inspector to conduct an Inspection,</li> <li>(b) being available, or requiring your employees, agents, tenants or other occupiers to be available, at all reasonable times during an Inspection to facilitate access onto and across the Land. This includes providing transport across the Land if reasonably required.</li> </ul> <p>3. During an Inspection:</p> <ul style="list-style-type: none"> <li>(a) we will not compel you and your employees, agents, tenants or other occupiers to answer our questions or to let us look at, copy or take away documents,</li> <li>(b) our Inspector will comply with any reasonable instruction and co-operate with any reasonable health and safety policy or procedure you notify to us before the Inspection.</li> </ul>	
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**Standard condition 4: remain not unsuitable**

<p>You, and to the extent that you are not an individual, the Individuals Who Control You must remain not unsuitable to own or control the Assets in accordance with section 18A(1) of the Act.</p> <p>The <b>Individuals Who Control You</b> are individuals who:</p> <ul style="list-style-type: none"> <li>(a) are members of your governing body,</li> <li>(b) directly or indirectly, own or control more than 25% of you or of a person who itself owns or controls more than 25% of you, and</li> <li>(c) are members of the governing body of the people referred to in paragraph (b) above.</li> </ul>	<p>At all times</p>
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<b>Standard condition 5: tell us about changes that affect you, the people who control you, or people you control</b>	
<p>You must tell us in writing if any of the following events happens to any of the Consent holders:</p> <ol style="list-style-type: none"> <li>1. You become aware that you and/or any Individual Who Controls you establishes any of the investor test factors listed in section 18A(4) of the Act.</li> <li>2. You cease to be an overseas person or dispose of your interest in the Land.</li> <li>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.</li> </ol>	<p>Within 20 working days after the change</p>
<b>Standard condition 6: dispose of the Land or your interest in the Land if you do not comply with key special conditions</b>	
<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 or your interest in 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 or your interest in the Land. After we have given you notice, you must:</p>	
<p><b>Value the Land:</b> obtain and send us a copy of a market valuation of the Land from a New Zealand registered valuer.</p>	<p>Within six weeks of the date of our notice.</p>
<p><b>Market the Land:</b> instruct a licensed real estate agent to actively market the Land for sale on the open market.</p>	<p>Within six weeks of the date of our notice.</p>
<p><b>Dispose of the Land:</b> dispose of the Land or your interest in the Land to a third party who is not your associate.</p>	<p>Within six months of our notice.</p>
<p><b>Offer without reserve:</b> if you have not disposed of the Land within six months of our notice, offer the Land for sale by auction or tender without a reserve price or minimum bid and dispose of the Land.</p>	<p>Within nine months of our notice.</p>



<p><b>Report to us about marketing:</b> tell us in writing about marketing activities undertaken and offers received for the Land.</p>	<p>By the last day of every March, June, September and December after our notice or at any other time we require.</p>
<p><b>Report disposal to us:</b> send us, in writing, evidence:</p> <ul style="list-style-type: none"> <li>(a) that you have disposed of the Land or your interest in the Land,</li> <li>(b) of disposal (including copies of sale and purchase agreements, settlement statements and titles showing the purchaser as registered proprietor),</li> <li>(c) the purchaser is not your associate.</li> </ul>	<p>Within one month after the Land has been disposed of.</p>

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## Reporting conditions

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We need information from you about how your Investment Plan is tracking so we can monitor your progress against the Conditions and so we can measure the benefits you have brought to New Zealand through your investment.

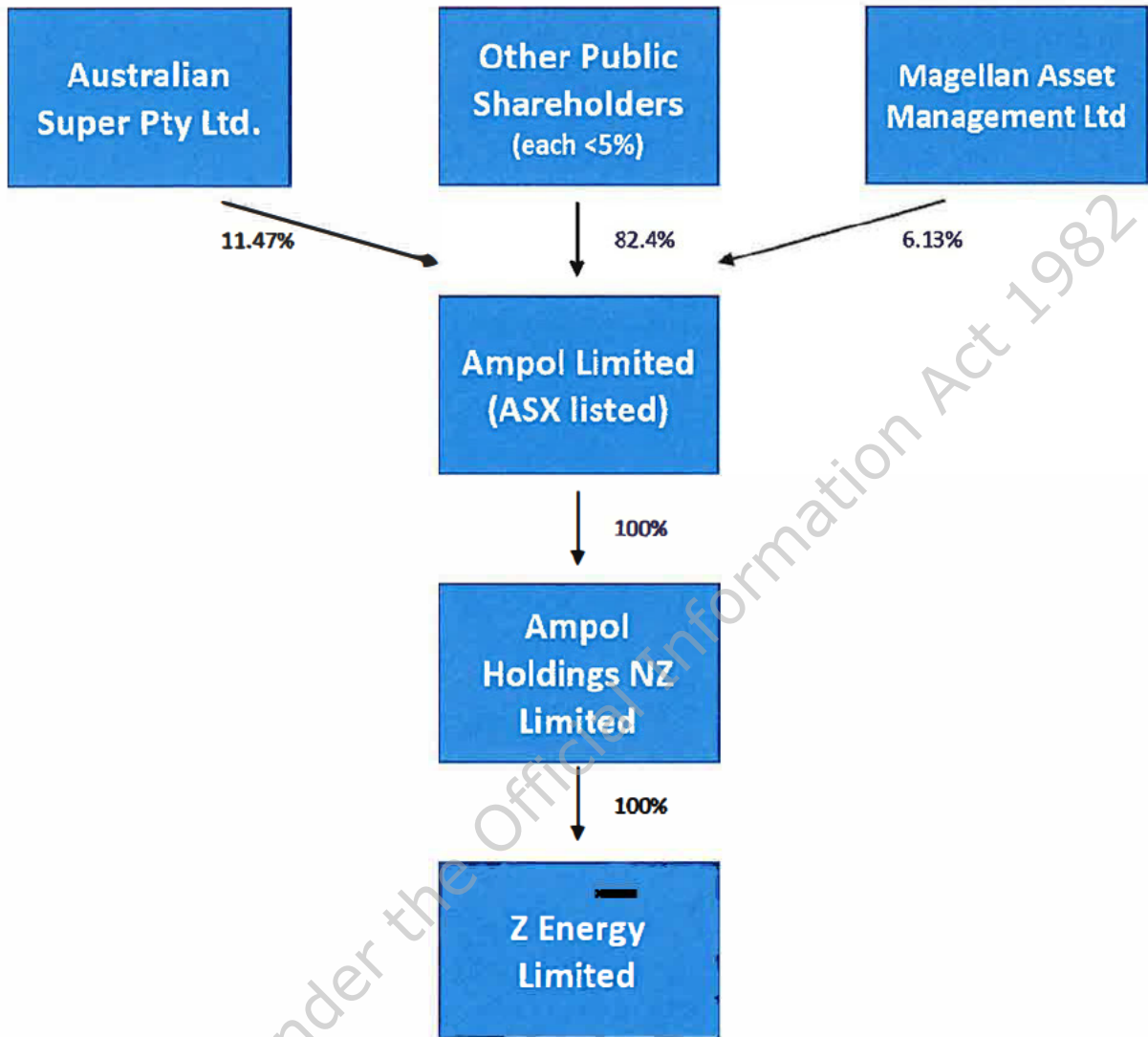
You must lodge **reports**. They must:

1. be sent to **oiomonitoring@linz.govt.nz** by these dates:
  - (a) Year one: 31 May 2024;
  - (b) Year two: 31 May 2026; and
  - (c) Year three: 31 May 2029;
2. contain information about:
  - (a) your progress in implementing the Special conditions,
  - (b) the amount of capital expenditure expended to date under each of the categories in Special condition 1; and
  - (c) the number of new FTE jobs created (and retained) under the cadetship and graduate recruitment programmes (and the associated salaries); and
3. follow the format of the template report published on our website (see <https://oio.linz.govt.nz/oio-consent-monitoring>).

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

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

## ATTACHMENT 2 – INTENDED OWNERSHIP STRUCTURE



## ATTACHMENT 3 – LAND DETAILS

No.	Owner	Size	Sensitivity	Record of Title	Location
1	Marsden Marine Limited	0.7160 ha (leasehold)	Residential	591760	Warkworth, Auckland
2	Z Energy Limited	0.0771 ha	Residential (adjoins 4 and other non-sensitive land owned by Z)	NA27A/928	Hillcrest, Auckland
3	Z Energy Limited	0.0771 ha	Residential (adjoins 4 and other non-sensitive land owned by Z)	NA27A/929	Hillcrest, Auckland
4	Z Energy Limited	0.0771 ha	Residential (adjoins 2 and 3)	NZ4C/917	Hillcrest, Auckland
5	Z Energy 2015 Limited	1.6668 ha	Residential (adjoins non-sensitive land leased by Z)	NA7D/942	Bombay, Auckland
6	Derek Walter Lowe	0.2136 ha est. (leasehold)	Residential	SA45A/571	Galatea, Whakatane
7	Dale Manuera Winiana and Loretta Ruth Winiana	0.9655 ha (unconditional SPA)	Residential	WN30B/345	Levin
8	Z Energy Limited	0.1006 ha	Residential	CB24A/1261	Belfast, Christchurch
9	New Brighton Service Station (1964) Limited	0.0547 ha (leasehold)	Residential (adjoins non-sensitive land leased by Z)	CB23F/277	New Brighton, Christchurch
10	Port Otago Limited	0.3161 ha (leasehold)	>0.2 ha and adjoins marine and coastal area	380280	Dunedin
11	Drylandcarbon One LP	306.9640 ha	>5 ha non-urban land	NA981/14, NA59/139, A485/103, NA87C/835 and NA87C/838	Mangonui, Far North
12	Drylandcarbon One LP	756.9970 ha	>5 ha non-urban land - both adjoin land that is >0.4 ha and held for conservation purposes	NA75B/192 and NA135D/975	Broadwood, Far North
13	Drylandcarbon One LP	1,220.9400 ha	>5 ha non-urban land - all adjoin land that is >0.4 ha and held for conservation purposes	TN118/54, TNA1/810, and TNA2/268	Tarata, New Plymouth

No.	Owner	Size	Sensitivity	Record of Title	Location
14	Drylandcarbon One LP	1,594.4614 ha	>5 ha non-urban land	GS5A/26	Whakaka, Wairoa
15	Drylandcarbon One LP	359.1174 ha	>5 ha non-urban land - both adjoin land that is Whanganui River	WN30A/182 and WN516/81	Kirikau, Ruapehu
16	Drylandcarbon One LP	724.2184 ha	>5 ha non-urban land - includes land that is >0.4 ha and held for conservation purposes - adjoins land that is >0.4 ha and held for conservation purposes	960074	Tinui, Masterton
17	Drylandcarbon One LP	129.4994 ha	>5 ha non-urban land	WN20C/331	Waituna West, Manawatu
18	Drylandcarbon One LP	302.5900 ha	>5 ha non-urban land - adjoins land held for conservation purposes	WN26A/409	Pirinoa, South Wairarapa
19	Drylandcarbon One LP	1,319.2665 ha	>5 ha non-urban land - adjoins land >0.4 ha and held for conservation purposes - adjoins land >0.4 ha and held as a reserve	397894	Kekerengu, Kaikoura
20	Drylandcarbon One LP	1,165.1172 ha	>5 ha non-urban land - adjoins land >0.4 ha and held for conservation purposes - adjoins land >0.4 ha and is a marginal strip	843377, MB23/248, and MB47/63	Waihopai Valley, Marlborough
21	Drylandcarbon One LP	339.042 ha	>5 ha non-urban land	902793, 902794, NA133C/617, NA133C/618, NA133C/619, NA196/35, NA264/185, NA315/14, NA382/164 and NA3C/743	Herekino, Far North
22	Drylandcarbon One LP	291.8640 ha	>5 ha non-urban land - NA85/407, NA85/408, NA85A/409 are >0.4 ha and held for conservation purposes	NA42A/1265, NA430/156, NA45B/872, NA509/126, NA792/103, NA85A/407, NA85A/408, NA85A/409, NA882/103	Peria, Far North

No.	Owner	Size	Sensitivity	Record of Title	Location
23	Drylandcarbon One LP	135.8647 ha	>5 ha non-urban land	9729 and 9730	Mangatipona Road, Fordell, Rangitikei
24	Drylandcarbon One LP	89.8970 ha	>5 ha non-urban land	1005023	Mangahoe Road, Hunterville, Rangitikei
25	Drylandcarbon One LP	590.6969 ha	>5 ha non-urban land >WN25A/32 and WN53A/372 -the Adjoining Land is greater than 0.4 hectares and is held for conservation purposes	650145, WN25A/32, WN53A/372 and WN24A/382	Alfredton, Tararua
26	§9(2)(b)(ii)	§9(2)(b)(ii)	§9(2)(b)(ii)	§9(2)(b)(ii)	§9(2)(b)(ii)
27	Drylandcarbon One LP	1,106.8152 ha	>5 ha non-urban land >WN605/285 and TN172/2 - the Adjoining Land is greater than 0.4 hectares and is held for conservation purposes >WN605/285 and WN762/26 - the Land is greater than 0.4 hectares and may include or adjoin the Whanganui River	WN605/285, WN582/280, WN762/26, TN172/2 and TNH2/183	Ngamatapouri, South Taranaki
28	Drylandcarbon One LP	1,489.3700 ha	>5 ha non-urban land >SL9D/993 includes land that is greater than 0.4 ha held for conservation purposes	SL9D/993 and SL9B/739 <sup>34</sup>	Wicks Road (Wicks Road, Wendon

<sup>32</sup> Drylandcarbon One Limited Partnership has agreed to purchase this land. The purchase has not yet settled.

<sup>33</sup> Drylandcarbon One Limited Partnership has agreed to purchase this land. The purchase has not yet settled.

<sup>34</sup> It is intended that these two parcels of land will be subdivided into 4 lots, with Drylandcarbon One Limited Partnership retaining a central lot of approximately 800 hectares and selling the balance.

No.	Owner	Size	Sensitivity	Record of Title	Location
			> The Adjoining Land includes land greater than 0.4 hectares held for conservation purposes		
29	Drylandcarbon One LP	227.6774 ha	>5ha non-urban land > includes land that is greater than 0.4 ha held for conservation purposes > the Adjoining Land includes land greater than 0.4 hectares held for conservation purposes	996142	Linton, Palmerston North
30	s9(2)(b)(ii)	s9(2)(b)(ii)	s9(2)(b)(ii)		s9(2)(b)(ii)
31	Drylandcarbon One LP	710.3137 ha	>5ha non-urban land >The Land is greater than 0.4 ha and adjoins the Whanganui River	997303 <sup>36</sup> , WN8A/949 <sup>37</sup> and WN887/55	Owhango, Ruapehu
32	Drylandcarbon One LP	825.1255 ha	>5ha non-urban land >NA89C/773 includes land that is greater than 0.4 ha held for conservation purposes >TN1689/54 and NA89C/733 - the Adjoining Land includes land greater than 0.4 hectares held for conservation purposes	NA1689/54, NA133C/935, NA89C/733, NA650/111, NA650/118, NA133C/936, NA1D/639 and NA13D/118	Far North District, Northland

<sup>35</sup> Approximately 80 ha (subject to survey) out of 339.0309 ha. Purchase by Drylandcarbon One LP has not yet settled.

<sup>36</sup> New record of title, previously comprised of WN38A/762, which was included as Land (qq) in the Sensitive Land Certificate dated 16 September 2021, and WN52A/218.

<sup>37</sup> Approximately 12 ha out of 505.7559 ha.

No.	Owner	Size	Sensitivity	Record of Title	Location
█	s9(2)(b)(ii) █	█	█	█	█
█	█	█	█	█	█

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## ATTACHMENT 4 – 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
Indigenous vegetation/fauna – s17(2)(b)	Ampol submits, and we agree, that to the extent any of these factors are relevant to the Dryland Carbon Land, Z Energy's management and control of the Dryland Carbon Land is delegated pursuant to a management contract, and Z Energy exercises only limited approval rights and otherwise has only an advisory role.
Trout, salmon, wildlife and game – s17(2)(c)	
Historic heritage – 17(2)(d)	
Walking access – s17(2)(e)	
Offer to sell seabed/foreshore/riverbed to the Crown – s17(2)(f)	Ampol submits, and we agree, that Ampol seeks to acquire shares in Z Energy, and, thus, the registered owner of any special land will not change following completion of the transaction.
Key person in a key industry – reg 28(b)	Ampol submits, and we agree, that these benefit factors are not relevant to the assessment of this application
Affect image, trade or international relations – reg 28(c)	
Owner to undertake other significant investment – reg 28(d)	
Enhance the viability of other investments – r28(g)	
Strategically important infrastructure – reg 28(h)	
Economic interests – reg 28(i)	
Increased processing of primary products – s17(2)(a)(vi) ( <i>high relative importance factor</i> )	
Increased export receipts – s17(2)(a)(iii) ( <i>high relative importance factor</i> )	
Increased export receipts – s17(2)(a)(iii) ( <i>high relative importance factor</i> )	Ampol submits it does not have sufficient clarity on Z Energy's existing customer facing technology offerings to make substantive submissions under this factor.
New technology or business skills – s17(2)(a)(ii)	The Investment is unlikely to involve the introduction to New Zealand of sufficient new technology or business skills to meet the threshold for this factor.
Oversight and participation by New Zealanders – reg 28(j) ( <i>high relative importance factor</i> )	The Investment is unlikely to result in a sufficient degree of New Zealand oversight and participation to meet the threshold for this factor.