



Decision required under the Overseas Investment Act 2005: James Rudolph Baron Palumbo (Lord Palumbo)

Date	11 November 2015
Security Level	Commercial: In Confidence
Priority	High
Report/Case Number	1286 / 201520051
Consent Required By	30 November 2015

Overseas Investment Office
 Received - 3 DEC 2015
 3 pm.

Instructions

	Action Sought	Suggested Deadline
Minister for Land Information	1. Sign the attached memorandum 2. Forward the memorandum and annexure to the Associate Minister of Finance	18 November 2015
Associate Minister of Finance	1. Sign the attached memorandum 2. Forward the memorandum and annexure to the Overseas Investment Office	25 November 2015

Contact for Telephone Discussion

Name	Position	Telephone (wk)	Cellphone	First Contact
Samantha Naidoo	Team Manager	04 460 2795		✓
	Senior Solicitor			

Executive Summary:

Applicant

1. The applicant is James Rudolph Baron Palumbo of Southwark (Lord Palumbo) ("**Applicant**"). He is a citizen of the United Kingdom.
2. The Applicant is a prominent player in the music industry and co-founder of the world-renowned Ministry of Sound nightclub in South London. He is also a working member of the House of Lords.

Vendor

3. The vendors of the Land are John Gerard Fogarty and Nan Michelle Fogarty (1/2 share) and Collow Family Company Limited (1/2 share) ("**Vendors**"). The Vendors hold their interest in the Land as trustees of three family trusts and are not overseas persons under the Overseas Investment Act 2005 ("**Act**").

Investment

4. The Applicant seeks consent to acquire approximately 26.9954 hectares of land at 609A and 609B Orapiu Road, Waiheke Island (the "**Land**").
5. The Land is a waterfront lifestyle property. Currently there are two homes on the Land along with a bach, boat shed, and shearers' shed. The main house has three bedrooms and two bathrooms and the smaller house has three bedrooms and one bathroom.
6. The Land is partially covered by vegetation with the remainder of the Land degraded pasture. There is a Queen Elizabeth II National Trust Open Space covenant over approximately 13.4 hectares of the Land.

Investment Plan

7. The Applicant plans to upgrade and convert the existing dwellings, build new visitor facilities on the Land and revegetate the current degraded pasture to create a world class retreat ("**Retreat**").
8. The Retreat is intended to cater principally for musicians and recording artists and will include facilities to enable artists, particularly Ministry of Sound artists, to write and record music. It will also provide visitor suites for artists' accommodation during recording sessions.
9. The Applicant intends to establish the Retreat as a contribution to the community of artists rather than as a business in itself. The Applicant is personally funding the Investment and does not intend to charge for the use of the facility.
10. The Applicant also intends to restore the indigenous vegetation on the Land.

Benefit to New Zealand

11. The proposed overseas investment will, or is likely to, benefit New Zealand having regard to the following factors:
 - (a) creation of new job opportunities (section 17(2)(a)(i));
 - (b) additional investment for development purposes (section 17(2)(a)(v));
 - (c) protect or enhance indigenous vegetation (section 17(2)(b)); and

- (d) offer to sell foreshore/seabed to the Crown (section 17(2)(f)).
12. We have reviewed the significance of the above benefits and consider that, collectively, they are likely to be substantial and identifiable.
 13. In particular the Applicant intends to invest approximately \$12 million to develop the Land into an artist's retreat and \$1 million to enhance and restore indigenous vegetation on the Land. The development is also likely to result in new job opportunities in New Zealand.
 14. We recommend that consent be granted to this application, subject to the conditions set out in Appendix 1.

Annexures:

15. Report of the Overseas Investment Office on the proposed overseas investment ("**Report**").
16. Application for consent with supporting material ("**Application**").

Instructions:

17. Ministers must grant consent to this overseas investment if they are satisfied that all of the criteria in section 16 of the Overseas Investment Act 2005 (the "**Act**") are met. They must decline to grant consent if they are not satisfied that all of the criteria in section 16 are met. Ministers must not take into account any criteria or factors other than those identified in sections 16 and 17, and regulation 28 of the Overseas Investment Regulations 2005 (the "**Regulations**").
18. In the attached Report the Overseas Investment Office identifies each of the criteria and factors under sections 16 and 17, and regulation 28 that Ministers are required to consider in this case.

"Benefit to New Zealand criteria"

19. In this case, section 16 requires Ministers to decide, among other things, whether they are satisfied in relation to the following "benefit to New Zealand" criteria:
 - (a) the overseas investment will, or is likely to, benefit New Zealand (or any part of it or group of New Zealanders), as determined under section 17 (section 16(1)(e)(ii)); and
 - (b) that benefit will be, or is likely to be, substantial and identifiable (section 16(1)(e)(iii)).
20. The application of the benefit to New Zealand criteria involves the exercise of Ministerial judgement. The fact that responsibility for making this decision has been conferred on Ministers confirms that this is a high-level decision with significant policy content. That is also apparent from the language and content of the factors that must be considered, many of which require a high degree of evaluative judgement, and are not capable of quantification or calculation.

21. In applying the benefit to New Zealand criteria, Ministers are required to consider each of the factors in section 17(2), determine which of the factors are relevant to the investment, and have regard to the relevant section 17(2) factors. The relative importance to be given to each factor is a matter to be determined by Ministers. In particular, the Act does not require economic factors to be given more weight than non-economic factors, or vice versa. It is a matter for you, in carrying out your overall evaluation, to decide what weight to give to each factor.
22. The decision concerning whether the benefit to New Zealand, or any part of it or group of New Zealanders, is substantial and identifiable under section 16(1)(e)(iii), involves a collective assessment of the relevant factors.

Justice Miller's "with and without test"

Economic factors

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

Non-economic factors

24. Although the position is not free from doubt, the better view is that the same question – will this benefit be achieved even if the overseas investment does not occur – should be asked in relation to the other "non-economic" factors listed in section 17(2)(b)-(e). The High Court judgment suggested¹ that there could be a benefit in respect of the non-economic factors even if the same benefit would be achieved in the absence of the investment. But as the Court noted², it is not easy to see how a benefit that will happen anyway could be regarded as substantial for the purposes of section 16(1)(e)(iii). We consider that Ministers should not treat benefits that are likely to be achieved in any event as contributing to the "substantial and identifiable benefit" criterion.

Regulation 28 factors

25. With regard to the factors in regulation 28 of the Regulations, Miller J noted that:

The criteria listed in reg 28 deal, for the most part, with benefits that only an overseas buyer could provide or what may be loosely described as strategic considerations, so they do not require a counterfactual analysis.³

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

¹ *Tiroa E* at [36].

² *Tiroa E* at [38].

³ *Tiroa E* at [36].

Conditions

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

Decision

- 29. The decision that you are required to make should be based on information available to you that you consider is sufficiently reliable for that purpose. The information that the Overseas Investment Office has taken into account in making its recommendation is summarised in the attached Report.
- 30. If you propose to disagree with the decision of the other Minister, you should discuss your proposed decision with the Overseas Investment Office and the other Minister.
- 31. If required, staff from the Overseas Investment Office are available to brief you on the Office's recommendations.

Recommendations:

32. I recommend that you:

(a) determine that:

- (i) the 'relevant overseas person' is James Rudolph Baron Palumbo (Lord Palumbo); and
- (ii) there are no 'individuals with control of the relevant overseas person'; and
- (iii) the relevant overseas person has business experience and acumen relevant to the overseas investment; and
- (iv) the relevant overseas person has demonstrated financial commitment to the overseas investment; and
- (v) the relevant overseas person is of good character; and
- (vi) the relevant overseas person is not an individual of the kind referred to in section 15 or 16 of the Immigration Act 2009; and
- (vii) the overseas investment will, or is likely to, benefit New Zealand (or any part of it or group of New Zealanders); and
- (viii) the benefit will be, or is likely to be, substantial and identifiable;

(b) and accordingly you are satisfied that the criteria for consent in section 16 have been met; and

Associate Minister of Finance:

Minister for Land Information:

Satisfied

Satisfied

Not Satisfied

Not Satisfied

(c) grant consent to the overseas investment subject to the conditions in Appendix 1 of the Report.

Associate Minister of Finance:

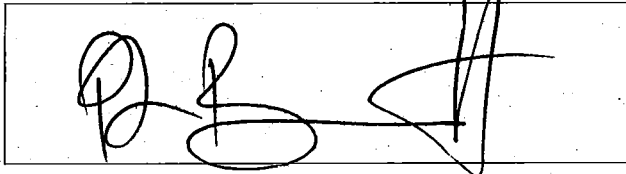
Consent Granted

Consent Declined

Minister for Land Information:

Consent Granted

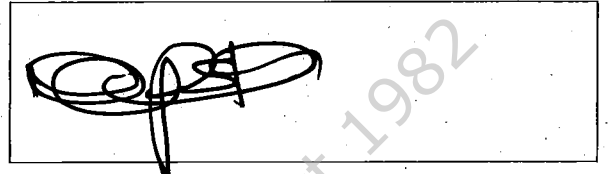
Consent Declined



Associate Minister of Finance

Date

1/12/2015



Minister for Land Information

Date

15/11/15



Samantha Naidoo – Team Manager
Overseas Investment Office

Released under the Official Information Act 1982

**Report of the Overseas Investment Office
on the application for consent by
James Rudolph Baron Palumbo (Lord Palumbo)
Case: 201520051**

Contents

SUMMARY OF KEY INFORMATION 2

APPLICATION 2

APPLICANT..... 2

BACKGROUND TO THE INVESTMENT 2

OUTLINE OF THE INVESTMENT 4

RATIONALE FOR THE INVESTMENT 4

SENSITIVE LAND 5

ASSESSMENT PROCESS..... 5

COUNTERFACTUAL ANALYSIS 6

CRITERIA SET OUT IN SECTION 16 6

FACTORS SET OUT IN SECTION 17 9

THIRD PARTY SUBMISSIONS..... 19

APPENDIX 1 – CONDITIONS OF CONSENT 20

APPENDIX 2 – SENSITIVE LAND 24

APPENDIX 3 – JOB OPPORTUNITIES 25

Released under the Official Information Act 1982

Summary of Key Information

Applicant	James Rudolph Baron Palumbo (Lord Palumbo) (United Kingdom 100%)
Vendor	John Gerard Fogarty as trustee of the Casterton No.1 Trust and Nan Michelle Fogarty as trustee of the Casterton No.2 Trust (1/2 share) Collow Family Company Limited as trustee of the Collow Family Trust (1/2 share) (New Zealand 100%)
Consideration	\$7,300,000
Recommendation	Grant Consent

Application

- For consent for James Rudolph Baron Palumbo (Lord Palumbo) (the "**Applicant**") to give effect to an overseas investment in sensitive land, being the Applicant's acquisition of a freehold interest in approximately 26.9954 hectares of land at 609A & 609B Orapiu Road, Waiheke Island (the "**Investment**").

Applicant

- The Applicant is James Rudolph Baron Palumbo of Southwark (Lord Palumbo). He a citizen of the United Kingdom.

Business activities

- The Applicant is a prominent player in the music industry and co-founded the world-renowned Ministry of Sound nightclub in South London. The Ministry of Sound nightclub business has expanded over the years into a number of music related areas including DJ tours, dance music, radio, recorded music and music publishing.
- Ministry of Sound has sold over 60 million albums and is now the largest independent record company in the world.
- Following university the Applicant spent seven years working for Merrill Lynch, Morgan Grenfell and Hambro Magan in capital markets and corporate finance. The Applicant was also made a life peer⁴ in the House of Lords in 2013. As a working member of the House of Lords, and with the benefit of his background in the finance industry, he speaks regularly in debates in the House on economics and government debt and housing.

Background to the Investment

Proposed investment

- The Applicant seeks consent to acquire approximately 26.9954 hectares of land at 609A and 609B Orapiu Road, Waiheke Island ("**Land**").

⁴ Life peers are members of the House of Lords who are appointed for their lifetime by the Queen on the advice of the Prime Minister. Their titles cannot be inherited.

7. The Applicant requires consent to the Investment pursuant to section 10(1)(a) of the Overseas Investment Act 2005 (the "**Act**") being an overseas investment in sensitive land under section 12(b) of the Act.

Land

8. The Land is a waterfront lifestyle property on Waiheke Island (picture below). There are currently two homes on the property along with a bach, boat shed, and shearers' shed. The main house has three bedrooms and two bathrooms while the smaller house has three bedrooms and one bathroom.
9. The Land is situated on the south east side of Waiheke Island in Omaru Bay.



10. The Land is partially covered by vegetation with the remainder of the Land being pasture. Stock is used to keep grass and weed growth under control. There is a Queen Elizabeth II National Trust Open Space covenant over approximately 13.4 hectares of the Land.
11. The Land is sensitive for the following reasons:
 - (a) the Land is non-urban land greater than 5 hectares;
 - (b) the Land includes land on a specified island that is greater than 0.4 hectares, being Waiheke Island;
 - (c) the Land includes the foreshore; and
 - (d) the Land adjoins the foreshore.

Vendor

12. The vendors of the Land are John Gerard Fogarty and Nan Michelle Fogarty (1/2 share) and Collow Family Company Limited (1/2 share) ("**Vendors**"). The Vendors hold their interest in the Land as trustees of three family trusts as set out below. The Vendors are not overseas persons under the Act.
13. John Gerard Fogarty holds his interest in the Land as trustee of the Casterton No.1 Trust. The beneficiaries of the trust are his wife Nan Michelle Fogarty, their children and grandchildren. John and Nan Fogarty and their children and grandchildren are all New Zealand citizens.

14. Nan Michelle Fogarty holds her interest in the Land as trustee of the Casterton No.2 Trust. The beneficiaries of the trust are her husband John Gerard Fogarty, their children and grandchildren.
15. Collow Family Company Limited holds its interest in the Land as trustee of the Collow Family Trust. The beneficiaries of the Collow Family Trust are Andrew Collow and Mary Katherine Collow, their children, their grandchildren and another family trust which was set up specifically to benefit their grandchildren. Andrew and Mary Collow and their children and grandchildren are all New Zealand citizens.
16. John Fogarty and Mary Collow are brother and sister.
17. The Vendors are disposing of the Land in order to realise capital for the three family trusts. The Land is large and becoming difficult to maintain as the principal beneficiaries of the trusts get older. The principal beneficiaries of the Collow Family Trust live on the property and are seeking to downsize the family home following retirement.

Outline of the Investment

Applicant's investment plan

18. The Applicant plans to upgrade and convert the existing dwellings, build new visitor facilities on the Land and revegetate the current degraded pasture to create a world class retreat ("**Retreat**").
19. The Retreat is intended to principally cater for musicians and recording artists and will include facilities to enable artists, particularly Ministry of Sound artists, to write and record music. It will also provide visitor suites for artists' accommodation during recording sessions.
20. The Applicant intends to establish the Retreat as a contribution to the community of artists rather than as a business in itself. The Applicant is personally funding the Investment and does not intend to charge for the use of the facility.

Transaction details

21. The Vendors and Alfred Anthony Lawson (the Applicant's business advisor) entered into an agreement dated 27 May 2015 for the purchase of the Land (the "**Agreement**"). The Applicant, Vendors and Mr Lawson subsequently entered in a deed of nomination which nominated the Applicant as the purchaser under the Agreement. Mr Lawson does not have any financial interest in the Investment.
22. The Agreement is conditional on the Applicant receiving Overseas Investment Office ("**OIO**") consent to the transaction by 30 November 2015.
23. The purchase price for the Land is \$7,300,000. The Applicant has paid a deposit of \$730,000.00. Settlement and payment of the balance of the purchase price is to occur 30 days after the date that OIO consent is obtained.

Rationale for the Investment

24. The Applicant has advised that the purpose of the Investment is to develop a world class artists retreat in New Zealand that will enhance the Applicant's international music and business interests. The Applicant envisages that the Retreat will become a favoured location for many international music and recording artists to use for writing, recording and other related purposes.
25. The Applicant considers that the Land is ideally suited for this purpose, being on Waiheke Island which is already a favoured recreational location for visiting artists when in New Zealand, and is easily reached from Auckland.

26. The Investment is not a commercial proposition for the Applicant. The Applicant does not intend for the Investment to generate revenue in itself but instead will provide facilities for artists including those connected with the Applicant's Ministry of Sound business. It is a venture with a focus on bringing international recording artists together in an artistically conducive environment in New Zealand which is increasingly seen by overseas artists as a desirable place not only to perform but also to visit and spend time. Artists will be able to base themselves at the Retreat for periods of time that while they write and record their music.
27. The Applicant considers that he is able to implement the establishment of the Retreat because of his international music interests including the Ministry of Sound. The Ministry of Sound was established in 1991 by the Applicant together with colleagues, and the business continues to be majority owned by the Applicant's own interests.
28. The Applicant has stated that he has benefited financially from his arts based business activities and he sees this Investment, not so much as a business in itself, but a practical demonstration of his support for the arts and artists.
29. The Applicant has also provided the following statement:

I have an understanding of the importance of arts patronage and have seen the important contribution it can make.

Omaru Bay, if permitted will be a creative community for artists, writers and composers of classical and EDM [electronic dance music] music from across the World. A cultural ecosystem where the foundations are respect for quality and diversity.

The beautiful setting of Omaru Bay and the proposed striking, sustainable buildings' planned there, will create a unique, peaceful haven for those responsible for the culture that fills today's world, and hopefully, as a consequence improve it.

Sensitive Land

30. The Applicant is acquiring sensitive land. See Appendix 2.

Assessment Process

31. We have sought sufficient information from the Applicant for us to be assured about the accuracy of the information supplied and have sought sufficient evidence from the Applicant for us to be able to judge whether the criteria and factors that apply are met.
32. We did not consider it necessary to seek input from third parties in order to verify the information or evidence gathered.
33. We have determined that the:
 - (a) **'relevant overseas person'** is James Rudolph Baron Palumbo (Lord Palumbo); and
 - (b) there are no **'individuals with control of the relevant overseas person'**.

Counterfactual Analysis

34. In *Tiroa E*, the Court made specific reference to the counterfactual assessment to be made. Miller J recognised that the statute's perspective is forward looking and that, "if it is to isolate the economic benefits attributable to the overseas investment, the counterfactual must similarly be forward looking, requiring that the OIO ask what will happen if the investment is not made".⁵ Miller J also suggested that the "status quo may serve as the counterfactual under s 17(2)(a) only if Ministers think it likely that in the hands of another owner or owners, the farms will remain in their present state".⁶
35. To establish the appropriate counterfactual in this case, we have considered what the likely state of affairs would be without the Investment. The Applicant advises that if the Investment does not proceed the Land is likely to either:
- be sold to an alternative New Zealand purchaser; or
 - be retained by the Vendors (in effect the status quo is maintained).
36. The Vendors have advised that they have been marketing the Land since late 2013 and have not received any other offers for the Land.
37. From the information provided, we consider that the most likely state of affairs without the Investment is that **the Land will continue to be held by the Vendors until such time as an alternative New Zealand purchaser can be found.**
38. Under the ownership of either the Vendors or an alternative New Zealand purchaser we consider that the Land is likely to continue to be used for the purpose of residential dwelling, either as a holiday home or as a lifestyle property.

Criteria set out in section 16

39. s16(1)(a) Overseas Investment Act 2005

Does the relevant overseas person, or (if that person is not an individual) do the individuals with control of the relevant overseas person collectively have business experience and acumen relevant to that overseas investment?	✓
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The Court of Appeal has confirmed that the wording of this criterion allows considerable flexibility in determining what business experience and acumen is relevant to a proposed investment. More or less specific expertise may be required depending on the nature of the investment. Business experience and acumen that contributes to an investment's success may be treated as relevant even though the investor may have to supplement its experience and acumen by utilising the experience and acumen of others to ensure the investment succeeds.

In this case, the overseas investment can be described as establishing a facility for writers and recording artists including facilities to record music and provide visitor suites for accommodation.

We reviewed the biographical information provided by the Applicant and note:

- The Applicant is a successful player in the music industry as a co-founder and owner of the Ministry of Sound nightclub business.
- He has successfully operated the Ministry of Sound business since 1991 and expanded it into a globally known brand.

⁵ *Tiroa E* at [37].

⁶ *Tiroa E* at [42].

- (c) The Applicant has experience in the finance industry through his time working in capital markets and corporate finance in the City in London.
- (d) The Applicant is also a Peer in the House of Lords.

Having regard to the above, we are satisfied that the relevant overseas person has business experience and acumen relevant to the overseas investment.

40. s16(1)(b) Overseas Investment Act 2005

Has the relevant overseas person demonstrated financial commitment to the overseas investment?	✓
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The 'financial commitment' criterion requires the relevant overseas person to have taken actions that demonstrate financial commitment to the Investment (intentions are not sufficient).

In this case, we are satisfied that the relevant overseas person has demonstrated financial commitment by:

- (a) incurring due diligence costs in connection with the proposed transaction of approximately \$120,000 including obtaining expert advice and reports on ecology, development and other aspects of the Land and buildings, and obtaining planning and related reports to undertake the restoration of the existing dwellings and construction of new facilities for the artists' retreat;
- (b) entering into an agreement for sale and purchase to acquire the relevant assets;
- (c) paying the deposit required under the agreement for sale and purchase; and
- (d) engaging professional advisers.

41. s16(1)(c) Overseas Investment Act 2005

Is the relevant overseas person, or (if that person is not an individual) are all the individuals with control of the relevant overseas person, of good character?	✓
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The decision maker must be satisfied that the individuals with control are of good character. Section 19 of the Act specifies that the decision-maker must take the following factors into account (without limitation) in assessing whether a person is of good character:

- (a) offences or contraventions of the law by the person, or by any person in which the person has, or had at the time of the offence or contravention, a 25% or more ownership or control interest (whether convicted or not); and
- (b) any other matter that reflects adversely on the person's fitness to have the particular overseas investment.

The Applicant has provided a statutory declaration stating that he is of good character, has not committed an offence or contravened the law as described above and knows of no other matter that reflects adversely on his fitness to have the Investment. We are satisfied that the statutory declaration can be relied on as it complies with the requirements of the Oaths and Declarations Act 1957. We have also conducted open source background checks on the Applicant and found nothing relevant to this criterion.

Therefore, we are satisfied that the Applicant is of good character.

42. s16(1)(d) Overseas Investment Act 2005

Is the relevant overseas person, or (if that person is not an individual) is each individual with control of the relevant overseas person, not an individual of the kind referred to in section 15 or 16 of the Immigration Act 2009?	✓
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Section 15 of the Immigration Act specifies that certain convicted or deported persons are not eligible for a visa or permission to enter or be in New Zealand. Section 16 provides a power to deny a visa or permission to enter New Zealand for other specified reasons, such as if the individual is likely to be a threat or risk to security or public order.

The Applicant has provided a statutory declaration stating that he is not an individual of the kind referred to in section 15 or 16 of the Immigration Act 2009. We are satisfied that the statutory declaration can be relied on as it complies with the requirements of the Oaths and Declarations Act 1957. We have also conducted open source background checks on the Applicant and found nothing relevant to this criterion.

Therefore, we are satisfied that the Applicant is not an individual of the kind referred to in section 15 or 16 of the Immigration Act 2009.

43. s16(1)(e)(ii) Overseas Investment Act 2005

Will the overseas investment benefit, or is it likely to benefit, New Zealand (or any part of it or group of New Zealanders)?	✓
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The proposed overseas investment will or is likely to benefit New Zealand (or any part of it or group of New Zealanders) having regard to the following factors:

Overseas Investment Act 2005

17(2)(a)(i) – Jobs

17(2)(a)(v) – Additional investment for development purposes

17(2)(b) – Indigenous vegetation

17(2)(f) – Offer to sell seabed/foreshore to the Crown

44. s16(1)(e)(iii) Overseas Investment Act 2005

Will the benefit be, or is the benefit likely to be, substantial and identifiable?	✓
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The benefits above flow from the Applicant's plans to:

- (a) develop an artist's retreat on the Land including a recording studio, accommodation and common areas; and
- (b) implement a five year plan to enhance and restore the indigenous vegetation on the Land.

We have considered the significance of the above benefits and have formed the view that collectively they are substantial and identifiable. In particular, the Applicant intends to spend approximately \$12 million developing buildings on the Land and \$1 million restoring and enhancing the indigenous vegetation. The Investment is also likely to result in new job opportunities in New Zealand.

Factors Set Out in section 17

45. s17(2)(a)(i) Overseas Investment Act 2005

Will the overseas investment result in, or is it likely to result in, the creation of new job opportunities in New Zealand or the retention of existing jobs in New Zealand that would or might otherwise be lost?	✓
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We consider that the Investment is likely to result in the creation of new job opportunities in New Zealand in regard to the construction of the Retreat, the ongoing operation of the Retreat and the revegetation of the Land as set out below.

The Applicant has advised that currently there are no persons employed on the Land.

Construction Roles

The Applicant has advised that the extensive restoration and new works to the dwellings and facilities on the Land is expected to create an additional 20 jobs for the duration of the work.

The proposed development work is still at a relatively early stage in terms of detailed planning for construction and therefore the number of FTEs likely to be employed to complete the development work can only be an estimate at this stage. The Applicant has estimated that the job opportunities likely to be created for the first stage of the work (as noted in the quantity surveyor's report) is 8 FTEs over a two and a half year period for a total spend of \$12,000,000 on the development.

Operational Roles

The number of fulltime positions that will be required to operate the Retreat will include:

- (a) Fulltime Facilities Manager living onsite, responsible for day to day maintenance and gardens; and
- (b) When artists are in residence also: Personal Assistant, Driver/Boatman, Chef, Housekeeper, Cleaner, General Help, Studio Assistant/Technician.

All of the staff listed above will be engaged locally from the Waiheke Island area or from Auckland.

The Applicant has estimated the number of ongoing permanent FTEs at 6.71 as set out in the table at Appendix 3.

Revegetation and Landscaping

The Applicant has also advised that the further extensive revegetation and landscaping works which the Applicant intends to undertake over 5 years is expected to create an additional 2 jobs for the duration of that work.

Consent condition

We recommend that a condition of consent be imposed requiring the Applicant implement the new job opportunities described in its application and to report on any new job opportunities created annually to the OIO. With this condition imposed, we are satisfied that this factor is met.

46. s17(2)(a)(ii) Overseas Investment Act 2005

Will the overseas investment result in, or is it likely to result in, the introduction into New Zealand of new technology or business skills?	x
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This factor is relevant where an investment will or is likely to result in the introduction of new technology or new business skills into New Zealand. In order to meet the requirements of this factor an Applicant must:

- (a) *Specifically identify* the new technology or new business skills that are being introduced into New Zealand;
- (b) Show that the new technology or new business skills *are not already in New Zealand*; and
- (c) Demonstrate that the new technology or new business will or are likely to be introduced *as a result of the Investment*.

The Applicant has stated that he can bring substantial business experience to New Zealand and the Investment will enhance the prospects of that experience and expertise becoming available for use otherwise within New Zealand. The Applicant considers that there is nobody in New Zealand who has the business connections and skills within the international music industry that are possessed by the Applicant.

We consider that this factor has not been met due to the fact the Applicant has not identified any new technology or new business skills that are likely to be introduced into New Zealand as a result of the Investment.

47. s17(2)(a)(iii) Overseas Investment Act 2005

Will the overseas investment result in, or is it likely to result in, increased export receipts for New Zealand exporters?	x
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New Zealand exports include the provision of domestic tourist services to overseas visitors to New Zealand.

The Applicant has claimed that the development of a world class artist retreat will directly increase export receipts for New Zealand exporters in the tourism industry. Visiting high profile guests that will help bring Omaru Bay, and in turn Waiheke Island and New Zealand itself further onto the global stage. Guests will be the subject of media interest which will generate press. The artists' documentation of their time at Omaru Bay, a visually attractive location with world class facilities, will be disseminated through their own social media channels due to digitally-networked presence of both its guests' and subsequently the music they create.

The Applicant believes that there is an opportunity to widen the public perception of what New Zealand has to offer by showing a less advertised "Mediterranean" environment of Waiheke and the food, wine and art that are derivative of the place.

We consider that an artist retreat on Waiheke Island is likely to raise its profile overseas through measures such as artist's updates on social media. However the resulting increase in export receipts through more tourists arriving in New Zealand due to this increased profile is still uncertain and cannot be quantified. Due to the fact that there is insufficient evidence currently available to support the claim that increased exposure overseas is likely to increase tourists in New Zealand we consider that this factor has not been met.

48. s17(2)(a)(iv) Overseas Investment Act 2005

Will the overseas investment result in, or is it likely to result in, added market competition, greater efficiency or productivity, or enhanced domestic services, in New Zealand?	Not Relevant
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49. s17(2)(a)(v) Overseas Investment Act 2005

Will the overseas investment result in, or is it likely to result in, the introduction into New Zealand of additional investment for development purposes?	✓
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We consider that the Investment is likely to result in the introduction into New Zealand of additional investment for development purposes that is substantial.

In order to meet the requirements of this factor the investment must be 'additional investment', 'introduced into New Zealand' and be for 'development purposes'. More particularly, the investment must:

- (a) occur after the initial acquisition and be additional to the purchase price;
- (b) be funded in the form of foreign direct investment (including retained earnings that would otherwise be remitted overseas); and
- (c) have the effect of increasing the productive capacity of the assets being acquired.

The Applicant intends to introduce into New Zealand additional capital for development purposes to upgrade and convert the existing dwelling and to build new facilities to create a world class facility to be known as "The Retreat and Woolshed Studio" for writers and recording artists. The works are expected to cost approximately \$12 million.

The Applicant's development at the Land is expected to be carried out in two stages:

Stage One

- The existing main house will be converted from the current 4 bedroom property into a central facility incorporating a lounge/library area, central kitchen and dining facility for up to 20 guests, an office, and 1 bed managers' apartment and site laundry. The current exterior styling will be retained to maintain the context of the original working farm/station.
- The "Batch" will be rebuilt/reinstated to a high specification as a two bed roomed, guesthouse for the use of artists and management.
- The "Wool Shed" will be turned into a recording space for local and visiting musicians. The rustic exterior of this building is to be maintained while the insides will be turned into a comfortable recording space of the standard expected by international performers
- The secondary house will be modernized and used to accommodate technicians' and staff.

- A new visitor suite will be built. This will incorporate two bedrooms, two bathrooms, a small kitchen, outside decks and plunge pool. Initially this will be the primary accommodation for Ministry of Sound's international artists and DJ's. It will be built to a 5 star specification.

The Applicant has provided a quantity surveyor's report which estimates the cost of the stage one works at approximately \$12 million.

Stage Two

The second stage of the scheme will be the creation of another three to four artists / visitor suites. These will be more generous than the original units above with a sizable lounge, kitchen, bedrooms and bathrooms to accommodate longer stays.

OIO Analysis

Without the Investment, we consider that it is unlikely that an alternative New Zealand purchaser would invest additional capital into the Land as they are likely to continue to use the Land as a residential dwelling.

We consider that the Investment is likely to result in significant additional investment for development purposes on the Land. The additional investment is also substantially more than the purchase price for the Land. Therefore, we consider that this factor has been met and should be given significant weight.

It is recommended that a condition of consent is imposed which requires the Applicant to introduce the additional capital for development purposes, undertake the development and to provide an annual report to the development's OIO on the progress.

50. s17(2)(a)(vi) Overseas Investment Act 2005

Will the overseas investment result in, or is it likely to result in, increased processing in New Zealand of New Zealand's primary products?	Not Relevant
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51. s17(2)(b) Overseas Investment Act 2005

Are there, or will there be, adequate mechanisms in place for protecting or enhancing existing areas of significant indigenous vegetation and significant habitats of indigenous fauna?	✓
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We consider that the Investment is likely to result in the enhancement and restoration of an existing area of significant indigenous vegetation. The benefit to New Zealand that will arise from this is likely to be substantial; therefore we consider this to be a significant benefit.

The Applicant intends to restore and enhance the natural values of the Land and has provided a report from Wraight & Associates Limited with a plan for the revegetation of the Land.

The Land is currently largely degraded pasture and vegetation. The Land includes a wide variety of ecosystems from steep slope and upper valley forest to valley floor wetlands and tidal zone salt marsh areas. There is also a Queen Elizabeth II National Trust Open Space covenant over approximately 13.4 hectares of the Land upon which little has been improved in the years since the Covenant was registered. The Applicant intends to restore and enhance the covenanted area and will extend the restoration to the remainder of the Land.

The Land is also adjacent to the Te Matuku Scenic Reserve and once revegetated will extend an ecological corridor from Te Matuku Bay through to Omaru Bay. The ecological corridor is likely to provide safe passage for native fauna, extending the network of ecological reserves in Te Matuku Bay.

The plan proposes measures for weed eradication and revegetation of the majority of the Land including pest control and the restoration of salt marsh/wetlands also on the property. The proposal requires funding of up to \$1 million over five years, which the Applicant has committed to and will be expertly managed over this period.

We agree with the Applicant's view that the restoration will enhance the environment, improve the overall ecological values of the Land and benefit the adjacent reserve areas.

It is unlikely that the enhancement and restoration work would be undertaken by the Vendors or an alternative New Zealand purchaser as there is no incentive for them to do so and the work has a significant cost.

We consider that the restoration is likely to substantially benefit New Zealand for the following reasons:

- (a) The area that the Applicant intends to enhance or restore to native bush is substantial and encompasses the majority of the Land.
- (b) The Applicant has committed significant funds to the plan of \$1 million.
- (c) The work will be undertaken by experts who will help ensure that the replanted vegetation successfully grows and that the Land is appropriately planted.

It is recommended that a condition of consent is imposed which requiring the Applicant to undertake the enhancement and restoration work as set out in its application and to report annually on their progress to the OIO.

52. s17(2)(c) Overseas Investment Act 2005

Are there, or will there be, adequate mechanisms in place for protecting or enhancing existing areas of significant habitats of trout, salmon, protected wildlife and game, and providing, protecting or improving walking access to those habitats?	Not Relevant
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53. s17(2)(d) Overseas Investment Act 2005

Are there, or will there be, adequate mechanisms in place for protecting or enhancing historic heritage within the relevant land?	Not Relevant
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54. s17(2)(e) Overseas Investment Act 2005

Are there, or will there be, adequate mechanisms in place for providing, protecting, or improving walking access over the relevant land, or a relevant part of that land, by the public or any section of the public?	x
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The Applicant has advised that:

- (a) The Investment is for the purpose of a retreat for international artists, in particular recording artists.
- (b) Provision of public access through the Land (which is not a large property) is the antithesis of the nature of the retreat that is proposed, and would largely make the intended private nature of the retreat to be compromised to the extent where the project would not be viable.
- (c) There is at present no public access through the Land.
- (d) Having considered the matter seriously the Applicant considers that the provision of public access, where at present there is no such public access, is not considered to be consistent with the proposal.

We have also briefly discussed public walking access over the Land with a representative from the New Zealand Walking Access Commission ("**WAC**"). WAC considers that public walking access may be desirable over the Land. In particular, WAC stated that there is limited walking access in this area and WAC is interested in esplanade strips along the foreshore of the Land.

We consider that, given the Applicant's purpose for acquiring the Land and their planned use of the Land, a condition requiring the Applicant to consult with WAC is not appropriate to this consent application. This is due to the fact that the Land is intended to be acquired as a private retreat for international artists and public access to the Land would be inconsistent with this proposal.

The benefits to New Zealand that are likely to arise from the Applicant undertaking its business plan and developing the Land are likely to outweigh any public benefit that may be obtained through the provision of walking access over the Land.

55. s17(2)(f) Overseas Investment Act 2005

Has any foreshore, seabed, riverbed, or lakebed been offered to the Crown?	✓
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The relevant land includes special land in the form of the seabed and foreshore. This special land has been offered to the Crown for nil consideration.

It is unlikely that the special land would be offered to the Crown without the Investment as there would be no requirement to do so. Therefore we consider that this factor has been met.

The process of offering special land to the Crown generally involves a two step process. Firstly, the Vendor offers the land to the Crown. The Crown then determines whether or not it wishes to acquire the land, and if it does, makes the acquisition.

We note that only the first step needs to be completed before an application for consent is determined (section 17(2)(f) of the Act relates to the offer of the special land rather than its acquisition by the Crown). We will forward a separate report in due course regarding whether the Crown should acquire the special land. In the interim, we recommend that a consent condition be imposed requiring the Applicant to deal with the Crown in accordance with the Regulations, including requiring the Applicant to be bound by any arrangement that the vendor entered into with the Crown in relation to the special land (preserving the Crown's position). The proposed consent conditions are set out in Appendix 1.

56. r28(a) Overseas Investment Regulations 2005

Will the overseas investment result in, or is it likely to result in, other consequential benefits to New Zealand (whether tangible or intangible benefits (such as, for example, additional investments in New Zealand or sponsorship of community projects))?	x
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The Applicant has claimed that there are likely to be consequential benefits to New Zealand which would accrue from their investment, including:

- (a) benefits that would accrue from the Applicant's strong links and leading roles in the international music, arts and entertainment industries; and
- (b) benefits that accrue from increased foreign direct investment.

We consider that the benefits claimed by the Applicant have been assessed under other factors and therefore are not "other" consequential benefits to New Zealand. As the Applicant has not identified any other benefits to New Zealand that are likely to result from this Investment, we consider that this factor has not been met.

57. r28(b) Overseas Investment Regulations 2005

Is the relevant overseas person a key person in a key industry of a country with which New Zealand will, or is likely to, benefit from having improved relations?	x
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To meet the requirements of this factor, the Applicant must demonstrate that the relevant overseas person is a key person in a key industry of a country with which New Zealand will, or is likely to, benefit from having improved relations. The key person's involvement in the industry must be more than as a regular (or even prominent) player and that industry must be a *key industry* of the relevant country.

The Applicant has stated that he is a key person in the international music business, in particular through his establishment and interests in the worldwide Ministry of Sound business which is now the largest independent record company in the world. The Applicant's international music interests, through the Ministry of Sound and otherwise, includes DJ tours, dance music, radio, recorded music and music publishing and has many recording artists within the group.

The Applicant has also stated that he is a key person within the music and entertainment industry of the United Kingdom, and the United Kingdom is a country which New Zealand will, or is likely to, benefit from having improved relations.

We consider that the Applicant has provided insufficient evidence to show that the music and entertainment industry is a key industry of the United Kingdom or that the United Kingdom is a country with which New Zealand is likely to benefit from having improved relations. Therefore we consider that this factor has not been met.

58. r28(c) Overseas Investment Regulations 2005

Will refusal adversely affect, or likely adversely affect, New Zealand's image overseas or its trade or international relations, or result in New Zealand breaching any of its international obligations?	x
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The Applicant has stated that refusing this application may adversely impact on New Zealand's image or its trade or international relations, due to the fact that the Applicant is a highly skilled, experienced and prominent person within the international music and entertainment industry with considerable financial resources and expertise, and there are numerous benefits to New Zealand in continuing to attract further investment from such high calibre investors. The Applicant is also a working member of the United Kingdom House of Lords and is from a prominent family in the United Kingdom.

We consider that any decline would be on the basis that Ministers were not satisfied that the relevant criteria for consent were met. We think it is unlikely that a well reasoned decision to decline will, or is likely to, adversely affect New Zealand's image overseas or its trade or international relations. We also consider that a refusal is unlikely to result in New Zealand breaching any of its international obligations. Therefore we consider that this factor has not been met.

59. r28(d) Overseas Investment Regulations 2005

Will granting the application for consent result in, or is it likely to result in, the owner of the relevant land undertaking other significant investment in New Zealand?	Not Relevant
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60. r28(e) Overseas Investment Regulations 2005

Has the relevant overseas person previously undertaken investments that have been, or are, of benefit to New Zealand?	Not Relevant
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61. r28(f) Overseas Investment Regulations 2005

Will the overseas investment give effect to or advance, or is it likely to give effect to or advance, a significant Government policy or strategy?	x
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This factor is relevant where the proposed investment will or is likely to give effect to, or materially advance, a significant Government policy or strategy. In order to meet the requirements of this factor an Applicant must:

- (a) specifically identify a Central or Local Government policy or strategy;
- (b) demonstrate the policy or strategy is significant to New Zealand (or any part of it or group of New Zealanders); and
- (c) explain how the investment will or is likely to give effect to or materially advance that policy or strategy.

The Applicant has claimed that the Investment will support the New Zealand Tourism Strategy 2015. However we note that this strategy has been replaced by Tourism 2025.⁷

Tourism 2025 is a growth framework for New Zealand's tourism industry which has been developed by the Tourism Industry Association. The Tourism Industry Association is an independent association representing the tourism industry. Tourism 2025 is therefore not a Government policy or strategy.

The Applicant has not identified a current Government policy or strategy, therefore we consider that this factor has not been met.

62. r28(g) Overseas Investment Regulations 2005

Will the overseas investment enhance, or is it likely to enhance, the ongoing viability of other overseas investments undertaken by the relevant overseas person?	Not Relevant
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63. r28(h) Overseas Investment Regulations 2005

Will the overseas investment assist, or is it likely to assist, New Zealand to maintain New Zealand control of strategically important infrastructure on sensitive land?	Not Relevant
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64. r28(i) Overseas Investment Regulations 2005

Will New Zealand's economic interests be adequately promoted by the overseas investment?	x
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The 'Economic Interests' factor is relevant to all overseas investments in sensitive land. The factor has a broader focus than the economic factors already discussed and concerns the effect of the overseas investment on the wider New Zealand economy.

In assessing this factor, we have considered the four matters referred to in regulation 28(i). These four matters are examples that can be taken into account in assessing whether New Zealand's economic interests are adequately promoted by the overseas investment.

Our overall assessment of this factor is that the Investment is unlikely to have any material effect on New Zealand's economic interests. Therefore, we are not satisfied that the requirements of this factor have been met.

Matters in regulation 28(i)(i)-(iv)

Whether New Zealand will become a more reliable supplier of primary products in the future

This is not relevant as the Investment is unlikely to have any effect on New Zealand's ability to supply any primary products.

⁷ <http://www.tianz.org.nz/main/nz-tourism-strategy-2015/>

Whether New Zealand's ability to supply the global economy with a product that forms an important part of New Zealand's export earnings will be less likely to be controlled by a single overseas person or its associates

This is not relevant as the Investment is unlikely to have any effect on New Zealand's ability to supply the global economy with a product.

Whether New Zealand's strategic and security interests are or will be enhanced

The Investment is unlikely to have any effect on New Zealand's strategic and security interests.

Whether New Zealand's key economic capacity is or will be improved

The Investment is unlikely to have any effect on New Zealand's key economic capacity.

65. r28(j) Overseas Investment Regulations 2005

To what extent will New Zealanders be, or are likely to be, able to oversee or participate in the overseas investment and any relevant overseas person?	x
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The 'Oversight and Participation by New Zealanders' factor is relevant to all overseas investments in sensitive land. The factor applies to oversight and participation in the overseas investment or relevant overseas person at an ownership or control level.

In assessing this factor, we have considered the six matters referred to in regulation 28(j). These six matters are examples that can be taken into account in assessing this factor.

In this case, ownership and control of both the Investment and the relevant overseas person reside with overseas persons. Overall, we consider that New Zealanders are unlikely to have any meaningful ownership or participation in the Investment or relevant overseas person.

Matters in regulation 28(j)(i)-(vi)

Whether there is or will be any requirement that 1 or more New Zealanders must be part of a relevant overseas person's governing body

This is not relevant as the relevant overseas person is an individual therefore does not have a governing body.

Whether a relevant overseas person is or will be incorporated in New Zealand

This is not relevant as the relevant overseas person is an individual.

Whether a relevant overseas person has or will have its head office or principal place of business in New Zealand

The Applicant as the relevant overseas person will have a business presence in New Zealand, through its ownership of the Land. However the majority of his business will be conducted overseas.

Whether a relevant overseas person is or will be a party to a listing agreement with NZX Limited or any other registered exchange that operates a securities market in New Zealand

This is not relevant as the relevant overseas person is an individual.

The extent to which New Zealanders have or will have any partial ownership or controlling stake in the overseas investment or relevant overseas person

New Zealanders will not have any ownership or controlling stake in the Investment or relevant overseas person.

The extent to which ownership or control of the overseas investment or of a relevant overseas person is or will be dispersed amongst a number of non-associated overseas persons

The Investment will be held by the relevant overseas person who is an individual who is an overseas person.

Third Party Submissions

66. No third party submissions were received.

Released under the Official Information Act 1982

Appendix 1 – Conditions of Consent

Consent is granted subject to the following conditions:

Interpretation

Any term or expression that is defined in the Overseas Investment Act 2005 and used, but not defined, in this consent has the same meaning as in the Overseas Investment Act 2005.

Act means the Overseas Investment Act 2005.

Application Letter means the application letter dated 31 August 2015.

Business Plan means the business plan set out in Appendix 5 of the Application Letter.

Consent Holder means James Rudolph Baron Palumbo of Southwark (Lord Palumbo of Southwark).

Individuals with Control means:

- (a) the individuals who have, directly or indirectly, a 25% or more ownership or control interest in the Consent Holder or a Parent of the Consent Holder; and
- (b) the members of the governing body of the Consent Holder or a Parent of the Consent Holder.

Investment means the acquisition of the Land.

Land means approximately 26.9954 hectares of land comprised in certificates of title NA115D/977, NA115D/978 and NA266/3 (all North Auckland Registry).

OIO means the Overseas Investment Office.

Parent of Consent Holder means a person that has, directly or indirectly, a 25% or more ownership or control interest in the Consent Holder, and includes a person that has, directly or indirectly, a 25% or more ownership or control interest in another Parent of the Consent Holder.

Settlement Date means the date the acquisition of the Investment took place.

Special Conditions

When the transaction must given effect

1. The consent will lapse if the Investment has not been acquired by and transferred to the Consent Holder within 12 months of the date of consent.

Good character

2. The Individuals with Control must:
 - (a) continue to be of good character; and
 - (b) not become an individual of the kind referred to in section 15 or 16 of the Immigration Act 2009.

Resource Consents

3. The Consent Holder must use all reasonable commercial endeavours to obtain any necessary consents and approvals including resource consents ("**Consents**") required to implement Phase 1 of its Business Plan.
4. The Consent Holder must have applied to the relevant local authority or any other relevant body for any necessary Consents required to implement Phase 1 of its Business Plan by 30 November 2016.

5. The Consent Holder must provide the OIO with the following information as soon as practicable:
 - (a) a copy of any Consents granted; and
 - (b) if a Consent is not granted, or is granted on terms which substantially alter its Business Plan, a report detailing the reasons for this (including copies of relevant correspondence between the Consent Holder and the relevant body).

Construction

6. Within three years after such Consents are obtained (as referred to in condition 3 above), or the Consent Holder is advised by the relevant local authority or other relevant body that no Consents are required, the Consent Holder must complete Phase 1 of the development described in its Business Plan.

Environmental Protection

7. The Consent Holder must implement the five year plan set out in the Revegetation Plan Report provided as Appendix 15 of the Application Letter by 30 November 2021.

Special Land

8. The Consent Holder must, upon becoming the registered proprietor of the Land:
 - (a) Adopt and be bound by any offer, arrangement or agreement that the vendor has made, reached or entered into with the Crown in relation to the special land that forms part of the Land;
 - (b) If so required by the Crown, enter into a deed of covenant with the Crown to be so bound; and
 - (c) Deal with the Crown in accordance with the requirements of the Act as if it were the party making the initial offer of the special land to the Crown.

Reporting to the OIO

9. The Consent Holder must notify the OIO in writing as soon as practicable, and no later than twelve months from the date of consent, whether settlement of the acquisition of the Investment took place. If settlement of the acquisition of the Investment did take place, the notice must include:
 - (a) the Settlement Date;
 - (b) final consideration paid (plus GST, if any);
 - (c) the structure by which the acquisition was made, and who acquired the Investment;
 - (d) where applicable, copies of transfer documents and settlement statements; and
 - (e) any other information that would aid the OIO in its function to monitor conditions of consent.
10. The Consent Holder must report in writing annually to the OIO detailing progress of its Business Plan ("**Annual Report**"), including the following:
 - (a) the Consent Holder's compliance with conditions 3, 4, 6 and 7;
 - (b) the number and value of any new job opportunities created on the Land; and
 - (c) the Consent Holder's implementation of Phase 2 of its Business Plan.

The first Annual Report is due on 30 November 2016 and the final report is due on 30 November 2021 (or such other date as advised by the OIO in writing).

11. The Consent Holder must notify the OIO in writing within 20 working days if:
- (a) the Consent Holder, any Individual with Control, or any person in which the Consent Holder or any Individual with Control has, or had at the time of the offence or contravention, a 25% or more ownership or control interest, commits an offence or contravenes the law (whether convicted or not); or
 - (b) any Individual with Control:
 - (i) ceases to be of good character; or
 - (ii) commits an offence or contravenes the law (whether convicted or not); or
 - (iii) becomes aware of any other matter that reflects adversely on an Individual with Control's fitness to have the Investment; or
 - (iv) becomes an individual of the kind referred to in section 15 or 16 of the Immigration Act 2009;
 - (c) the Consent Holder:
 - (i) ceases to be an overseas person; or
 - (ii) disposes of the Investment.
12. If requested in writing by the OIO, the Consent Holder 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.

Disposal Process

13. If in the opinion of the OIO condition 6 or 7 is not complied with ("**Non-Compliance**"), the Consent Holder must dispose of the Investment as follows:
- (a) The Consent Holder must, within six weeks of receiving notice from the OIO that in its opinion there has been Non-Compliance (the "**Notice Date**"):
 - (i) procure from an independent registered valuer, and provide to the OIO, a written market valuation of the Investment; and
 - (ii) appoint licensed real estate agents to actively market and appropriately advertise the Investment for sale on the open market; and
 - (b) The Consent Holder must dispose of the Investment within eighteen months of the Notice Date to a third party who must not be an associate of the Consent Holder. If the Consent Holder has not disposed of the Investment at the expiry of the eighteen month period, the Consent Holder must offer the Investment for sale by auction or tender within a further three months (with no reserve price or minimum bid set for the auction or tender) and dispose of the Investment.
 - (c) The Consent Holder must provide a written report to the OIO quarterly (by the last day of March, June, September and December) about the marketing activities undertaken and offers received for the Investment. The Consent Holder must also report at any other time if required by the OIO.

- (d) The Consent Holder must provide a written report to the OIO within two months of the Investment being disposed of, providing evidence that:
 - (i) the Consent Holder has disposed of the Investment (including copies of any sale and purchase agreements, settlement statements and titles showing the purchaser as registered proprietor); and
 - (ii) the purchaser is not an associate of the Consent Holder.

Released under the Official Information Act 1982

Appendix 2 – Sensitive Land

1. 609A & 609B Orapiu Road, Waiheke Island

Land Interest	Freehold Interest (approximately 26.9954 hectares)
CTs	NA115D/977, NA115D/978, NA266/3 (North Auckland)
Sensitivity	Is more than 5 hectares of non-urban land
	Is on an island specified in Part 2 of Schedule 2 of the Act
	Includes the foreshore or seabed or riverbed
	Adjoins the foreshore

Released under the Official Information Act 1982

Appendix 3 – Job Opportunities

FTE Calculations

No.	Role	Calculation	FTE
1	One fulltime general manager.		1.00
2	One part time permanent gardener, three days per week.	$\frac{(8hr * 3day)}{30hr}$	0.80
3	One part time permanent secretary, two days per week.	$\frac{(8hr * 2day)}{30hr}$	0.53
4	One chef, three months per year.	$\frac{(8hr * 5day)(12wk)}{(30hr * 52wk)}$	0.31
5	One commis chef, three months per year.	$\frac{(8hr * 5day)(12wk)}{(30hr * 52wk)}$	0.31
6	One general help, four months per year.	$\frac{(8hr * 5day)(16wk)}{(30hr * 52wk)}$	0.41
7	One sound engineer, four months per year.	$\frac{(8hr * 5day)(16wk)}{(30hr * 52wk)}$	0.41
8	One sound assistant, four months per year.	$\frac{(8hr * 5day)(16wk)}{(30hr * 52wk)}$	0.41
9	One driver, four months per year.	$\frac{(8hr * 5day)(16wk)}{(30hr * 52wk)}$	0.41
10	One boatman, four months per year.	$\frac{(8hr * 5day)(16wk)}{(30hr * 52wk)}$	0.41
11	Security personnel – eight hours per day for seven days per week during four months of the year.	$\frac{(8hr * 7day)(16wk)}{(30hr * 52wk)}$	0.57
12	Security personnel – eight hours per day for seven days per week during four months of the year.	$\frac{(8hr * 7day)(16wk)}{(30hr * 52wk)}$	0.57
13	Security personnel – eight hours per day for seven days per week during four months of the year.	$\frac{(8hr * 7day)(16wk)}{(30hr * 52wk)}$	0.57
	TOTAL		6.71