

Triage Report

201520010 – NZ Binxi (Oamaru) Foods Limited

Key information

Incident date	8 December 2017
Triage date	12 December 2017
Incident officer	Anna Sinclair
Source of referral	Monitoring Team
Confidentiality requested?	No

Brief summary of Incident as alleged

1. Theory of the case: NZ Binxi (Oamaru) Foods Limited (**Binxi**) is in breach of its conditions of consent as it has not filed its annual report within the specified timeframe.

Asset concerned

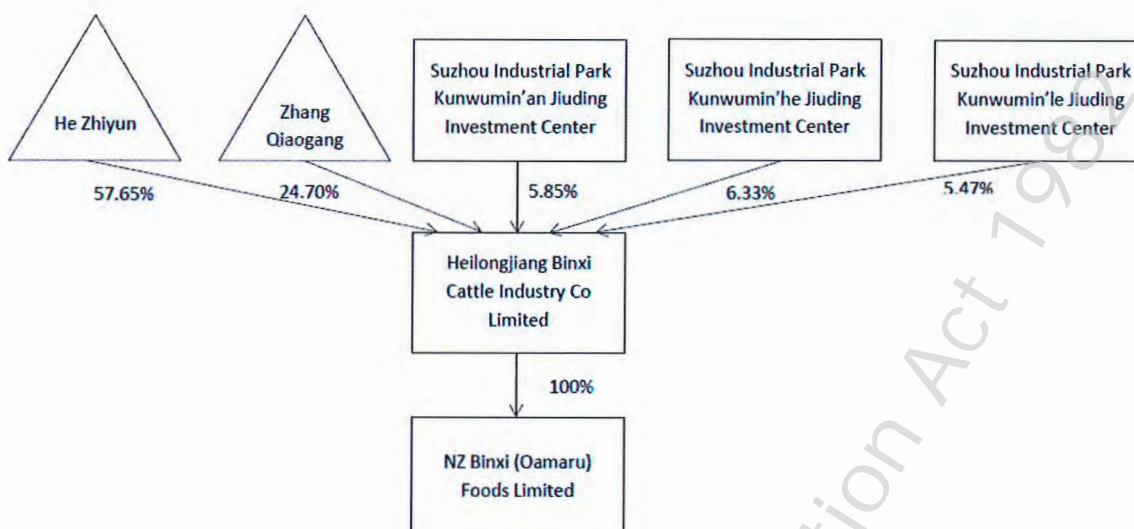
2. Binxi has acquired up to 100% of the issued share capital of Lean Meats Oamaru Limited which own or controls a freehold interest in approximately 6.9940 hectares of land at 7 Redcastle Road, Oamaru¹.
3. The land is sensitive because it is more than 5 hectares of non-urban land, includes the foreshore or seabed or riverbed, adjoins the foreshore and adjoins land that is over 0.4 hectares that adjoins the sea or a lake and is a road (as defined in s 315(1) of the Local Government Act 1974).
4. See **APPENDIX ONE** for land imagery.

Person/s concerned

5. The consent holder is Binxi, a limited liability company incorporated in New Zealand.
6. Binxi is a 100% subsidiary of Heilongjiang Binxi Cattle Industry Co Limited (**Parent**), a company incorporated in the People's Republic of China.
7. A structure of the consent holder is set out below:

¹ 222052, 440537, 46609 (Otago).

Information in and attached to this report may be legally privileged



8. Binxi's adviser is Michael Beck, Duncan Cotterill.

Brief summary of information reviewed/inquiries made

9. Binxi obtained consent on 1 December 2015 to acquire up to 100% of the issued share capital of Lean Meats Oamaru Limited.
10. The conditions of consent (**SEE APPENDIX TWO**) requires the consent holder, Binxi, to report annually, to the OIO with details of the progress it has made towards the investment.
11. A reminder letter was sent to the consent holder on 25 October 2017. The reminder letter required Binxi to report on:
 - (a) Condition 9 (special conditions) by **30 November 2017**.
12. That same day we received an email from Binxi requesting an extension to 14 December 2017, as the reminder in Olwyn's email of 1 December 2017 was the first Binxi had seen of this requirement. Olwyn responded to advise that we would only grant a 5 working day extension to **7 December 2017**.
13. On 7 December 2017 at 4.36pm, Binxi said that it was through a draft report but that it needed until the end of business on 8 December 2017 to complete it.
14. On 8 December 2017 Olwyn explained that this extension was not granted and that the matter would be passed to the enforcement team to progress. Binxi responded saying that the annual report would be with the OIO by 12pm on 8 December 2017.
15. The annual report was received at 2:02pm on 8 December 2017, which was after the time when the report ought to have been provided.

Assessment

16. On the basis of the information currently available:

Question	Y/N	Basis for answer
Does the Incident appear to fall within the OIO's regulatory remit?	Y	The incident relates primarily to a breach of the OIO conditions of consent.

Information in and attached to this report may be legally privileged

Question	Y/N	Basis for answer
Does there appear to have been a breach of the Rules? eg does the conduct alleged show a prima facie: breach of a condition of consent? acquisition of a sensitive asset without consent? disguise by an overseas person of his or her ownership of a sensitive asset using a deceptive mechanism?	Y	Binxi has not provided its annual report by the due date, which is a requirement of its conditions of consent.
Is the Incident within the limitation period?	Y	
Does the Incident fall within the OIO's Enforcement Priorities	Y	Public confidence that we ensure that overseas investors comply with their conditions of consent and, if not, that we take enforcement action.
Is there another regulatory or disciplinary body that has more appropriate jurisdiction or powers than the OIO?	N	The incident relates primarily to a breach of the conditions of consent.

Recommendation

17. Based on my review of the information, I recommend:

Recommendation	Tick	Basis for answer
The Incident progress to Assessment phase.		
No further action be taken and the Incident be closed		
An Enforcement Tool be deployed [link to Enforcement Approach] and then the Incident be closed	✓	Recommend that the administrative penalty for late filing be deployed (s 52 OIA 2005), due to the fact that Binxi has failed to provide their report by 30 November 2017 (special condition).

*Amend => Warning / Compliance letter
=> to tolerance in future for lateness*

s9(2)(a)

Pedro Morgan
Principal Advisor-Enforcement

*ANDRE BALDOCK
SENIOR INVESTIGATOR*

Agree:
Disagree:
Amend as marked:

Date: *12/12/17*

Information in and attached to this report may be legally privileged

s9(2)(a)

Kirsty Millard
Manager Enforcement

Agree:
Disagree:
Amend as marked:

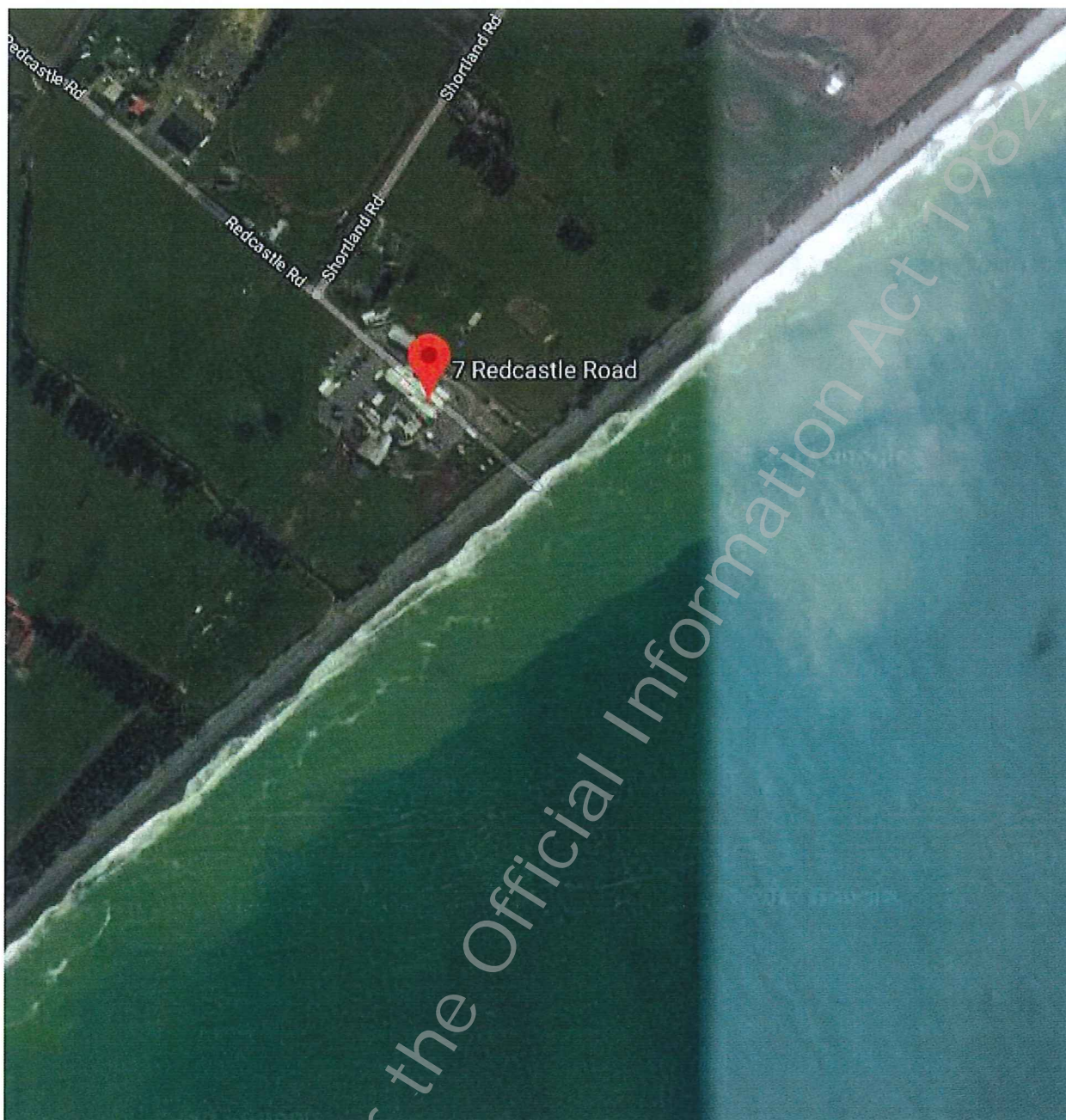
Date:

12/12/17

Notes for Assessment Team

Questions	Notes
Assessment team member(s)	Anna Sinclair
Date to report back to Screening Group (20 working days)	
Comments or guidance on areas to review	

APPENDIX ONE



APPENDIX TWO



Notice of Decision
Case: 201520010

Decision Date

01 December 2015

Information in and attached to this report may be legally privileged

Decision

Consent has been granted to **NZ Binxi (Oamaru) Foods Limited** (the "**Applicant**") to give effect to an overseas investment in sensitive land, being the Applicant's acquisition of rights or interests in up to 100% of the issued share capital of Lean Meats Oamaru Limited which owns or controls a freehold interest in approximately 6.9940 hectares of land at 7 Redcastle Road, Oamaru.

Consent is granted subject to the following conditions:

Statutory Conditions of Consent

Section 28 of the Overseas Investment Act 2005 (the "**Act**") provides that it is a condition of every consent, whether or not it is stated in the consent, that:

- (a) the information provided by each applicant to the Overseas Investment Office or the relevant Ministers in connection with the application was correct at the time it was provided; and
- (b) each consent holder must comply with the representations and plans made or submitted in support of the application and notified by the Overseas Investment Office as having been taken into account when the consent was granted, unless compliance should reasonably be excused.

For the purposes of section 28(1)(b), the representations and plans made or submitted in support of the application and taken into account when consent was granted are those contained in the correspondence listed in the statutory declaration of Richard James Thorp dated 3 November 2015 and in all attachments annexed to that correspondence.

Special 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 15 July 2015.

Business Plan means the business plan set out in Appendix 12 of the Application Letter.

Consent Holder means NZ Binxi (Oamaru) Foods Limited.

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; and
- (c) includes, for the avoidance of doubt, the members of the governing body of NZ Binxi (Oamaru) Foods Limited and Heilongjiang Binxi Cattle Industry Co Limited.

Investment means the Consent Holder's acquisition of rights or interests in up to 100% of the issued share capital in Lean Meats Oamaru Limited which owns or controls a freehold interest in the Land.

Land means the land contained in certificates of title 222052, 440537 and 46609 (Otago 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.

Regulations means the Overseas Investment Regulations 2005.

Information in and attached to this report may be legally privileged

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 twelve 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.

Employment condition

3. The Consent Holder must increase the number of job opportunities at the Target on the Land by 90 full time equivalent employees substantially in accordance with section 6 of the Business Plan by 31 December 2018.

Additional investment condition

4. The Consent Holder must introduce additional investment of at least \$6,450,000 into New Zealand for development purposes and use this investment to implement the developments described in section 5 of the Business Plan (and summarised below) substantially in accordance with the Business Plan by 31 December 2018.

Scheduled Year	Development	Estimated Cost
2017	Dedicated Beef Processing Room	\$1,200,000
2017 - 2018	Cold Storage, Blast Freezing and Load-Out Facilities	\$5,000,000
2018	Boiler Replacement	\$250,000
Total Expenditure		\$6,450,000

Increased processing condition

5. The Consent Holder must increase the number of cattle processed at the plant on the Land for each of the calendar years 2016, 2017 and 2018 substantially as set out in the table below.

Year	Number of Cattle Processed
2016	30,000
2017	40,000
2018	50,000

Increased exports condition

6. The Consent Holder must increase export receipts for New Zealand exporters as described in the Business Plan and the letter from Michael Beck to the Overseas Investment Office dated 19 August 2015 (including the attachments) substantially in accordance with the timeframes set out therein and as set out in the table below.

Year	Number of Cattle Exported	Number of Sheep Exported
2016	30,000	300,000
2017	40,000	330,000
2018	50,000	380,000

Information in and attached to this report may be legally privileged

Special land condition

7. The Consent Holder must, upon acquiring the Investment:
 - (a) Ensure that Lean Meats Oamaru Limited continues to be bound by any offer, arrangement or agreement that it 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, procure Lean Meats Oamaru Limited to enter into a deed of covenant with the Crown to be so bound; and
 - (c) Procure Lean Meats Oamaru Limited to deal with the Crown in accordance with the requirements of the Act as the party making the initial offer of the special land to the Crown.

Reporting to the OIO

8. 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.
9. The Consent Holder must report in writing annually to the Overseas Investment Office detailing progress of its Business Plan ("**Annual Report**"), including the following:
 - (a) the Consent Holder's compliance with conditions 3, 4, 5 and 6;
 - (b) the number (in full time equivalent units) and type of any new job opportunities created in New Zealand as a result of the Investment including the value of these jobs (being the annual salary or wages paid); and
 - (c) any increased export receipts for New Zealand exporters, including the number of sheep and beef exported, the average price per animal exported and the country the animal was exported to.

The first Annual Report is due on 30 November 2016 and the final report is due on 30 November 2019.

10. 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

Information in and attached to this report may be legally privileged

(ii) disposes of the Investment.

11. 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.

General Condition

12. The OIO will reasonably consider a request for a variation to the Business Plan that arises due to changes in economic and/or environmental conditions outside the Applicant's control, or from any circumstances outside the Consent Holder's control that were reasonably unforeseen at the date of the Application.

Monitoring Conditions of Consent

For the purpose of monitoring conditions of consent, the Overseas Investment Office may, under section 38 of the Act, require the consent holder to provide information or documents, or both, that are specified in the notice. Under section 40 of the Act, the Overseas Investment Office may also require a consent holder to provide a statutory declaration verifying the extent to which the consent holder has complied with the conditions of consent, and, if the consent holder is in breach of a condition or conditions, the reasons for the breach and the steps the consent holder intends to take to remedy the breach.

Sanctions

The Act provides for civil and criminal sanctions for breaching the Act, failing to comply with the conditions of consent and failing to provide information required by the Overseas Investment Office. The Overseas Investment Office has an obligation to investigate and act upon alleged and suspected breaches of the Act.

General

A reference to the "Overseas Investment Office" in this Notice includes a reference to the regulator (as defined by the Act). A reference to the Applicant includes a reference to the consent holder.

s9(2)(a)

Anneke Cockerell
Senior Solicitor
Overseas Investment Office

Our Ref: 201520010

13 December 2017

Duncan Cotterill (Christchurch)
PO Box 5
CHRISTCHURCH

BY EMAIL michael.beck@duncancotterill.com richard@bxfoods.co.nz

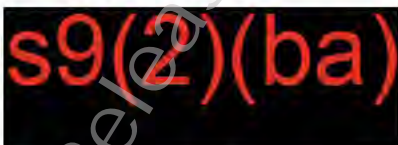
Attention: Michael Beck and Richard Thorp

Dear Michael and Richard

**NZ Binxi (Oamaru) Foods Limited – 2017 annual reporting – consent
201520010**

1. We refer to the Notice of Decision for consent 201520010, dated 1 December 2015. Condition 9 of this Notice of Decision requires NZ Binxi (Oamaru) Foods Limited (**the consent holder**) to report annually to us on various matters, with the first report due on 30 November 2016 and the final report due on 30 November 2019.
2. As a matter of courtesy, a letter reminding the consent holder of its obligation to report was sent to Duncan Cotterill on 25 October 2017, followed by a further email reminder on 1 December 2017.
3. The consent holder's annual report was received on Friday 8 December 2017, 6 working days *after* the annual report was due.
4. Please be aware that reminder letters are sent by us merely as a courtesy. The obligation remains on the consent holder to ensure that it has appropriate systems in place to identify and meet the obligations of any consents it is granted.
5. We also take this opportunity to remind the consent holder that a failure to comply with any requirement or obligation imposed under the Act, including any condition of consent, amounts to an offence under section 45 of the Overseas Investment Act 2005 (**the Act**). Such failures to comply could also affect the consent holder's track record of compliance and good conduct for any applications it makes to us in the future.
6. Finally, the consent holder should be aware that if we do not receive the next annual report by the due date of 30 November 2018, we may require it to pay an administrative penalty in accordance with section 52(1) of the Act.

Yours sincerely



s9(2)(ba)

Anna Sinclair
Senior Solicitor
Overseas Investment Office

DDI: +64 4 8322281
Email: asinclair@linz.govt.nz

Released under the Official Information Act 1982

Triage Report

201520010 – NZ Binxi (Oamaru) Foods Ltd

Key information

Incident date	30 January 2018
Triage date	7 February 2018
Incident officer	Andre Baldock
Source of referral	Monitoring Team (Olwyn Smith)
Confidentiality requested?	No

Brief summary of Incident as alleged

- Theory of the case: NZ Binxi (Oamaru) Foods Limited (**Binxi**), a consent holder concerning a meat processing plant situated on 3 parcels of sensitive land at 7 Redcastle Road, Oamaru:
 - appears to have breached Consent Condition 5 as it has not processed the number of cattle required for the calendar years 2016 (30,000) and 2017 (40,000)
 - has admitted it hasn't met its required targets and has requested information on how to submit an application to vary its consent conditions
 - may have breached Consent Condition 9 (annual reporting condition) as it still hasn't provided the export information it is required to (despite the Monitoring Team having twice requested this information and the OIO sending Binxi a compliance letter concerning the late submission of its 2017 annual report)
 - may be at risk of breaching Consent Conditions 3 and 4 which require Binxi to have added 90 employees and spent at least \$6,450,000 for development purposes – each by 31 December 2018.
- I note that we are also having compliance issues with Binxi on a related case (see the Summary section below for more details).
- Recommendation: I recommend that the incident progress to Initial Assessment phase.

Asset concerned

- Case 201520010 granted Binxi consent to acquire 100% of the shares in Lean Meats Oamaru Limited (Lean Meats) which owns or controls a freehold interest in three parcels of land of approximately 6.9940 hectares at 7 Redcastle Road, Oamaru (Otago Land District).¹
- The land predominantly houses the meat processing plant, but also includes some surrounding farm land.

¹ Parcel A CT46609 (2ha); Parcel B CT222052 (4.3ha); Parcel C CT440537 (0.6ha); Parcel D CT440536 (5.3.ha).

Information in and attached to this report may be legally privileged

6. The land is sensitive because together it is more than 5 hectares of non-urban land, includes the foreshore or seabed or riverbed, adjoins the foreshore and adjoins land that is over 0.4 hectares that adjoins the sea or a lake and is a road (as defined in s 315(1) of the Local Government Act 1974).
7. Case 201610121 granted Binxi consent to acquire 5.3806 hectares of sensitive land at 10 Shortland Street, Oamaru – which adjoins its existing land.
8. Binxi intends to refurbish a woolshed on the property and use it as its head office for the business – as well as redevelop a dwelling on the property so it can be used for staff accommodation.
9. The land is sensitive because it is more than 5 hectares of non-urban land.
10. See **Attachment 1** for land imagery.

Person/s concerned

11. The consent holder is Binxi, a limited liability company incorporated in New Zealand.
12. Binxi is a 100% subsidiary of Heilongjiang Binxi Cattle Industry Co Limited (**Parent**), a company incorporated in the People's Republic of China.
13. A structure diagram of the consent holder is set out in **Attachment 2**.
14. Binxi's adviser is Michael Beck, Duncan Cotterill.

Brief summary of information reviewed/inquiries made

15. Binxi obtained consent on 1 December 2015 to acquire up to 100% of the issued share capital of Lean Meats. The consent conditions are reproduced in **Attachment 3**.

A review of the Monitoring files indicates that Binxi has been struggling to meet some of its development related consent conditions since being granted consent.

16. Binxi appears to have breached Consent Condition 5 as it has not processed the number of cattle required for the calendar years 2016 (30,000) and 2017 (40,000).
 - (a) Binxi's 2016 annual report did not state the number of cattle it had processed in 2016, but did state that increasing the cattle numbers to the targets in the consent condition had been more difficult than expected and it had focused on its core activity of sheep processing.
 - (b) Binxi's 2016 annual report proposed reducing the yearly targets by a significant amount. This was discussed within the OIO at the time – with a decision made to wait to see how Binxi performed in 2017.
 - (c) Binxi eventually provided export related information in March 2017, but it did not explicitly state the number of cattle processed and it was unclear exactly what time period the information related to (it is possible that by March 2017 Binxi had processed 37,570 cattle).
 - (d) Binxi's 2017 annual report noted its beef programme was still developing and had been slower over the year than its lamb processing – but again failed to state how many cattle it had processed – and suggested that the targets for the coming years be cut almost in half.
 - (e) The missing cattle information was eventually provided on 26 January 2018. Binxi processed only 9,186 cattle during the 2017 calendar year – well short of the consent condition target of 40,000.

Information in and attached to this report may be legally privileged

- (f) In its 26 January 2018 email Binxi admitted that it hadn't met its 2017 target and asked for information about how to apply to vary its consent conditions.
17. Binxi may also be at risk of breaching Consent Conditions 3 and 4 which require Binxi to have added 90 employees and spent at least \$6,450,000 for development purposes – each by 31 December 2018.
- (a) Both Binxi's 2016 and 2017 annual reports have stated that it has not increased the number of employees, but stated that it will be increasing the number of employees in 2018 as it establishes its new boning room and blast freezing operation on site.
 - (b) Binxi's 2016 annual report stated that it had introduced investment capital of approximately \$130,000. Its 2017 annual report stated that it had spent a further \$128,000. This means Binxi must spend approximately \$6.2 million in 2018 to meet its consent condition.

Binxi has struggled with the annual reporting required by Consent Condition 9.

- 18. Consent Condition 9 requires Binxi to report by 30 November (from 2016 to 2019) concerning its compliance with conditions 3, 4, 5, and 6, the number of new job opportunities created, and any increased export receipts
- 19. Binxi was late in providing both its 2016 and 2017 annual reports – resulting in us issuing a compliance letter on 13 December 2017 and warning it that if the 2018 report was late then we would impose a civil penalty.
- 20. The 2016 and 2017 annual reports omitted key information required by the consent condition – requiring the Monitoring Team to chase Binxi for the missing information.
- 21. Binxi may have breached Consent Condition 9 as it still hasn't provided the export information it was required to include in its 2017 report – despite the Monitoring Team having specifically requested this information in December 2017 and January 2018.

Compliance issues with Binxi on a related case - 201610121

- 22. On 10 November 2016, the OIO granted Binxi consent to acquire and develop land (7 Shortland Street, Oamaru) next to the Lean Meats plant.
- 23. Binxi was required to apply for resource consent by 10 May 2017 to change the zoning of the land (to enable development to take place), but did not do so. Screening Group considered the issue in November 2017 and agreed to give Binxi until 28 February 2018 to comply with the condition or we would consider imposing a penalty.
- 24. We sent Binxi a reminder letter on 24 January 2018, but have not received a response to date. Binxi is at risk of failing to comply with the extended deadline.

Assessment

- 25. On the basis of the information currently available:

Question	Y/N	Basis for answer
Does the Incident appear to fall within the OIO's regulatory remit?	Y	Binxi is an overseas person that: <ul style="list-style-type: none"> • is likely to have breached Condition 5 as it processed only ¼ of the cattle it was required to in 2017 • may have breached Condition 9 as it hasn't provided some information required – despite several requests and a compliance letter concerning the lateness of its 2017 response • is likely to submit an application to vary its consent conditions
Does there appear to have been a breach of the Rules? eg does the conduct alleged show a prima facie: <ul style="list-style-type: none"> breach of a condition of consent? acquisition of a sensitive asset without consent? disguise by an overseas person of his or her ownership of a sensitive asset using a deceptive mechanism? 	Y	As above, Binxi is likely to have breached Condition 5 and may have breached Condition 9.
Is the Incident within the limitation period?	Y	It is current conduct
Does the Incident fall within the OIO's Enforcement Priorities	Y	This case concerns potential breaches of consent conditions. A potential breach of Condition 5 is of reasonable concern as the processing of cattle is a key part of the consent conditions and the wider business development. It is also a concern (but of a lesser magnitude) that Binxi has submitted both annual reports late and has missed important information. It is also of concern that Binxi is having compliance issues on its related case/land. Overall Binxi does not appear to be achieving its planned developments as well or as quickly as it committed to doing as part of its consent conditions.
Is there another regulatory or disciplinary body that has more appropriate jurisdiction or powers than the OIO?	N	

Recommendation

26. Based on my review of the information, I recommend:

Information in and attached to this report may be legally privileged

Recommendation	Tick	Basis for answer
The Incident progress to Assessment phase.	Y	Further assessment of the conduct is desirable - particularly concerning Binxi's compliance with Condition 5 (cattle processing) - as this appears to be a significant component of the business plan.
No further action be taken and the Incident be closed		
An Enforcement Tool be deployed [link to Enforcement Approach] and then the Incident be closed		

s9(2)(a)

Pedro Morgan
Principal Advisor Enforcement

Agree:

Disagree:

Amend as marked:

Date:

7/2/18

s9(2)(a)

Kirsty Millard
Manager Enforcement

Agree:

Disagree:

Amend as marked:

Date:

7/2/18

Notes for Assessment Team

Questions	Notes
Assessment team member(s)	Gary Bentley / Rachel Butler.
Date to report back to Screening Group (20 working days)	Can extend if need to get further information

Information in and attached to this report may be legally privileged

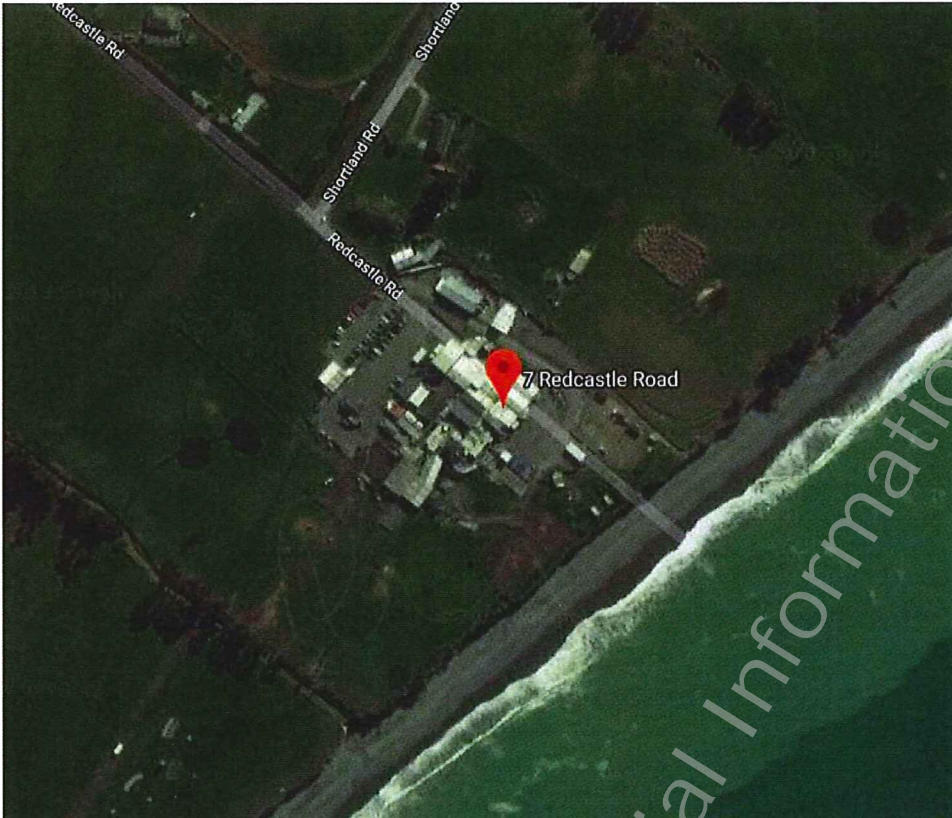
Questions	Notes
Comments or guidance on areas to review	<p>Need to consider the progress in other consent.</p> <p>Site inspection probably needed</p> <p>Important to speak to people on the ground.</p> <p>Need to understand why experienced</p>

delays and what plans are to rectify.

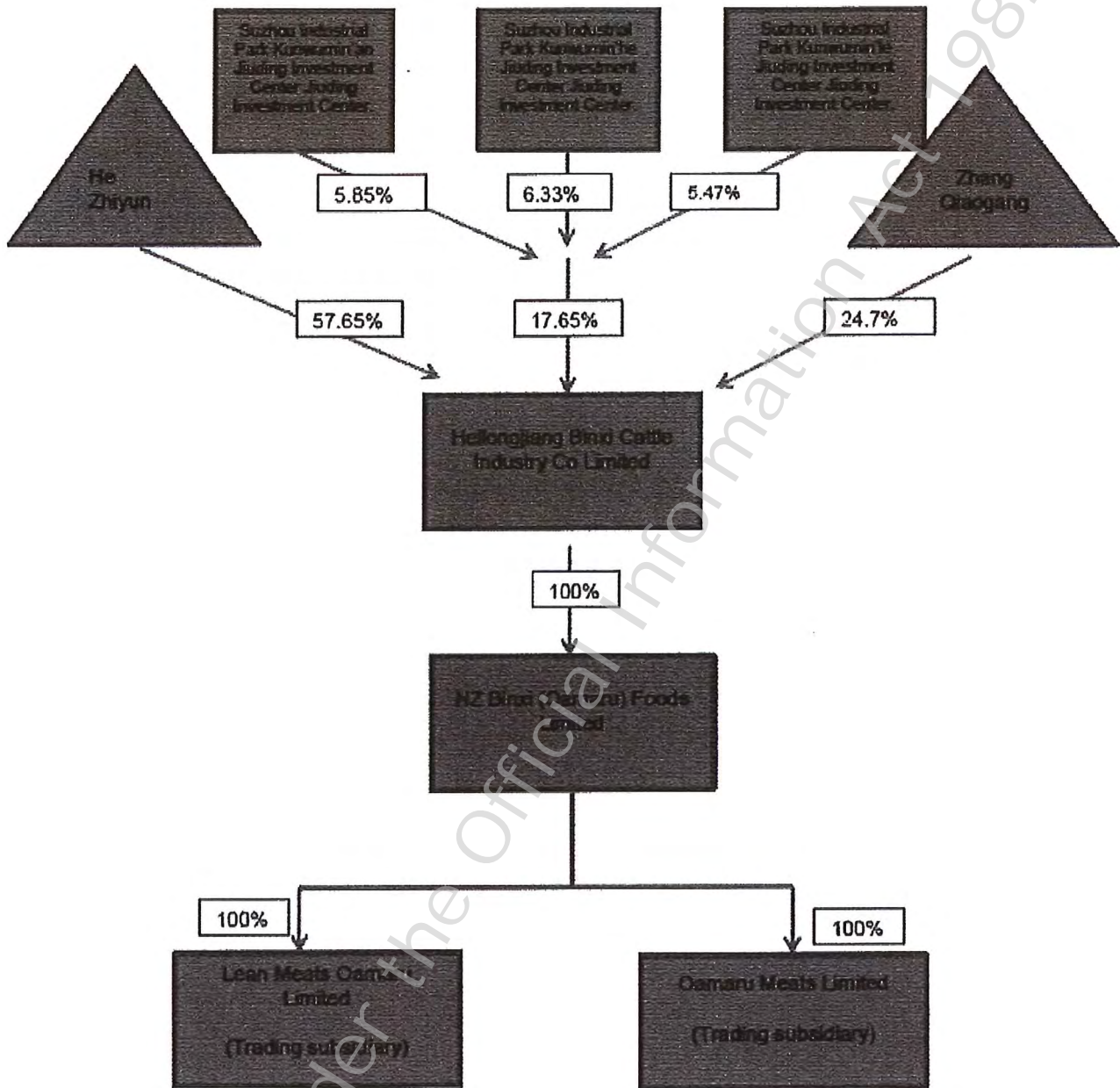
Released under the Official Information Act 1982

Information in and attached to this report may be legally privileged

Attachment 1 – land information



Attachment 2 – structure diagram



Attachment 3 – consent conditions

Decision Date

01 December 2015

Decision

Consent has been granted to **NZ Binxi (Oamaru) Foods Limited** (the "**Applicant**") to give effect to an overseas investment in sensitive land, being the Applicant's acquisition of rights or interests in up to 100% of the issued share capital of Lean Meats Oamaru Limited which owns or controls a freehold interest in approximately 6.9940 hectares of land at 7 Redcastle Road, Oamaru.

Consent is granted subject to the following conditions:

Statutory Conditions of Consent

Section 28 of the Overseas Investment Act 2005 (the "**Act**") provides that it is a condition of every consent, whether or not it is stated in the consent, that:

- (a) the information provided by each applicant to the Overseas Investment Office or the relevant Ministers in connection with the application was correct at the time it was provided; and
- (b) each consent holder must comply with the representations and plans made or submitted in support of the application and notified by the Overseas Investment Office as having been taken into account when the consent was granted, unless compliance should reasonably be excused.

For the purposes of section 28(1)(b), the representations and plans made or submitted in support of the application and taken into account when consent was granted are those contained in the correspondence listed in the statutory declaration of Richard James Thorp dated 3 November 2015 and in all attachments annexed to that correspondence.

Special 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 15 July 2015.

Business Plan means the business plan set out in Appendix 12 of the Application Letter.

Consent Holder means NZ Binxi (Oamaru) Foods Limited.

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; and
- (c) includes, for the avoidance of doubt, the members of the governing body of NZ Binxi (Oamaru) Foods Limited and Heilongjiang Binxi Cattle Industry Co Limited.

Investment means the Consent Holder's acquisition of rights or interests in up to 100% of the issued share capital in Lean Meats Oamaru Limited which owns or controls a freehold interest in the Land.

Land means the land contained in certificates of title 222052, 440537 and 46609 (Otago Registry).

OIO means the Overseas Investment Office.

Information in and attached to this report may be legally privileged

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.

Regulations means the Overseas Investment Regulations 2005.

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 twelve 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.

Employment condition

3. The Consent Holder must increase the number of job opportunities at the Target on the Land by 90 full time equivalent employees substantially in accordance with section 6 of the Business Plan by 31 December 2018.

Additional investment condition

4. The Consent Holder must introduce additional investment of at least \$6,450,000 into New Zealand for development purposes and use this investment to implement the developments described in section 5 of the Business Plan (and summarised below) substantially in accordance with the Business Plan by 31 December 2018.

Scheduled Year	Development	Estimated Cost
2017	Dedicated Beef Processing Room	\$1,200,000
2017 - 2018	Cold Storage, Blast Freezing and Load-Out Facilities	\$5,000,000
2018	Boiler Replacement	\$250,000
Total Expenditure		\$6,450,000

Increased processing condition

5. The Consent Holder must increase the number of cattle processed at the plant on the Land for each of the calendar years 2016, 2017 and 2018 substantially as set out in the table below.

Year	Number of Cattle Processed	2016 proposed revision	2017 proposed revision
2016	30,000		
2017	40,000	25,000	
2018	50,000	30,000	15,000
2019	N/A	40,000	25,000
2020	N/A	50,000	35,000
2021	N/A	N/A	45,000
2022	N/A	N/A	50,000

Increased exports condition

Information in and attached to this report may be legally privileged

6. The Consent Holder must increase export receipts for New Zealand exporters as described in the Business Plan and the letter from Michael Beck to the Overseas Investment Office dated 19 August 2015 (including the attachments) substantially in accordance with the timeframes set out therein and as set out in the table below.

Year	Number of Cattle Exported	Number of Sheep Exported
2016	30,000	300,000
2017	40,000	330,000
2018	50,000	380,000

Special land condition

7. The Consent Holder must, upon acquiring the Investment:
- Ensure that Lean Meats Oamaru Limited continues to be bound by any offer, arrangement or agreement that it has made, reached or entered into with the Crown in relation to the special land that forms part of the Land;
 - If so required by the Crown, procure Lean Meats Oamaru Limited to enter into a deed of covenant with the Crown to be so bound; and
 - Procure Lean Meats Oamaru Limited to deal with the Crown in accordance with the requirements of the Act as the party making the initial offer of the special land to the Crown.

Reporting to the OIO

8. 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:
- the Settlement Date;
 - final consideration paid (plus GST, if any);
 - the structure by which the acquisition was made, and who acquired the Investment;
 - where applicable, copies of transfer documents and settlement statements; and
 - any other information that would aid the OIO in its function to monitor conditions of consent.

9. The Consent Holder must report in writing annually to the Overseas Investment Office detailing progress of its Business Plan ("**Annual Report**"), including the following:

- the Consent Holder's compliance with conditions 3, 4, 5 and 6;
- the number (in full time equivalent units) and type of any new job opportunities created in New Zealand as a result of the Investment including the value of these jobs (being the annual salary or wages paid); and
- any increased export receipts for New Zealand exporters, including the number of sheep and beef exported, the average price per animal exported and the country the animal was exported to.

The first Annual Report is due on 30 November 2016 and the final report is due on 30 November 2019.

10. The Consent Holder must notify the OIO in writing within 20 working days if:
- 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

Information in and attached to this report may be legally privileged

- (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.
11. 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.

General Condition

12. The OIO will reasonably consider a request for a variation to the Business Plan that arises due to changes in economic and/or environmental conditions outside the Applicant's control, or from any circumstances outside the Consent Holder's control that were reasonably unforeseen at the date of the Application.

Monitoring Conditions of Consent

For the purpose of monitoring conditions of consent, the Overseas Investment Office may, under section 38 of the Act, require the consent holder to provide information or documents, or both, that are specified in the notice. Under section 40 of the Act, the Overseas Investment Office may also require a consent holder to provide a statutory declaration verifying the extent to which the consent holder has complied with the conditions of consent, and, if the consent holder is in breach of a condition or conditions, the reasons for the breach and the steps the consent holder intends to take to remedy the breach.

Sanctions

The Act provides for civil and criminal sanctions for breaching the Act, failing to comply with the conditions of consent and failing to provide information required by the Overseas Investment Office. The Overseas Investment Office has an obligation to investigate and act upon alleged and suspected breaches of the Act.

General

A reference to the "Overseas Investment Office" in this Notice includes a reference to the regulator (as defined by the Act). A reference to the Applicant includes a reference to the consent holder.

Our Ref: 201520010

14 March 2018

Richard Thorp
NZ Binxi (Oamaru) Limited
Oamaru

BY EMAIL

Attention: Richard Thorp

Dear Richard,

NZ Binxi (Oamaru) Foods Limited – Annual Reporting - 201520010

1. We are writing in response to the 2017 annual report provided on behalf of NZ Binxi (Oamaru) Foods Limited (**NZ Binxi**) in relation to its Redcastle Road consent - 201520010.
2. The purpose of this letter is to draw your attention to our concerns in relation to the continued lateness of annual reporting and more importantly, the failure to meet, or concerns NZ Binxi might not meet, certain conditions required by the consent.
3. NZ Binxi's annual reporting date is 30 November however for the 2016 and 2017 annual reports we had to issue reminder notices as these reports were not received in time. As you know our reminder letters are sent as a courtesy and it is NZ Binxi's responsibility to ensure that each annual report is sent to us on time. We remind you that section 52 of the Overseas Investment Act 2005 allows the Overseas Investment Office to impose an administrative penalty of \$500 if a person provides a report after the time when the report must be provided.

Condition 3 – New positions

4. Condition three requires NZ Binxi to hire 90 full time equivalent employees by the end of this year. While we appreciate the timeframe for meeting this condition is still some months away, you have advised that no increase in the number of employees has yet occurred. You have stated though that you expect to employ the additional people later this year once the boning and blast freezing works have occurred on site.
5. In order to get a better understanding of how your development plans are progressing, could you please provide us with the following information:
 - (a) Progress on the boning and blast freezing development, including when you expect these to be in operation; and
 - (b) Your plans for employing staff to operate the new developments, including expected numbers and when you expect to employ new staff.

Condition 4 – Additional Investment

6. In relation to condition four NZ Binxi's 2016 annual report stated that it had spent \$90,000 to \$130,000 on detailed plans with consultants in preparation to execute the building plan over the 2017 year, and that plans for resource consent would be lodged in early 2017. The 2017 Annual Report does not appear to provide a progress update on NZ Binxi's obligation to spend \$1,200,000 on building and fitting out the dedicated beef processing room. Therefore please provide:
- (a) details of the plans undertaken and the amount spent, itemised for 2016 and 2017;
 - (b) confirmation that the resource consent was lodged and provide the date it was lodged, and whether consent was granted. If it was not lodged, please explain why;
 - (c) a progress update on the building and fitting out of a dedicated beef processing room. If no progress has been made, please provide a detailed explanation as to why;
 - (d) if not clear from the above please provide a timetable detailing when the dedicated beef processing room will be built.

Condition 5 – Increased Processing

7. From our review of the 2016 and 2017 Annual Reports we understand that NZ Binxi has not complied with condition five of the consent, specifically the number of cattle processed.
8. The table below shows the increased number of cattle processed that NZ Binxi agreed to under condition five in column A. We have shown the actual number of cattle processed NZ Binxi reported to us in column B.

Year	A. Number of Cattle Processed	B. Actual Number of Cattle Processed
2016	30,000	8,056 ¹
2017	40,000	9,186 ²
2018	50,000	

9. The table shows there is a significant shortfall in the number of cattle processed for the 2016 and 2017 years.
10. When NZ Binxi applied for consent it stated that:
- (a) [REDACTED]
- (b) from January 2016 beef processed numbers would be 600 per week; and
 - (c) \$1,200,000 would be spent on building and fitting out a dedicated beef processing room.
11. In a letter dated 19 August 2015 you provided further figures making representations about the current and future beef processing and export numbers along with export receipts.

¹ Per email dated 2 March 2017

² Per email dated 26 January 2018

12. In the 2017 Annual Report you told us that the beef programme was still developing and that the beef throughput had been slower than anticipated.
13. Given Binxi's Chinese experience as a cattle processor and in order to better understand why the actual number of cattle processed is significantly lower than anticipated, please provide:
 - (a) a detailed explanation of why the number of cattle processed is much lower than anticipated for 2016 and 2017;
 - (b) what steps NZ Binxi has taken to increase the number of cattle processed; and
 - (c) a breakdown of the increased export receipts showing the split between beef and ovine.
14. We observe that NZ Binxi appears to be struggling to meet its conditions of consent. We are keen to get a better sense of the reasons for the delays you are experiencing and your plans to rectify the issues identified. To that end, we would appreciate any general information or response that addresses your business plans. It may be that a site inspection is useful.
15. Please provide the information requested above by **5pm 30 March 2018**.

Yours sincerely

s9(2)(a)

Gary Bailey
Senior Investigator
Overseas Investment Office

DDI: +64 4 831 1666
Email: gbailey@linz.govt.nz

Released under the Official Information Act 1982



Reference: 201520010

30 March 2018

Mr Gary Bailey
Senior Investigator
Overseas Investment

BY EMAIL

Dear Gary

Please find a response to your questions from the letter dated 14 March 2018.

Our late response to the OIO reports and requests are well noted, even this situation of responding to this letter slipped from me as I travelled to China to ensure our shareholder was aware of the questions that were being asked of me from the Overseas Investment Office, from China I had unplanned journey to Europe which I didn't get back from till late 31st Easter Saturday evening, whilst I had a draft I had to spend further time on it yesterday with now a response being sent to you before normal start of business today. Once again my apologies for this, as it was not intended to be late.

I have used your paragraphs numbers and subs in the dated 14th March 2018 to respond to:

Condition 3 – New Positions

4 Due to being behind on our expansion plan we have not employed the additional staff. As a side point for discussion you need to be made aware under our current operational activity, we are finding workers extremely difficult to procure, even if we had maintained the infrastructure development timeline we would be clearly having issues now with employment of staff, we have exhausted all suitable staff from our local WINZ office, we have spent a considerable amount of money in advertising for staff. We have made an application (approved) to NZL immigration for 12 Chinese workers with a submission of support from the Meat Workers Union. Due to the lack of workers there has been a number of times through this processing year where we have had to pull back production or failed to complete production due to being unable to secure suitable employees for our business.

5 (a) We are intending to commence the building for the blast freezing of finished meat and offal products towards the end of 2018 with a completion date in the first quarter of 2019, there will be an estimated additional 4 people employed to operate the blast freezers.

5 (b) We have advertised extensively for staff to work in our business, we have engaged the people who are suitable and are termed "long term unemployed" from our local WINZ office, we have been approved by NZL Immigration for working visas for 12 Chinese workers. We will continue the strategy of advertising and continue working with immigration NZL on work visas where we are unable to employ directly from NZL.



Condition 4 – Additional Investment

- 6 (a) Details supporting his question will be provided before the end of the business day
- 6 (b) We have not got to the stage of lodging for resource consent for the site developments but have had held discussions with Waitaki District staff on what is required. We are led to believe that all that will be required will be a building permit and resource consent will not be required.
- 6 (c) Given we have not commenced with the beef boning facility the fitting out has not been able to start, we will be requesting a variation to 201520010 which the beef boning will be part of that variation.
- 6 (d) Given the subdued returns of beef over the last two years and with the forecasts not indicating any improvement, we need to make an application of a variation of consent – 201520010, once we proceed with the variation application we expect the beef boning room to be pushed out to 2021 with a reduction to the amount of beef animals that will be processed through the facility.

Condition 5 – Increased Processing

- 13 (a) Given the subdued and at times negative returns of beef over the last two years and with the forecasts not indicating any improvement over the next 18 months, the business has been reluctant to throw all its energy into beef and then place overall financial pressure on the business and return it to the precarious position it was prior to the sale of Oamaru factory. In turn we have recognised the factories strength in sheep meats and increased numbers through the business, increasing export receipts from the business traditional baseline and providing more earnings for the staff we have employed.
- 13 (b) With a depressed global market on beef and due to global protein swings and large volume transfers away from traditional beef markets, along with USA beef at the highest number of head on feed of 11.75m since 2006 the market is very fragile. The New Zealand raw material has become an overpriced commodity on the mix of global protein, in nearly all situations when this happens in NZL the processor/exporters takes the hit due to over valued livestock purchases from farmer to farmer finisher and with an elevated livestock schedule price the meat companies continue to purchase, process and sell at a loss. We at BX Foods have been watching this trend now for the last two years and don't see the correction for another 18 months.

Over this time, we have still been processing beef and since the outbreak of Mycoplasma Bovis in NZL, other processors have been reluctant or unable to offer their services to depopulate infected cattle for the farmers caught up in this issue. NZ Binxi through its Oamaru factory was able to process bobby calves and adult stock from restricted and infected farms and moved very quickly to do so and at one stage was the only processor in NZL clearing infected farms.

As a business we need a strong beef presence as it compliments our sheep activities but currently aggressively chasing beef will push the business into financial difficulty and we are unwilling to do that as the negative issues from a public perception will be much larger with an offshore owner closing a factory and laying off staff vs maintaining a development programme and enhancing employment over a longer than expected period is favoured.

- 13 (c) Details supporting his question will be provided before the end of the business day



14 Being recently appointed (November 2010) the CEO of Lean Meats Ltd I quickly recognised the sweated balance sheet was not going to survive without new shareholder capital and now with the Board approval in 2012, I set out to seek a new part or full investor of the Oamaru factory, and now being the person in charge behind selling the Oamaru factory we become very focused to achieve our goal to firstly ensure the survival of the parent company Lean Meats Ltd but equally important retain 200 jobs in the Oamaru factory.

Prior to the sale of Lean Meats Ltd, as CEO I had limited options to turn the company around this was mainly due to large shareholder loans that required to be paid back and the inability to fund further developments from the over stressed balance sheet were just not possible, the bank at this point were instructing reinvestment from current shareholders or new shareholders and it needed to happen sooner than later. One option was to sell Oamaru with the second option being the closure to the factory resulting in a large amount of jobs being lost to the local economy. This would have ceased the immediate ongoing cash bleed that the Oamaru factory was creating for the larger Lean Meats Ltd group. I'm extremely pleased we were successful in the sale, although the off-shore sale adds complexity to the sale process and maintaining compliance, it has been a successful transition of ownership, it needs to recognised that at the time and still likely the case there were no interested parties stepping forward from NZL to purchase the Oamaru factory.

The sale allowed Lean Meats Ltd to re-pay bank and shareholder debt, this resulting in a clearer direction for Lean Meats Ltd and its shareholders.

The BX Foods along with the Oamaru factory has now returned to profitability with the last financial year finishing with a surplus and the current financial year on target with the first quarter completed on budget.

I welcome and extend an invitation for a site visit from yourself and your colleagues where we can show and explain in greater detail the success of this off shore investment, not only how we have managed to turn the business back to profit, increase export receipts, but also give you an insight to our community and the people that work at our factory and their contribution to the region they live in.

Please advise me at your earliest opportunity when you would like to make a visit.

Yours sincerely

s9(2)(a)

Richard Thorp
Company Director
BX Foods Ltd

DDI +64 274 359 001
Email: richard@bxfoods.co.nz

Assessment Report

201520010 – NZ Binxi (Oamaru) Foods Ltd

Key information

Assessment date	10/4/18
Assessment team	Gary Bailey
Incident date	30 January 2018
Triage date	7 February 2018
Incident officer	Andre Baldock
Source of referral	Monitoring Team (Olwyn Smith)
Confidentiality requested?	No

Brief summary of Incident as alleged

1. NZ Binxi (Oamaru) Foods Limited (**Binxi**), a consent holder who operates a meat processing plant situated on 3 parcels of sensitive land at 7 Redcastle Road, Oamaru:
 - (a) appears to have breached Consent Condition 5 as it has not processed the number of cattle required for the calendar years 2016 (30,000) and 2017 (40,000)
 - (b) has admitted it hasn't met its required targets and has requested information on how to submit an application to vary its consent conditions
 - (c) may be at risk of breaching Consent Conditions 3 and 4 which require Binxi to have added 90 employees and spent at least \$6,450,000 for development purposes – each by 31 December 2018.
2. At **triage** it was noted that Binxi was having compliance issues on a number of other consents (201610121 and 201710013) and that these issues should be rolled up into one assessment. However on further investigation 201610121 is under action by Amy and 201710013 relates to the Blue Sky Meats acquisition which has a give effect date of 1 November 2018. It has been reported¹ that this takeover may now not happen.
3. As a result this assessment will only focus on consent [201520010](#) conditions.
4. Binxi obtained consent on 1 December 2015 to acquire up to 100% of the issued share capital of Lean Meats. The consent conditions are reproduced in **Attachment 3**.

¹ <https://www.stuff.co.nz/business/farming/101556745/blue-sky-meats-fined-116000-for-unlawfully-discharging-meat-works-effluent>

Information in and attached to this report may be legally privileged

Asset concerned

5. Case 201520010 granted Binxi consent to acquire 100% of the shares in Lean Meats Oamaru Limited (Lean Meats) which owns or controls a freehold interest in three parcels of land of approximately 6.9940 hectares at 7 Redcastle Road, Oamaru (Otago Land District).²
6. The land is sensitive because together it is more than 5 hectares of non-urban land, includes the foreshore or seabed or riverbed, adjoins the foreshore and adjoins land that is over 0.4 hectares that adjoins the sea or a lake and is a road (as defined in s 315(1) of the Local Government Act 1974).
7. See **Attachment 1** for land imagery.

Person/s concerned

8. The consent holder is Binxi, a limited liability company incorporated in New Zealand.
9. Binxi is a 100% subsidiary of Heilongjiang Binxi Cattle Industry Co Limited (**Parent**), a company incorporated in the People's Republic of China.
10. A structure diagram of the consent holder is set out in **Attachment 2**.
11. Binxi's adviser is Michael Beck, Duncan Cotterill.
12. The NZ representative for Binxi is Richard Thorp. Richard gives his job title as Company Director – BX Foods Ltd and he has fully co-operated with my inquiries.

Brief summary of information reviewed/inquiries made since triage

13. A please explain [letter](#) was sent to Binxi on 14 March 2018 where we asked it to explain the variances reported in relation to:
 - (a) Condition 3 – New Positions
 - (b) Condition 4 – Additional Investment
 - (c) Condition 5 – Increased processing
14. Binxi responded to our request on [3 April 2018](#) providing the information detailed below.

Condition 3 – New Positions

15. We asked Binxi what its plan was for hiring the 90 additional staff required by condition 3 by the end of 2018.
16. Binxi advised that they had not yet employed the required staff as a result on being behind on their expansion plan.
17. Regardless of this Binxi stated that it's had trouble recruiting staff in NZ despite intensive staff advertising, such that:
 - (a) it has exhausted all suitable staff from its local WINZ Office (including from the ranks of the long term unemployed);
 - (b) it had approval from INZ to bring in 12 Chinese meat workers;
 - (c) it plans to continue working with WINZ and INZ to get sufficient staff onboard in future as required.

² Parcel A CT46609 (2ha); Parcel B CT222052 (4.3ha); Parcel C CT440537 (0.6ha); Parcel D CT440536 (5.3.ha).

Information in and attached to this report may be legally privileged

18. As Binxi have until 31 December 2018 to increase FTE's by 90 it has not breached this condition at the moment.

Condition 4 – Additional Investment

19. We asked Binxi to provide a progress update on the "additional investment of at least \$6,450,000 into NZ" for development purposes as detailed in the table at Condition 4:

Scheduled Year	Development	Estimated Cost
2017	Dedicated Beef Processing Room	\$1,200,000
2017 - 2018	Cold Storage, Blast Freezing and Load-Out Facilities	\$5,000,000
2018	Boiler Replacement	\$250,000
Total Expenditure		\$6,450,000

20. Binxi advised that:

- (a) It had spent \$143,205.72 to date on planning and building plans with its consultants Bryne & Wanty Consultancy and Forgie Hollow Consultancy. It provided a copy of its accounts ledger and invoices as proof of this spend. [The Byrne & Wanty invoices actually total \$157,157 and the other invoices total \$7,526 bringing the total to \$164,683 spent to date].
- (b) It had not yet got to the stage of lodging the resource consent for the site expansion. Following discussions with the Wataki District Council Binxi were told that only a building consent rather than a resource consent was required.
- (c) Given the subdued return of beef over the last two years and with no improved forecasts in sight Binxi will be seeking a variation to push the construction of the beef boning room out to 2021, with a reduction to the amount of beef stock it will process as well.
- (d) It plans to commence building the blast freezer towards the end of 2018 with a completion date of the first quarter of 2019. Binxi understand that this is beyond the consented timeframe so it would also be seeking a variation for this.

Condition 5 – Increased processing

21. We asked Binxi to provide a full explanation as to why the number of beef processed was so low and what plans it had to improve this. Condition 5 contains the following table:

Year	Number of Cattle Exported	Number of Sheep Exported
2016	30,000	300,000
2017	40,000	330,000
2018	50,000	380,000

22. Binxi provided a breakdown of its increased export receipts per in the table below.

	2016		2017		
	\$\$	Head	\$\$	Head	\$-/+
Bovine	Section 9(2)(b)(ii)	5,303	Section 9(2)(b)(ii)	8,980	Section 9(2)(b)(ii)
Lamb		71,472		158,430	
Mutton		25,306		23,076	
Goat		5,963		2,014	
Veal		28,601		30,072	
Beef Offal					
Ovine Offal					
Pork		2,465		2,343	

23. Binxi noted with regard to its table that there is not always a direct correlation on volume, due to shifting pricing and currency values. Also Binxi killed a number of M-bovis cattle last year which had a reduced returned in the market, better overall volume but reduced export returns.

24.

25. Binxi gave a number of reasons for the lower beef numbers as follows:

- (a) the global market for beef was subdued (and at times producing negative returns) which meant Binxi had been reluctant to throw its energies into further beef processing as this would place financial pressure on the Oamaru factory;
- (b) Binx has instead thrown more energy and resource into the factory's sheep processing business and with a stronger sheep meat market this has had the effect of increasing export receipts;
- (c) The USA had the highest number of head of beef on feed since 2006;
- (d) There was a swing away from traditional beef markets; and
- (e) NZ beef processing stock had become overpriced in terms of farmer to finisher – meaning the processor is paying higher stock prices producing lower returns leading to losses.

26.

Section 9(2)(b)(ii)

27. Binxi reiterates that it needs a strong beef presence to compliment its sheep activities and meet its consent obligations but is not willing to do this at the expense of putting the business into financial difficulties.

28. The export receipts table proved by Binxi shows that it has not met the beef numbers specified in condition 5 for 2016 and 2017 by a significant amount. The sheep numbers are better than beef but still below the numbers anticipated when consent was granted. It corroborates Binxi's statement that the factory has concentrated on sheep rather than beef.

Any other comments

29. Binxi admits to and apologises for late OIO reports over the last two years. He said that over the Easter break he had travelled to China to ensure the Chinese shareholders were aware of and understood the questions he was facing from the OIO.

Information in and attached to this report may be legally privileged

30. At the end of his response Richard sets out the background to the Chinese investment in the company. He states that this investment had proved crucial to the survival of the Oamaru factory and securing the 200 jobs that go along with that. The alternative was to close the Oamaru factory. He said that the transition to the new offshore ownership has been very successful on a number of fronts (repayment of debt, maintaining jobs and returning the company to profitability) but clearly it now has some OIO compliance issues.
31. Richard admits that Binxi agreed to a number of conditions that now look considerably more difficult. As discussed above Binxi is willing to rectify these by applying for variations to the conditions in danger of not being complied with.
32. Richard said that he would welcome a site visit so that the OIO can see firsthand how successful the overseas investment has been to the Oamaru community.

Assessment

33. On the basis of the information currently available:

Question	Y/N	Basis for answer
Does there appear to have been a breach of the Rules?	Partly	<p>Binxi is an overseas person that is likely to have breached Condition 5 as it processed significantly lower numbers of beef than consented.</p> <p>Binxi explains this was due to the subdued beef market and the difficulty obtaining beef stock to process at the Oamaru factory.</p> <p>This meant that Binxi has not yet commenced developing the beef boning room (condition 4 scheduled for 2017) or the cold storage/blast freezer (condition 4 scheduled for 2017-2018). Overall the business plan was to be implemented by 31 December 2018.</p> <p>It has indicated that it was willing to seek a variation for all of the conditions it was in danger of breaching.</p>
Does the Incident fall within the OIO's Enforcement Criteria?	Possibly	<p>The business plan was to have been substantially implemented by the end of 2018 but it now appears some of the development will not occur in that timeframe.</p> <p>Overall Binxi acknowledges that it is not achieving its planned developments as well or as quickly as it committed to as part of its consent conditions.</p> <p>Having said this Binxi is willing to seek variations and welcomes a site visit by the OIO - it is helpful that Binxi have signaled this to us earlier rather than later and is willing to apply for a variation.</p>
Is there any reason to qualify, amend or add to the answer to Triage questions?	No	Binxi has more work to do to get the results anticipated by the consent.

Recommendation

34. Based on my review of the information, I recommend:

Recommendation	Tick	Basis for answer
You decide you have reason to suspect that an offence has been committed under the Act and the Incident progress to Investigation Stage I	X	I do not recommend advancing this incident to an investigation however I think we should encourage Binxi to apply for a variation and undertake a site visit.
No further action be taken and the Incident be closed		
An Enforcement Tool be deployed [link to Enforcement Approach] and then the Incident be closed	Yes	<p>On balance Binxi seems to be a quality investor (and has cooperated fully with us) but it is struggling to achieve the conditions it has agreed to. Consent variation appears to be a better tool to deal with any non-compliance.</p> <p>I recommend that we encourage Binxi to apply for a variation in relation to condition 4, 5 and 6 as the common denominator in all of this is that the investment and development to increase beef processing has proved challenging.</p> <p>We could also gain comfort that Binxi is a quality investor by conducting a site visit which they are open to hosting. The fact remains that the Oamaru factory employs a lot of local people and is important to that local economy.</p>



Pedro Morgan
Principal Advisor Enforcement

Agree:

Disagree:

Amend as marked:

Date:

10/4/18

Information in and attached to this report may be legally privileged



Kirsty Millard
Manager Enforcement

Agree:
Disagree:
Amend as marked:

Date:

10/4/18

Notes/guidance for Investigation Team

⇒ No site inspection

Questions	Notes
Assessment team member(s)	
Date to report back to Screening Group (20 working days)	
Comments or guidance on areas to review	

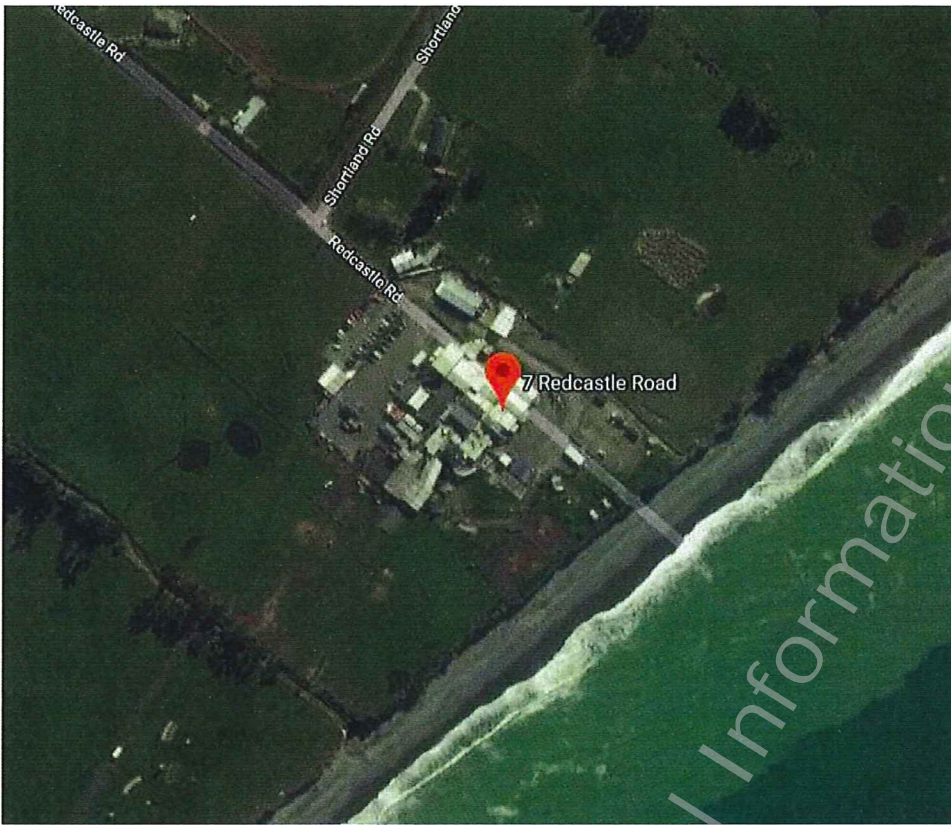
Matters to be considered	Notes
Enforcement tool to be deployed and Implementation person or matter to be closed?	
Otherwise	
Investigation team members	
Lead Investigator (note responsible for setting strategy meeting and devising Investigation Plan)	
Track I or Track II Investigation	
Date of First Advisory Group (note ordinarily 30 working days for Track II and 20 working days for Track I Investigation)	

Information in and attached to this report may be legally privileged

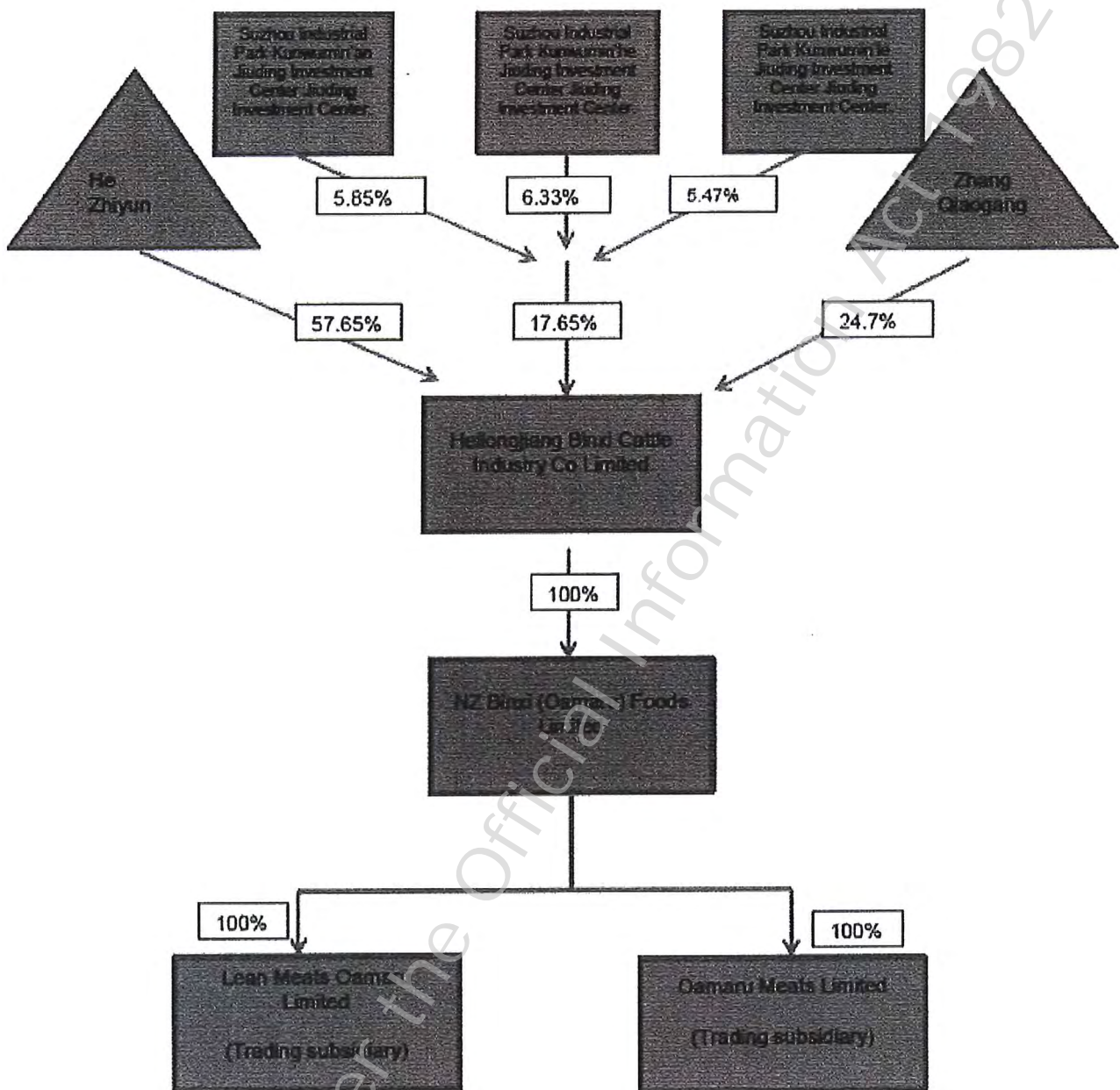
Comments/Guidance on Investigation	
------------------------------------	--

Released under the Official Information Act 1982

Attachment 1 – land information



Attachment 2 – structure diagram



Attachment 3 – consent conditions

Decision Date

01 December 2015

Decision

Consent has been granted to **NZ Binxi (Oamaru) Foods Limited** (the "**Applicant**") to give effect to an overseas investment in sensitive land, being the Applicant's acquisition of rights or interests in up to 100% of the issued share capital of Lean Meats Oamaru Limited which owns or controls a freehold interest in approximately 6.9940 hectares of land at 7 Redcastle Road, Oamaru.

Consent is granted subject to the following conditions:

Statutory Conditions of Consent

Section 28 of the Overseas Investment Act 2005 (the "**Act**") provides that it is a condition of every consent, whether or not it is stated in the consent, that:

- (a) the information provided by each applicant to the Overseas Investment Office or the relevant Ministers in connection with the application was correct at the time it was provided; and
- (b) each consent holder must comply with the representations and plans made or submitted in support of the application and notified by the Overseas Investment Office as having been taken into account when the consent was granted, unless compliance should reasonably be excused.

For the purposes of section 28(1)(b), the representations and plans made or submitted in support of the application and taken into account when consent was granted are those contained in the correspondence listed in the statutory declaration of Richard James Thorp dated 3 November 2015 and in all attachments annexed to that correspondence.

Special 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 15 July 2015.

Business Plan means the business plan set out in Appendix 12 of the Application Letter.

Consent Holder means NZ Binxi (Oamaru) Foods Limited.

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; and
- (c) includes, for the avoidance of doubt, the members of the governing body of NZ Binxi (Oamaru) Foods Limited and Heilongjiang Binxi Cattle Industry Co Limited.

Investment means the Consent Holder's acquisition of rights or interests in up to 100% of the issued share capital in Lean Meats Oamaru Limited which owns or controls a freehold interest in the Land.

Land means the land contained in certificates of title 222052, 440537 and 46609 (Otago Registry).

OIO means the Overseas Investment Office.

Information in and attached to this report may be legally privileged

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.

Regulations means the Overseas Investment Regulations 2005.

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 twelve 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.

Employment condition

3. The Consent Holder must increase the number of job opportunities at the Target on the Land by 90 full time equivalent employees substantially in accordance with section 6 of the Business Plan by 31 December 2018.

Additional investment condition

4. The Consent Holder must introduce additional investment of at least \$6,450,000 into New Zealand for development purposes and use this investment to implement the developments described in section 5 of the Business Plan (and summarised below) substantially in accordance with the Business Plan by 31 December 2018.

Scheduled Year	Development	Estimated Cost
2017	Dedicated Beef Processing Room	\$1,200,000
2017 - 2018	Cold Storage, Blast Freezing and Load-Out Facilities	\$5,000,000
2018	Boiler Replacement	\$250,000
Total Expenditure		\$6,450,000

Increased processing condition

5. The Consent Holder must increase the number of cattle processed at the plant on the Land for each of the calendar years 2016, 2017 and 2018 substantially as set out in the table below.

Year	Number of Cattle Processed	2016 proposed revision	2017 proposed revision
2016	30,000		
2017	40,000	25,000	
2018	50,000	30,000	15,000
2019	N/A	40,000	25,000
2020	N/A	50,000	35,000
2021	N/A	N/A	45,000
2022	N/A	N/A	50,000

Increased exports condition

Information in and attached to this report may be legally privileged

6. The Consent Holder must increase export receipts for New Zealand exporters as described in the Business Plan and the letter from Michael Beck to the Overseas Investment Office dated 19 August 2015 (including the attachments) substantially in accordance with the timeframes set out therein and as set out in the table below.

Year	Number of Cattle Exported	Number of Sheep Exported
2016	30,000	300,000
2017	40,000	330,000
2018	50,000	380,000

Special land condition

7. The Consent Holder must, upon acquiring the Investment:
- Ensure that Lean Meats Oamaru Limited continues to be bound by any offer, arrangement or agreement that it has made, reached or entered into with the Crown in relation to the special land that forms part of the Land;
 - If so required by the Crown, procure Lean Meats Oamaru Limited to enter into a deed of covenant with the Crown to be so bound; and
 - Procure Lean Meats Oamaru Limited to deal with the Crown in accordance with the requirements of the Act as the party making the initial offer of the special land to the Crown.

Reporting to the OIO

8. 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:
- the Settlement Date;
 - final consideration paid (plus GST, if any);
 - the structure by which the acquisition was made, and who acquired the Investment;
 - where applicable, copies of transfer documents and settlement statements; and
 - any other information that would aid the OIO in its function to monitor conditions of consent.

9. The Consent Holder must report in writing annually to the Overseas Investment Office detailing progress of its Business Plan ("**Annual Report**"), including the following:

- the Consent Holder's compliance with conditions 3, 4, 5 and 6;
- the number (in full time equivalent units) and type of any new job opportunities created in New Zealand as a result of the Investment including the value of these jobs (being the annual salary or wages paid); and
- any increased export receipts for New Zealand exporters, including the number of sheep and beef exported, the average price per animal exported and the country the animal was exported to.

The first Annual Report is due on 30 November 2016 and the final report is due on 30 November 2019.

10. The Consent Holder must notify the OIO in writing within 20 working days if:
- 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

Information in and attached to this report may be legally privileged

- (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.
11. 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.

General Condition

12. The OIO will reasonably consider a request for a variation to the Business Plan that arises due to changes in economic and/or environmental conditions outside the Applicant's control, or from any circumstances outside the Consent Holder's control that were reasonably unforeseen at the date of the Application.

Monitoring Conditions of Consent

For the purpose of monitoring conditions of consent, the Overseas Investment Office may, under section 38 of the Act, require the consent holder to provide information or documents, or both, that are specified in the notice. Under section 40 of the Act, the Overseas Investment Office may also require a consent holder to provide a statutory declaration verifying the extent to which the consent holder has complied with the conditions of consent, and, if the consent holder is in breach of a condition or conditions, the reasons for the breach and the steps the consent holder intends to take to remedy the breach.

Sanctions

The Act provides for civil and criminal sanctions for breaching the Act, failing to comply with the conditions of consent and failing to provide information required by the Overseas Investment Office. The Overseas Investment Office has an obligation to investigate and act upon alleged and suspected breaches of the Act.

General

A reference to the "Overseas Investment Office" in this Notice includes a reference to the regulator (as defined by the Act). A reference to the Applicant includes a reference to the consent holder.



Our Ref: 201520010

12 April 2018

NZ Binxi (Oamaru) Foods Limited

By Email

Attention: Richard Thorp

Dear Richard

201520010 NZ Binxi Foods (Oamaru) Limited (NZ Binxi) – compliance with consent conditions

1. Thank you for your letter of 30 March 2018 addressing concerns we had with NZ Binxi meeting a number of its 201520010 consent conditions. Your responses are summarised below.
2. We agree that the appropriate way forward is for NZ Binxi to apply for a variation of the conditions of its consent it is having difficulties with as discussed below.

Condition 3 – New positions

3. You told us that NZ Binxi had not yet employed the 90 additional FTE's required by this condition as it is behind on its expansion plan; and that recruiting additional staff had proved difficult.
4. In addition you stated that work on building the blast freezer will commence towards the end of 2018 with completion due in the first quarter of 2019. This will lead to 4 extra staff being employed to operate the blast freezer.

Condition 4 – Additional investment

5. Condition 4 required NZ Binxi to invest at least an additional \$6,450,000 into New Zealand for development purposes. You told us that to date NZ Binxi had spent \$143,205.72 on this requirement.
6. You have stated that given the subdued current and forecasted returns on beef NZ Binxi will need to make application to vary its consent to push back the completion of building the beef boning facility to 2021.

Condition 5 – Increased processing

7. Condition 5 required NZ Binxi to increase the number of cattle processed at the plant on the Land for each of the calendar years 2016, 2017 and 2018.
8. Our letter of 14 March 2018 compared the increased numbers of cattle NZ Binxi agreed to process to the actual numbers processed in the table below.

Year	A. Number of Cattle Processed	B. Actual Number of Cattle Processed
2016	30,000	8,056 ¹
2017	40,000	9,186 ²

¹ Per email dated 2 March 2017

² Per email dated 26 January 2018

2018	50,000	
------	--------	--

9. You told us the shortfall was due to a number of reasons including:
- (a) A depressed global beef market;
 - (b) Difficulty with obtaining sufficient stock to process; and
 - (c) NZ Binxi focusing on its stronger and more profitable sheep processing activities.

Condition 6 – Increased exports

10. Condition 6 required NZ Binxi to increase export receipts for New Zealand exporters substantially in accordance with the following table.

Year	Number of Cattle Exported	Number of Sheep Exported
2016	30,000	300,000
2017	40,000	330,000
2018	50,000	380,000

11. You provided the table below showing the actual export results for the 2016 and 2017 years. As can be seen NZ Binxi has not met the required beef and sheep numbers.

	2016		2017		\$ /+
	\$\$	Head	\$\$	Head	
Bovine	Section 9(2)(b)(ii)	5,303	Section 9(2)(b)(ii)	8,980	Section 9(2)(b)(ii)
Lamb		71,472		158,430	
Mutton		25,306		23,076	
Goat		5,963		2,014	
Veal		28,601		30,072	
Beef Offal					
Ovine Offal					
Pork		2,465		2,343	

Way forward

12. Based on the information provided our view is the NZ Binxi may now be in breach of Conditions 5 & 6 as the number of beef/sheep processed and exported during 2016 & 2017 was less than required by the consent.
13. It also appears that NZ Binxi may be at risk of not complying with Conditions 3 & 4 as these were largely dependent on building the blast freezer and beef boning facility by the end of 2018. You have advised that these buildings will be delayed to 2019 and 2021.

14. As identified in your letter an appropriate solution appears to be that NZ Binxi applies for a variation of its consent conditions in terms of section 27 of the Overseas Investment Act. This will enable the OIO to fully consider the investment made to date, as well as the extent and timing of the investment(s) yet to be completed.
15. We also understand that NZ Binxi is also considering applying for a variation in relation to consent - Decision 201610121 relating to the Shortland Road property.
16. Attached to this letter is a draft template that you can use to apply to vary the consent conditions. The draft template includes useful guidance about the process and the type of information we find useful when considering variations. It is not compulsory to use the draft template, but it is certainly seen as helpful.
17. If you decide to go ahead with the variations, we would suggest you apply as soon as practicable as the deadline for some of the conditions is fast approaching.

Site Visit

18. Thank you also for the positive response to a site visit by the OIO. We think that a site visit would be very helpful. We suggest that the most useful time for a visit would be following receipt of any variation application, as there would be benefit from having a colleague from the applications team also in attendance.

Yours sincerely

s9(2)(a)

Gary Bailey
Senior Investigator
Overseas Investment Office

DDI: +64 4 831 1666
Email: gbailey@linz.govt.nz

Released under the Official Information Act 2002

Site Inspection Report

201520010 – NZ Binxi (Oamaru) Foods Limited

Key information

Asset type (e.g. farm, dairy factory)	Meat processing plant
Site location	Oamaru
Consent holder / key contact	NZ Binxi (Oamaru) Limited / Richard Thorp (NZ Director)
Timing & duration	Tuesday 25/9/18
Inspection Team	Gary Bailey, Senior Investigator, Enforcement - Llinos Morgan, Senior Solicitor Applicants
Report prepared by	Gary Bailey, Senior Investigator, Enforcement
Report prepared for	Kirsty Millard, Manager Enforcement

Background

1. NZ Binxi (Oamaru) Foods Limited (**NZ Binxi**) obtained consent in 2015 to acquire up to 100% of the shares in Lean Meats Oamaru Limited (Lean Meats) which owns or controls a freehold interest in three parcels of land of approximately 6.9940 hectares at 7 Redcastle Road, Oamaru (Otago Land District).
2. During triage and the assessment phase a review Binxi's 2017 annual report identified that it was likely that NZ Binxi would breach the consent conditions below:
 - (a) Conditions 3 - employing 90 additional staff,
 - (b) Condition 4 - additional investment of at least \$6,450,000 for development purposes on a new boiler, blast freezer and building a dedicated beef processing room by the end of 2018,
 - (c) Condition 5 - processing the number of cattle required for the calendar years 2016 (30,000) and 2017 (40,000).
3. As a result of our correspondence NZ Binxi admitted that it hadn't met its required targets and requested information on how to submit an application to vary its consent conditions.
4. NZ Binxi submitted its variation application on 6 August 2018 and invited the OIO to visit the Oamaru lean meats processing site.
5. The purpose of this report is to record the observations made during the site inspection. The photos taken during the site inspection have been filed on the shared L drive under OIO - Site Visits folder.

Site Inspection

6. The inspection took place from approximately 12.30am to 3.30pm on Tuesday 25 September 2018. Llinos Morgan (Applications) and I were hosted by Richard Thorp (Operations Manager and NZ Director) on the day of the visit.

7. Before physically inspecting the site we had a general discussion with Richard about the history of the overseas investment into Binxi and then the particular aspects of the variation. We also covered the accommodation consent 201610121 and the Blue Sky Meats takeover consent 201710013.

Figure 1: Entrance to NZ Binxi - Oamaru



8. Richard then took us on a walking tour of the processing plant and grounds. Along the way he discussed some of the processing efficiencies Binxi had employed since the overseas investment. He also showed us where on the site the blast freezer and the beef boning room would be situated.
9. Prior to the physical inspection Richard gave us a Health & Safety briefing. We were also given high-visibility vests and gumboots to conduct the inspection. Richard said this was all that was required as the plant was in between shifts so no equipment would be operating during our inspection.

Figure 2: Llinos in Health & Safety equipment supplied by Binxi



History of overseas investment in Binxi

10. Richard explained the background to the overseas investment into Oamaru Lean Meats. Richard said that when he returned to run Lean Meats Oamaru (previous name of NZ Binxi) around 2010 its balance sheet was showing a company in distress. The only option to save the company was to seek a new partner/owner that could inject fresh capital. As there was no apparent NZ investor Richard began discussions with Heilongjiang Binxi Cattle Industry Co Limited (**Binxi China**) run by a Chinese entrepreneur Zhiyun He.
11. Richard said that Binxi China was the number one beef processing meat company in China s9(2)(b)(ii) Mr He (its major shareholder) was keen to invest into a NZ meat processing plant, particularly once NZ Binxi obtained the MPI Chinese license to export meat to China. In 2014 Binxi China acquired 24.9% of Lean Meats Oamaru and then received consent to acquire 100% in 2015.
12. Richard said absent the Binxi China's investment and OIO approval of the original consent NZ Binxi would not have survived resulting in the loss of around 200 jobs and the economic benefits to the local Oamaru community.
13. Figure 2 below is a print of Binxi China's head office situated in Harbin¹ which is the capital of the Heilongjiang province and the largest city in the northeastern region of China.

Figure 3: Print of Binxi China headquarters



¹ <https://en.wikipedia.org/wiki/Harbin>

14. Richard explained that he visited Binxi China headquarters in Harbin 4 to 5 times a year and a contingent from Binxi China visits NZ 2/3 times a year to check on its investment. Richard said it was a 27 hour trip from Christchurch. He stated that he had just returned from visiting Binxi China in Harbin because he wanted to impress on Mr He the importance of the consent variation and the site visit by the OIO. Mr He has confirmed to Richard that he remains committed to the NZ investment and providing the funds for the plant expansion subject of the variation.

Figure 4: Map Location of Harbin in China



15. We asked why Binxi China had not provided the funding to expand the plant sooner as required by the original consent. Richard said this was due to a number of factors including the depressed state of the beef market internationally affecting returns and [REDACTED]. During Richard's most recent visit to Harbin he impressed on Mr He the need to commit to its NZ meat processing plant [REDACTED].
16. [REDACTED]
17. [REDACTED] However throughout our conversation Richard admitted that they may have over estimated the amount of beef processing it would do and that sheep processing was still where NZ Binxi extracted the best returns. He said this was the reason that the variation talked about stock numbers with the 1-8 beef to sheep ration rather than splitting it out for beef and sheep numbers. It was also the reason that NZ Binxi had not rushed to build a dedicated beef boning rooms as the financial commitment to do this would be detrimental to its survival financially.
18. This lead onto the discussion about NZ Binxi's variation application which I have illustrated with photos taken from our tour of the meat processing plant.

201520010 Variation discussion and inspection

19. We prefaced the variation conversation by saying that - any benefits claimed or estimated needed to be realistic, any milestones needed to be measurable, and any timeframes had to have a specific date for completion. We also said that NZ Binxi would be held to account for any benefits claimed as we had done with the original consent, therefore it was in NZ Binxi's best interests that they should be achievable. Richard said he understood this and that he did not want to be sitting in a room with us in future explaining why things had not been done again.
20. We also told Richard that given the proposed variation timelines NZ Binxi would continue to be monitored for around another 5 years. Richard said he understood this also.

New boiler

21. Richard said that replacing the existing boiler was currently the top priority for the variation as it was over 45 years and operating at 60% of its capacity. It is fueled by lignite coal which is very expensive (\$450 per metric tonne) and the smoke from this is not good for the environment. The plan is to replace the existing boiler with a new and more efficient boiler fueled by less expensive coal (\$180 per metric tonne) that produces less smoke - this would also be better for the environment. The new boiler will be housed in an existing building away from where stock is held prior to processing and away from the processing plant generally.
22. The variation states that the new boiler was scheduled to be replaced in 2019 costing \$350,000. We asked whether there was a firmer timeframe for this. Richard stated a \$150,000 deposit had been paid and it was due to be installed by the latest June 2019. When we asked Richard said no other resource type of consent was required to install a new boiler inside the existing building.
23. We advised that the firmer date for installation and the additional information about the nature (smaller, more efficient and better for environment) of the new boiler helped flesh out the benefits claimed and should be included in any variation comments.

Figure 5: Binxi's exiting boiler site

