

To: Hon Dr David Clark, Associate Minister of Finance
Hon Eugenie Sage, Minister for Land Information

ASSESSMENT REPORT: Regenal Investments Pty Limited

Date	8 August 2019	Classification	IN CONFIDENCE: Commercially sensitive
OIO reference (Report reference)	201810179 #1463	Priority	High

Action Sought

Minister	Action	Suggested Deadline
Hon Eugenie Sage, Minister for Land Information	<ol style="list-style-type: none"> Review the attached report and decide whether to grant consent to the application Forward the report and attachments to the Associate Minister of Finance 	18 October 2019
Hon Dr David Clark, Associate Minister of Finance	<ol style="list-style-type: none"> Review the attached report and decide whether to grant consent to the application Forward the report and attachments to the Overseas Investment Office 	18 October 2019

LINZ Contacts

Name	Position	Contact number	First contact
Charlotte Connell	Manager Applications	[s 9(2)(a)]	<input checked="" type="checkbox"/>
Clare Needham	Principal Advisor	+64 4 460 2720	<input type="checkbox"/>
Lauren Gillies	Graduate Solicitor	+64 4 462 4490	<input type="checkbox"/>

Minister's office to complete

1 = Was not satisfactory 2 = Fell short of my expectations in some respects 3 = Met my expectations
4 = Met and sometimes exceeded my expectations 5 = Greatly exceeded my expectations

Overall Quality	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input type="checkbox"/> 5
Comments					
<input type="checkbox"/> Noted	<input type="checkbox"/> Seen	<input type="checkbox"/> Approved	<input type="checkbox"/> Overtaken by events		
<input type="checkbox"/> Withdrawn	<input type="checkbox"/> Not seen by Minister	<input type="checkbox"/> Referred to:			

ASSESSMENT REPORT: Regenal Investments Pty Limited

Overview

Purpose

1. We seek Ministers' decision on the application by Regenal Investments Pty Limited (**Applicant**) under the Overseas Investment Act 2005 (the **Act**) to acquire the remaining 27.7% ownership interest in Belvino Investment Trust (**BIT**) and its trustee Belvino Investments Pty Ltd (**Belvino Trustee**). The Applicant already owns 72.3% of BIT and Belvino Trustee.
2. BIT owns approximately 703.42 hectares of sensitive land located in Marlborough and the Hawkes Bay. BIT owns the freehold interest in three vineyards which are currently leased to Delekat Group Limited (**Delekat's**) comprising:
 - approximately 360.79 hectares at 1301 and 1370 Matapiro Road, Crownthorpe, Hawkes Bay (**Crownthorpe vineyard**);
 - approximately 200.52 hectares at 1824 Redwood Pass Road, Lower Dashwood, Marlborough (**Dashwood vineyard**); and
 - approximately 142.11 hectares at 58 Flaxmill Drive, Rarangi, Marlborough (**Rarangi vineyard**).

Key information

Applicant	Regenal Investments Pty Limited Hong Kong (SAR) 80.1%; Various 17.2%; United States of America 2.7%; Canada, People's Republic of China, Macau, Australia, Singapore and Malta together less than 0.01%)
Vendors	LANV Pty Ltd (Australia 100%;)
Consideration	\$15,340,000
Application type	Sensitive land - not residential
Relevant tests	Investor test (s16(1)(a)-(d) of the Act) Benefits test – substantial and identifiable benefits (s16(1)(e)(ii) and (iii) of the Act) <ul style="list-style-type: none">• Farm Land offer criterion (s16(1)(f) of the Act) and Section 20(a) exemption Transitional note: The contract for this transaction was entered prior to commencement of the Overseas Investment Amendment Act 2018, so the version of the Act and the regulations in force immediately before its commencement continue to apply.

3. Please refer to the **A3 in Attachment 8** for overview tables summarising the application and the Overseas Investment Office's (**OIO's**) assessment.

Provisional recommendations

4. Our provisional recommendation is to **grant consent**.
5. However, we note the following issues that require Ministerial attention:
 - in the context of the rural land directive set out in the current Ministerial Directive letter, this application is finely balanced as to whether it meets the 'substantial and identifiable' benefit test

- however, after carefully considering the particular circumstances in relation to this investment and applicant, and taking a proportional approach to the interest being acquired, which is an increase in the existing ownership interest, we are of the view that the 'substantial and identifiable' benefit test could be met
 - an exemption has been requested to the requirement for farm land advertising and we recommend that you grant the exemption for reasons set out in the report.
6. If you agree to grant consent, we recommend that you make the determinations set out in paragraphs 7 to 10 below.

[s 9(2)(a)]

Charlotte Connell
Manager Applications (Overseas Investment Office)

Date: 08/08/2019

Decision

7. I determine that:

- 7.1 the 'relevant overseas person' is (collectively):

Entity	Relationship
Regenal Investments Pty Limited	The Applicant
Laneger Pty Limited (Laneger)	Sister company and nominee of the Applicant
Regenal Management Services Pty Limited (RMSPL)	Entity providing management services to the Applicant
CK Life Sciences Int'l. (Holdings) Inc. (CKLS)	Parent company of the Applicant

- 7.2 the 'individuals with control of the relevant overseas person' are:

IWC	Role
Jerry Yiu Leung Mo	Directors of the Applicant, Laneger, RMSPL, Belvino Trustee and Belvino Investments No. 2 Pty Limited Mr Yu is also a director of CKLS
Alan Abel Ying Choi Yu	
Shane Augustus Breheny	
Richard Clive Pearson	Advisor to BIT
Angus Huw Barrington-Case	General Manager of RMSPL and alternate director of Belvino Trustee
Hing Lam Kam	Directors of CKLS
Victor Tzar Kuoi Li	
Edmond Tak Cheun Ip	
Melvin Kean Meng Toh	
Paul Joseph Tighe	
Colin Stevens Russel	
Peter Pearce Tulloch	
Kai Cheong Kwan	
Eva Lee Kwok	

- 7.3 the individuals with control of the relevant overseas person collectively have business experience and acumen relevant to the overseas investment;
- 7.4 the relevant overseas person has demonstrated financial commitment to the overseas investment;
- 7.5 all the individuals with control of the relevant overseas person are of good character; and
- 7.6 each individual with control of the relevant overseas person is not an individual of the kind referred to in section 15 or 16 of the Immigration Act 2009 (which sections list certain persons not eligible for visas or entry permission under the Immigration Act).

8. I am satisfied that the investor test, as outlined in paragraph 7 above, has been met; and

Associate Minister of Finance

Minister for Land Information

Satisfied

Satisfied

Not Satisfied

Not Satisfied

9. I am satisfied that:

- 9.1 the remaining criteria for consent in section 16 have been met;
- 9.2 the overseas investment will, or is likely to, benefit New Zealand (or any part of it or group of New Zealanders); and
- 9.3 the benefit will be, or is likely to be, substantial and identifiable.

Associate Minister of Finance

Minister for Land Information

Satisfied

Satisfied

Not Satisfied

Not Satisfied

10. I agree to exempt the Applicant from the section 16(1)(f) criterion (that farm land or farm land securities to which the overseas investment relates have been offered for acquisition on the open market to persons who are not overseas persons in accordance with the procedure set out in regulations) under section 20(a) by reason of the circumstances relating to the particular overseas investment, interest in land, or rights and securities as set out in the Report.

Associate Minister of Finance

Minister for Land Information

Satisfied

Satisfied

Not Satisfied

Not Satisfied

11. Consent is granted to the investment in the form of the Proposed Decision in **Attachment 1**

Associate Minister of Finance

Grant consent subject to the conditions in the Proposed Decision

Grant consent with amended conditions provided on:

Consent declined

Minister for Land Information

Grant consent subject to the conditions in the Proposed Decision

Grant consent with amended conditions provided on:

Consent declined

Hon Dr David Clark
Associate Minister of Finance
Date: / /

EM Sage
Hon Eugenie Sage
Minister for Land Information
Date: 4 / 10 / 19 .

Released under the Official Information Act 1982

- 7.3 the individuals with control of the relevant overseas person collectively have business experience and acumen relevant to the overseas investment;
- 7.4 the relevant overseas person has demonstrated financial commitment to the overseas investment;
- 7.5 all the individuals with control of the relevant overseas person are of good character; and
- 7.6 each individual with control of the relevant overseas person is not an individual of the kind referred to in section 15 or 16 of the Immigration Act 2009 (which sections list certain persons not eligible for visas or entry permission under the Immigration Act).

8. I am satisfied that the investor test, as outlined in paragraph 7 above, has been met; and

Associate Minister of Finance

Minister for Land Information

- | | | | |
|---------------|-------------------------------------|---------------|--------------------------|
| Satisfied | <input checked="" type="checkbox"/> | Satisfied | <input type="checkbox"/> |
| Not Satisfied | <input type="checkbox"/> | Not Satisfied | <input type="checkbox"/> |

9. I am satisfied that:

- 9.1 the remaining criteria for consent in section 16 have been met;
- 9.2 the overseas investment will, or is likely to, benefit New Zealand (or any part of it or group of New Zealanders); and
- 9.3 the benefit will be, or is likely to be, substantial and identifiable.

Associate Minister of Finance

Minister for Land Information

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| Satisfied | <input checked="" type="checkbox"/> | Satisfied | <input type="checkbox"/> |
| Not Satisfied | <input type="checkbox"/> | Not Satisfied | <input type="checkbox"/> |

10. I agree to exempt the Applicant from the section 16(1)(f) criterion (that farm land or farm land securities to which the overseas investment relates have been offered for acquisition on the open market to persons who are not overseas persons in accordance with the procedure set out in regulations) under section 20(a) by reason of the circumstances relating to the particular overseas investment, interest in land, or rights and securities as set out in the Report.

Associate Minister of Finance

Minister for Land Information

- | | | | |
|---------------|-------------------------------------|---------------|--------------------------|
| Satisfied | <input checked="" type="checkbox"/> | Satisfied | <input type="checkbox"/> |
| Not Satisfied | <input type="checkbox"/> | Not Satisfied | <input type="checkbox"/> |

11. Consent is granted to the investment in the form of the Proposed Decision in **Attachment 1**

Associate Minister of Finance

Grant consent subject to the conditions in the Proposed Decision

Grant consent with amended conditions provided on:

Consent declined



Hon Dr David Clark

Associate Minister of Finance

Date: 16 / 10 / 19

Minister for Land Information

Grant consent subject to the conditions in the Proposed Decision

Grant consent with amended conditions provided on:

Consent declined

Hon Eugenie Sage

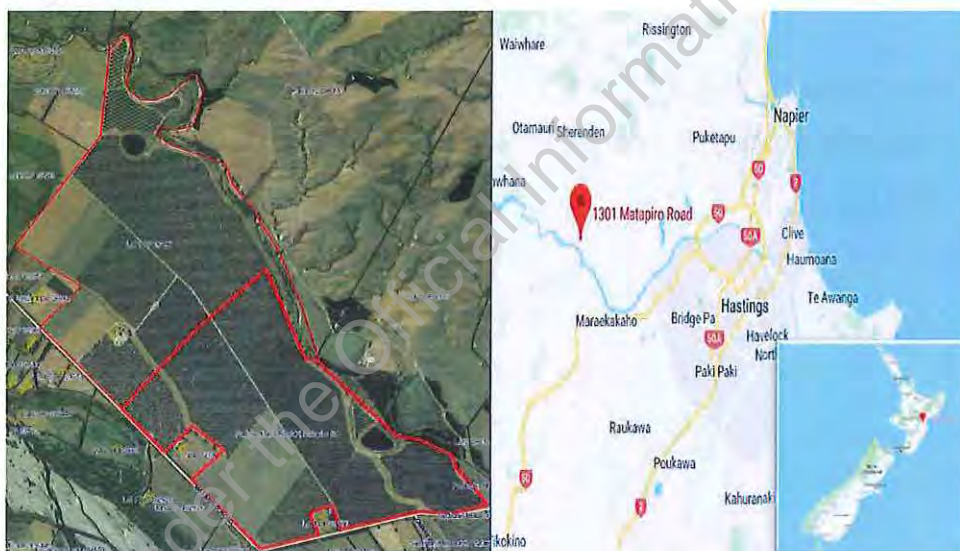
Minister for Land Information

Date: / /

Released under the Official Information Act 1982

Executive summary

12. Regenal Investments Pty Limited (**Applicant**) is applying for consent to acquire 27.7% of the units in Belvino Investment Trust (**BIT**) and 27.7% of the shares in Belvino Investments Pty Ltd (**Belvino Trustee**). Regenal currently owns 72.3% of the units and shares in BIT and Belvino Trustee. Regenal obtained OIO consent for its acquisition of 72.3% of BIT in 2011.¹ Therefore, this transaction will result in the Applicant moving from majority (72.3%) to full (100%) ownership of BIT and Belvino Trustee.
13. BIT owns multiple vineyards in Australia and, through its sub-trust Delegats Trust, owns three vineyards in New Zealand, which together comprise approximately 703.42 hectares of freehold land that is sensitive land under the Act (collectively **the Land**) as follows:
 - **Crownthorpe Vineyard** – Hawkes Bay: comprising approximately 360.79 hectares.

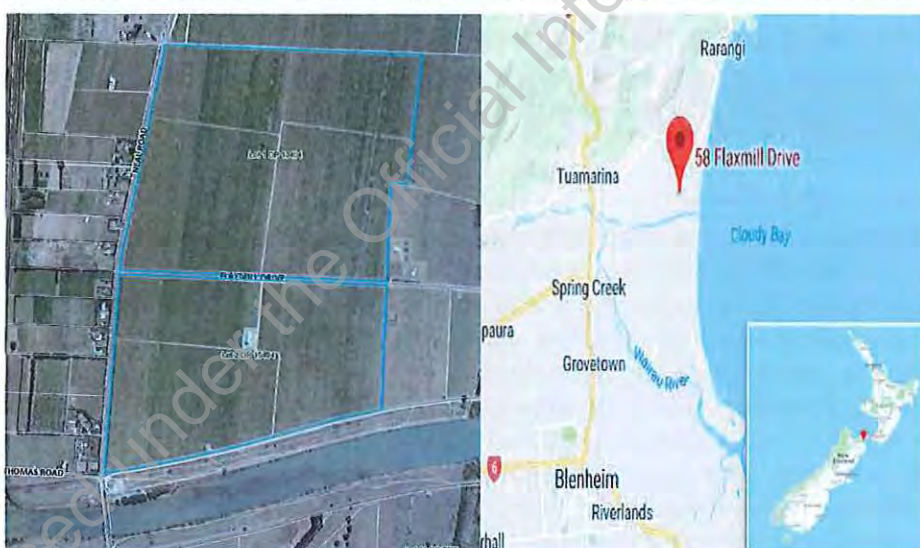


¹ OIO reference 201020097.

- **Dashwood Vineyard** – Marlborough: comprising approximately 200.52 hectares.



- **Rarangi Vineyard** – Marlborough: comprising approximately 142.11 hectares



14. The vineyards are leased to Delegat's, a leading New Zealand winemaker, with the flagship brand Oyster Bay. The Applicant states the proposed investment will not change the control or use of the Land and is intended to ensure business continuity for the current majority overseas owner (i.e. the Applicant).
15. The vendor, LANV Pty Ltd (**Vendor**), is a wholly owned subsidiary of Challenger Life Company Ltd (**CLC**), an Australian life insurance company.
16. Since 2011, the Vendor and Applicant have held 27.7% and 72.3% of BIT / Belvino Trustees respectively. Until August 2018, the Vendor held the management contract for BIT's assets, which was then awarded to the Applicant's wholly owned subsidiary, Regenal Management Services Pty Limited (**RMSPL**).
17. The Applicant has made beneficial investment in the Land since it acquired its original interest in BIT / Belvino Trustee in 2011 and intends to continue to do so. The Applicant considers it will be better placed to invest in the Land after the exit of an unwilling minority owner (i.e. the Vendor).

18. The proposed investment is part of a trans-Tasman transaction involving ownership and management of vineyards in Australia and New Zealand. The New Zealand transaction is the smaller part of the deal, but cannot be split off from it. Consent has already been given by the Australian regulator. If consent cannot be granted to the New Zealand investment, the whole transaction will fail. This transaction must be publically announced, in accordance with the Hong Kong Stock Exchange Listing Rules.

19. The benefits to New Zealand that may result from this investment include:

Moderate weighting		Previous investments Image, trade or international relations, international obligations Enhance viability of other investments
Weak weighting		Consequential benefits

20. Guidance for applying the Act is set out in **Attachment 2**.

Timeframes

21. We seek Ministers' decision on this application by 18 October 2019 to enable the Applicant to meet the deadline in its agreement for sale and purchase.

22. The Applicant has requested a decision be made by 31 October 2019.

23. Processing days for the application to date are:

Quality Assurance	OIO Processing	Waiting for Applicant / Vendor	Third party consultation
7	114	86	0

24. The Overseas Investment Office (OIO) accepted the application for processing on 2 October 2018. OIO sent a proposal to decline letter to the Applicant on 18 December 2018, indicating it was not satisfied on the information then provided that the application could meet the 'substantial and identifiable' benefit test. The reasons for this assessment largely related to there being insufficient information provided by the Applicant for OIO to be able to determine the benefits that were likely to occur as a result of the proposed Investment. OIO requested further information to address its concerns. The Applicant requested an extension of time to provide this further information, until the end of February 2019. OIO met the Applicant's representative on two occasions and the Applicant provided further information in support of the application in letters dated 28 February, 12 April and 14 June 2019. Copies of OIO's letters to the Applicant and the Applicant's responses are included in **the Bundle**.

Provisional recommendation

25. Our provisional recommendation is to **grant consent**.

26. However, we note the following issues that require Ministerial attention:

- In the context of the rural land directive set out in the current Ministerial Directive letter, this application is finely balanced as to whether it meets the 'substantial and identifiable' benefit test.
- However, after carefully considering the particular circumstances in relation to this investment and Applicant, and taking a proportional approach to the interest being acquired, which is an increase in the existing ownership interest, we are of the view that the 'substantial' and identifiable' benefit test could be met.

- An exemption has been requested to the requirement for farm land advertising and we recommend that you grant the exemption for reasons set out in this report at **paragraphs 68-73**.

Applicant and investor test

27. This section describes the applicant, and whether the investor test criteria in the Act are likely to be met.

Overview of assessment: investor test

Element of investor test	OIO assessment of strengths and weaknesses		Cross-references
	Risk Barometer	Summary	
Relevant overseas persons (ROP) and individuals with control (IWC) confirmed	Identified	ROPs & IWCs have been identified.	Section 15 of the Act. Paragraphs 31-38.
Collectively have business experience and acumen relevant to the investment	Test met	The ROPs and IWCs collectively have relevant business experience and acumen.	Sections 16(1)(a) of the Act. Paragraphs 39-41.
ROP demonstrated financial commitment	Test met	The Applicant has demonstrated financial commitment by: <ul style="list-style-type: none"> • entering into the Share and Unit Sale and Purchase Agreement dated 7 September 2018 to acquire the assets • engaging professional advisers previously acquiring and maintaining ownership of other business assets associated with this investment, namely 72.3% units / shares in BIT / Belvino Trustee respectively.	Sections 16(1)(b) of the Act.
Good character	Test met	We are satisfied that the ROPs / IWCs are of good character. Matters were identified including some instances of litigation and ICIJ findings, however, we are satisfied that these do not demonstrate a lack of good character of the relevant individuals with control.	Sections 16(1)(c) of the Act. Paragraphs 42-44 and Attachment 7.
Not an individual of the kind ineligible for a visa or entry permission under ss 15 or 16 of the Immigration Act 2009	Test met	A statutory declaration has been provided confirming that each individual is not of the kind referred to in sections 15 and 16 of the Immigration Act.	Sections 16(1)(d) of the Act.

Who is making the investment

28. The investment is being made by Regenal Investments Pty Limited (**Applicant**). The Applicant is the current owner of 72.3% of BIT and Belvino Trustee. The Applicant has held that ownership interest since acquiring it, with OIO consent, in 2011.
29. The investment is part of a larger trans-Tasman transaction. The Applicant may need to use its sister company, Laneger Pty Ltd (**Laneger**) as a nominee to acquire 0.1% of the 27.7% interest in BIT / Belvino Trustee to ensure compliance with any Australian requirements in relation to the final structure.² Both the Applicant and Laneger were incorporated in Australia.
30. The following diagram illustrates ownership of the Applicant.

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

² In the event consent is granted, the Applicant will be conditioned to report to OIO if the nomination of Laneger is made.

Ownership and control of the Applicant

Who owns the Applicant

31. The Applicant is indirectly 100% owned by CK Life Sciences Int'l (Holdings) Inc. (**CKLS**) through three holding companies. CKLS is listed on the Hong Kong Stock Exchange and has interests in nutraceuticals, pharmaceuticals and agriculture.
32. 45.31% of the shares in CKLS (and therefore the Applicant) are owned by CK Hutchison Holdings Limited (**CK Hutchison**), one of the largest companies listed on the Hong Kong Stock Exchange. CK Hutchison has interests in ports, retail, infrastructure, energy and telecommunications.
33. 29.50% of the remaining shares are held by the [s 9(2)(b)(ii)] and the rest are widely held.

Who controls the Applicant

34. The following entities collectively comprise the relevant overseas person (**ROP**) for the purposes of the Act for the following reasons:
 - **the Applicant**: the Applicant entered into a Share and Unit Sale and Purchase Agreement dated 7 September 2018 (the **Agreement**) with the Vendor to acquire the remaining units and shares in BIT and Belvino Trustee (It currently holds the majority of those units and shares).
 - **Laneger**: the Agreement permits the Applicant to nominate Laneger to acquire units/ shares in BIT / Belvino Trustee.
 - **RMSPL**: this entity is a wholly owned subsidiary of the Applicant. RMSPL has been engaged to manage the assets of BIT and its sub-trusts. RMSPL will also have some control over the day-to-day management and operation of BIT and Belvino Trustee. RMSPL will provide industry / business experience and acumen to BIT and its sub-trusts.
 - **CKLS**: As the ultimate parent company of the Applicant, CKLS will have an indirect 100% ownership interest in BIT and Belvino Trustee after completion. CKLS has effective control over the investment decision. It is providing the funding for the investment and could approve its divestment. The RMSPL team will report directly to CKLS if the proposed transaction is completed.
35. We consider the following entities (which appear in the ownership diagram at **paragraph 30**) do not comprise the ROP for the purposes of the Act for the reasons set out in **Attachment 6**: [s 9(2)(ba)(i)]
36. [s 9(2)(b)(ii)] and other beneficial owners of CKLS have not been identified as ROP or IWCs for the following reasons:
 - Both CKLS and CK Hutchison are listed on the Hong Kong Stock Exchange and their securities are widely held.
 - The Applicant advises that, except for matters specifically reserved to shareholders at general meetings, the day-to-day operation and management of CKLS is vested in its board.
 - We consider it appropriate, therefore, that the directors of CKLS are included as IWCs in relation to the proposed investment, but not the beneficial owners of CKLS or CK Hutchison.
37. We have determined that the 'relevant overseas person' (**ROP**) is (collectively):

ROP	Relationship
Laneger Pty Limited	Sister company and nominee of the Applicant
Regenal Management Services Pty Limited	Entity providing management services to Applicant
CK Life Sciences Int'l., (Holdings) Inc.	Parent company of the Applicant
Regenal Investments Pty Limited	The Applicant

38. We have determined that the 'individuals with control of the relevant overseas person' (IWC) are:

IWC	Role
Jerry Yiu Leung Mo	Directors of the Applicant, Laneger, RMSPL, Belvino Trustee and Belvino Investments No. 2 Pty Limited
Alan Abel Ying Choi Yu	
Shane Augustus Breheny	Mr Yu is also a director of CKLS
Richard Clive Pearson	Advisor to BIT
Angus Huw Barrington-Case	General Manager of RMSPL and alternate director of Belvino Trustee
Hing Lam Kam	Directors of CKLS
Victor Tzar Kuoi Li	
Edmond Tak Cheun Ip	
Melvin Kean Meng Toh	
Paul Joseph Tighe	
Colin Stevens Russel	
Peter Pearce Tulloch	
Kai Cheong Kwan	
Eva Lee Kwok	

Business experience and acumen

s16(1)(a) and 18(1)(a) of the Act.

The relevant overseas person, or the individuals with control of the relevant overseas person, must have business experience and acumen relevant to the overseas investment. There is considerable flexibility in determining what is relevant and more or less specific expertise may be required depending on the nature of the investment. Business experience and acumen that contributes to an investment's success may be treated as relevant even though the investor may have to supplement its experience and acumen by utilising the experience and acumen of others to ensure the investment succeeds.

39. In this case, the overseas investment can be described as the ownership and management of three vineyards in Hawkes Bay and Marlborough.
40. The OIO reviewed the biographical information provided by the Applicant for each of the IWCs and notes:
- the IWCs collectively have general business experience in areas including business administration and technology project management. They also have experience in providing financial management, accounting and auditing services in the manufacturing sector;
 - the Applicant currently holds 72.7% of the units and shares in BIT and Belvino Trustee respectively and has done so since 2011; it has directly relevant business experience and acumen as a result of this ownership including experience owning the Land; and
 - RMSPL and its management personnel, in particular Angus Barrington-Case, have experience managing vineyard investments in Australia and New Zealand, including, since August 2018, the Land.

41. Having regard to the above, the OIO is satisfied that the individuals with control of the relevant overseas persons collectively have business experience and acumen relevant to the overseas investment.

Good character assessment

s16(1)(c) and 18(1)(c) of the Act.

The decision maker must be satisfied that the individuals with control are of good character. Section 19 of the Act specifies that the decision maker must take the following factors into account (without limitation):

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

42. The Applicant provided a statutory declaration stating that the individuals with control are of good character, have not committed an offence or contravened the law as described above and know of no other matter that reflects adversely on their fitness to have the Investment. We are satisfied that the statutory declaration can be relied on as it complies with the requirements of the Oaths and Declarations Act 1957.
43. We carried out standard open-source checks, which revealed some instances of litigation. Having considered each of those, taking into account the proximity of the relevant individuals with control to the matters in issue, the relevance of those matters to the proposed investment and any steps taken in mitigation, we are satisfied that the matters identified do not demonstrate a lack of good character of the relevant individuals with control. A schedule of our good character searches, the Applicant's comments and our analysis is set out in **Attachment 7**.
44. Overall, we are satisfied that the individuals with control are of good character.

Provisional conclusion – Investor test

45. Our provisional conclusion is that the investor test is met.

Investment and benefits test

46. This section describes the proposed investment, and our assessment of whether it is likely to meet the benefit criteria in the Act.
47. This is a finely balanced application. As described below, it involves a large parcel of rural land on which an iconic New Zealand winemaker produces an internationally recognised product. The transaction focuses on business continuity and on-going ownership and control of the Land by an investor with a track record of beneficial investment, who promises to continue to invest in the Land in a similar way but with minimal commitments to substantial new investment. The transaction is part of a wider, trans-Tasman transaction that will fail without OIO consent.

Summary of the proposed transaction and the Investment Plan

48. The Applicant seeks to secure 100% ownership of the units and shares in BIT and its trustee Belvino Trustee. The Applicant currently holds a 72.3% interest in those entities, acquired with OIO consent in 2011.

Trans-Tasman context of the transaction

49. BIT's Australian and New Zealand vineyard assets are held in one legal vehicle. The Applicant says that, in a transactional context, it is not legally possible for the

Applicant's acquisition of the Vendor's interest in the New Zealand vineyards to be disconnected from its interest in BIT, which owns the Australian assets as well. Consent to the New Zealand element of the transaction is required for the trans-Tasman transaction to proceed. The outcome of the overall transaction must be made public to comply with the listing rules of the Hong Kong Stock Exchange.

Agreement

50. The Applicant entered into an Agreement with the Vendor on 7 September 2018 to acquire 27.7% of the units and shares in BIT and Belvino Trustee respectively for \$15,340,000.³

New Zealand vineyards and Delegat's

51. BIT through its sub-trust, Delegats Trust, owns three vineyards in New Zealand (Crownthorpe in Hawkes Bay; Dashwood and Rarangi in Marlborough), which it leases to Delegat's.
52. The vineyards comprise approximately 703.42 hectares of freehold land that is sensitive land under the Act (collectively the **Land**):
- approximately 360.79 hectares at 1301 and 1370 Matapiro Road, Crownthorpe, Hawkes Bay (**Crownthorpe vineyard**);
 - approximately 200.52 hectares at 1824 Redwood Pass Road, Lower Dashwood, Marlborough (**Dashwood vineyard**); and
 - approximately 142.11 hectares at 58 Flaxmill Drive, Rarangi, Marlborough (**Rarangi vineyard**).
53. Full details of the Land are set out in **Attachment 4**.
54. Delegat's flagship brand is Oyster Bay.



Vendor and 2011 acquisition

55. The Vendor is an overseas person, being a wholly owned subsidiary of Challenger Life Company Limited (**CLC**), an Australian life insurance company. The Vendor currently holds a minority interest in BIT and Belvino Trustee, but in 2011, prior to the Applicant's original acquisition, the Vendor's 27.7% was the majority interest. The rest of the units in BIT were widely held at that time.
56. In 2011, as well as being the single biggest unit-holder, the Vendor held 100% of the management rights for BIT's portfolio of vineyards in Australia and New Zealand.

³ This is the amount of the purchase price that relates to the New Zealand assets.

The Vendor retained the management rights after the Applicant's 2011 acquisition of 72.3% of the units in BIT, under a fixed term management agreement. In August 2018, that management contract was awarded to a wholly-owned subsidiary of the Applicant, Regenal Management Services Pty Limited (**RMSPL**).

Management arrangements

57. BIT owns RMSPL, a management company, which was appointed in place of the Vendor in August 2018 to manage BIT's portfolio of New Zealand and Australian vineyards.⁴
58. RMSPL currently manages other New Zealand and Australian vineyards and agricultural land. This includes New Zealand vineyards held by a CKLS wholly-owned subsidiary, QWIL Investments (NZ) Pty Limited (**QWIL NZ**), which directly owns Northbank Vineyard in Marlborough and the Mudhouse vineyard portfolio.

Past investment in the Land

59. The Applicant has provided details of its investment in the development of the Land since its 2011 acquisition of the majority interest in BIT and Belvino Trustee, which the Applicant claims has contributed to the year-on-year improved performance of Delegat's since that time. Further details are discussed at **paragraphs 79-84 below**.

Proposed future investment in the Land

60. The Applicant submits, as 100% owner, it would continue to invest in the Land in the same way as it has done since 2011, but that it would be freer to do so without a potentially unwilling minority owner and with the benefit of the management experience and skills of RMSPL. For example, it may support a Delegat's replanting programme in the next 5 – 10 years. As no formal commitments have been made to date, we have been unable to take such pipeline investments into account as benefits in relation to the proposed investment.
61. The Applicant has indicated its intention to [s 9(2)(b)(ii)].⁵ This is discussed further at **paragraphs 94-99 below**. If consent is granted, this will be conditioned.

What is likely to happen without the investment (Counterfactual)

62. To establish the appropriate counterfactual in this case, we have considered what the likely state of affairs would be without the Investment. There are two key questions to determine what is likely to occur without the investment:
 - Who is likely to own the Land?
 - What is the likely use of the Land?

Who is likely to own the Land?

63. We consider that there are two likely counterfactual outcomes as follows:
 - The *status quo* with the Vendor retaining ownership of the 27.7% of BIT and Belvino Trustee; or

⁴ OIO is of the view that consent was not required under the Act for RMSPL to be awarded this contract by BIT.

⁵ [s 9(2)(b)(ii)]

- An alternative New Zealand Purchaser (**ANZP**) buys the remaining 27.7% of BIT and Belvino Trustee.
64. The Applicant submits the counterfactual is the *status quo*, saying a minority interest in BIT and Belvino Trustee would be unlikely to appeal to another investor. The Applicant submits that under the *status quo* it could be constrained in its ability to make capital investments in the Land by the minority owner.
65. The units and shares have not been offered on the open market therefore the market has not been tested. The Applicant has advised that the Vendor has looked into selling before, but the Vendor Information Form does not detail this. As the market has not been tested, we consider the Applicant has failed to rebut the presumption that the minority interest would be acquired by an ANZP.
66. The Applicant is looking to acquire the remaining 27.7% ownership in an asset of which it already has majority ownership. This makes the counterfactual assessment slightly unusual as there is likely to be a very limited market for 27.7% of an entity. No matter what happens with the outcome of this application, the Applicant will retain the majority of the investment and therefore will largely have the main control of the investment. With this in mind, what another purchaser is able to do with this investment is likely to be minimal as they will never be able to obtain the majority and therefore have any real control of the investment.

What is the likely use of the land?

67. Whether the units and shares were retained by the Vendor or sold to an ANZP, we consider the Land would continue to be leased to Deleat's under the current agreements and investment in the Land of the sort carried out by BIT to date would likely continue.

Farm land advertising: exemption

s16(1)(f) of the Act.

The Regulations require farm land or farm land securities to be offered for acquisition on the open market to non-overseas persons for at least 20 working days (or longer if the advertisement states or implies that offers will be accepted for that longer period). The purpose of such advertising is to ensure non-overseas persons have reasonable notice that they are available for acquisition. The Regulations do not require that the vendor accept any alternative offer made by a non-overseas person.

68. The Land is farm land as it is currently used exclusively or principally for horticultural purposes: i.e. grape growing. The Vendor has not offered the Land or the units and shares in BIT and Belvino Trustee for acquisition on the open market to persons who are not overseas persons in accordance with the regulations. The Applicant requests an exemption to the farm land advertising criterion.
69. Section 20(a) of the Act provides for Ministers to exempt applicants from the farm land advertising criterion if there are circumstances relating to the particular overseas investment, interest in land or rights or interests in securities that warrant this. Section 20(b) refers to class exemptions, which are set out in the *Gazette*.⁶ Further guidance is set out in **Attachment 2**.

Rationale for exemption

70. The purpose of the farm land offer criterion is to ensure non-overseas persons have reasonable notice that the Land or securities are available for acquisition. There is no requirement on the owner to complete a sale.

⁶ Notice of Exemptions from Farm Land Offer Criterion (Pursuant to Section 20 of the Overseas Investment Act 2015) 2016

71. The Applicant submits the minority ownership interest it wishes to acquire would be unappealing to another purchaser, given the Applicant's existing majority ownership and RMSPL's management of the Land. The Applicant says the Vendor has previously looked into the option of selling its interest in BIT to a third party to no avail. The Applicant also notes it has a pre-emptive right to purchase, which gives it a first right of refusal in the event the minority owner wishes to sell its interest to a third party.
72. We consider the purpose of the farm land advertising requirements (i.e. to allow alternative New Zealand purchasers a reasonable opportunity to acquire an interest in the farm land) is unlikely to be met in the particular circumstances of this investment, including because the interest to be marketed is a minority interest, there were no third parties keen to acquire the interest when the minority owner looked to sell in the past, and taking into account the Applicant's ability to pre-empt any sale to a third party.
73. Taking all of the above into account, it is our view that an exemption may be granted under section 20(a) in the particular circumstances of this case and we recommend Ministers grant such an exemption.

Consultation and submissions about the investment

Consultation

74. No consultation was undertaken in relation to this investment.

Submissions

75. No third party submissions were sought or received

Released under the Official Information Act 2002

Overview of assessment: investment and benefit test

Relevant benefit factors	Applicant's claims: what they intend to do	Without the investment (Counterfactual)	OIO analysis: strength/weakness		Proposed special conditions and reporting requirements	Cross refs
			Indicative strength	Summary		
Previous investments	The Applicant has provided evidence of previous investments made by Regenal and CKLS (both included in the ROP) and CKLS's subsidiary CKI in New Zealand and the benefits from that.	n/a	Moderate	The previous investments have provided benefit to New Zealand through money spent on plant and machinery, provision of favourable lease, increased profit and export receipts, protection of local vegetation and flora, and increased job opportunities.	Annual reporting	Paras 79-84. reg28(e)
Affect image, trade or international relations	The Applicant submits that refusing the application will be likely to adversely affect New Zealand's image overseas.	If the consent was declined the entire international transaction would fail	Moderate	The transaction is a small but inseparable part of a large international transaction. We consider there to be a genuine risk that New Zealand's image overseas would be adversely affected if the consent was declined and the Trans-Tasman transaction failed.	Applicant to report to OIO on completion of the transaction and provide copies of reporting provided to the Hong Kong Stock Exchange.	Paras 85-90. reg28(c)
Enhance the viability of other investments	The Applicant submits that this Investment will result in a greater ability and willingness by BIT to invest in the Land, by removing an unwilling	The Applicant would continue to be under constraint regarding its ability to make decisions without agreement from	Moderate	The Applicant is unable to make capital investments (to which BIT has not already committed) of more	None	Paras 91-93. reg28(g)

Relevant benefit factors	Applicant's claims: what they intend to do	Without the investment (Counterfactual)	OIO analysis: strength/weakness		Proposed special conditions and reporting requirements	Cross refs
			Indicative strength	Summary		
	minority owner	the minority owner, including decisions on significant capital investment		than [s 9(2)(b)(ii)] without consent of the minority owner, whose focus is on returns to its owners rather than CapEx. We consider the Applicant will, therefore, be freer to invest in the Land if consent is granted.		
Consequential benefits	The Applicant has indicated that, if consent is granted, it would be in a position to [s 9(2)(b)(ii)] [s 9(2)(b)(ii)] that could lead to new export options for Delegat's products.	BIT is said to already be exploring arrangements with [s 9(2)(b)(ii)] which suggests this is already occurring and will continue under the counterfactual. However, it is not likely [s 9(2)(b)(ii)]	Weak	The Applicant's offer to [s 9(2)(b)(ii)] [s 9(2)(b)(ii)] be a consequential investment on the Land and in New Zealand infrastructure that would provide benefit under this factor.	Condition the Applicant to [s 9(2)(b)(ii)] [s 9(2)(b)(ii)] Condition to apply for the next [s 9(2)(b)(ii)] Applicant to report on this in its regular reporting to OIO.	Paras 94-99. reg28(a)

Released under the Official Information Act

76. The section below sets out our discussion in relation to factors under which we consider the proposed investment is likely to result in benefit to New Zealand.
77. As the Land includes rural land over five hectares, the rural land directive has been applied to this assessment as outlined in the Ministerial directive letter of 28 November 2017.
78. Factors that we considered were either not relevant to the investment, or the benefit to New Zealand was not sufficient enough to be relied on, are discussed in **Attachment 3**.

Previous investments

There are two key elements to this factor (reg28(e) of the Regulations):

- The **relevant overseas person** must have **previously undertaken investments**;
- The previous investments must have been, or are, of **benefit to New Zealand**.

79. The Applicant has detailed previous investments made by it and by its parent company CKLS (both included in the ROP) and by another CKLS subsidiary CK Infrastructure Holdings Limited (**CKI**) in New Zealand and the benefits from that.
80. We consider the Applicant has provided sufficient evidence to support a finding that this factor has been met.

Benefits to New Zealand resulting from the initial investment in 2011

81. The Applicant has outlined the investment it has made in the Land since its initial acquisition of 72.3% ownership of BIT in 2011, including buying frost fans [s 9(2)(b)(ii)] in 2011; [s 9(2)(b)(ii)] in 2015), irrigation and fertigation ([s 9(2)(b)(ii)] in 2013), and supporting a replanting programme at Crownthorpe ([s 9(2)(b)(ii)] in 2015). We have set these out in detail in **Attachment 5**.
82. In term of benefits that have resulted from its investment in the Land, the Applicant states that Delegat's reported an increase in its operating net profit after tax between 2014 and 2017 as shown in Table 1 and increase export receipts since 2011 as shown in Table 2 below.

Table 1: Delegat's operating net profit after take (FY2014-2017)

Financial Year	Increase in Operating Net Profit After Tax on previous Financial Year*
2014	[s 9(2)(b)(ii)]
2015	[s 9(2)(b)(ii)]
2016	[s 9(2)(b)(ii)]
2017	[s 9(2)(b)(ii)]

*before any fair value adjustments

Table 2: Delegat's export receipts

Financial Year	Increase in export receipts on previous Financial Year
2011	[s 9(2)(b)(ii)]

2012	[s 9(2)(b)(ii)]
2013	
2014	
2015	
2016	
2017	

Benefits to New Zealand resulting from other investments by CKLS and CKI

83. The Applicant's initial investment in BIT was CKLS' first investment in New Zealand that required OIO consent. Since 2011, CKLS, independently of BIT, has invested in other New Zealand vineyards through its wholly owned subsidiary QWIL Investments (NZ) Pty Limited (**QWIL NZ**), which directly owns a number of New Zealand vineyards, namely the Northbank Vineyard in Marlborough and the Mudhouse vineyard portfolio. Details of investment by QWIL NZ in these other New Zealand vineyards are set out in **Attachment 5** together with details of other investments in New Zealand by CKLS. Also set out in **Attachment 5** are details of past investments in New Zealand by CKI, an infrastructure investment company that is another subsidiary of the Applicant's parent company CKLS, which has invested, with OIO approval, in Vector Wellington Electricity Network and Enviro Waste Services Limited.

Conclusion

84. The Applicant has demonstrated a pattern of beneficial investment in the Land through its majority interest in BIT and Belvino Trustee. CKLS and CKI have a demonstrated track record over more than a decade of beneficial investment in New Zealand, both in the wine industry and in other productive sectors. This factor has been met with a moderate rating.

Affect image, trade or international relations

In order to satisfy this factor (reg28(c) of the Regulations), refusing the application for consent must be likely to either:

- **Adversely affect** New Zealand's:
 - (i) **image** overseas;
 - (ii) **trade**; or
 - (iii) **international relations**; or
- Result in New Zealand **breaching** any of its **international obligations**.

This factor is not relevant for many applications. It is unusual for this factor to be met.

85. The Applicant submits that refusing consent will be likely to adversely affect New Zealand's image overseas.
86. The investment forms part of a larger, trans-Tasman transaction. The Applicant states that the assets cannot be dealt with separately and the transaction cannot be broken down into parts.
87. The Applicant's submissions outline the relative size of the New Zealand and Australian elements of the transaction. BIT owns seven vineyards in Australia with a total land area of about 2,199 hectares whereas the three BIT vineyards in New Zealand have a total land area of about 702 hectares. The Australian vineyards are

valued at [s 9(2)(b)(ii)] (including water rights) before debt and working capital. The NZ\$15.34 million consideration for the New Zealand assets is the value of 27.74% of the equity (i.e. net of debt); there is no New Zealand working capital.

88. The transaction has already been approved by the Australian regulator. We observe there are differences in how the Australian and New Zealand regimes screen investments, including that the Australian regime is directed to preventing harm while the New Zealand regime is focussed on securing benefit.
89. We consider there is a genuine risk, if consent were to be declined, of New Zealand's image overseas being adversely affected. The transaction is an inseparable part of a larger international transaction that has already received approval from the Australian regulator. If consent to the New Zealand part of the transaction were to be refused, the whole transaction will fail. A public announcement of the outcome and reasons for it must be made by the applicant under the Hong Kong Stock Exchange Listing Rules.
90. This factor has been met, with a moderate rating.

Enhance the viability of other investments

There are three key elements to this factor (reg28(g) of the Regulations):

- The relevant overseas person must have undertaken **other overseas investments**.
- The overseas investment must **enhance the ongoing viability** of the other overseas investments.
- The enhancement in viability that is **likely to result** from the overseas investment must be **additional** to that which is likely to occur **without the overseas investment**.

91. We have noted the Applicant's claim there may be a greater willingness to make enhanced capital investment in the Land without an unwilling minority owner if the investment were to proceed. We consider there is some merit in this submission.
92. We requested details of the decision-making percentages that apply to BIT and were told that it is necessary for the Applicant to secure agreement of the minority owner to capital expenditure over [s 9(2)(b)(ii)] that is incurred other than under a pre-existing contractual obligation to a lessee or other prior agreement between the BIT owners. It appears, therefore, that unless the expenditure in question has been previously agreed, there is a possibility that if the majority owner (the Applicant) wishes to make significant capital investment in the Land, the minority owner could prevent that.
93. We consider this factor has been met, but with a moderate weighting, including because the Applicant, as majority owner, would still have scope to undertake lower value capital investment in the Land without the minority owner's support.

Consequential benefits

There are three key elements to this factor (reg28(a) of the Regulations):

- There must be a **consequential benefit to New Zealand**.
- The benefit must not have been considered under another factor, it must be **another** consequential benefit.
- The consequential benefit that is **likely to result** from the overseas investment must be **additional** to that which is likely to occur **without the overseas investment**.

94. The Applicant submits that it [s 9(2)(b)(ii)] if consent is granted.⁷ We propose to condition this.

⁷ [s 9(2)(b)(ii)]

95. The Applicant says [s 9(2)(b)(ii)]
[REDACTED].
96. BIT had been advised that [s 9(2)(b)(ii)]
[REDACTED] A further engineer's report is required and the Applicant advises costs may have risen since the last quote was obtained. Discussions were suspended owing to [s 9(2)(b)(ii)]
[REDACTED].
97. The Applicant states that it would not [s 9(2)(b)(ii)] under the current ownership structure. The Applicant explains that [s 9(2)(b)(ii)] under the current ownership structure would require the minority shareholder to [s 9(2)(b)(ii)]
[REDACTED].

Condition

98. If consent is granted, a condition requiring the Applicant to [s 9(2)(b)(ii)]
[REDACTED] will be imposed.

Conclusion

99. We consider, under 100% ownership, BIT will continue to make investment in the Land of the sort it has made to date. This would be no different under the counterfactual. [s 9(2)(b)(ii)], the Applicant will be conditioned to contribute to it. This factor has been met, but with a weak weighting given the uncertainty [s 9(2)(b)(ii)].

Provisional conclusion – benefits test

100. In order for consent to be granted, the Applicant must demonstrate that the:
- the overseas investment will, or is likely to, benefit New Zealand (or any part of it or group of New Zealanders); and
 - that benefit will be, or is likely to be, substantial and identifiable.
101. We have assessed the benefit likely to result from this investment in accordance with the rural land directive contained in the Ministerial Directive Letter dated 28 November 2017.
102. We have undertaken our assessment having regard to the characteristics of the Investment and the nature of the interests being acquired, reflecting the proportional nature of the benefit assessment. In this case, the Applicant is seeking to acquire a 27.7% share of an entity that owns and manages a portfolio of vineyards in Australia and New Zealand. Consent would mean the Applicant moves from being the majority owner (72.3%) to 100% ownership.
103. The Land is 'rural land' as defined in the Ministerial Directive Letter, as it is an investment in non-urban land over 5 hectares, and the rural land directive applies because the proposed transaction relates to a 28% increase in ownership and control, which we do not consider to be a minor change in shareholding.

Rural land directive

104. In relation to rural land, the Ministerial Directive Letter states:
- The primary sector, and the rural land it is based on, forms a particularly important part of the New Zealand economy.*
- The Act acknowledges the privilege associated with the ownership or control of rural land is greater than for non-rural land by requiring the benefits resulting from the overseas investment to be substantial and identifiable (a higher threshold).*
- The merits of overseas investment in the primary sector can be less compelling given that we are already world leaders in this area. The Government is therefore concerned to ensure that the benefits from overseas investments in rural land are genuinely substantial and identifiable.*
105. The rural land directive provides that the following factors will generally be of high relative importance:
- (a) the 'jobs' factor;
 - (b) the 'new technology or business skills' factor;
 - (c) the 'increased exports receipts' factor;
 - (d) the 'increased processing of primary products' factor; and
 - (e) the 'oversight and participation by New Zealanders' factor.
106. We do not consider that any other factor should be given high relative importance in the context of this Investment.
107. The proposed investment is to ensure the on-going ownership and management of three Deleat's vineyards by the Applicant. What the Applicant proposes is an investment that will not change the control or use of the Land and is designed to secure business continuity for the current majority overseas owner.
108. As the Applicant acknowledges, there is unlikely to be any direct, tangible action that the Applicant will take (in relation to the New Zealand vineyards in isolation) purely as a result of acquiring the remaining 27.7% that it does not already own.

Ministerial discretion

109. Determining whether the investment is likely to result in substantial and identifiable benefit is ultimately a matter to be decided by Ministers and involves the exercise of Ministerial judgement. Ministers also have discretion under section 17(1)(c) of the Act to determine the relative importance to be given to each relevant factor (or part).
110. This is a finely balanced application. It involves a large parcel of rural land on which an iconic New Zealand winemaker produces a successful and internationally recognised export product.
111. The transaction focuses on business continuity, on the on-going ownership and control of the Land by an overseas person with a track record of beneficial investment, both on the Land and in other New Zealand enterprises.
112. The Applicant is seeking to acquire the remaining 27.7% interest it does not own in entities that own and manage a portfolio of vineyards in Australia and New Zealand. The outcome of the investment would be the Applicant having 100% ownership of BIT and Belvino Trustee and, through them, the Land.
113. The investment is a necessary element of a trans-Tasman transaction that will fail without OIO consent. The New Zealand element of the transaction involves three

vineyards with total land area of 702 hectares, valued at NZ\$15.34 million; the Australian element involves 7 vineyards totalling 2,199 hectares and valued at [s 9(2)(b)(i)]. Consent to the Australian element of the transaction has been granted by the regulator. Consent in New Zealand would mean the transaction could proceed, resulting in continuity of ownership that does not impede commercial reality.

Provisional conclusion

114. Our provisional view is that the Applicant has met the benefits test.
115. After carefully considering the particular circumstances in relation to this investment and Applicant, and taking a proportional approach to the interest being acquired, we are of the view that the 'substantial and identifiable' benefit test is met.

Provisional recommendation

116. Our provisional recommendation is to **grant consent**, as we consider that the investor test and the benefits test have been met.
117. If you agree, we refer you to **Attachment 1** to review the Proposed Decision (including consent conditions), and to paragraphs 7 to 10 of this Assessment Report to record your decision.

List of Attachments

1. Proposed Decision
2. Guidance for applying the Act
3. Other benefit factors
4. Sensitive land details
5. Past investments in New Zealand by the applicant, CKLS and CKI
6. Entities not included in the relevant overseas person
7. Good character searches and analysis
8. Overview Tables

List of other documents in the Bundle

- A. Application
- B. Investment Plan (appendix 1 of the Application)
- C. Vendor Information form (appendix 13 of the Application)
- D. Letter from Applicant to OIO dated 10 September 2018 (appendix 20 of the Application)
- E. Proposal to decline letter from OIO to the Applicant dated 18 December 2018
- F. Letters from Applicant's solicitor dated 28 February, 12 April, 4 June and 14 June 2019 (appendices 17, 18, 21 and 19 of the Application)
- G. Letter from OIO to the Applicant dated 4 June 2019

ATTACHMENT 1 - PROPOSED DECISION

Consent for Overseas Person to Acquire Sensitive New Zealand Land

Read this consent carefully - you must comply with all the conditions. If you do not, you may be required to dispose of the land and/or be subject to fines or other penalties.

Consent

Decision date:

The following people have been given the following **consent**:

Case	201810179
Consent	Regenal Investments Pty Limited (Regenal) may acquire up to 100% of the Assets; and Laneger Pty Limited (Laneger) may acquire up to 1% of the Assets; subject to the Conditions set out below.
Consent holder/s	Regenal Investments Pty Limited and Laneger Pty Limited We will also refer to each Consent holder and the Consent holders together as you .
Assets	Assets means: 1. 65,892,555 units being approximately 27.74% of the units in Belvino Investments Trust , which owns or has interests in the Land; and 2. 277 shares being 27.7% of the shares in Belvino Investments Pty Limited .
Land	The Land that is already 100% owned by Belvino Investments Trust that comprises: <ul style="list-style-type: none">• approximately 360.79 hectares of land known as Crownthorpe vineyard at 1301 and 1370 Matapiro Road, Crownthorpe, Hawkes Bay currently contained in records of title HBP4/1240, HBM2/1327, HBW1/546 (Hawkes Bay);• approximately 200.52 hectares of land know as Dashwood vineyard at 1824 Redwood Pass Road, Lower Dashwood, Marlborough currently contained in records of title MB5D/670, MB5D/671, MB5D/672, MB5D/673, MB6C/526, MB6C/527, MB6C/698 (Marlborough); and• approximately 142.11 hectares of land known as Rarangi vineyard at 58 Flaxmill Drive, Rarangi, Marlborough currently contained in records of title MB6A/89, MB6A/90.
Timeframe	You have until 12 months from the Decision date to acquire the Assets.

Conditions

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

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

Special conditions

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

Details	Required date
Special condition 1: [s 9(2)(b)(ii)]	
You must contact [s 9(2)(b)(ii)] [Redacted]	First contact to occur on or before 30 December 2020. This requirement will expire on 30 December 2024.
[s 9(2)(b)(ii)] [Redacted]	On or before 31 January 2025
If you do not, Standard condition 6 will apply and we may require you to dispose of the Land.	At all times

Released under the Official Information Act 1982

Standard conditions

You must also comply with the **standard conditions** set out below. These apply to all overseas people who are given consent to acquire sensitive New Zealand land, including you:

Details	Required date
Standard condition 1: acquire the Assets	
<p>You must acquire the Assets:</p> <ol style="list-style-type: none"> by the date stated in the Consent. If you do not, your Consent will lapse or become invalid and you must not acquire any further Assets, and using the acquisition, ownership and control structure you described in your application. Note, only you – the named Consent holder - may acquire the Assets, not your subsidiary, trust or other entity. 	As stated in the Consent
Standard condition 2: tell us when you acquire the Assets	
<p>You must tell us in writing each time you acquire Assets under this consent.</p> <p>Include details of:</p> <ol style="list-style-type: none"> the date you acquired the Assets (Settlement); consideration paid (plus GST if any); the structure by which the acquisition was made and who acquired the Assets; copies of any transfer documents and Settlement statements; and copies of any reporting to the Hong Kong Stock Exchange in relation to the acquisition or to the Trans-Tasman investment. 	As soon as you can, and no later than two months after Settlement
Standard condition 3: allow us to inspect the Land	
<p>Sometimes it will be helpful for us to visit the Land so we can monitor your compliance with the Conditions.</p> <p>We will give you at least two weeks' written notice if we want to do this.</p> <p>You must then:</p> <ol style="list-style-type: none"> Allow a person we appoint (Inspector) to: 	At all times

<p>(a) enter onto the Land, including any building on it, other than a dwelling, for the purpose of monitoring your compliance with the Conditions (Inspection);</p> <p>(b) remain there as long as is reasonably required to conduct the inspection;</p> <p>(c) gather information;</p> <p>(d) conduct surveys, inquiries, tests and measurements;</p> <p>(e) take photographs and video records; and</p> <p>(f) do all other things reasonably necessary to carry out the Inspection.</p> <p>2. Take all reasonable steps to facilitate an Inspection including:</p> <p>(a) directing your employees, agents, tenants or other occupiers to permit an Inspector to conduct an Inspection;</p> <p>(b) being available, or requiring your employees, agents, tenants or other occupiers to be available, at all reasonable times during an Inspection to facilitate access onto and across the Land. This includes providing transport across the Land if reasonably required.</p> <p>During an Inspection:</p> <p>(a) we will not compel you and your employees, agents, tenants or other occupiers to answer our questions or to let us look at, copy or take away documents;</p> <p>(b) our Inspector will comply with any reasonable instruction and co-operate with any reasonable health and safety policy or procedure you notify to us before the Inspection.</p>	
<p>Standard condition 4: remain of good character</p>	
<p>You and the Individuals Who Control You:</p> <ol style="list-style-type: none"> 1. must continue to be of good character, and 2. must not become an individual of the kind referred to in section 15 or section 16 of the Immigration Act 2009. <p>In summary, these sections describe convicted or deported people who are not eligible for visa or entry permission to enter or be in New Zealand and people who are considered likely to commit an offence or to be a threat or risk to security, public order or the public interest.</p> <p>The Individuals Who Control You are individuals who:</p> <ol style="list-style-type: none"> (a) are members of your governing body, (b) directly or indirectly, own or control 25% or more of you 	<p>At all times</p>

<p>or of a person who itself owns or controls 25% or more of you, and</p> <p>(c) are members of the governing body of the people referred to in paragraph (b) above.</p>	
<p>Standard condition 5: tell us about changes that affect you, the people who control you, or people you control</p>	
<p>You must tell us in writing if any of the following events happens to any of the Consent holders:</p> <ol style="list-style-type: none"> 1. You, any Individual Who Controls You, or any person in which you or any individual who controls you hold (or at the time of the offence held) a 25% or more ownership or control interest commits an offence or contravenes the law anywhere in the world. This applies whether or not you or they were convicted of the offence. In particular, please tell us about any offences or contraventions that you are charged with or sued over and any investigation by enforcement or regulatory agencies or professional standard bodies. 2. An Individual Who Controls You ceases to be of good character; commits an offence or contravenes the law (whether they were convicted or not); becomes aware of any other matter that reflects adversely on their fitness to have the Land; or becomes an individual of the kind referred to in section 15 or 16 of the Immigration Act 2009 (see standard condition 4). 3. You cease to be an overseas person or dispose of all or any part of the Land. 4. You, any Individual Who Controls You, or any person in which you or any Individual Who Controls You hold (or at the time of the event held) a 25% or more ownership or control interest: <ul style="list-style-type: none"> (d) becomes bankrupt or insolvent; (e) has an administrator, receiver, liquidator, statutory manager, mortgagee's or chargee's agent appointee; or (f) becomes subject to any form of external administration. 	<p>Within 20 working days after the change</p>
<p>Standard condition 6: dispose of your interest in the Land if you do not comply with key Special conditions</p>	
<p>Some of the special conditions were key to the decision to give consent. If we consider you have failed to comply with one of those Special conditions in a material way we may require you to dispose of your interest in the Land.</p>	

<p>We may also require you to execute a security deed before you may acquire the interest in Land. The security deed:</p> <ol style="list-style-type: none"> 1. must be in the form we require; 2. must be executed and delivered to us before you acquire the interest in Land; 3. gives us power to appoint a receiver to dispose of the interest in Land if you do not do that as required by this Standard condition 6; 4. will provide, among other things, that if we appoint a receiver, the receiver may dispose of the interest in Land, deduct his or her costs from the proceeds of sale, and pay the remainder to you. <p>If all or part of this Standard condition 6 applies to a Special condition, we have said so in that condition.</p> <p>We will give you written notice if we require you to dispose of your interest in the Land. After we have given you notice, you must:</p>	
<p>Value the Land: obtain and send us a copy of a market valuation of the Land from a New Zealand registered valuer.</p>	<p>Within six weeks of the date of our notice.</p>
<p>Market the Land: instruct a licensed real estate agent to actively market the interest in Land for sale on the open market.</p>	<p>Within six weeks of the date of our notice.</p>
<p>Dispose of the Land: dispose of the interest in Land to a third party who is not your associate.</p>	<p>Within six months of our notice.</p>
<p>Offer without reserve: offer the interest in Land for sale by auction or tender without a reserve price or minimum bid and dispose of the Land.</p>	<p>Within nine months of our notice.</p>
<p>Report to us about marketing: tell us in writing about marketing activities undertaken and offers received for the interest in Land.</p>	<p>By the last day of every March, June, September and December after our notice or at any other time we require.</p>
<p>Report disposal to us: send us, in writing, evidence:</p> <ol style="list-style-type: none"> (a) that you have disposed of the interest in Land, (b) of disposal (including copies of sale and purchase agreements, settlement statements and titles showing the purchaser as registered proprietor), (c) the purchaser is not your associate. 	<p>Within one month after the Assets have been disposed of.</p>

Reporting conditions

Report on nomination of Laneger

If You nominate Laneger to acquire the Assets as set out in the Consent, you must, within 12 months of the Decision date, notify us of that, including:

1. the date Laneger was nominated; and
2. copies of any relevant nomination documentation.

Annual reporting

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

Every year, you must lodge an **annual report**. It must:

1. be sent to **oiomonitoring@linz.govt.nz** by these dates:
 - a. Year one: 1 March 2021;
 - b. Year two: 1 March 2022;
 - c. Year three: 1 March 2023;
 - d. Year four: 1 March 2024;
 - e. Year five: 1 March 2025.
2. Contain information about your progress in implementing the special conditions (including costs where relevant) [s 9(2)(b)(ii)]
[REDACTED]
3. Follow the format of the template annual report published on our website.
4. If requested in writing by the OIO, the Consent Holder(s) must provide a written report within 20 working days (or such other timeframe as specified) on any matter relating to its compliance with:
 - a. The representations and plans made or submitted in support of the application and notified by the regulator as having been taken into account when the content was granted or
 - b. The conditions of this consent.

ATTACHMENT 2 - GUIDANCE FOR APPLYING THE ACT

1. The contract for this transaction was entered prior to the commencement of the Overseas Investment Amendment Act 2018 (**Amendment Act**), so the version of the Overseas Investment Act and the Overseas Investment Regulations in force immediately before its commencement continue to apply to this application as if the Amendment Act had not been enacted.
2. Ministers must grant consent to this overseas investment if they are satisfied that all of the criteria in section 16 of the Overseas Investment Act are met. They must decline to grant consent if they are not satisfied that all of the criteria in section 16 are met. Ministers must not take into account any criteria or factors other than those identified in sections 16 and 17, and regulation 28 of the Overseas Investment Regulations.
3. In the attached Report the Overseas Investment Office identifies each of the criteria and factors under sections 16 and 17, and regulation 28 that Ministers are required to consider in this case.

“Benefit to New Zealand criteria”

4. In this case, section 16 requires Ministers to decide, among other things, whether they are satisfied in relation to the following “benefit to New Zealand” criteria:
 - (a) the overseas investment will, or is likely to, benefit New Zealand (or any part of it or group of New Zealanders), as determined under section 17 (section 16(1)(e)(ii)); and
 - (b) that benefit will be, or is likely to be, substantial and identifiable (section 16(1)(e)(iii)).
5. The application of the benefit to New Zealand criteria involves the exercise of Ministerial judgement. The fact that responsibility for making this decision has been conferred on Ministers confirms that this is a high-level decision with significant policy content. That is also apparent from the language and content of the factors that must be considered, many of which require a high degree of evaluative judgement, and are not capable of quantification or calculation.
6. In applying the benefit to New Zealand criteria, Ministers are required to consider each of the factors in section 17(2), determine which of the factors are relevant to the investment, and have regard to the relevant section 17(2) factors. The relative importance to be given to each factor is a matter to be determined by Ministers. In particular, the Act does not require economic factors to be given more weight than non-economic factors, or vice versa. It is a matter for you, in carrying out your overall evaluation, to decide what weight to give to each factor.
7. The decision concerning whether the benefit to New Zealand, or any part of it or group of New Zealanders, is substantial and identifiable under section 16(1)(e)(iii), involves a collective assessment of the relevant factors.

Justice Miller's "with and without test"

Economic factors

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

Non-economic factors

9. Although the position is not free from doubt, the better view is that the same question – will this benefit be achieved even if the overseas investment does not occur – should be asked in relation to the other "non-economic" factors listed in section 17(2)(b)-(e). The High Court judgment suggested⁸ that there could be a benefit in respect of the non-economic factors even if the same benefit would be achieved in the absence of the investment. But as the Court noted⁹, it is not easy to see how a benefit that will happen anyway could be regarded as substantial for the purposes of section 16(1)(e)(iii). We consider that Ministers should not treat benefits that are likely to be achieved in any event as contributing to the "substantial and identifiable benefit" criterion.

Regulation 28 factors

10. With regard to the factors in regulation 28 of the Overseas Investment Regulations 2005, Miller J noted that:
 11. The criteria listed in reg 28 deal, for the most part, with benefits that only an overseas buyer could provide or what may be loosely described as strategic considerations, so they do not require a counterfactual analysis.¹⁰
 12. Many of the factors in regulation 28 are incapable of having a counterfactual analysis applied to them. However, as recognised by Miller J, there are some factors that may require a counterfactual analysis. The Overseas Investment Office has applied a counterfactual analysis where appropriate.

"Rural Land" Directive

13. The overseas investment involves the acquisition of 'rural land' being land that is non-urban and over 5 hectares in size (excluding any associated land), but excludes 'forest land'. Therefore, in accordance with directions from Ministers, we have treated the following factors as being of high relative importance:¹¹
 - (a) the "jobs" factor (section 17(2)(a)(i));
 - (b) the "new technology or business skills" factor (section 17(2)(a)(ii));
 - (c) the "increased exports receipts" factor (section 17(2)(a)(iii));
 - (d) the "increased processing of primary products" factor (section 17(2)(a)(vi)); and
 - (e) the "oversight and participation by New Zealanders" factor (regulation 28(j)).

⁸ *Tiroa E* at [36].

⁹ *Tiroa E* at [38].

¹⁰ *Tiroa E* at [36].

¹¹ Ministerial Directive letter date 28 November 2017, paras 13-17.

Farm land advertising

14. Section 16(1)(f) requires that:

if the relevant land is or includes farm land, either that farm land or the securities to which the overseas investment relates have been offered for acquisition on the open market to persons who are not overseas persons in accordance with the procedure set out in regulations (unless the overseas investment is exempt from this criterion under section 20).

15. Ministers have the power under section 20(a) to exempt an overseas investment from the farm land offer criterion if you consider that the overseas investment need not meet this criterion by reason of the circumstances relating to the particular overseas investment, interest in land, or rights or interests in securities.

16. Class exemptions apply, under section 20(b), and these are set out in the *Gazette*, as follows.

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

- a. the acquisition by an overseas person of farm land securities that are quoted on a licensed market (within the meaning of section 6(1) of the FMC Act);
- b. the acquisition by an overseas person of farm land securities, where:
 - i. the securities are acquired under an offer that is a regulated offer within the meaning of section 41 of the FMC Act or under an offer of financial products referred to in clause 19 of Schedule 1 of that Act; and
 - ii. in the case of a regulated offer, a product disclosure statement for that offer was lodged with the Registrar of Financial Service Providers and given to investors in accordance with section 50 of the FMC Act; and
 - iii. in the case of an offer of financial products referred to in clause 19 of Schedule 1 of the FMC Act, the notice referred to in clause 20 of Schedule 8 of the Financial Market Conduct Regulations 2014 has been given to the licensed market operator for that offer;
- c. the acquisition by an overseas person of farm land securities, where:
 - i. the takeovers code in force under the Takeovers Act 1993 applies to the acquisition; and
 - ii. the acquisition is under an offer made to all holders of those securities other than the offeror (whether the offer is for all or some of the farm land securities);
- d. the acquisition by an overseas person of farm land securities, where the farm land to which the farm land securities relate has, in accordance with a procedure prescribed by regulations made under the Act, been offered for sale or acquisition on the open market to persons who are not overseas persons;
- e. the acquisition by an overseas person of farm land securities of a company or any other body corporate that owns or controls farm land, where, immediately before the transfer, the overseas person and the person from whom the farm land securities are acquired do not together have (directly or indirectly):
 - i. a beneficial entitlement to, or beneficial interest in, 50% or more of the farm land securities of the company or other body corporate; or
 - ii. the right to exercise or control the exercise of 50% or more of the voting power at a meeting of the company or other body corporate; or
 - iii. the right to control the composition of 50% or more of the board of directors (or other persons or body exercising powers of management, however described) of the company or other body corporate;
- f. the acquisition of farm land or farm land securities by an overseas person from a family member (whether or not the family member is an overseas person);
- g. the acquisition of farm land or farm land securities by an overseas person, where:
 - i. the acquisition is from another member of the same group, another partner in the same partnership, or another member of the same joint venture as part of a reconstruction or reorganisation of that group, partnership, or joint venture; and
 - ii. the group is an overseas group or the partnership or joint venture is an overseas person;
- h. the acquisition of farm land or farm land securities by an overseas person from another overseas person as part of a wider acquisition or merger, where:
 - i. the wider acquisition or merger is being undertaken by other members ("relevant persons") of the same overseas groups as those overseas persons; and

- ii. the wider acquisition or merger involves the acquisition of the whole or a substantial part of the specified securities in, or the business of, one or more relevant persons in one or more overseas jurisdictions; and
- iii. each relevant person is incorporated outside New Zealand;
- i. the acquisition of farm land or farm land securities by an overseas person who has applied for, and been granted, a permanent residence visa under the Immigration Act 2009 if, within 12 months after the grant of that visa, that person becomes ordinarily resident in New Zealand;
- j. the acquisition by an overseas person (A) of a lease or any other interest (other than a freehold estate) in farm land, where:
 - i. the lease or other interest is for a term of not more than 20 years (including rights of renewal, whether of the grantor or grantee); and
 - ii. in the 20 years prior to the date of A's acquisition, where that farm land (or any part of it) was (or was part of) the relevant land in relation to any other overseas investment in sensitive land ("previous transaction"):
 - A. consent was obtained to that previous transaction; and
 - B. that previous transaction was not exempt from the criterion in section 16(1)(f) of the Act and that criterion was complied with;
- k. the acquisition by an overseas person (A) of farm land securities in a person (P) where:
 - i. at the date of A's acquisition, the only interest (other than an exempted interest) in farm land that is sensitive land (as defined in Schedule 1 of the Act) that P owns or controls (directly or indirectly) is a lease or any other interest (other than a freehold estate) for a term of not more than 20 years (including rights of renewal, whether of the grantor or grantee); and
 - ii. in the 20 years prior to the date of A's acquisition, where that farm land (or any part of it) was (or was part of) the relevant land in relation to any other overseas investment in sensitive land (previous transaction):
 - A. consent was obtained to that previous transaction; and
 - B. that previous transaction was not exempt from the criterion in section 16(1)(f) of the Act and that criterion was complied with.

Conditions

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

Decision

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

Good character criterion

22. Section 16(1)(c) of the Act requires that Ministers be satisfied that the relevant overseas person or, (if that person is not an individual) all the individuals with control of the relevant overseas persons are of good character.

23. The term “good character” is not defined in the Act. The majority of the Select Committee reporting back on the Bill in 2005 confirmed that the “good character” test was needed as it is important to ensure that all persons investing in New Zealand are people unlikely to act inappropriately and bring New Zealand into disrepute.
24. When undertaking the good character assessment, Ministers must be satisfied that the character of all the individuals with control of the relevant overseas person is sufficient so that they should be granted the privilege of owning or controlling sensitive New Zealand assets.
25. The good character test is applicable to individuals, not entities such as body corporates. However, where the investment is to be carried out by a body corporate, the character of the relevant individuals who control the body corporate will need to be considered. Where an offence or contravention is committed by a person to which an individual had a 25% or more ownership or control interest, this is a mandatory consideration. Where the individual’s interest in the person is less than this, there generally must be other grounds to reasonably infer participation by the individual in the alleged wrongdoing.
26. Section 19(1) of the Act states that the following factors must be taken into account (without limitation) in assessing whether or not a person is of good character:
 - (a) offences or contraventions of the law by the person, or by any person in which the individual has, or had at the time of the offence or contravention, a 25% or more ownership or control interest (whether convicted or not);
 - (b) any other matter that reflects adversely on the person’s fitness to have the particular overseas investment.
27. All relevant matters must be weighted up before making a decision that an individual is of good character. If the decision-maker wishes to rely on a matter to which the applicant has not had an opportunity to respond, then such an opportunity to respond needs to be given to the applicant.
28. How much weight should be given to a particular matter depends on a number of factors, including how closely linked the particular matter is with the investment being made. While submissions on weighting given by the relevant overseas person or individual with control may be considered, the ultimate decision as to the weighting to be given to relevant matters is for the decision-makers.
29. Matters which might be relevant include:
 - (a) credible allegations of offending or contraventions of the law (assessing whether the allegation is sufficiently linked to an individual with control or relevant overseas person);
 - (b) investigations, prosecutions or other enforcement action by regulatory or professional bodies;
 - (c) track record in New Zealand.
30. Matters which are unlikely to be relevant include:
 - (a) adverse information that does not relate to an individual with control (for example, offences or contraventions by a relevant overseas person which occurred before the particular individual became involved with the relevant overseas person);
 - (b) where the decision maker is satisfied that allegations about a relevant overseas person or individual with control have been fully investigated by the relevant regulatory or other authority and the person or individual has been cleared of any wrongdoing;

- (c) adverse information that does not impact on the character of a relevant overseas person or individual with control.
31. Briefly, some of the things we consider when weighing up "good character" include:
- (a) connection to the Individuals with Control (IWCs) or Relevant Overseas Person (ROP): we assess the level of control between any of the IWCs of the ROP and the particular matter. For example, a breach of safety rules by an employee of subsidiary company where the company was fined would likely have a low (or no) connection with an IWC who was an executive director of the parent company, whereas an executive decision by a company to illegally collude with a competitor would likely have a high connection with that IWC.
 - (b) relevance to this investment: we assess how relevant the particular matter is to the nature of this particular investment. For example, a dangerous driving conviction by an IWC would have low relevance in connection with the acquisition of a dairy farm, whereas a conviction for discharging farm effluent into a waterway would have a high relevance to the acquisition of a dairy farm.
 - (c) what actions, if any, were taken to remedy the situation and reduce the chances of it reoccurring.
32. The onus is on the applicants to satisfy the decision maker that all the individuals with control are of good character.
33. If the decision maker has doubts about the character of an individual with control which result in it not being satisfied that the test for good character has been met, then the application for consent must be declined.

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ATTACHMENT 3 - OTHER BENEFIT FACTORS


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

Factor	Reason not relevant or insufficient
Job opportunities – s17(2)(a)(i) (high relative importance factor)	The Applicant submits that the jobs of 12 existing vineyard staff will be retained at the Investment. We consider this is also likely to occur without the Investment. The suggestion new jobs may be created in the future is too vague to be considered under this factor therefore the Applicant has failed to provide sufficient evidence to satisfy this factor.
New technology or business skills – s17(2)(a)(ii) (high relative importance factor)	The Applicant submits that the Investment will result in the sharing of key lessons and additional resources such as IP. Vineyard management skills already exist in New Zealand and there is no detail of any specific IP or business skills the Applicant will introduce as a result of this Investment and therefore. The Applicant has failed to satisfy this factor.
Increased export receipts – s17(2)(a)(iii) (high relative importance factor)	The Applicant intends to support a potential re-planting programme, designed to increase Delegat's exports. The Applicant also submits that the export receipts for Delegat's have steadily increased as a result of BIT's investment in the vineyards. It is said this will continue, potentially increase if the Investment goes ahead. The Applicant has not made any clear claims in relation to this factor. Any increase in export receipts by Delegat's would not be within the direct control of BIT or the Applicant and no evidence has been provided to show that this would not occur under the counterfactual therefore we consider that this factor has not been satisfied.
Added market competition, increased productivity, efficiency, and enhanced domestic services – s17(2)(a)(iv)	The information the Applicant has provided to support its claim to have contributed to increased productivity by Delegat's (set out in detail in Attachment 5) is relevant to, and has been considered under, the previous investments factor. This factor has not been satisfied.
Additional investment for development purposes – s17(2)(a)(v)	The potential future investments submitted by the Applicant are either likely to occur under the counterfactual (e.g. right of first refusal to buy the land to be included in Delegat's leases; responding to proposals for support from Delegat's "in the same way as in the past but now without the potential constraint of a somewhat reluctant minority unit holder who will no longer have an interest in the management contract") or too uncertain (e.g. future replanting programme at Dashwood) so this factor has not been satisfied.
Increased processing of primary products – s17(2)(a)(vi) (high relative importance factor)	The Applicant submits that processing of grapes from the three New Zealand vineyards will increase as a result of the replanting programme, but is unable to provide further details on this. It is not clear the extent to which processing would increase, should the investment. It seems likely BIT would continue to provide general support to Delegat's to increase grape processing under the counterfactual and this may include the replanting programme. This factor has not been satisfied.


Factor	Reason not relevant or insufficient
Indigenous vegetation/fauna – s17(2)(b)	The Applicant submits that this factor is not considered relevant as there are no such areas on the Land and we agree.
Trout, salmon, wildlife and game – s17(2)(c)	The Applicant submits that this factor is not considered relevant as there are no such areas on the Land and we agree.
Historic heritage – 17(2)(d)	The Applicant submits that this factor is not considered relevant as there is no historic heritage on the Land and we agree.
Walking access – s17(2)(e)	The Applicant submits that this factor is not considered relevant given the nature of the business carried out on the land and we agree.
Offer to sell seabed/foreshore/riverbed to the Crown – s17(2)(f)	Two of the vineyards adjoin and /or include riverbeds. However, the requirement to make an offer of this land to the Crown does not apply because the transaction in question is a transfer of units / shares in the company that owns and manages the land; there is no sale of the land itself contemplated. This factor is not relevant.
Key person in a key industry – reg 28(b)	The Applicant submits that [s 9(2)(a)] and CKI are key persons. CKI and [s 9(2)(a)] are said to be key persons in the global infrastructure industry. However, CKI and [s 9(2)(a)] are already invested in New Zealand, including in infrastructure (e.g. EnviroWaste, Vector Wellington Electricity), and there is no suggestion that they will leave if the investment did not occur. This factor is not met.
Owner to undertake other significant investment – reg 28(d)	No information has been provided as to what the vendor would do with the funds from the proposed sale. This factor is not met.
Advance significant government policy or strategy – reg 28(f)	The Applicant submits that this factor is not considered relevant and we agree.
Strategically important infrastructure – reg 28(h)	The Applicant submits that this factor is not considered relevant and we agree.
Economic interests – reg 28(i)	The Applicant submits that with 100% ownership it will be in a better position to provide investment support to Delegat's (one of New Zealand's largest wine-makers) to continue to increase its export activity to the benefit of the New Zealand economy. It appears the Applicant does makes some contribution to wine exports, but the extent of that, given Delegat's capacity and willingness to invest in its own business, is unclear, and therefore this investment is unlikely to have any material effect on New Zealand's economic interests. This factor is not met.
Oversight and participation by New Zealanders – reg 28(j) (high relative importance factor)	The Applicant submits CKLS has already appointed New Zealander Richard Pearson to the boards of two of its New Zealand subsidiaries (QWIL Investments (NZ) Pty Limited and Dominion Salt Limited) and intends to involve Mr Pearson at an advisory level in relation to the Belvino entities. However, ownership and control of both the overseas investment and the relevant overseas person reside with overseas persons. Overall, although the involvement of a New Zealander as an advisor to the business has been noted, none of the matters in regulation 28(j)(i)-(iv) are met, and the OIO considers that New Zealanders are unlikely to have any meaningful ownership or participation in the Investment or relevant overseas person. This factor is not met.

ATTACHMENT 4 - SENSITIVE LAND DETAILS

1. 1301 and 1370 Matapiro Road, Crownthorpe, Hawkes Bay (**Crownthorpe vineyard**)

Land Interest	Freehold Interest (approximately 360.7920 hectares)
Record(s) of Title	HBP4/1240, HBM2/1327, HBW1/546 (Hawkes Bay)
Sensitivity	Is more than 5 hectares of non-urban land Includes bed of a river
Map	

2. 1824 Redwood Pass Road, Lower Dashwood, Marlborough (**Dashwood vineyard**)

Land Interest	Freehold interest (approximately 200.5190 hectares)
Record(s) of Title	MB5D/670, MB5D/671, MB5D/672, MB5D/673, MB6C/526, MB6C/527, MB6C/698 (Marlborough)
Sensitivity	Non-urban land larger than 5 hectares Includes bed of a river
Map	

3. 58 Flaxmill Drive, Rarangi, Marlborough (Rarangi vineyard)

Land Interest	Freehold interest (approximately 142.1080 hectares)
Record(s) of Title	MB6A/89, MB6A/90
Sensitivity	Non-urban land larger than 5 hectares
Map	

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ATTACHMENT 5 - PAST INVESTMENTS IN NEW ZEALAND BY THE APPLICANT, CKLS AND CKI

Investments in the Land by the Applicant since 2011

1. In August 2011, BIT purchased 37 frost fans from New Zealand Frost Fans Limited (a locally owned company) for [s 9(2)(b)(ii)]. The fans were constructed at New Zealand Frost Fans Limited's Hastings plant and were installed at BIT's cost on the Crownthorpe vineyard to improve productivity.
2. The lease of the Crownthorpe vineyard was renewed for a further five years in April 2012. The lease of the Dashwood vineyard was renewed for a further 10 years in October 2012. This provided Delegat's with long-term security of grape supply, particularly Pinot Noir and Chardonnay.
3. Delegat's reported an increase of its operating net profit after tax of 62% in 2013 and CKLS believes that this increase is at least partly attributable to the effect of the above restructuring arrangements agreed with BIT under CKLS majority ownership.
4. A further [s 9(2)(b)(ii)] was spent in 2013 on the Crownthorpe and Dashwood vineyards for fertigation, irrigation and frost fan works to further improve productivity at these vineyards.
5. In 2014 Delegat's applied to BIT for consent to extend the potential lease terms for the Crownthorpe vineyard and the Rarangi vineyard out to 2037 and 2040 respectively (if all rights of renewal are exercised by Delegat's). Consent was granted by BIT, with CKLS' full support as majority owner.
6. 2015 saw further significant investment by BIT in the form of another 11 frost fans at the Crownthorpe vineyard ([s 9(2)(b)(ii)]), 18 frost fans at the Rarangi vineyard ([s 9(2)(b)(ii)]) and another 20 frost fans at the Dashwood vineyard.
7. A major replanting programme was also undertaken at the Crownthorpe vineyard in 2015 [s 9(2)(b)(ii)].
8. Under CKLS's majority ownership, BIT has committed to sourcing raw materials locally as required for the vineyards from local suppliers and using local raw materials and contractors to the maximum extent possible. Under 100% ownership, BIT will continue to source other raw materials used in the operation of the vineyards from local suppliers.
9. In support of Delegat's vineyard operations on a neighbouring property, BIT voluntarily agreed to grant Delegat's an electricity easement over part of the Dashwood vineyard, to enhance the security of water supply to that neighbouring property. BIT has also collaborated with Delegat's to combine various water permits at the Dashwood and Rarangi vineyards. These permits are now jointly held, making it easier for Delegat's to manage the permits from an operational perspective.

Previous investments in New Zealand by CKLS

1. CKLS, independently of BIT, has invested in other New Zealand vineyards through its wholly owned subsidiary QWIL Investments (NZ) Pty Limited (**QWIL NZ**), which directly owns Northbank Vineyard in Marlborough and the Mudhouse vineyard portfolio.
2. Since acquiring its New Zealand vineyards QWIL NZ has agreed with its tenants a series of similar arrangements, with the aim of supporting and enabling its tenants to increase productivity from these vineyards. In particular, at the request of its tenants:
 - In 2014 QWIL NZ invested in a generator upgrade at the Northbank vineyard (s 9(2)(b)(ii)) and in two frost fans (s 9(2)(b)(ii)) and a 12.6 hectare Pinot Noir development (s 9(2)(b)(ii)) at the Claim vineyard in Central Otago, which is part of the Mud House portfolio.
 - In 2016 investments were made in road grading (s 9(2)(b)(ii)), new submains (s 9(2)(b)(ii)) and new fencing (s 9(2)(b)(ii)), also at the Northbank vineyard.
 - In 2017 investments were made in a new chemical shed (s 9(2)(b)(ii)), an upgraded effluent system (s 9(2)(b)(ii)), a new concrete pad for a frost fan (s 9(2)(b)(ii)), a net shed (s 9(2)(b)(ii)) and the installation of frost fan anemometers (s 9(2)(b)(ii)), at various vineyards contained in the Mud House portfolio, which are situated in Marlborough, Waipara and Central Otago.
3. QWIL NZ has also entered into a QEII covenant on the Claim vineyard in Central Otago, which is part of the Mud House portfolio.
4. In addition to vineyard investments, in 2013, CKLS acquired 50% of the Dominion Salt joint venture and 49% of the Cerebos-Skellerup joint venture from Ridley Corporation (a company listed on the Australian Stock Exchange) for \$NZD41.7 million. At that time, Ridley owned, indirectly, a number of salt refineries in Australia and Indonesia, as well as the 50% interest in the Dominion Salt joint venture (which owned a solar salt field and refinery at Lake Grassmere in Marlborough and a refinery in Mount Maunganui) and the 49% interest in the Cerebos-Skellerup joint venture (which had an associated retail and distribution operation). In 2017, CKLS was involved in a "swap" within the Dominion Salt / Cerebos-Skellerup joint venture, to enable CKLS to become the 100% owner of Dominion Salt. Each joint venture participant agreed to separate from the other, so that one would own the entity that produced and refined salt for the domestic and export markets (Dominion Salt) and the other would own the entity that marketed and sold retail salt products (Cerebos-Skellerup). CKLS acquired the balance of the Dominion Salt entity, which owns the New Zealand assets, for \$NZD36.7 million. OIO approval for the Dominion Salt transaction was required and obtained.

Previous investments in New Zealand by CKI	<ol style="list-style-type: none"><li data-bbox="658 209 1980 360">5. CKI is another subsidiary of the Applicant's parent company CKLS. Its focus is on infrastructure investments. Its first New Zealand investment was its 2008 acquisition of Vector Wellington Electricity Network Limited for \$NZD785 million. This company owns the assets relating to Wellington's electricity network and currently employs around 75 employees. OIO approval for this transaction was required and obtained.<li data-bbox="658 379 1957 496">6. CKI's second investment was in 2013, when it acquired Enviro Waste Services Limited for \$NZD490 million. EnviroWaste operates one of New Zealand's leading waste management operations and employs more than 800 employees nationwide. OIO approval for this transaction was required and obtained.
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ATTACHMENT 6 - ENTITIES NOT INCLUDED IN THE RELEVANT OVERSEAS PERSON

We consider the following entities, which appear in the ownership diagram at paragraph 30 of the assessment report, are not relevant overseas persons (ROPs) for the purposes of this investment under Act for the following reasons:

- [s 9(2)(b)(ii)] and [s 9(2)(b)(ii)]: these entities are identified on the ownership diagram at paragraph 30; they are intermediary holding companies with no control over the investment decision or the day-to-day operations or management of BIT / Belvino Trust and its sub-trusts.
- [s 9(2)(b)(ii)]: is a New Zealand registered limited liability company, 100% owned by BIT; it is the trustee of the sub-trusts that own the Land. While this company has ownership / control of the Land, we do not consider it needs to be included as an ROP in the circumstances of this investment.

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ATTACHMENT 7 - GOOD CHARACTER SEARCHES AND ANALYSIS

The OIO undertook an open-source search of the relevant overseas person (**ROP**) and individuals with control (**IWCs**).

The table below summarises various matters raised by the Applicant's disclosures and identified through our open source searches.

Two of the things we consider when weighing up 'good character' include:

- **connection to the Individuals with Control (IWCs) or Relevant Overseas Person (ROP):** we assess the level of control between any of the IWCs of the ROP and the particular matter.
- **relevance to this investment:** we assess how relevant the particular matter is to the nature of this particular investment.

Our assessment of the connection to the IWCs is shown as the first coloured bar on the table. Our assessment of the relevance to this investment is shown as the second coloured bar on the table. Our ultimate assessment of the risk of each matter is shown as the third coloured bar on the table.

Matter	Summary of disclosure or search finding	Connection to IWC/ROP			Relevance to this investment			Summary of Applicant response	OIO assessment
		Low	Med	High	Low	Med	High		
1. Commercial litigation	Belvino Investments No. 2 Pty Limited (trustee of BIT sub-trusts that own the Land) was involved in unsuccessful litigation in NSW on the interpretation of a lease and the duty of expert advisors.							This case related to the interpretation of a lease and has no bearing on the character of any of the Belvino directors.	Four of the six directors of Belvino Investments No. 2 Pty Limited are also IWCs. This appears to be an example of standard commercial litigation through which one might expect to see a company attempt to preserve its commercial position. No character issues are raised by this matter.

Matter	Summary of disclosure or search finding	Connection to IWC/ROP			Relevance to this investment			Summary of Applicant response	OIO assessment
		Low	Med	High	Low	Med	High		
2. Commercial litigation (Tzar Kuoi Li (Victor))	Mr Li was reported in an article online to have been an unreliable witness in litigation involving the correct interpretation of a settlement agreement between the plaintiff, Urban Renewal Authority, and the first and second defendants, Agrila Limited and Cheung Kong (Holdings) Limited. Mr Li was a director of the first and second defendants. It was said he had not answered questions directly when confronted with documents that were inconsistent with his evidence.							The first defendant made a payment to the plaintiff under a settlement agreement. Mr Li believed it was payment in full and final settlement and gave evidence of his recollection of a meeting where this was agreed. The plaintiff contested Mr Li's recollection. The Judge acknowledged that as the alleged meeting had occurred nearly 13 years prior, the witnesses' recollection was inevitably "hazy" and so preferred to determine the intention of the parties by reference to the documents entered into at the time. The defendants did not contest the outcomes with a view to maintaining its amicable business relationship with the Urban Renewal Authority.	As there was no suggestion of wrongdoing (lying or perjury) and noting the applicant's submissions, we considered this response was sufficient to demonstrate that a good character finding could still be reached.

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Matter	Summary of disclosure or search finding	Connection to IWC/ROP			Relevance to this investment			Summary of Applicant response	OIO assessment
		Low	Med	High	Low	Med	High		
3. Commercial litigation (Edmond Tak Chuen Ip)	Mr Ip was the fifth defendant in a proceeding in the Hong Kong High Court. This was a proceeding in relation to whether full disclosure had been provided in another proceeding.							Mr Ip was appointed by Milibow Assets Limited ("Milibow") to be a director of Welko Industrial (BVI) limited ("WBVI") to represent Milibow's shareholding interest in WBVI. Mr Ip's involvement in this proceeding was purely because of his capacity as a director of Milibow and WBVI. The proceeding and related court action and disputes were fully and finally settled by the parties to the proceedings by a settlement deed made by the parties on 27 September 2002 by which, inter alia, all claims between the parties were dismissed. Mr Ip resigned as a director of both Milibow and WBVI on 18 December 2003.	In light of the Applicant's submissions, noting Mr Ip wasn't personally implicated in these matters, along with the nature of the dispute, this matter didn't suggest that Mr Ip was not of good character.
4. ICIJ matter (Alan Abel Ying Choi Yu)	Mr Yu was a director of CIL Holdings Limited, which was publically censured along with some of its executive directors (not including Mr Yu) in 2001 due to breaches of the Listing Agreement and the Declaration and Undertaking with regard to Directors to the Stock Exchange of Hong Kong Limited. The breaches relate to the late dispatch of CIL's annual report and accounts in 1999 and 2000.							Mr Yu was a non-executive director of CIL at all relevant times. While he can recall the public censure and the matters giving rise to the breaches, which took place in the last year of his role as a non-executive director, he does not believe these matters have any bearing on his good character. Mr Yu is no longer a director of this company.	We do not consider this matter results in a finding that Mr Yu is not of good character. We note that he was not named as a censured director in relation to the breaches, which related to late publication of reports and financials.

Matter	Summary of disclosure or search finding	Connection to IWC/ROP			Relevance to this investment			Summary of Applicant response	OIO assessment
		Low	Med	High	Low	Med	High		
5. ICIJ matter (Edmond Tak Chuen Ip)	4. Mr Ip was listed on the ICIJ database in relation to Sinosmart Limited. There were also ICIJ results for "Sinostart KTS Development Limited" a subsidiary of "Sinostart." ICIJ, including an article alleging Sinostart representatives may have misappropriated company money. There was also an article reporting the owner of Sino Smart Technology Limited was involved in fraud.							Mr Ip does not know of and has never been involved in the company Sinostart KTS Development Limited, which is not related to Sinostart Limited. Mr Ip does not know of and has never been involved in the company Sino Smart Technology Limited, which is not related to Sinostart Limited.	As there is no connection with the company that the IWC was a director of to the companies in these articles, I was satisfied with this response.

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Matter	Summary of disclosure or search finding	Connection to IWC/ROP			Relevance to this investment			Summary of Applicant response	OIO assessment	
		Low	Med	High	Low	Med	High			
6. Dominion Salt (Alan Abel Ying Choi Yu and Richard Clive Pearson)	Mr Yu and Mr Pearson are directors of Dominion Salt Limited, which was charged (as a co-defendant) with offences under the Electricity Act 1992 and the Health and Safety at Work Act 2015. The OIO was made aware of this in February 2018.							Further updates were provided to the OIO on 7 September 2018 and 17 June 2019. The matter is currently awaiting a trial date.		Mr Yu and Mr Pearson alerted OIO to the WorkSafe prosecution. The incident was a 'near miss' at the Lake Grassmere Salt Works. The prosecution has not been set down for trial, so it is unclear what liability, if any, attaches to Dominion Salt. The Applicant has indicated the company has entered not guilty pleas. This matter was only brought to the attention of Mr Yu and Mr Pearson when Dominion Salt was joined to the prosecution. We consider that, until there is an outcome from the WorkSafe prosecution, it cannot be said that this matter shows a lack of good character in Mr Yu or Mr Pearson.

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Matter	Summary of disclosure or search finding	Connection to IWC/ROP			Relevance to this investment			Summary of Applicant response	OIO assessment
		Low	Med	High	Low	Med	High		
7. Bushfires Royal Commission (Shane Augustus Breheny)	Mr Breheny gave evidence during an investigation by the Bushfires Royal Commission as to how fires had started and whether regulations had been complied with.							Mr Breheny was CEO of Powercor Australia Pty Ltd and CitiPower Pty and the company was asked to make a submission to the Commission and provide an executive to explain the submission and answer questions. Mr Breheny appeared on behalf of the company. There were no adverse findings made against the company or any individuals.	As CEO, it was appropriate Mr Breheny appeared at the investigation to provide evidence. There were no adverse findings against the company or Mr Breheny. We do not consider this demonstrates lack of good character.
8. SFO matter (Richard Clive Pearson)	The Serious Fraud Office laid charges against Mr Evan Paul Cherry, the director of Strategic Investments International Ltd, who plead guilty to the charges.							Mr Pearson was involved in the Mid Stream Container Handling Business in Hong Kong through a joint venture with Strategic. The controlling shareholder of Strategic was a Mr John Lau. Mr Evan Cherry was a shareholder representative from the John Lau interests. Mr Pearson does not believe he ever met Mr Cherry. All board matters were handled by Board Circular. Mr Pearson notes that due to his Group's dissatisfaction with the performance and behaviour of the John Lau Group, his side eventually acquired John Lau's stake in the Company to achieve 100% control of it. Mr Pearson is no longer a director of this company.	These allegations / convictions occurred to the other joint venture partner, and there was no suggestion these allegations were made against Mr Pearson's side of the JV or him personally





Matter	Summary of disclosure or search finding	Connection to IWC/ROP			Relevance to this investment			Summary of Applicant response	OIO assessment
		Low	Med	High	Low	Med	High		
9. Ports of Auckland - Nicky Hager allegation (Richard Clive Pearson)	Nicky Hager in his book "Dirty Politics" alleged Ports of Auckland and Mr Pearson were involved with right wing "attack" bloggers			High	Low			<p>A dispute between Ports of Auckland (POA) and the Maritime Union of New Zealand (MUNZ) arose while Mr Pearson was Chairman. Agreement was eventually reached. There were no unethical practices undertaken by POA.</p> <p>Mr Pearson presumes the origin of this story relates to the active interest taken by Cameron Slater in the dispute between POA and MUNZ. Mr Slater is a well-known blogger and the owner of Whale Oil Beef Hooked (WO).</p> <p>The dispute between POA and MUNZ attracted the interest of WO, which is when Mr Pearson first came across Mr Slater. Mr Pearson denies any allegation that he was involved with right wing "attack" bloggers and publicists. He had no relationship with Mr Slater before the above incident nor has he had any relationship with him since.</p> <p>Mr Pearson continues to hold a number of directorships both in New Zealand and internationally.</p>	<p>We are satisfied with this response and do not feel there is sufficient evidence to warrant further investigation.</p>

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In addition, searches of the International Consortium of Investigative Journalists (ICIJ) database, United Nations Security Council (UNSC) Terrorist Entities List, and Interpol Red Notice List produced the following results (in summary):

- No hits were reported for any of the entities that collectively comprise the ROP.
- No hits were obtained for the following IWCs: Colin Stevens Russel, Shane Augustus Breheny, Angus Huw Barrington-Case, Victor Tzar Kuoi Li, Jerry Yiu Leung Mo, Eva Lee Kwok, Melvin Kean Meng Toh, Paul Joseph Tighe.
- Hits were obtained for the following IWCs:
 - Richard Clive Pearson in respect of Splendid Century Limited, Classic Diamond Limited, Pearl Spirit Limited, Hutchison Ports Nanhai Investment Limited, Orient-Triumph Investments Limited, Hutchison Container Depots Limited.
 - Hing Lam Kam in respect of Rich Rising Limited, Green Tech Consultants Limited and Glory Duty Investments Limited.
 - Edmond Tak Chuen Ip in respect of Fareast Allied Investments Limited, Green Tech Consultants Limited, China Expressways Company Limited, Sinosmart Limited, Pushkin Enterprises Limited, Panorama International Limited, Rich Rising Limited, Geranium Ventures Limited and Hadrian Assets Limited.
 - Peter Pearce Tulloch in respect of CEFNA Greater China Investments Company Limited and CIBC Global Asset Management (Bermuda) Limited. CEFNA Greater China Investments Company Limited.
 - Kai Cheong Kwan was listed on the Offshore Leaks Database as the beneficiary of Star Host Limited and of Avenir Asset Management Limited and Wall Street Limited.
- All of the above IWCs indicated they did not know why the respective companies were listed and confirmed they were no longer directors of those companies. As an appearance on the ICIJ database does not necessitate a finding that criminal or wrongful acts have been carried out and in light of the responses provided by the IWCs listed above, we are satisfied these matters do not prevent a finding of good character.

ATTACHMENT 8 - OVERVIEW TABLES FOR REGENAL INVESTMENTS PTY LIMITED 201810179

		Application	Provisional recommendation
 <p>Crownthorpe vineyard – Hawkes Bay</p>  <p>Dashwood vineyard – Marlborough</p>  <p>Rarangi vineyard – Marlborough</p> 		<p>Application</p> <ul style="list-style-type: none"> Regenal Investments Pty Limited (the Applicant) seeks consent to acquire 27.7% of the units in Belvino Investment Trust (BIT) and 27.7% of the shares in Belvino Investments Pty Ltd (Belvino Trustee). The Applicant is currently the majority owner of BIT / Belvino Trustee. The investment would mean the Applicant would own 100% of the targets. This transaction requires consent for an indirect investment in approximately 703.42 hectares of sensitive land. BIT owns the freehold in three vineyards comprising: <ul style="list-style-type: none"> approximately 360.79 hectares at 1301 and 1370 Matapiro Road, Crownthorpe, Hawkes Bay (Crownthorpe vineyard); approximately 200.52 hectares at 1824 Redwood Pass Road, Lower Dashwood, Marlborough (Dashwood vineyard); and approximately 142.11 hectares at 58 Flaxmill Drive, Rarangi, Marlborough (Rarangi vineyard). The vineyards are leased to Delegat's a leading New Zealand winemaker with the flagship brand Oyster Bay. The Vendor is LANV Pty Ltd, the minority owners of BIT and Belvino Trustee. 	<p>Provisional recommendation</p> <ul style="list-style-type: none"> Our provisional recommendation is to grant consent. Relevant tests for this transaction: <ul style="list-style-type: none"> Investor test (s16(1)(a)-(d) of the Act) Benefits test – substantial and identifiable benefits (s16(1)(e)(ii) and (iii) of the Act) Farm Land offer criterion (s16(1)(f) of the Act) and Section 20(a) exemption <p>Transitional note: The contract for this transaction was entered prior to commencement of the Overseas Investment Amendment Act 2018, so the version of the Act and the regulations in force immediately before its commencement continue to apply.</p> <p>Factors for Ministers to particularly consider:</p> <ul style="list-style-type: none"> Whether you are satisfied the benefit to New Zealand of the investment is likely to be substantial and identifiable [paragraphs 100-115]. This application is finely balanced. However, after carefully considering the particular circumstances of this investment and applicant, and taking a proportional approach to the interest being acquired (an increase in the existing ownership interest) our view is the 'substantial and identifiable' benefit test could be met Whether you are satisfied an exemption to the farm land offer criterion should be granted [paragraphs 68-73]

Overview of assessment: Investor test

Element of investor test	OIO assessment of strengths and weaknesses		Cross-references
	Risk Barometer	Summary	
Relevant overseas persons (ROP) and individuals with control (IWC) confirmed	Identified	ROPs & IWCs have been identified.	Section 15 of the Act Paragraphs 31-38
Collectively have business experience and acumen relevant to the investment	Test met	The ROPs and IWCs collectively have relevant business experience and acumen.	Section 16(1)(a) of the Act. Paragraphs 39-41
ROP demonstrated financial commitment	Test met	The Applicant has demonstrated financial commitment by: <ul style="list-style-type: none"> entering into the Share and Unit Sale and Purchase Agreement dated 7 September 2018 to acquire the assets engaging professional advisers previously acquiring and maintaining ownership of other business assets associated with this investment, namely 72.3% units / shares in BIT / Belvino Trustee respectively. 	Section 16(1)(b) of the Act.
Good character	Test met	We are satisfied that the ROPs / IWCs are of good character. Matters were identified including some instances of litigation and ICIJ findings, however, we are satisfied that these do not demonstrate a lack of good character of the relevant individuals with control.	Sections 16(1)(c) of the Act. Paragraphs 42-44 and Attachment 7
Not an individual of the kind ineligible for a visa or entry permission under ss 15 or 16 of the Immigration Act 2009	Test met	A statutory declaration has been provided confirming that each individual is not of the kind referred to in sections 15 and 16 of the Immigration Act.	Sections 16(1)(d) of the Act.

Overview of assessment: Benefit test

Relevant benefit factors	Applicant's claims: what they intend to do	Without the investment (Counterfactual)	OIO analysis: strength/weakness		Proposed special conditions and reporting requirements	Cross refs
			Indicative strength	Summary		
Previous investments	The Applicant has provided evidence of previous investments made by Regenal and CKLS (both included in the ROP) and CKLS's subsidiary CKI in New Zealand and the benefits from that.	n/a	Moderate	The previous investments have provided benefit to New Zealand through money spent on plant and machinery, provision of favourable lease, increased profit and export receipts, protection of local vegetation and flora, and increased job opportunities.	Annual reporting	Paras 79-84
Affect image, trade or international relations	The Applicant submits that refusing the application will be likely to adversely affect New Zealand's image overseas.	If the consent was declined the entire international transaction would fail	Moderate	The transaction is a small but inseparable part of a large international transaction. We consider there to be a genuine risk that New Zealand's image overseas would be adversely affected if the consent was declined and the Trans-Tasman transaction failed.	Applicant to report to OIO on completion of the transaction and provide copies of reporting provided to the Hong Kong Stock Exchange.	Paras 85-90
Enhance viability of other investments	The Applicant submits that this Investment will result in a greater ability and willingness by BIT to invest in the Land, by removing an unwilling minority owner	The Applicant would continue to be under constraint regarding its ability to make decisions without agreement from minority owner, including decisions on significant capital investment	Moderate	The Applicant is unable to make capital investments (to which BIT has not already committed) of more than [redacted] without consent of the minority owner, whose focus is on returns to its owners rather than CapEx. We consider the Applicant will, therefore, be freer to invest in the Land if consent is granted.	None	Paras 91-93
Consequential benefits	The Applicant has indicated that, if consent is granted, it would be in a position [s 9(2)(b)(ii)] [redacted]	BIT is said to already be exploring arrangements with [s 9(2)(b)(ii)], which suggests this is already occurring and will continue under the counterfactual. However, it is not likely that the support of [s 9(2)(b)(ii)] would occur without the investment.	Weak	The Applicant's [s 9(2)(b)(ii)] [redacted] would be a consequential investment on the Land and in New Zealand infrastructure that would provide benefit under this factor.	Condition the Applicant to [s 9(2)(b)(ii)] [redacted]. Condition to apply for the next 5 years. Applicant to report on this in its regular reporting to OIO.	Paras 94-99

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