

To: Clare Needham, Principal Customer Regulatory Specialist – Assessment

From: Sherlene Ho, Senior Solicitor – Compliance/Legal

ASSESSMENT REPORT: **Since20181 Development Limited**

Date	14 February 2024	Classification	IN CONFIDENCE: Commercially sensitive
LINZ reference	201900225 and 201900473	Deadline	23 February 2024

A. Proposal to vary consent conditions

Original Consent

1. Since20181 Development Limited (**Since20181**), a property developer, was granted two consents in December 2019 (the **Consents**), under the Overseas Investment Act 2005 (the **Act**) to acquire the following:
 - (a) freehold interest in approximately 0.0759 hectares of residential land at 20 Browns Bay Road, Rothesay Bay, Auckland;¹ and
 - (b) freehold interest in approximately 0.2024 hectares of sensitive land at 22 and 24 Beechwood Road, Rothesay Day, Auckland;²together, the **Land**.
2. The Land is residential (but not otherwise sensitive) land under the Act. Since20181 was granted the Consents under the “increased housing test”³. Since20181 intended to construct an apartment on the Land and two neighbouring properties that they own⁴. This apartment was to contain at least 175 new residential dwellings and approximately three commercial units.⁵
3. The Consents required Since20181 to increase the number of residential dwellings constructed on the Land by at least 155 residential dwellings.⁶ **Special Condition 2** of the Consents contained certain milestones that Since20181 is required to achieve, including the following:
 - (a) **Milestone 3**, “obtain all required resource consents and building consents for starting the Development”.
 - (b) **Milestone 4**, “commencement of the construction of the Development”.
 - (c) **Milestone 5**, “confirm to us that you are on schedule to meet Milestone 6”.
4. **Milestone 6** requires that the construction of the Development be completed by 31 December 2024.

¹ Case no. 201900225, granted on 6 December 2019.

² Case no. 201900473, granted on 19 December 2019.

³ Overseas Investment Act 2005, sch 2, pt 3, cl 11.

⁴ These properties did not require consent under the Act.

⁵ The number of dwellings required under each consent condition does not equal 175 units as buffer was given.

⁶ Being at least 75 residential dwellings in case no. 201900225 and at least 80 residential dwellings on case no. 201900473.

2021 Variation

5. After identifying issues with the apartment development, including land instability and engineering concerns, Since20181 applied for a variation on 26 August 2020. Since20181 sought to change the apartment development to a terraced housing development. Consequentially, Since20181 also sought a time extension for the relevant development milestones in the Consents.
6. On 12 April 2021, the following variations were granted:

Case no.	Special Condition	Variation Granted
201900225	1: Increase Housing Outcome	Reduction in the number of dwellings, from at least 75 residential dwellings to at least 20 residential dwellings.
	2: Milestones	Time extensions given the change in the nature of the development.
	4: Use the Land for non-residential purposes ⁷	Special condition removed as plans for the commercial units had been removed.
201900473	1: Increased Housing Outcome	Reduction in number of dwellings, from at least 80 residential dwellings to at least 10 residential dwellings.
	2: Milestones	Time extensions given the change in the nature of the development.

Table 1 – Variations granted on 12 April 2021

2022 Variation

7. On 11 November 2022, Since20181 applied for a second variation. Since20181 sought an extension to the milestones in Special Condition 2 due to delays in obtaining resource consents from Auckland Council. This delay was due to the following:
 - (a) COVID-19-related illnesses among Auckland Council staff.
 - (b) Auckland Council asking Since20181 to resubmit its resource consent application due to layout and orientation changes that were made, following the recommendations of the urban designer from Auckland Council.
8. This delay in obtaining all relevant consents required to commence the development would also result in delays in achieving other milestones.
9. On 22 December 2022, the following variations were granted:

Case no.	Special Condition	Milestone	Extension Granted to Deadline
201900225 and 201900473	2	Milestone 3	31 December 2022 extended to 31 August 2023
		Milestone 4	31 December 2022 extended to 30 June 2023

⁷ This is in relation to the planned commercial units.

		Milestone 5	31 January 2023 extended to 31 August 2023
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Table 2 – Variations granted on 22 December 2022

10. Since20181 submitted that they were on track to meet the 31 December 2024 deadline for Milestone 6.

Current application for variation

11. On 23 August 2023, Since20181 applied for a third variation (the **Third Variation**). Since20181 has advised that they are unlikely to meet the deadlines for Milestone 3, Milestone 4⁸, Milestone 5, and Milestone 6. Since20181 has submitted that the delays are mainly due to the delays by the Auckland Council, including the following:
- Changes in staff at the Auckland Council.
 - The 2023 Auckland Anniversary Weekend floods, after which Auckland Council requested various further information and further geotechnical testing due to the three overland flow paths⁹ on the Land.
 - A five-month delay in Auckland Council allocating a groundwater specialist to review Since20181's resource consent application.
12. A further reason for the Third Variation is that Since20181's resource consent¹⁰ has 'Seasonal Restriction', meaning no earthworks on the Land can be undertaken between 1 May and 30 September in any year without further approval from Auckland Council. Since20181 is requesting an extension to Milestone 4 in the event that they are unable to obtain their building consent before 1 May 2024, and, therefore, will only be able to commence construction on 1 October 2024.
13. The Applicant seeks to vary the conditions of consent as follows:

Case no.	Special Condition	Milestone	Extension Requested to Deadline
201900225 and 201900473	2	Milestone 3	31 August 2023, extended to 31 December 2024
		Milestone 4	30 June 2023, extended to 1 October 2024 ¹¹
		Milestone 5	31 August 2023, extended to 31 December 2024
		Milestone 6	31 December 2024 extended to 31 December 2027

Table 3 – Requested extensions to deadlines

⁸ Since20181 has obtained their resource consent, but they have not obtained their building consents.

⁹ An overland flow path represents the predicted path of stormwater as it flows over the topography.

¹⁰ Council Reference BUN60413595.

¹¹ While Since20181 intends to commence construction on 1 October 2024, they will be submitting their building consent applications in stages to expedite the process. Thus, Since20181 does not expect to obtain all required building consents until 31 December 2024 (Milestone 3, *refers*).

B. How to approach the decision

14. Section 27 of the Overseas Investment Act 2005 (**Act**) provides that conditions of consent may be:
 - (a) varied with the agreement of the Consent Holder, or
 - (b) revoked.
15. Conditions which the Act required to be imposed (for example in relation to residential outcomes) may be varied but may not be revoked.
16. The Act does not spell out what the decision-maker must take into account in considering whether to vary a consent. Applying general principles of administrative law, the discretionary power should be exercised reasonably, and consistently with the purpose of the Act:

3 Purpose

- (1) *The purpose of this Act is to acknowledge that it is a privilege for overseas persons to own or control sensitive New Zealand assets by—*
 - (a) *requiring overseas investments in those assets, before being made, to meet criteria for consent; and*
 - (b) *imposing conditions on those overseas investments.*
- (2) *This Act also has the purpose of managing certain risks, such as national security and public order risks, associated with transactions by overseas persons.*

C. Our assessment

17. Since20181's Third Variation was referred to the Compliance team for investigation. This was due to ongoing concerns regarding their ability to comply with Special Condition 2.
18. On 13 December 2023, we had a voluntary, in-person meeting with:
 - (a) Daniel ZOU, director of Since20181.
 - (b) James CHEN, site manager for Since20181.
 - (c) Anthony LEE, director of Archi-ON Design Limited¹².
 - (d) Winston WANG, lawyer for Since20181.
19. At this meeting, we queried them on the status of the development and the reasons for the delays. Following the meeting, we conducted a site inspection of the Land.
20. Based on the information provided, our meeting, and site inspection, we accept Since20181's reasons for the need for a variation and consider the Third Variation to be reasonable in the circumstances.
 - (a) Since20181 has taken reasonable steps to comply with Special Condition 2 and has made progress to comply with Special Condition 2.¹³
 - (b) At this stage, given the progress to date and the current state of the Land, we consider that an enforcement action requiring Since20181 to dispose of the Land

¹² Lead designer for the development on the Land. Archi-ON Design Limited oversees the resource consents, building consents, and engineering consents for the development.

¹³ This includes obtaining their resource consent, completing the demolition of the existing properties on the Land, completing various reports such as an environmental and contamination report.

(pursuant to Standard Condition 6¹⁴ of the Consents) is outweighed by the potential benefits that could result from the development.

- (c) The Third Variation appears reasonable and is consistent with the purpose of the Act.
 - (d) The changes do not affect the criteria considered under the original consent (they provide further time for Since20181 to comply with special conditions).
21. We consider this variation provides the Applicant sufficient time for Since20181 to comply with Special Condition 2. However, given this is the third time that Since20181 is seeking a variation, we intend to condition that Since20181 provides us with monthly reports for the six months following the date of this variation, outlining their progress in meeting their conditions of Consents, with the ability to further amend any reporting requirements.

D. Recommendation

22. We recommend that the conditions of Consents be varied as set out in **Attachment 1 and Attachment 2**.

E. Decision

23. I agree to vary the conditions of the Consents as set out in **Attachment 1 and Attachment 2**.

Agree /Disagree

[s 9(2)(a)]

Clare Needham, Principal Customer Regulatory Specialist – Assessment

Date: 15 / 02 /2024

¹⁴ "Dispose of the Land if you do not comply with key special conditions."

ATTACHMENT 1 - PROPOSED VARIATION FOR 201900225

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: 6 December 2019

First variation date: 12 April 2021

Second variation date: 22 December 2022

Third variation date: 15 February 2024

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

Case	201900225
Consent type	One-off Consent (increased housing) for an overseas investment in sensitive land.
Consent holder/s	Since20181 Development Limited (company number 6963113) (You or the Consent Holder)
Consent	The Consent Holder may acquire the Land subject to the Conditions set out below.
Land	The following residential (but not otherwise sensitive) land: Approximately 0.0759 hectares of freehold land at 20 Browns Bay Road, Rothesay Bay, Auckland, being the land currently contained in record of title NA1925/3.
Relevant business	Property investment and development.
Use-by Date	30 November 2020

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 include conditions that we must impose under the Act.

Definitions

Act means Overseas Investment Act 2005.

Development means the terraced housing development you will construct on the Land and Neighbouring Land that will contain at least 20 new residential dwellings.

Neighbouring Land means the land owned by the Consent Holder at 18 and 16 Browns Bay Road, Rothesay Bay, Auckland comprised in titles NA322/102 and 574969 which, together with the Land, will form the Development.

Regulations means Overseas Investment Regulations 2005.

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

Details	Required date				
Special Condition 1: Increased Housing Outcome					
You must use the Land to increase the number of residential dwellings constructed on the Land and Neighbouring Land by at least 20 residential dwellings. If you do not comply with this Special Condition, 0 will apply and we may require you to dispose of the Land.	At all times				
Special Condition 2: Milestones					
You must complete the following milestones with regard to the development of the Land:					
<table border="1"><thead><tr><th>Milestone condition</th><th>Date for completion</th></tr></thead><tbody><tr><td><i>Milestone 1</i> Submission of all required resource consents and building consents for starting the Development</td><td>By 31 December 2021</td></tr></tbody></table>	Milestone condition	Date for completion	<i>Milestone 1</i> Submission of all required resource consents and building consents for starting the Development	By 31 December 2021	
Milestone condition	Date for completion				
<i>Milestone 1</i> Submission of all required resource consents and building consents for starting the Development	By 31 December 2021				

Details		Required date
<p><i>Milestone 2</i></p> <p>Confirm to us whether the resource consent process requires a limited notification or is subject to a hearing process.</p>	As soon as you become aware	
<p><i>Milestone 3</i></p> <p>Obtain all required resource consents and building consents for starting the Development.</p>	By 31 December 2024	
<p>If you do not obtain all relevant resource consents and building consents required to construct the Development, then Standard Condition 6 will apply and we may require you to dispose of the Land.</p>		
<p><i>Milestone 4</i></p> <p>Commencement of construction of the Development.</p>	By 1 October 2024	
<p><i>Milestone 5</i></p> <p>Confirm to us that you are on schedule to meet Milestone 6.</p>	By 31 December 2024	
<p><i>Milestone 6</i></p> <p>Completion of construction of the Development.</p>	By 31 December 2027	
<p>If you do not comply with this condition, Standard Condition 6 will apply and we may require you to dispose of the Land.</p>		
<p>Special Condition 3: Non-occupation outcome</p>		
<p>None of the following people may occupy the Land for residential purposes:</p> <p>(a) You</p> <p>(b) Any overseas person with a 25% or more ownership or control interest in any of the people in (a).</p> <p>(c) Any overseas person who occupies the Land other than on arm's length terms.¹⁵</p> <p>(d) Any overseas person who has a beneficial interest in, or beneficial entitlement to, the relevant interest in the Land.</p> <p>(e) If (a) is a trust, any beneficiary (direct or indirect) who may benefit under the trust at the trustees' discretion.</p> <p>If you do not comply with this Special Condition, Standard Condition 6 will apply and we may require you to dispose of the Land.</p>		At all times

¹⁵ 'At arms length terms' has the meaning in clause 17, Part 5, Schedule 2 of the Overseas Act 2005. In summary it means terms, for example under a lease (or other contract), that are on a reasonable commercial basis.

Details	Required date
<p>For the avoidance of doubt, you may continue to have tenants occupy the dwelling that is currently located on the Land.</p> <p>Nothing in this condition should be read to conflict with the Consent Holder's requirements under the Residential Tenancies Act 1986.</p>	<p>Until 31 December 2022</p>
<p>Special Condition 5: On sale outcome</p>	
<p>You must dispose of all interests in all the residential dwellings on the Land.</p> <p>If you do not comply with this Special Condition, Standard Condition 6 will apply and we may require you to dispose of the Land.</p>	<p>As soon as practicable and no later than 31 December 2028</p>

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 Land	
<p>You must acquire the Land:</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 the Land, and using the acquisition, ownership and control structure you described in your application. Note, only you – the named Consent Holder - may acquire the Land, not your subsidiary, trust or other entity. 	As stated in the Consent
Standard condition 2: : tell us when you acquire the Land	
<p>You must tell us in writing when you have acquired the Land. Include details of:</p> <ol style="list-style-type: none"> the date you acquired the Land (Settlement), consideration paid (plus GST if any), the structure by which the acquisition was made and who acquired the Land, and copies of any transfer documents and Settlement statements. 	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: <ol style="list-style-type: none"> enter onto the Land, including any building on it, other than a dwelling, for the purpose of monitoring your compliance with the Conditions (Inspection), 	At all times

Details	Required date
<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> <p>1. must continue to be of good character, and</p> <p>2. must not become an individual of the kind referred to in section 15 or section 16 of the Immigration Act 2009.</p> <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> <p>(a) are members of your governing body,</p>	<p>At all times</p>

Details	Required date
<ul style="list-style-type: none"> (b) directly or indirectly, own or control 25% or more of you or of a person who itself owns or controls 25% or more of you, and (c) are members of the governing body of the people referred to in paragraph (b) above. 	
<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"> (a) becomes bankrupt or insolvent (b) has an administrator, receiver, liquidator, statutory manager, mortgagee's or chargee's agent appointed, or (c) becomes subject to any form of external administration. 	<p>Within 20 working days after the change</p>

Details	Required date
Standard condition 6: : dispose of the Land if you do not comply with key special conditions	
<p>Some of the special conditions were key to the decision to give consent. If we consider you have failed to comply with one of those special conditions in a material way we may require you to dispose of the Land.</p> <p>We may also require you to execute a security deed before you may acquire the 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 Land, 3. gives us power to appoint a receiver to dispose of the 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 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 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 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 Land to a third party who is not your associate.</p>	<p>Within six months of our notice.</p>
<p>Offer without reserve: if you have not disposed of the Land within six months of our notice, offer the Land for sale by auction or tender without a reserve price or minimum bid and dispose of the Land.</p>	<p>Within nine months of our notice.</p>
<p>Report to us about marketing: tell us in writing about marketing activities undertaken and offers received for the Land.</p>	<p>By the last day of every March, June, September and December after our notice or at any other time we require.</p>

Details	Required date
<p>Report disposal to us: send us, in writing, evidence:</p> <ul style="list-style-type: none">(a) that you have disposed of the 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 Land has been disposed of.</p>

Released under the Official Information Act 1982

Reporting conditions

We may need information from you about how your investment plan is tracking so we can monitor your progress against the Conditions.

In addition to Standard Condition 2, every year, you must lodge an annual report. It must:

1. be sent to **oiomonitoring@linz.govt.nz** by 31 January every year starting 2020 until **2028** or such other date as advised by the Overseas Investment Office in writing.
2. contain information about:
 - (a) your progress in implementing and complying with the special conditions;
 - (b) your progress in obtaining the necessary resource, subdivision and any other consents required to allow the Land to be developed for residential purposes;
 - (c) the Consent Holder's progress starting, carrying out, and completing construction (including photographic evidence); and
 - (d) the Consent Holder's progress with selling the completed residential dwellings, including evidence of the sales.
3. follow the format of the template annual report published on our website.

In addition to your annual reporting obligations outlined above, you must lodge a monthly report, containing the information set out in (2), above. These must be sent to **oiomonitoring@linz.govt.nz** by these dates:

- (a) 31 March 2024.
- (b) 30 April 2024.
- (c) 31 May 2024.
- (d) 30 June 2024.
- (e) 31 July 2024.
- (f) 31 August 2024.

You must also notify us in writing (with supporting evidence) within 20 working days of the date on which:

- (a) you appoint a professional project manager as required by Special Condition 4 (including a curriculum vitae outlining their relevant professional experience);
- (a) you submit your final application for resource or building consent to the relevant authority (whichever is later); and
- (b) your resource consent commences.

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:

- (c) The representations and plans made or submitted in support of the application and notified by the regulator as having been taken into account when the Consent was granted or

(d) The conditions of this Consent.

Power to vary reporting date

The dates on which reports are due to be provided may be changed by agreement between LINZ and the Consent Holder, provided that this power may not be used to give a time extension for an individual report.

Power to narrow scope of reports

LINZ may temporarily or permanently waive the requirement to report on a particular matter.

Power not to require further reporting

LINZ may waive the requirement to submit a report and may waive the requirement for future reporting.

Released under the Official Information Act 1982

ATTACHMENT 2 - PROPOSED VARIATION FOR 201900473

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: 19 December 2019

First variation date: 12 April 2021

Second variation date: 22 December 2022

Third variation date: 15 February 2024

The following people have been given the following consent:

Case	201900473
Consent type	One-off Consent (increased housing) for an overseas investment in sensitive land.
Consent holder/s	Since20181 Development Limited (company number 6963113) (You or the Consent Holder)
Consent	The Consent Holder may acquire the Land subject to the Conditions set out below.
Land	The following residential (but not otherwise sensitive) land: Approximately a total of 0.2024 hectares of freehold land at 22 and 24 Beechwood Road, Rothesay Bay, Auckland, being the land currently contained in records of title NA55B/1175 and NA343/210.
Relevant business	Property investment and development.
Use-by Date	30 December 2020

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 include conditions that we must impose under the Act.

Definitions

Act means Overseas Investment Act 2005.

Development means the terraced housing development you will construct on the Land and 16 Browns Bay Road that will contain at least 10 new residential dwellings.

Regulations means Overseas Investment Regulations 2005.

16 Browns Bay Road means the land owned by the Consent Holder at 16 Browns Bay Road, Rothesay Bay, Auckland currently comprised in title 574969, described as Lot 2 Deposited Plan 451219. The Consent Holder anticipates that the Development will predominantly be located on the Land with some encroachment onto 16 Browns Bay Road.

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

Details	Required date
Special Condition 1: Increased Housing Outcome	
<p>You must use the Land to increase the number of residential dwellings constructed on the Land and 16 Browns Bay by at least 10 residential dwellings.</p> <p>For clarity, you must increase the number of residential dwellings constructed on each of the records of title that currently comprise the Land.</p> <p>If you do not comply with this Special Condition, Standard Condition 6 will apply and we may require you to dispose of the Land.</p>	At all times

Details	Required date																
Special Condition 2: Milestones																	
<p>You must complete the following milestones with regard to the development of the Land:</p>																	
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Special Condition 3: Non-occupation outcome																	
<p>None of the following people may occupy the Land for residential purposes:</p> <p>(a) You</p> <p>(b) Any overseas person with a 25% or more ownership or control interest in any of the people in (a).</p>	<p>At all times</p>																

Details	Required date
<p>(c) Any overseas person who occupies the Land other than on arm's length terms.¹⁶</p> <p>(d) Any overseas person who has a beneficial interest in, or beneficial entitlement to, the relevant interest in the Land.</p> <p>(e) If (a) is a trust, any beneficiary (direct or indirect) who may benefit under the trust at the trustees' discretion.</p> <p>If you do not comply with this Special Condition, 0 will apply and we may require you to dispose of the Land.</p>	
Special Condition 4: Appoint a professional project manager	
<p>You must appoint a professional project manager with the relevant skills and experience to manage the Development.</p> <p>If you do not comply with this Special Condition, Standard Condition 6 will apply and we may require you to dispose of the Land.</p>	By 31 December 2020
Special Condition 5: On sale outcome	
<p>You must dispose of all your interests in the Land.</p> <p>If you do not comply with this Special Condition, Standard Condition 6 will apply and we may require you to dispose of the Land.</p>	As soon as practicable and no later than 31 December 2028

¹⁶ 'At arms length terms' has the meaning in clause 17, Part 5, Schedule 2 of the Overseas Act 2005. In summary it means terms, for example under a lease (or other contract), that are on a reasonable commercial basis.

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 Land	
<p>You must acquire the Land:</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 the Land, and using the acquisition, ownership and control structure you described in your application. Note, only you – the named Consent Holder - may acquire the Land, not your subsidiary, trust or other entity. 	As stated in the Consent
Standard Condition 2: tell us when you acquire the Land	
<p>You must tell us in writing when you have acquired the Land. Include details of:</p> <ol style="list-style-type: none"> the date you acquired the Land (Settlement), consideration paid (plus GST if any), the structure by which the acquisition was made and who acquired the Land, and copies of any transfer documents and Settlement statements. 	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: <ol style="list-style-type: none"> enter onto the Land, including any building on it, other than a dwelling, for the purpose of monitoring your compliance with the Conditions (Inspection), 	At all times

Details	Required date
<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>(c) 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>(d) 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>	
Standard Condition 4: remain of good character	
<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> <p>(a) are members of your governing body,</p>	<p>At all times</p>

Details	Required date
<ul style="list-style-type: none"> (b) directly or indirectly, own or control 25% or more of you or of a person who itself owns or controls 25% or more of you, and (c) are members of the governing body of the people referred to in paragraph (b) above. 	
<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"> (a) becomes bankrupt or insolvent (b) has an administrator, receiver, liquidator, statutory manager, mortgagee's or chargee's agent appointed, or (c) becomes subject to any form of external administration. 	<p>Within 20 working days after the change</p>

Details	Required date
Standard Condition 6: dispose of the Land if you do not comply with key special conditions	
<p>Some of the special conditions were key to the decision to give consent. If we consider you have failed to comply with one of those special conditions in a material way we may require you to dispose of the Land. For the avoidance of doubt, if the Land cannot be disposed of without the 16 Browns Bay Road land, then we may require you to dispose of the 16 Browns Bay Road land also.</p> <p>If all or part of this Standard Condition 6 applies to a special condition, we have said so in that condition.</p> <p>We will give you written notice if we require you to dispose of the Land. 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 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 Land to a third party who is not your associate.</p>	<p>Within six months of our notice.</p>
<p>Offer without reserve: if you have not disposed of the Land within six months of our notice, offer the Land for sale by auction or tender without a reserve price or minimum bid and dispose of the Land.</p>	<p>Within nine months of our notice.</p>
<p>Report to us about marketing: tell us in writing about marketing activities undertaken and offers received for the Land.</p>	<p>By the last day of every March, June, September and December after our notice or at any other time we require.</p>
<p>Report disposal to us: send us, in writing, evidence:</p> <ul style="list-style-type: none"> (a) that you have disposed of the 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 Land has been disposed of.</p>

Reporting conditions

We may need information from you about how your investment plan is tracking so we can monitor your progress against the Conditions.

In addition to Standard Condition 2, every year, you must lodge an annual report. It must:

1. be sent to **oiomonitoring@linz.govt.nz** by 31 January every year starting 2020 until **2028** or such other date as advised by the Overseas Investment Office in writing.
2. contain information about:
 - (e) your progress in implementing and complying with the special conditions;
 - (f) your progress in obtaining the necessary resource, subdivision and any other consents required to allow the Land to be developed for residential purposes;
 - (g) the Consent Holder's progress starting, carrying out, and completing construction (including photographic evidence); and
 - (h) the Consent Holder's progress with selling the completed residential dwellings, including evidence of the sales.
3. follow the format of the template annual report published on our website.

In addition to your annual reporting obligations outlined above, you must lodge a monthly report, containing the information set out in (2), above. These must be sent to **oiomonitoring@linz.govt.nz** by these dates:

- (a) 31 March 2024.
- (b) 30 April 2024.
- (c) 31 May 2024.
- (d) 30 June 2024.
- (e) 31 July 2024.
- (f) 31 August 2024.

You must also notify us in writing (with supporting evidence) within 20 working days of the date on which:

- (i) you appoint a professional project manager as required by Special Condition 4 (including a curriculum vitae outlining their relevant professional experience);
- (j) you submit your final application for resource or building consent to the relevant authority (whichever is later); and
- (k) your resource consent commences.

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 Consent was granted or

(b) The conditions of this Consent.

Power to vary reporting date

The dates on which reports are due to be provided may be changed by agreement between LINZ and the Consent Holder, provided that this power may not be used to give a time extension for an individual report.

Power to narrow scope of reports

LINZ may temporarily or permanently waive the requirement to report on a particular matter.

Power not to require further reporting

LINZ may waive the requirement to submit a report and may waive the requirement for future reporting.

Released under the Official Information Act 1982