Richard O'Sullivan

Reflection on Foreign Direct Investment in the Central South Island primary industry and where to from here?

Kellogg Rural Leadership Programme | Course 43 | 2021

I wish to thank the Kellogg Programme Investing Partners for their continued support:

Strategic partners

Programme partners

Service partners

Disclaimer

In submitting this report, the Kellogg Scholar has agreed to the publication of this material in its submitted form.

This report is a product of the learning journey taken by participants during the Kellogg Rural Leadership Programme, with the purpose of incorporating and developing tools and skills around research, critical analysis, network generation, synthesis and applying recommendations to a topic of their choice. The report also provides the background for a presentation made to colleagues and industry on the topic in the final phase of the Programme.

Scholars are encouraged to present their report findings in a style and structure that ensures accessibility and uptake by their target audience. It is not intended as a formal academic report as only some scholars have had the required background and learning to meet this standard.

This publication has been produced by the scholar in good faith on the basis of information available at the date of publication, without any independent verification. On occasions, data, information, and sources may be hidden or protected to ensure confidentially and that individuals and organisations cannot be identified.

Readers are responsible for assessing the relevance and accuracy of the content of this publication & the Programme or the scholar cannot be liable for any costs incurred or arising by reason of any person using or relying solely on the information in this publication. This report is copyright but dissemination of this research is encouraged, providing the Programme and author are clearly acknowledged.

Scholar contact details may be obtained through the New Zealand Rural Leadership Trust for media, speaking and research purposes.

Table of Contents

Executive Summary

Foreign Direct Investment into rural land is a topic that most New Zealanders have an opinion on and in the past two decades has become an increasingly controversial and emotive topic. Our economy is driven from production using our land and water resources, this is seen as our competitive advantage – so the ownership of these resources is continually under the spotlight, regularly reported on and is a frequent political issue.

New Zealand also needs to broadly recognise the direct links FDI has with supplying our nation with much needed capital, continued and new access to offshore markets, innovation, and technology. Contentiousness around FDI has been centred around the sell down of our land assets (and by default our competitive advantage), with less consideration given to the immediate and downstream benefits.

This study aims to reflect on Foreign Direct Investment and provide an overview of where we are today, the numbers and trends, particularly in reference to the central South Island. It will explain how Foreign Direct Investment is governed and regulated in New Zealand and investigate our current legislative policy in New Zealand.

It was important to review national and regional literature on Foreign Direct Investment in New Zealand with a lens towards my home region of Canterbury and balance this with a series of interviews and case studies with farmers, rural professionals, academics and overseas investors. All parties have been selected to seek a balanced view of the impacts of Foreign Direct Investment in the central South Island since 2005. And where are we heading?

The key findings and recommendations from the report show:

- As New Zealand farmers become more sophisticated in their approach to business, we are seeing more happening in the <25% investment space, "Its New Zealanders accessing strategic capital offshore, not the other way around".
- Access to the 'right' capital is fundamental to our countries long term prosperity, we need a balanced approach towards finding the right type of investor. The opportunity exists to further grow our Agri-economies by partnering and co-investing.
- The OIO will continue to face a challenge in applying the purpose of the Act. The current legislation is accommodating the easy wins for New Zealand i.e. Forestry investment and Viticulture. Tension remains around our pastoral activities.
- The regulatory framework from which foreign ownership is governed is key and needs regular review. The consensus is we nearly have this legislation right.
- There is an ease in attracting FDI to New Zealand, it includes our open and business-friendly economy, low levels of corruption, good protection of property rights, high living standards, political stability and advantageous tax policy.
- There is broad acknowledgement that it is a privilege for New Zealand businesses to access FDI and do what they are doing. OIO restrictions are not only a benefit to the nation, but give any business operating in this space clarity about what is expected.

The conclusions and recommendations in this report are targeted at any party wanting a greater understanding of Foreign Direct Investment, the impacts, benefits and future considerations.

Acknowledgements

To the many people who assisted me in completing this project, a huge thank you. The opportunity was made possible due to the support of my Colliers Rural Team, who have been extremely encouraging and picked up the slack in my absence – thanks Shane & Ruth.

I would like to acknowledge the support and advice of various people who have given their time and expertise without a second thought:

- Richard Green for challenging my 'thought' on numerous occasions.
- Hamish Fraser for giving a perspective hard to find.
- Christina Lefever for her time for an interview and plenty of ongoing information exchanges.
- Mark Cox, for happily hosting me at Craigmore and letting me really see what the opportunity for NZ Inc was.
- Greg Peterson, for an insightful interview, and data always at hand.
- Iona McCarthy, for useful conversations, and data exchange.
- Ed Pinckney, with an amazing story which needs to be shared. Thank you for your openness regarding our discussion.
- Denitsa and Bella, many thanks for your help with the graphs and formatting.

Glossary

Overseas Investment Office

The 'OIO' is the regulator of overseas investment in New Zealand. Their work ensures responsible investment, recognising that it is a privilege for an overseas person to own or control a sensitive New Zealand asset.

Overseas Investment Act 2005

'the Act' governs our Overseas investment regime, regulated by the OIO under the oversight of the Minister of Land Information and the Minister of Finance.

Overseas Person

Includes individuals who are neither New Zealand citizens nor holders of New Zealand resident visas for an appropriate amount of time. Any company incorporated outside of New Zealand is automatically an overseas person, regardless of its shareholders. A New Zealand company will be an overseas person if overseas persons hold 25% or more of the ownership, voting or governance rights. The tests for partnerships, trusts, and other entities are similar.

Sensitive Assets

Real estate, including rural, commercial, forestry, residential, plus business assets and fishing quota. Applies to all acquisitions of non-urban land over 5ha, other than land already used for forestry. Applies to business assets over $100m in value.

Ministerial Directive

Directive letters are a way for the Minister to communicate the Government's policy towards overseas investment. This can provide important guidance for overseas investors about the Government's views on overseas investment including the types of investment it welcomes or is concerned about and why.

Counterfactual Test

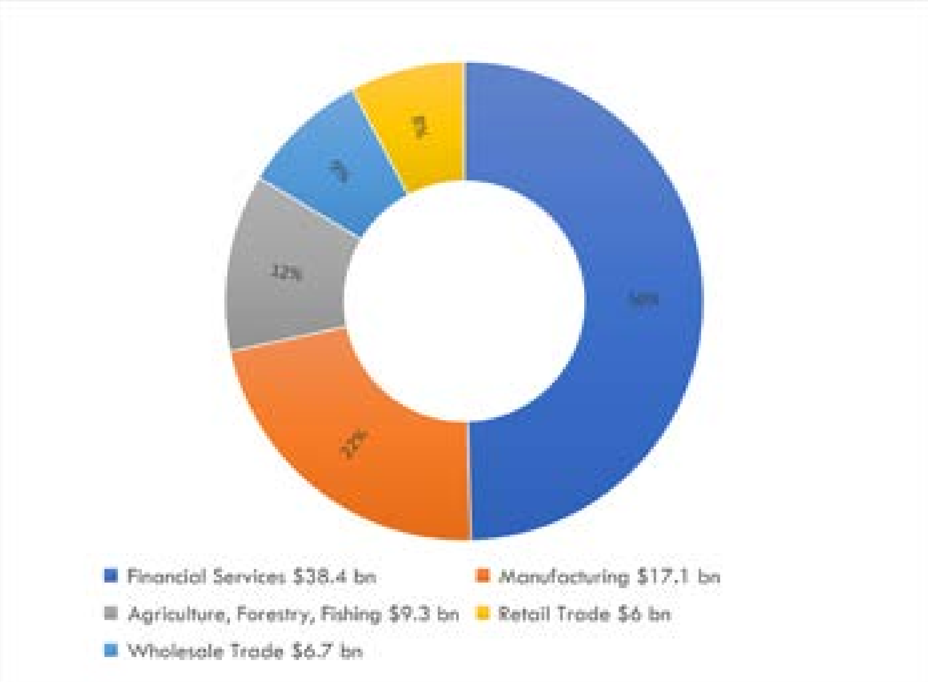
This test works on the presumption of an adequately funded alternative New Zealand purchaser being able to do what the overseas person is claiming.

1. Introduction

The act of Foreign Direct Investment (FDI) is to provide stimulus into our economy in the form of direct capital, technology, intellectual property, and management expertise. New Zealand being a relatively small country has been motivated to utilised FDI to advance our domestic economy mainly in the areas of gaining financial capital and advancing technology.

“Given New Zealand’s shallow capital base, much of this will need to come from overseas investors. Simply put, we need more FDI to achieve our economic and social goals”, The New Zealand Institute of Economic Research (2016)

Figure 1. Foreign direct investment by industry as of 31 March 2019



Source. Overseas Investment Office

FDI in New Zealand has long been a controversial and emotive topic due largely to a high portion of our income and comparative advantage stemming from our strong land asset base and temperate climate. The income that is generated from our land and water resources has long been viewed as the backbone of the economy, which has been made more prevalent with the advent the Covid 19 pandemic.

The central South Island has benefited immensely from FDI over the past three decades. Recognised benefits include differing forms of capital being sourced, increased market access, increased innovation, and opening new business partnerships. FDI has proven to be a stable source of medium to long term funding for New Zealand businesses. Please cite your references that support these statements.

How we connect and interact with the world is important and FDI is a feature of modern economic integration and globalisation. For NZ to grow, prosper and be connected to our trade and investment partners significant investment is required to support our export growth and R&D targets.

There is a balancing act between maintaining local ownership and securing the right type of investment to prosper. This report will broadly outline where we are today nationally, show the evidence and impacts in the central South Island and touch on the wider issues.

2. Aims and Objectives

The aim of this report is to provide a high-level overview of Foreign Direct Investment in the New Zealand primary industry, focusing on freehold land tenure, governance and regulation, and high-level national numbers (OIO approvals and FDI investment by sector)

A key objective for this study is to investigate actual cases from differing points of view, the fundamental dynamics which exist in the central South Island and provide conclusions on the impacts of FDI policy since 2005 and recommendations on where we need to be heading from here.

3. Methodology

The report begins with an in-depth literature review of FDI. Research sources ranged from reports from governmental organisations, industry professionals, press articles, research papers and journals, numerous industry websites, plus economist and government views.

After a wide research sample was processed, a thematic analysis was undertaken to explore four main themes. The following form the basis of the research:

- What would have happened without the investment?
- What have been the positive impacts?
- What have been the negative impacts?
- Where to from here?

Interviews have been undertaken with six people to investigate specific areas of interest and three of those people have provided in depth information enabling case studies to be produced. All interviews have included the above four questions to better understand the actual impacts of the FDI and current issues facing future FDI in our primary sector. The scope of work was undertaken in the central South Island to best utilise time and be effective in accessing people and farming businesses.

My recommendations are based on a large cross section of literature and actual outcomes experienced by businesses and professionals that are directly involved with FDI. The report includes detailed analysis and numbers showing the current landscape of FDI in New Zealand's primary industry and in particular Canterbury and North Otago.

4. Literature Review

The importance of Foreign Direct Investment

New Zealand as a country imports most of our technology and exports most of our primary produce, plus our need as a country to have strong global markets to provide our primary industry exports has recently been reenforced by the Covid-19 pandemic.

“FDI is an important feature of modern globalisation it has been estimated that New Zealand needs up to $200 billion of additional investment to support government export, growth, research and development targets.” Con Williams, ANZ Economist.

FDI is an important part of remaining interconnected in a global sense, not only do we have a shallow domestic capital base, but we are reliant on market access for our exports and we have resources and knowledge that foreign investors find attractive. It is widely recognised that FDI is beneficial to the host country and New Zealand is in an enviable position of being able to obtain investment due to our resources, institutional arrangements and political stability.

Most recently it was reported by Neal Wallace, NZ Farmers Weekly (June 2021) that five years after China’s Shanghai Maling invested $267 million buying half of Silver Fern Farms (SFF), the meat company has recorded back-to-back record profits. The investment unshackled the company from debt, just as importantly it enabled it to implement a plate-to-pasture strategy of connecting grass-fed red meat to consumers, which has paid huge dividends in recent years. Another benefit reported is that the business arrangement provided a substantial increase in capital expenditure and mitigated against geographic risk that allows SFF to target discerning customers, while providing options and product mix. Shanghai Maling act as an investor, committed to SFF pursuing its strategy.

FDI governance and regulation

“Realising the benefits of overseas investment, while protecting New Zealand’s sensitive land and assets” – OIO.

The main purpose of the Overseas Investment Act 2005 (the Act) is to acknowledge it is a privilege to for an overseas person to own, lease or control sensitive New Zealand assets. This privilege is governed by the issuing of consent by our Overseas Investment Office, OIO is the regulatory body responsible for administering the Act. To obtain consent an overseas person needs to establish that the proposed investment will benefit New Zealand in a ‘substantial and identifiable’ way.

The Act applies to any transactions undertaken by an overseas person as defined in the Act, in particular transactions of:

a) Land with a value exceeding $100m, or
b) an interest in ‘sensitive land’ as defined by the Act, being;

a. non-urban land (i.e. a farm)
b. land that includes or adjoins the foreshore, the seabed, a lake, conservation land, particular reserves, land subject to heritage order, a historic place or a wahi tapu area, and the size of the land (and adjoining sensitive area) exceeds a particular threshold.

An ‘overseas person’ defined by the Act is;

a) any natural person who is not a New Zealand citizen or who does not ordinarily reside in New Zealand.

b) or an entity that is either incorporated outside of New Zealand or 25% or more of the entity is controlled by an overseas investor.
businesses and professionals that are directly involved with FDI.

The report includes detailed analysis and numbers showing the current landscape of FDI in New Zealand’s primary industry and in particular Canterbury and North Otago
There is a balancing act between maintaining local ownership and securing the right type of investment to prosper. This report will broadly outline where we are today nationally, show the evidence and impacts in the central South Island and touch on the wider issues.

5. Foreign Direct Investment - recent history

2005 – Overseas Investment Act 2005 (the Act) was passed by parliament alongside the Overseas Investment Regulations 2005 (the Regulations) to focus on “those assets that really mattered to New Zealanders” – Michael Cullen.

2008 – The National government was facing overseas investment controversy due to the Natural Dairy bid for Crafar Farms.

2009 – The government announced it would review the Act and regulations.

2010 – OIO regulations strengthened to ensure adequate controls were in place to prevent foreign aggregation of farmland.

2015 – Substantial investment in the dairy sector. With a focus on the South Island.

2016 – In the 3-year period leading up to 2016, China invested $1.3bn in the dairy and milk processing industry.

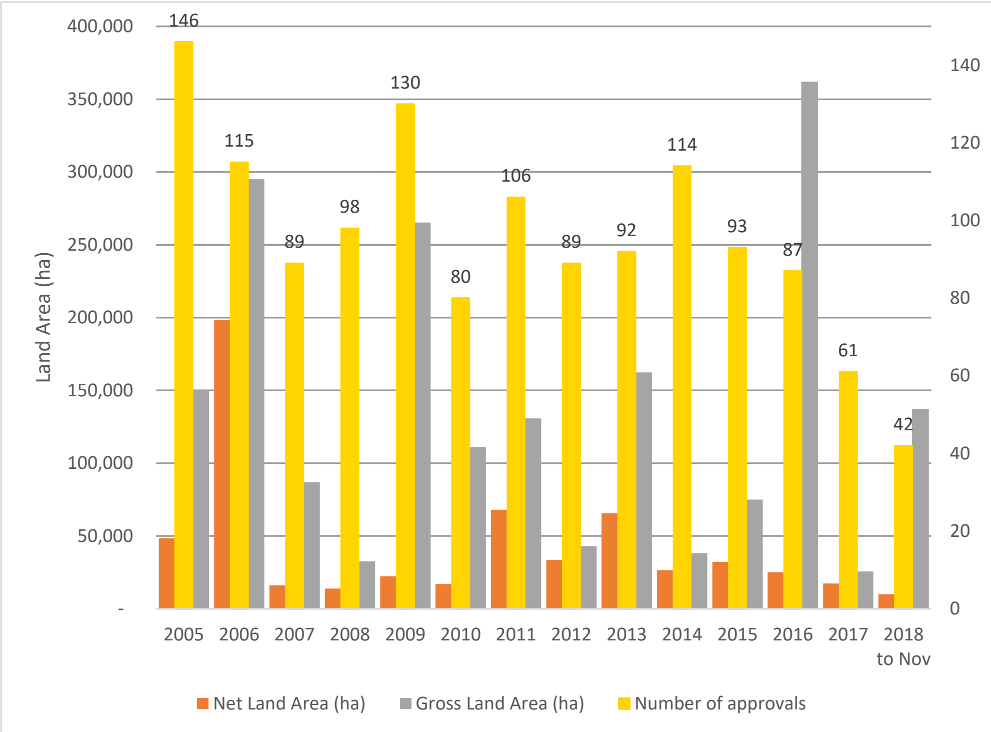
2017 – The Labour government introduces farmland and residential restrictions. Jericho Station purchase by a New Zealand farming family was the first successful ‘counterfactual’ submission against an overseas person.

2019 - Total foreign investment in New Zealand was $429.2 billion. This includes FDI ($113.0 billion), portfolio investment ($221.2 billion), other investment ($77.0 billion), and financial derivatives ($18.0 billion). Overall, the major sources of total foreign investment in New Zealand were Australia, the UK, and the US.

2020 – The Overseas Investment Amendment Act 2020 (Urgent Measures Act) came in force in June in response to the increased risks posed during the ongoing economic impact of the Covid 19 pandemic.

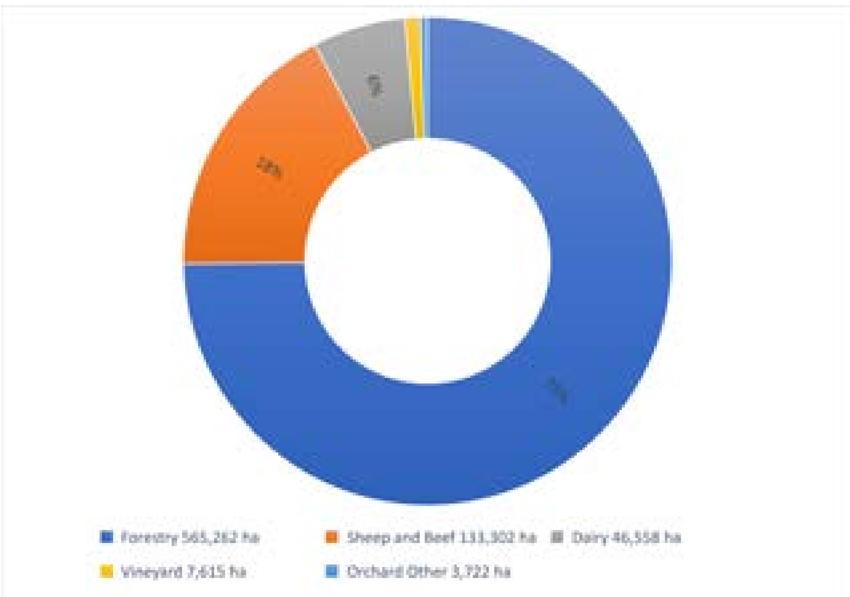
2021 – The passing of the third reading of the Overseas Investment Amendment Bill (No. 3), new legislation includes: increase of ownership thresholds for NZX-listed companies from 24.9% to 49.9%, screening of non-freehold interests from 3 years to 10 years (excluding residential leases).

Figure 2. FDI in sensitive New Zealand freehold land from 2005 to 2018



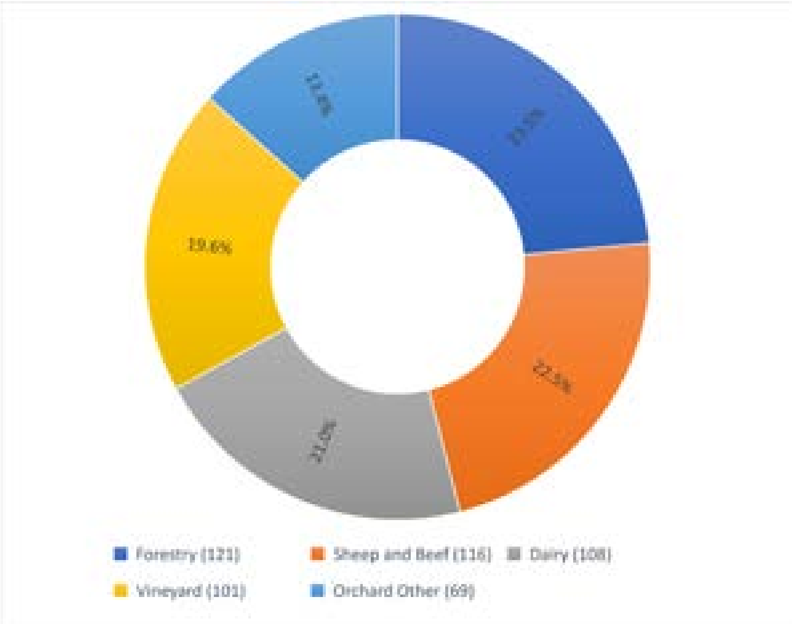
Source: Overseas Investment Office Statistics

Figure 3. FDI in sensitive New Zealand freehold land (hectares) from 2005 to 2018



Source: Overseas Investment Office Statistics

Figure 4. Total FDI transactions in sensitive New Zealand land from 2005 to 2018



Source: Overseas Investment Office Statistics

6. Current Policy Directive

To obtain OIO consent for rural land investments they must show a 'benefit' to New Zealand if the land is over five hectares and for non-urban land the 'benefit' shown needs likely to be substantial and identifiable. Any land needs to be publicly advertised for sale before a sale and purchase contract can be negotiated and an 'investor test' must be satisfied (which considers their business experience, financial position, and overall character).

"An overseas investor has to show their investment will bring benefit to NZ. That benefit has to be over and above what would be likely to happen if they didn't buy the property. What is likely to happen? Is the current owner likely to retain it and if so, what are they likely to do? Or is it more likely that it would be sold on to a New Zealander and what would they be more likely to do?" Christina Lefever, Rural News, July 2018

The benefit to New Zealand needs to be 'substantial and identifiable' and also includes the 2017 Ministerial Directive on 'rural land' which give high relative importance to the following:

Substantial and Indentifiable

- Government Policy
- Environmental and economic factors
- Degree of ongoing ownership or control by New Zealanders
- Any policy directives issued by Government Ministers
- Level of ‘benefits’ claimed
- The ‘counterfactual’

Ministerial Directive* ‘Rural Land’

- Increased export receipts
- Increased jobs
- Increased processing of primary products
- Introduction of new technology and business skills
- The degree of New Zealand oversight or participation

*Rural land investments need to satisfy at least one of the above factors under the Ministerial Directive to satisfy the “benefit” to the New Zealand test.

Table 1. OIO approvals for rural land above five hectares in size to April 2021

INVESTMENT TYPE	**2018**	**2019**	**2020**	**2021**
Forestry - Special Forestry Test*	NA	37	23	7
Forestry - Standing Consents**	NA	2	2	0
Forestry - Benefit to NZ Test	10	1	NA	0
Farming	3	1	2	0
Horticulture	2	6	2	1
Viticulture	4	6	3	1
Manufacturing/Processing Facilities	9	6	2	0
Oil/Gas Mining	0	2	1	0
Residential Developments	3	3	3	0
Waste Management	NA	NA	2	0
Tourism	0	0	2	0
Other	4	6	5	1
Total	35	70	47	10
Declines	3	4	3	1
Source. OIO, Lefever Law				

Note. *Includes existing or bare land used exclusively for Forestry from Oct 2018
** Includes established investors that have existing investments and good OIO compliance.

7. Case Studies

MA Orchards Limited

MA Orchards Limited (MAO) is a group of conventional and organic apple orchards comprising 80 hectares in South Canterbury, which is 100% US owned. The operation was established to produce export quality “Honeycrisp” variety apples destined for the US market. The apples are grown in Timaru then packed and exported from modern packing facilities in Nelson. The orchards were established under conventional methods and in recent years have gained organic status, which provides a premium over conventionally grown fruit. The demand for the fruit is high as it accesses the US market as an off-season supplier.

FDI Investment

Due to Timaru having a similar climate to Washington State in the US, several small irrigated blocks of land were purchased by a leading US fruit grower. The initial investment was made in 2012 for two blocks. In subsequent years three more bare land blocks have been converted and added to the portfolio. The orchards all have modern trellising and irrigation infrastructure, full hail canopy, plus established office and orchard maintenance facilities.

What would have happened without the investment?

MAO has bought considerable expertise, market access and capital to the area. At the time of investment there was one other local horticultural grower attempting to grow the variety. If MAO had not entered the marketplace, it is highly likely the other orchards under establishment would have struggled and any efforts to establish a profitable export industry would have faced significant headwinds. There has been a considerable boost in the confidence of growing the variety and other NZ growers have entered the market and applied significant time and capital to new orchard ventures of their own.

What have been the benefits?

- Production and export receipts have been increasing with the conversion of lifestyle blocks to highest and best use.
- Local jobs have been created (12 fulltime staff, <300 seasonal staff), plus downstream effects for contractors, consultants, professionals, suppliers, and retailers.
- Industry growth in the area, with 6 other NZ growers establishing orchards, providing scale for establishing a horticultural servicing industry.
- MAO has set the bar for producing a quality product and attracted expertise to the area and further capital wanting to be part of a growth industry.

Negative Impacts?

None that are identifiable.

Where to from here?

MAO is a near perfect example of how FDI works best for our economy and people. It would however be interesting to see if they could gain further approval to expand their operations under the new Ministerial Directive, it’s suggested they would need to increase scale to satisfy the ‘counterfactual’ test.

Case Studies

Craigmore

Craigmore manages farm and forest investments in New Zealand. Established in 2011 by two New Zealand family farmers – Forbes Elworthy and Mark Cox – Craigmore now has a highly experienced team managing a mix of dairy, grazing, forestry, and horticultural properties spread over both islands and more than 15,000 hectares. Their aim is to be a long-term producer of high-quality food and forest products, managing the land sustainably, and working with the best managers in New Zealand. They have a strong view that “Investors keep families in sustainable farming”.

Foreign Direct Investment (focusing on the North Otago and Canterbury dairy market)

Prior to 2008 the rural market was mainly family farming businesses and some institutional investors like ACC – many businesses were under financial pressure and there was a reluctance from new investors to participate in the Agricultural sector, plus many were trying to divest. The likes of Kiwisaver and the Superfund had not yet been involved and high net worth individuals were investing and attracting good management on their own.

Post the Global Financial Crisis in 2010, Craigmore tried to attract investment into farming as dairy businesses were short of equity and had poor cashflow, despite the positive outlook. At this time Institutional investors began investing through the likes of Farmright and MyFarm, other sectors were too stretched to participate.

The above situation presented an opportunity to capture funds from offshore family investment houses and invest into the North Otago dairy market, which had huge potential with the establishment of the North Otago Irrigation Company (NOIC), but had fallen short of capital, expertise and consequently cashflow.

The source of investment is of upmost importance to Craigmore and they focus on the following two key attributes:

- Long term capital (intergenerational)
- Aligned in producing food and fibre from sustainable farms orchards and forests.

What would have happened without the investment?

Nine farms were purchased all thinly capitalised with some under bank control. Reconversion was completed on all bar two farms. Significant investment upfront was completed allowing existing contracts were honoured (milk supply, irrigation supply, development, farm contractors, plus suppliers of farm product).

The North Otago dairy sector would have been impacted via reduced cashflow, loss of equity, limited farm succession planning options, and obvious lack of dairy farming expertise. The areas key attributes of soil and reliable water would have been underutilised and the downstream effects would have been negative. Craigmore’s research shows that every $1 spent by their farming businesses, that same dollar is recycled 6x in the local and wider economy.

What have been the benefits?

- Long term development plans (up to 7 years) could be implemented and executed allowing the farms to reach their full productive potential.

Case Studies

- The North Otago Irrigation Scheme was fully supported, enabling further stages of the scheme to proceed and provide increased income reliability to the surrounding area.

- Development and farm working expenditure was recycled through the local community and economy. A total development spend of circa $45m.

- Positive social impact; increased wages, attracting expertise, community population growth (schools and services). Increased public access e.g., Ocean to Alps access through several properties.

- Increased environmental compliance; funded catchment water testing programme, developed 'capture dam' initiative

- Development of a 'Social License Programme' on all farms to lead the world in the way they farm

- Seeded the national beef cattle programme alongside LIC, Pamu, Ngai Tahu.

Negative Impacts?

- The initial community perception was that there 'was going to be more of the same' undercapitalised businesses trying to make it work and falling well short. This perception has been turned to a positive noting all the positive impacts from above.

Where to from here?

Craigmore believes they hold a niche on the market, as they are accessing capital which is invested on the back of strong intergenerational relationships, which already have farming values at the forefront of decision making. This is evident in the North Otago farm portfolio, which will be held for the long term in line with their investor profile (of being a long-term stakeholder).

Craigmore welcome the current OIO regime as they realise it is a privilege to do what they are doing and restrictions are not only a benefit to the nation, but give any business operating in this space clarity about what is expected.

Case Studies

Jericho Station

Jericho Station (Jericho) is proudly owned by Ed Pinckney and situated south of Te Anau in Northern Southland comprising 1,359 hectares. The recent history of Jericho and Ed Pinckney epitomises what New Zealand farming innovation and resolve is all about. Ed and the wider Pinckney family are embedded in the fabric of sheep and beef farming in Southland and farm ownership is a lifelong dream chased by each new generation. Ed became the owner of Jericho in April 2018, the property being purchased from Landcorp (our state-owned farming enterprise) - who started marketing the property by tender in January 2017.

Ed holds a pragmatic view of FDI in New Zealand and on the global stage, he realises the need to meet the capital gap, access innovation and technology. He has made several property purchases over the years which help him compare the experience he had purchasing Jericho.

Foreign Direct Investment (purchasing Jericho Station)

A conditional offer, subject to bank finance, was made for Jericho by Ed during the tender process for $8.5m. His bull beef property needed to be sold to ensure enough equity was raised for the purchase – Ed had been planning this purchase since late 2016 when he first heard the property was coming up for sale. A second tender was received from an overseas person for $8.7m and subject to OIO approval (which was estimated to take 6-12 months). Landcorp accepted the second tender after the property was initially offered to and subsequently declined by Ngai Tahu. The overseas person was given favourable terms regarding settlement and automatic rights of extension, neither of which were commonly seen in an open competitive farm sales process.

Some weeks after the tender closed Ed's offer become unconditional and was submitted to the Landcorp board, where it was accepted as a bona fide 'back up' offer. The 2017 government election was looming, and the Jericho sale process came under the political spotlight. At this point an OIO 'counterfactual' submission was written and submitted by Ed and his professional team. The submission was accompanied by media attention, lobbying, and a change in government (who were clearly against selling off strategic state-owned assets to foreigners). Then on the 10th April 2018 all the above factors aligned and the overseas offer was withdrawn and Ed's back up offer was accepted and he took possession of Jericho in June 2018.

What would have happened without the investment?

From the outset it was believed that no overseas buyer could match or demonstrate benefits over and above what Ed could provide – being a New Zealand farming family with a proven track record.
Given a detailed 'counterfactual' submission was recorded and an agreement made, the aspirations for the property have been committed to and achieved.

What have been the benefits?

Benefits include the early adoption of new technology, promotion and support of local New Zealand companies, support for research institutions (Lincoln Agritech, Lincoln University, AgResearch), proven stewardship, positive community and environmental outcomes.

Negative Impacts?

None

Where to from here?

Ed believes he has provided the best future for Jericho and the community he lives in and appreciates FDI has a role to play in our wider primary industry.

In terms of his own experiences, he feels there needs to be more transparency and communication throughout the sales process. The purchase process seemed to be tainted with political interference and Ed felt he was not being taken seriously – there needs to be a credible process to ensure New Zealanders get a fair go.
Jericho Station (Jericho) is proudly owned by Ed Pinckney and situated south of Te Anau in Northern Southland

8. Interviews

Hamish Fraser

Today Hamish is largely involved in farming and tourism activities, plus high-level governance and advisory to a handful of other farming related businesses. This interview has been conducted to add further balance of thought - as Hamish's in his former years was involved with FDI transactions via his career as a Rural Agri Banker for the ANZ and Farm Consultant for MRB in South and Mid Canterbury.

Foreign Direct Investment (Hamish's direct experiences)

Agriculture is a capital-intensive business; it is common for farming businesses on the Canterbury plains to exceed $10m in asset value. The capital required has traditionally come in the form of bank debt and no free cash has been readily available for growth and entrepreneurial activities.

What would have happened without the investment?

Farmers balance sheets would have remained fully leveraged and slowed our overall industry growth. Also, a lack of capital circulating downstream or within the Agri sector.

What have been the benefits?

- The introduction of FDI has enabled businesses to de-leverage balance sheets, providing flexibility to pursue growth initiatives, reinvest and achieve higher cash returns. This in turn has led to opportunity creation in local economies and communities. I.e., the dairy industry has prospered in South Canterbury; we now have profitable farming businesses/processing companies employing and spending in their local communities.

- Overseas entities have challenged the status quo of how we run our farming business and in turn bought fresh thinking to the table.

Negative Impacts?

- The total FDI ownership model seen in some larger farming businesses has led to poor performance and management.

Where to from here?

A positive move would be to increase the FDI criteria to <49.9% of available shareholding in an entity. The Canterbury Agri market could then make further use of the large amount of capital available in global markets at present. We could then couple our strong family farming values and corporate discipline with strong international networks, capital, and business experience. More New Zealanders need to get over their fear of giving up control and focus on true partnerships offering a “win-win” scenario – which fortunately we are experiencing more and more these days.

Interviews

Christina Lefever

The principal of Lefever Law, Christina has over 10 years' experience advising on the overseas investment regime and the OIO application process. She has advised on a significant number of successful OIO applications, primarily in the rural and Agri sector, including investments related to farming, forestry, and horticulture.

Foreign Direct Investment (Christina's direct experiences)

The OIO regime has been refined by several revisions over the past 4 years to try and achieve a good balance to the FDI process across the Agri sector. However, these changes to legislation and policy have increased the complexity of applying the OIO rules, and significantly "raised the bar" for getting regulatory approval for FDI in the Agri sector. For our pastoral and horticultural sectors, the focus on 'counterfactual' tests, has itself not been perfect – it does provide another meaningful 'check and balance' i.e. the Crafar Farms sale approved and Lochinvar sale rejected but comparison of an investment against the intention and resources of a hypothetical NZ purchaser creates uncertainty and can result in foregone benefit. The issues associated with the counterfactual test have been recognised and are being addressed by legislative change. The Forestry application process can be completed either two ways and seems to be well progressed in terms of policy reform reflecting NZ's best interests in this sector.

Farming
The introduction of more efficient farm systems and processes or nominal levels of capital improvements are unlikely to meet the tests under the new rural land tests, particularly for larger rural land blocks and significant high-country stations. Currently a conversion from grazing to dairy is now much less likely to satisfy the 'benefit to New Zealand test, but changes in land use will soon benefit from a change to the counterfactual test (replacing the current forward looking "with or without" test with a more straightforward "before and after" test).

Horticulture
Hard to satisfy OIO consent criteria for existing properties, however new green fields developments have the advantage of involving a change of land use, which makes demonstration of a benefit under the current regime more straightforward (subject to counterfactual considerations), as these developments will generally involve significant investment, new job creation and the growth of new produce for export.

Viticulture
Has the advantage of its product not being exported under an export licensing system, this means an overseas person may be able to obtain consent to purchase an existing vineyard/winery asset if they can demonstrate that their investment is likely to result in more of the final product been exported. This industry also offers potential for ancillary development, such as restaurants and cellar doors.

Forestry
The new pathways apply where the land is likely to be used exclusively for forestry activities, and can be used regardless of the nature of the forestry investment (e.g. bare land purchase, purchase of existing forest, lease, forestry right or investment in forestry business). However, they only apply where trees are planted with the intention of harvest, not for permanent carbon sink forests. If all the relevant criteria is satisfied the overseas person is not required to show any 'benefit to New Zealand' resulting directly from their investment. Essentially, it is enough that the land will not 'go backwards' under the overseas person's ownership. Overseas forestry

investors can also now apply for ‘standing consents’, allowing them to buy land without making further OIO applications for each purchase.

Lifestyle blocks
All lifestyle blocks, regardless of size, are now ‘sensitive land’ and for blocks over 5 hectares an overseas person will also have to satisfy the benefit to New Zealand’ test, unless they hold a resident visa and intend to use the property as a primary residence. Under the current policy, this is a threshold that will be difficult to satisfy for lifestyle properties. Investments that are most likely to meet the OIO consent criteria would be those involving a change in land use, or the development of housing on bare land (with an on-sale requirement after completion)

What would have happened without the investment?

Less investment resulting in reduced productive changes in land use, and our Agri sector wouldn’t have received the required capital for sustained growth. The most influential FDI has helped pastoral, horticulture, and the forestry sector change to highest and best land use options (sometimes at scale), which has ultimately led to higher export receipts and further economic growth.

What have been the benefits?

- The FDI has come from genuine sources, many businesses have a strong affiliation with New Zealand and are already doing business here.

- FDI allows our rural businesses to think ‘long term’, there is inherent risks to any highly leveraged business when their capital is restricted and short term.

- Experiences have been largely positive, clients have been attracting long term investment from intergenerational sources.

Negative Impacts?

- FDI can more easily access and control non land-based businesses that form our supply chain to market.

- Maintaining balance is difficult in terms of potentially pricing New Zealanders out of the land market.

Where to from here?

As New Zealand farmers become more sophisticated in their approach to business, we are seeing more happening in the <25% investment space, “Its New Zealanders accessing strategic capital offshore, not the other way around”.

An increase of the ownership threshold to <50% would mean New Zealanders maintain control and at the same time giving them access to longer term capital for sustainable investment. Better recognition of ownership structures that limit direct control (such as limited partnerships) would open opportunities for further FDI into existing New Zealand businesses.

Interviews

Greg Peterson

Greg is an experienced registered valuer and leads the Canterbury rural valuation and property consultancy team in Christchurch for Colliers.

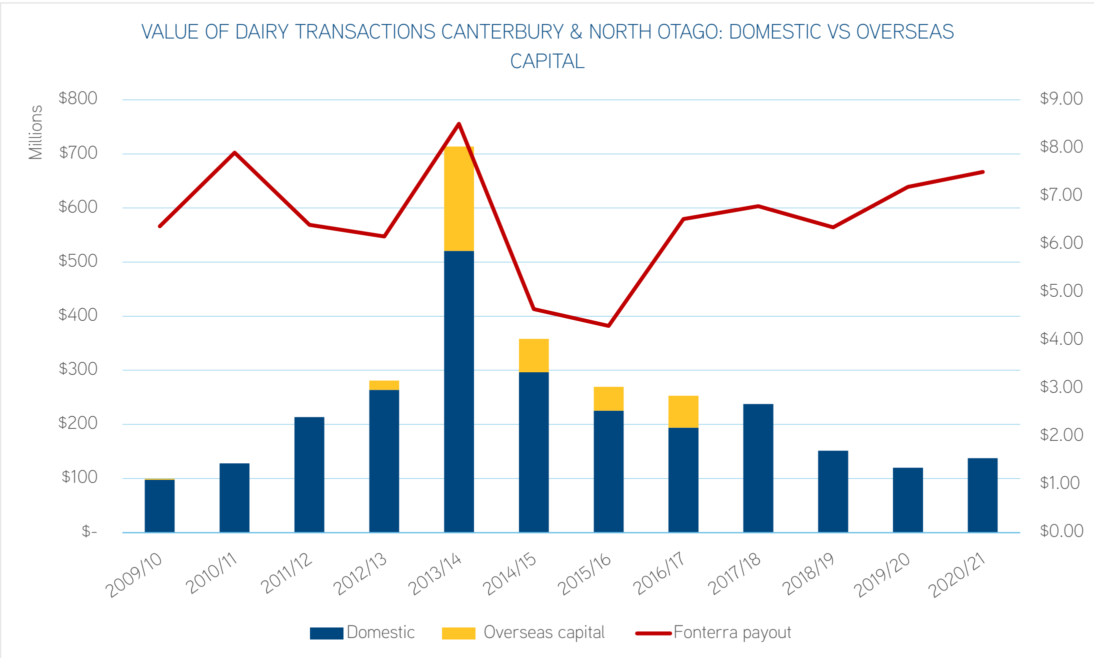
Greg specialises in the valuation of rural property throughout Canterbury and the South Island. His work for the firm has included financial reporting valuations of large-scale rural portfolio's, compensation assessments for major infrastructure projects and one-off individual farm valuations for lending, estate and development purposes.

Foreign Direct Investment (Greg's direct experiences)

He regularly completes financial reporting valuations for overseas corporate owners and on occasion has completed scenario analysis on a 'before and after basis' for prospective purchasers to assist with OIO applications.

What would have happened without the investment?

The Canterbury market would have suffered from limited capital movements throughout the province. FDI was an important source of capital, improving the overall liquidity of the market.



Source. Greg Peterson, Colliers Valuation

We commonly see the capital from an initial FDI 'trickle down' and enable 3 or 4 other to transactions take place. E.g. dairy farm proceeds helping succession planning, the kids purchase other farm assets, Mum and Dad buy a smaller block closer to town, that vendor downsizes to a lifestyle block.

What have been the benefits?

- From 2010 until 2017, the purchase of Canterbury dairy farms by international interests, has been generally regarded as a positive influence on the market.

- Foreign corporate type investors tend to prioritise the environment and their staff (want to be seen as preferred employers). They are conscious of being good corporate citizens and look to mitigate their reputational risk.

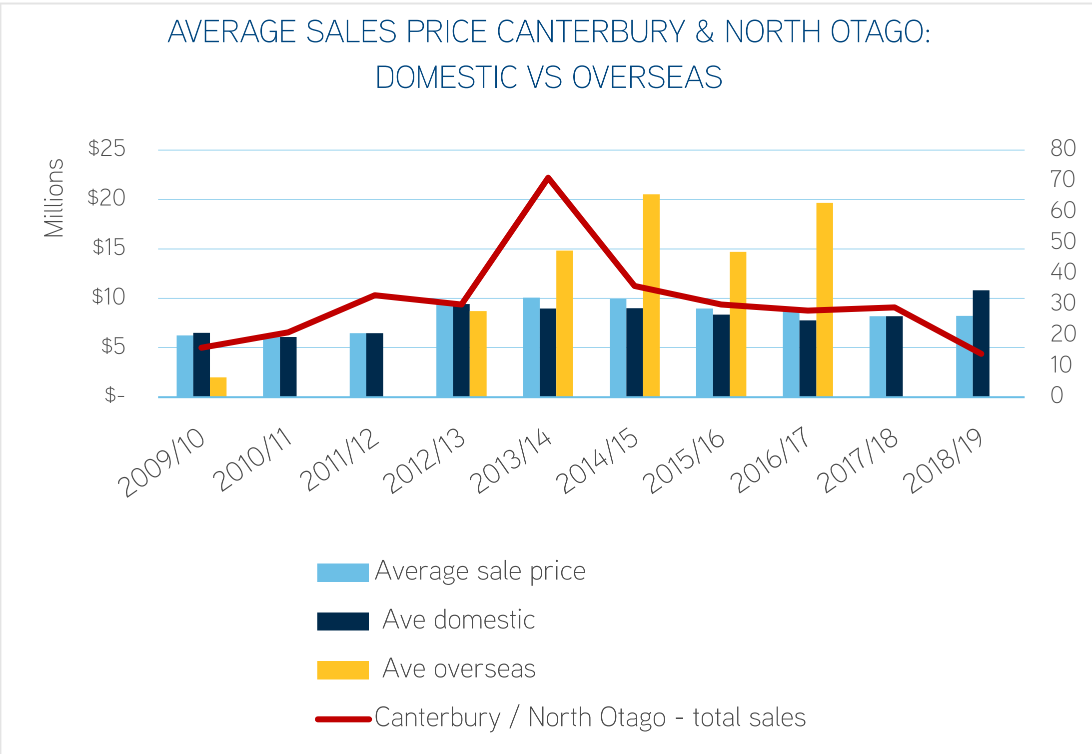
- Large capital expenditure budgets that provide higher environmental standards, public access arrangements, high standard of housing.

- International purchases have provided an additional source of capital into the Canterbury dairy market, which often had a trickle down effect, enabling several downstream property transactions to also occur.

- Rural businesses tend to reinvest their profits back into the business regardless of the ownership.

Negative Impacts?

There is some evidence that FDI in some specific areas has led the market resulting in farm values increasing ahead of the national average.



Source. Greg Peterson, Colliers Valuation

Interviews

Where to from here?

An increase to <49.9% ownership model common in the electricity generation industry with Crown Ownership of former State Owned Enterprises would work well in the rural sector. Increasing the ownership percentage would encourage stronger partnership models and strengthen balance sheets to cope with low milk price years, bank lending restrictions, FDI restrictions on capital – all these factors came to bare in 2018 and access to any form of capital was 'turned off'. Farming businesses need consistency in accessing capital to make sustainable business decisions.

There is a case to be made for different purchaser profiles having access to different asset classes. I.e., As seen with FDI for forestry land, the same case could be made for larger scale dairy with a limited pool of potential purchases.

9. Findings and Discussion

The interview and case study process has shown the following impacts which have been experienced across a wide cross section of participants involved in FDI:

Benefits

- Increased export receipts
- Local job creation
- New industry participants
- Attracting expertise to local economies
- Certainty of decision making, able to think and act 'long term'
- Better utilisation of existing infrastructure
- Business spending recycled through local and regional economies
- Public access opportunities

- Higher standards of environmental compliance
- Increased business reinvestment rates
- Fresh business thinking
- Strong affiliations with NZ already

Negatives

- Increased land prices
- New Zealanders being 'locked out' of the land market
- FDI can more easily access our supply chain
- Some large-scale farms have been poorly managed
- Maintaining the balance for FDI levels is difficult

The evidence is clear that FDI brings substantial economic, social and environmental benefits to New Zealand's regions. In addition to what is reported through case study and interviews, the following has been noting by Con Williams (ANZ Economist), with other positive effects including:

1. Better productivity
2. Higher wages and more employer opportunity
3. Exit opportunity for entrepreneurs
4. Spill over effects
5. More consumer choice
6. Integration with global supply network
7. Technology spill over

10. The "other side of the coin"

FDI tests the fabric of who we are as New Zealanders and seems to be largely misunderstood or not understood enough to warrant the claims against it. Important consideration needs to be at the forefront of any future changes or reviews of our current regime. As a country we are sensitive toward FDI and the impacts of our farmland and housing stock – both access to these markets and value. We fear a loss of sovereignty, dealing with different cultures, uncertainty to the actual benefits of the investment, implications for future generations. We must balance the ever-present fear of selling our assets to foreign investors alongside the loss of control and profits to these overseas entities.

11. Conclusions

Farms are a key economic resource, but in todays globalised world the connections and linkages which overseas people bring is of advantage to our export economy – we need continued growth in overseas markets, by partnering with foreign capital, knowledge and distribution networks.

As well as bringing financial capital, high-quality international investment can bring a range of benefits including:

- Enhancing New Zealand's access to export markets, integration with global value chains and linkages with international knowledge networks
- Bringing new technologies, processes and know-how to domestic firms and industries and improving the economic infrastructure that underpins growth and productivity
- Creating skilled jobs and lifting investment in human capital
- Increasing regional economic activity and competitiveness

There is an ease in attracting FDI to New Zealand it includes our open and business-friendly economy, low levels of corruption, good protection of property rights, high living standards, political stability and advantageous tax policy.

The OIO will continue to face a challenge in applying the purpose of the Act. The current legislation is accommodating the easy wins for New Zealand i.e., Forestry investment and Viticulture. Tension remains around our pastoral activities.

Farming has traditionally been a private sector activity and foreign land transactions have had a shadow cast on them, as FDI is perceived to interrupt the "willing buyer and willing seller" open market fundamental.

There is broad acknowledgement that it is a privilege for New Zealand businesses to access FDI and do what they are doing and restrictions are not only a benefit to the nation, but give any business operating in this space clarity about what is expected.

As NZ farmers become more sophisticated in their approach to business, we are seeing more happening in the <25% investment space, "Its New Zealanders accessing strategic capital offshore, not the other way around".

12. Recommendations – where to from here?

As a country we need to focus on the following to increase the quality of our overseas investment:

Access the right type of capital
The Government, Overseas Investment Office and the New Zealand Investment Attraction Strategy* need to be clear about accessing the right type of capital to meet our needs (i.e., long term, intergenerational, industry focused) while providing an appropriate vehicle for partnering with companies or individuals from overseas. FDI will only increase over the next decade as uncertainty continues with geopolitical and global pandemic risks.

Increase the ownership percentage
To make the most from 'co-investing' it would be beneficial for the Government to increase the FDI criteria to <49.9% of available shareholding in an entity. We would then have an equal partnership which would include our New Zealand family farming values. True partnerships offer a "win-win" scenario – with New Zealanders maintaining control and at the same time giving them access to longer term capital for sustainable investment.

Use of beneficial ownership structures
The Overseas Investment Office needs to promote the type of ownership structures that limit direct control (such as limited partnerships) and these beneficial structure need to be better recognised in the OIO approval process and would further complement and support the 'co-investment' model.

From a legislative perspective we need the Government and Ministry of Primary Industries to be reviewing the following on a regular basis:

OIO Consent Process
Reducing the burden of the OIO consent process, while ensuring risks posed by FDI are managed effectively.

Land Sale Process
There needs to be more transparency and communication throughout the land sales process. There needs to be a credible process to ensure New Zealanders get a fair go.

Investor Profiles
Further develop criteria for different purchaser profiles having access to different asset classes. As seen with forestry land the investor profile is long term, the same case could be made for larger scale dairy with a limited pool of potential purchases.

Non Land Based Rural Assets
FDI can more easily access (up to $100m without an OIO consent) and control non land-based businesses that form our supply chain to market.

*The New Zealand Investment Attraction Strategy includes; The Ministry of Business, Innovation and Employment, New Zealand Trade and Enterprise, Callaghan Innovation, the Ministry of Foreign Affairs and Trade, the Ministry for Primary Industries, and Treasury.

13. References

NZIER. (March 2016). Foreign Direct Investment in New Zealand. A brief review of the pros and cons. NZIER report to Export New Zealand. Available from: https://nzier.org.nz/publication/foreign-investment-essential-for-new-zealand

ANZ Agri Focus (December 2017). Changing of the Guard, Feature Article: Foreign Investment in New Zealand Primary Sectors, 2-12

McCarthy, Iona (March 2019). NZIPIM Journal – A balanced approach to Foreign Ownership of New Zealand farmland.

Overseas Investment Amendment Bill (No. 3).

Key, J. (2010). New Zealand sleeps while land sells. Available from: http://www.stuff.co.nz/business/blogs/3913679/New-Zealand-sleeps-while-land-sells

KPMG. (2015). Foreign Direct Investment in New Zealand. KPMG New Zealand. Available from: https://assets.kpmg/content/dam/kpmg/pdf/2015/08/KPMG-Foreign-Direct-Investment-analysis-August-2015.pdf

Omisakin, OM & Nakhid, C (2019) Journal of International Business Research. New Zealand Foreign Direct Investments and Their Economic and Societal Impacts: A Review. Available from: https://www.abacademies.org/articles/new-zealand-foreign-direct-investments-and-their-economic-and-societal-impacts-a-review-8675.html

Overseas Investment Office decision documents. Available from https://www.linz.govt.nz/overseas-investment
Tipa, Pam. Rural News Group (2018). https://www.ruralnewsgroup.co.nz/rural-news/rural-general-news/new-land-ownership-regulations-causing-uncertainty-in-rural-sector

Lefever, Christina (2020) NZIPIM Journal. Overseas investment regime – Implications for rural land transactions.

Kalderimis, Daniel (2011) Primary Industry Management, Volume 15 Number 4. Foreign direct investment in New Zealand farmland. (2012) Primary Industry Management, Volume 16 Number 2. Foreign direct investment in New Zealand farmland – some further reflections.

Clark, Nick (2011) Primary Industry Management, Volume 15 Number4. Overseas ownership of farmland.
Wilson, Nick and Tam, Winsome (2017) Property Professional - Legal and Technical. New overseas investment exemptions – Foreign Investment in Sensitive Land Now Easier.

Hyland, Ross (2018). Our Land Our People. Page 215 – 225. Jericho Station.

https://www.stats.govt.nz/news/foreign-direct-investment-in-new-zealand-continues-to-increase

https://www.interest.co.nz/news/108039/until-onset-pandemic-foreign-investors-increased-their-exposure-here-only-taking-level

Wallace, Neal. NZ Farmers Weekly (3 June 2021) https://farmersweekly.co.nz/section/beef/view/sff-reflects-on-shanghai-maling-partnership