

# How to Apply for Consent



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Recent updates to this resource:

24 April 2009: New Designation and Delegation Letter

## Introduction

All applications are made by way of letter with supporting information. As the evidence and information required for each application varies significantly, there is no standard application form. However, the OIO provides a suggested format and sets clear standards for presenting sensitive land applications.

Consent is only required if you are an overseas person as defined in New Zealand's legislation and the property is considered "sensitive" land. Find out if consent is required on the OIO website or consult your lawyer and/or a lawyer with significant experience in overseas investments. You can also find information on the website about:

- application assessment, timeframes and decisions
- privacy and confidentiality
- fees.

### Legal expertise

Applying for consent generally requires significant legal and land expertise. Please consult your lawyer and/or a lawyer with expertise in overseas investment applications. For help finding and engaging a lawyer in New Zealand, please contact the New Zealand Law Society. Note that the OIO cannot give legal advice or consider draft applications.

### Land Purchasing Programme (consent to a series of related transactions)

The term "purchasing programme" describes a series of closely related transactions that are treated substantially as one. Find out about purchasing programme applications below.

## **Significant business assets and fishing quota**

The standards and suggested format for significant business assets and fishing quota applications are similar to those in this guide. For further information about consent criteria and information required in an application, refer to the OIO's Significant Business Assets and Fishing Quota resources or contact the OIO.

## **Application format**

Applicants may wish to use the suggested format for applications for consent to acquire sensitive land in Annex 1 on this guide. The format also contains tips and guides to help complete an application.

You can download the application format on the OIO website for use as a template.

Note that the OIO will not begin processing an application if it has not been signed by every applicant or include the prescribed fee.

All applications should be addressed to:

The Manager  
Overseas Investment Office  
Land Information New Zealand  
PO Box 5501  
Wellington 6145  
New Zealand

The OIO will seek additional information from an applicant if further clarification is required during the assessment process.

Once the OIO has received all relevant information (including responses to all further information requests), the OIO will request a final statutory declaration verifying that information contained in an application is true and correct. From the date the OIO requests the final statutory declaration, the applicant has seven working days to supply the documents. If the declaration is not received within this time, and an application to extend this time is not made, the OIO will administratively "lapse" the application.

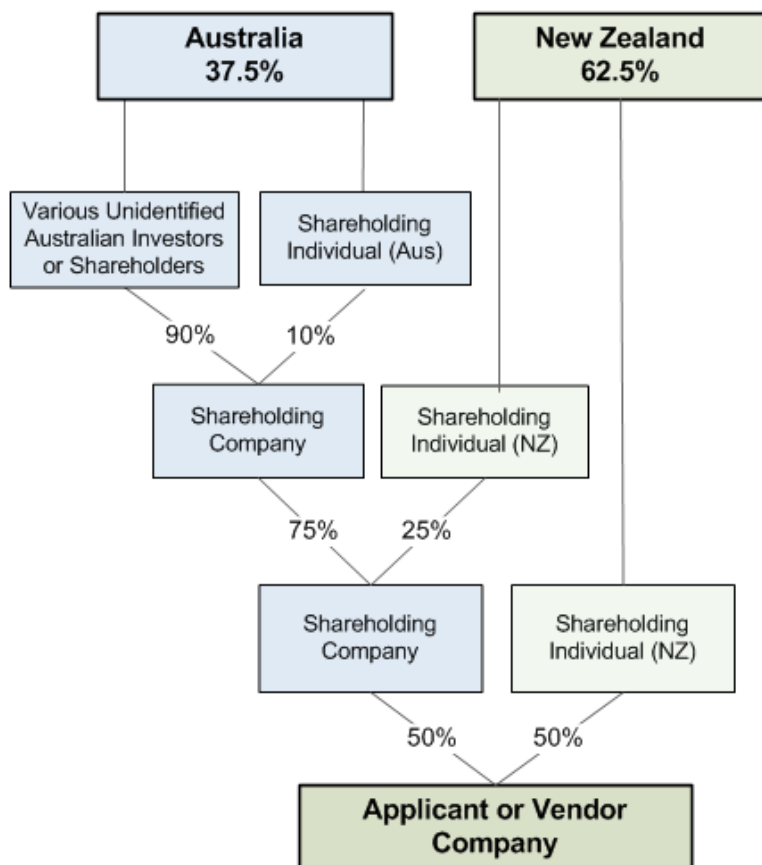
See the Preparing Statutory Declarations for the OIO resource.

## **Illustrating ownership structure**

The OIO requires a diagram illustrating the current ownership structure of both the applicant and vendor companies.

The diagram should identify the names of shareholding individuals and companies, and the percentage of ownership or control interest. Various public investors and shareholders can remain unidentified, for example "New Zealand Public".

## Example ownership structure diagram



On the OIO website you can download this diagram to enlarge or print a copy. You can also download the diagram as a Microsoft Visio document to use as a template.

## Standards for presenting a consent application

Submitting a high quality, well prepared and analysed application to the OIO will help improve turnaround timeframes. Assessment processing will take longer for applications not meeting these standards.

Applicants should supply both an electronic and hard copy of the application letter and all attachments in support of the application.

### Hard copy

Please avoid stapling or binding the application letter and attachments. Documents should be collated using bulldog clips and attachments labelled on each page (where possible).

Each page should have the relevant appendix number - otherwise they become meaningless when the documents are scanned. Please provide the original bound copy of company reports and other commercially printed documents.

### Electronic copy

The electronic copy must be an exact replica of the hard copy, scanned or otherwise provided electronically. Every document must be on a clearly labelled CD or DVD.

Documents should be in PDF, RTF or Microsoft Word or Visio formats and scanned in black and white (unless the document contains essential colour). Use text or line art settings wherever possible so that content can be copied and pasted. Applications that require manual data entry can slow turnaround times.

Subsequent correspondence can be delivered in email form (either an email message, or email message with attachments).

## **Land purchasing programme**

The term "purchasing programme" describes a series of closely-related transactions that are treated substantially as one for the purposes of the Act. A purchasing programme might be appropriate when an applicant wants to acquire a number of separate properties for a related purpose (e.g. purchasing land around the Marlborough region for grape growing).

Purchasing programmes are dealt with by the OIO in two phases:

- establishment of the programme, and
- consenting of individual land purchases.

The establishment phase sees the purchasing programme (as a whole) tested against the statutory factors and criteria.

In the consent phase the OIO gathers information about individual land purchases as they arise, but does not test individual land purchases against the benefit to New Zealand criteria. Note that the requirement to advertise farm land remains.

Purchasing programmes are normally subject to broad restrictions, including:

- the maximum area of land that may be acquired, and
- the region (or very occasionally, regions) in which property may be acquired.

To make a purchasing programme application, contact the OIO for further details.

## **Privacy and confidentiality**

Applications submitted to the OIO are a public record. The OIO publicly releases a short summary of every consent that is granted or declined. However, the OIO may withhold the existence of an application or the information contained in an application in accordance with the provisions of the Official Information Act 1982.

Find out more about privacy and confidentiality in the OIO section of the LINZ website.

## **Application assessment and timeframes**

There is no statutory timeframe within which an application for consent must be decided. However, the OIO aims to make a decision within 50 working days from the date of registration. Note that this target applies to high quality, well prepared and analysed applications that do not include special features or require third party consultation.

Visit the OIO website to find out more about application assessment, including turnaround times, lapsing applications and consultation.

## Decisions and fees

An application will not be processed unless it is accompanied by the correct fee. The fee is payable before consent is granted or declined. The OIO cannot refund fees. Where applications are withdrawn by the applicant, and the applicant cancels the cheque in payment of the fees, the OIO will request payment.

The Minister of Finance and the Minister for Land Information have delegated to the regulator (the OIO) many of the powers to grant or decline consent under the Act. In the case of delegated decisions, the regulator fees apply.

The relevant Ministers will generally make the decisions to grant or decline consent where:

- the relevant land is or includes special land, land on other islands, the foreshore or seabed or the bed of a lake, or adjoins the foreshore or bed of a lake
- the substantial and identifiable benefits criterion (section 16(1)(e)(iii)) applies.

However, even if the substantial and identifiable criterion applies, decisions will be delegated where:

- the relevant land is leasehold (other than pastoral lease land) or the interest being acquired is an interest as mortgagee or encumbrancee, or
- the relevant land does not include any other land of a type listed in Table 1 of Schedule 1 or
- the relevant land does not adjoin land of a type listed in Table 2 of Schedule 1 or
- the only 'sensitivity' is that the land is non-urban and more than five hectares.

See the OIO website for a schedule of fees, as well as the current Ministerial designation and delegation letter.

## Further information

Visit the OIO website at [www.linz.govt.nz/oio](http://www.linz.govt.nz/oio) to find related links, documents and answers to frequently asked questions. Read the Overseas Investment Act 2005 and the Overseas Investment Regulations on [www.legislation.govt.nz](http://www.legislation.govt.nz).

If you require further information, please contact the OIO.

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Land Information New Zealand  
160 Lambton Quay  
PO Box 5501  
Wellington 6145  
New Zealand

Phone +64 4 462 4490

Fax +64 4 460 0111  
Email [oio@linz.govt.nz](mailto:oio@linz.govt.nz)  
[www.linz.govt.nz/oio](http://www.linz.govt.nz/oio)

## **Disclaimer**

This website provides general information only. The OIO and LINZ do not assume any responsibility for giving legal or other professional advice and disclaim any liability arising from the use of the information. If you require legal or other expert advice you should seek assistance from a professional adviser.

## **Annex 1 - suggested format for application for consent to acquire sensitive land**

Visit the OIO website to download this format as a Microsoft Word or RTF template. You can also find links to reference material and other organisations.